

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1985

H.P. 1332

House of Representatives, June 9, 2025

An Act to Implement the Recommendations of the Maine Abandoned and Discontinued Roads Commission

Reported by Representative SALISBURY of Westbrook for the Joint Standing Committee on State and Local Government pursuant to the Maine Revised Statutes, Title 23, section 3036, subsection 11.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §159-E** is enacted to read:

3 **§159-E. Limited liability for repairs and maintenance of public easement**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Public easement" has the same meaning as in Title 23, section 3021, subsection 2
7 and as described in Title 23, section 3022.

8 B. "Repairs and maintenance" includes, but is not limited to, snowplowing, snow
9 removal, sanding and ice control; grading and adding gravel and surface material;
10 installing reclaimed asphalt or grinding existing pavement for reuse; installing,
11 cleaning and replacing culverts; creating and maintaining ditches, drains and other
12 storm water management infrastructure; creating and maintaining sight distances on
13 curves and at intersections; and cutting brush, trees and vegetation in the right-of-way.

14 **2. Limitation of liability; repairs and maintenance of public easement.** Except as
15 otherwise provided in this section, an owner, lessee or occupant of property abutting a
16 public easement or a portion of a public easement, including, but not limited to, a road
17 association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that
18 road association, or an agent of such persons, is not liable for personal injury, property
19 damage or death caused by:

20 A. Repairs and maintenance conducted on that public easement by the owner, lessee
21 or occupant, or the agent of such persons, if the repairs and maintenance were
22 conducted in order for the owner, lessee or occupant to access the owner's, lessee's or
23 occupant's property over the public easement from a public way; or

24 B. Public access or public use of the public easement.

25 **3. Exception; dangerous conditions.** The limitations in subsection 2 do not limit any
26 liability that may otherwise exist for a willful or malicious creation of, or failure to guard
27 or warn against, a dangerous condition on a public easement that is reasonably known to
28 an owner, lessee or occupant of property abutting the public easement.

29 **4. Duty not created.** This section does not create a duty of care for an owner, lessee
30 or occupant of property abutting a public easement to keep, or grounds for liability for
31 injury to a person or property for failure to keep, a public easement safe for public access
32 or public use for persons entering the public easement for such purposes.

33 **5. Landowner liability for environmental damage by others.** In accordance with
34 this section, an owner, lessee or occupant of property abutting a public easement, including,
35 but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter
36 2 and a member of that road association, or an agent of such persons, that conducts repairs
37 and maintenance on the public easement or suffers the public access or use of the public
38 easement:

39 A. In accordance with Title 12, section 685-C, subsection 11 and Title 38, section
40 347-A, subsection 7, is not subject to criminal sanctions or civil penalties or forfeitures
41 for a violation of laws or rules enforced by the Maine Land Use Planning Commission
42 or the Department of Environmental Protection, as applicable, if the owner, lessee or

1 occupant provides substantial credible evidence to the Maine Land Use Planning
2 Commission or the Department of Environmental Protection, as applicable, that the
3 violation was committed by a person other than the owner, lessee or occupant or a
4 contractor, employee or agent of the owner, lessee or occupant; and

5 B. Notwithstanding Title 12, section 685-C, subsection 11 and Title 38, section 347-A,
6 subsection 7, if the owner, lessee or occupant provides the substantial credible evidence
7 described in paragraph A, the owner, lessee or occupant may not be held responsible
8 for remediating or abating the environmental damage caused by the violation or for the
9 costs of such remediation or abatement.

10 **6. Legal costs; attorney's fees.** If an owner, lessee or occupant of property abutting
11 a public easement or a portion of a public easement, including, but not limited to, a road
12 association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that
13 road association, or an agent of such persons, that conducts repairs and maintenance on the
14 public easement or suffers the public access or use of the public easement is found not
15 liable for personal injury, property damage or death pursuant to this section, the court shall
16 award the owner, lessee or occupant any direct legal costs, including reasonable attorney's
17 fees.

18 **Sec. 2. 23 MRSA §3105-A**, as amended by PL 2023, c. 642, §2, is further amended
19 to read:

20 **§3105-A. Use of town equipment**

21 The legislative body of any town or village corporation at a legal town or village
22 corporation meeting may authorize the municipal officers of the town or assessors of the
23 village corporation to use the town's or village corporation's highway equipment on ~~private~~
24 ways public easements within such town or village corporation to plow, maintain or repair
25 those ~~private ways~~ public easements to the extent directed by the legislative body and
26 whenever such municipal officers or assessors consider it advisable in the best interest of
27 the town or village corporation for fire and police protection. As used in this section,
28 "public easement" has the same meaning as in section 3021, subsection 2 and as described
29 in section 3022.

30 **1. Repairs and maintenance of public easements.** The municipal officers of a town
31 or the assessors of a village corporation, on their own initiative or upon written petition
32 pursuant to Title 30-A, section 2521 of the owners, lessees or occupants of property used
33 as year-round primary residences that are located along or only accessible over one or more
34 public easements, may request the legislative body of the town or village corporation to
35 vote to provide a minimum level of year-round repairs and maintenance for the public
36 easement or easements. The minimum level of year-round repairs and maintenance for a
37 public easement or easements that may be provided by a town or village corporation under
38 this subsection:

39 A. May be provided up to the driveway of the last year-round primary residence that
40 is located along or only accessible over the public easement and that is furthest from
41 the nearest public way;

42 B. Must be lower than the standard for maintenance of highways, town ways and
43 streets under section 3651;

1 C. May include annual grading, repair, maintenance, snowplowing and replacement
2 of drains and culverts as required to keep the public easement reasonably passable for
3 residential access as determined by the town or village corporation; and

4 D. If approved by a vote of the legislative body of the town or village corporation,
5 must continue to be provided until the legislative body votes to discontinue providing
6 year-round repairs and maintenance.

7 **2. Required signage.** A town or village corporation that votes to provide a minimum
8 level of year-round repairs and maintenance of a public easement pursuant to subsection 1
9 shall, at each intersection of such public easement with a public way or private road, install
10 and maintain a sign reasonably visible to drivers at the entrance to the public easement that
11 reads: "Minimum Maintenance Road - Travel at Your Own Risk." The sign required under
12 this subsection must conform to the requirements of the most recent Manual on Uniform
13 Traffic Control Devices for Streets and Highways published by the United States
14 Department of Transportation, Federal Highway Administration, including, but not limited
15 to, the requirement that the sign be a minimum 24-inch-by-24-inch diamond shape with
16 black lettering at least 3 inches high on a yellow retroreflective background.

17 **3. Liability.** A town or village corporation that votes to provide a minimum level of
18 year-round repairs and maintenance of a public easement pursuant to subsection 1 is
19 immune from liability relating to that repairs and maintenance under the Maine Tort Claims
20 Act and under Title 23, chapter 313.

21 **Sec. 3. 29-A MRSA §2395, sub-§4,** as amended by PL 2017, c. 25, §1, is further
22 amended to read:

23 **4. Designation by counties and municipalities.** County commissioners and
24 municipal officers may designate public ways, other than those in subsection 3, and public
25 easements, regardless of whether the county or municipality maintains or repairs the public
26 easement, and impose restrictions within their respective jurisdictions similar to those made
27 by the Department of Transportation under subsection 3. Any vehicle delivering home
28 heating fuel or organic animal bedding material and operating in accordance with a permit
29 issued by the Department of Transportation pursuant to this section may travel over any
30 county or town way or public easement without a specific municipal or county permit. A
31 municipality may impose additional restrictions for a vehicle delivering home heating fuel
32 or organic animal bedding material to operate on public ways and public easements within
33 that municipality but may not require a permit to operate according to those restrictions.
34 As used in this subsection, "public easement" has the same meaning as in Title 23, section
35 3021, subsection 2 and as described in Title 23, section 3022.

36 **Sec. 4. Appropriations and allocations.** The following appropriations and
37 allocations are made.

38 **ATTORNEY GENERAL, DEPARTMENT OF THE**
39 **Road Commission Fund Z353**

40 Initiative: Provides ongoing appropriations of \$6,500 to the Road Commission Fund
41 program to provide expense reimbursement for members and to support the work of the
42 Maine Abandoned and Discontinued Roads Commission.

43 **GENERAL FUND**

2025-26

2026-27

1	All Other	\$6,500	\$6,500
2			
3	GENERAL FUND TOTAL	<u>\$6,500</u>	<u>\$6,500</u>

4 **SUMMARY**

5 This bill is reported out by the Joint Standing Committee on State and Local
6 Government pursuant to the Maine Revised Statutes, Title 23, section 3036, subsection 11
7 and implements the recommendations of the Maine Abandoned and Discontinued Roads
8 Commission included in its annual report dated February 3, 2025.

9 The bill limits liability for repairs and maintenance of a public easement of an owner,
10 lessee or occupant of property abutting a public easement. It also amends current law to
11 provide municipalities and village corporations, through a vote of approval by their
12 legislative bodies, the option to determine if they will be responsible to maintain and repair
13 public easements or portions of public easements to a minimum level of maintenance until
14 the legislative body votes to discontinue providing year-round repairs and maintenance. It
15 provides that county commissioners and municipal officers may designate public ways and
16 public easements regardless of whether the municipality maintains or repairs the public
17 easements and impose restrictions within their respective jurisdictions similar to those
18 made by the Department of Transportation. It also provides an ongoing annual
19 appropriation of \$6,500 to the Road Commission Fund program to provide expense
20 reimbursement for members and to support the work of the Maine Abandoned and
21 Discontinued Roads Commission.

22 **FISCAL NOTE REQUIRED**
23 **(See attached)**

**132nd MAINE LEGISLATURE****LD 1985****LR 2549(01)****An Act to Implement the Recommendations of the Maine Abandoned and Discontinued Roads Commission****Fiscal Note for Original Bill****Sponsor:****Committee: State and Local Government****Fiscal Note Required: Yes**

Fiscal Note

	FY 2025-26	FY 2026-27	Projections FY 2027-28	Projections FY 2028-29
Net Cost (Savings)				
General Fund	\$6,500	\$6,500	\$6,500	\$6,500
Appropriations/Allocations				
General Fund	\$6,500	\$6,500	\$6,500	\$6,500

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees will increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The bill includes General Fund appropriations to the Office of the Attorney General of \$6,500 beginning in fiscal year 2025-26 to provide expense reimbursement for members and to support the work of the Maine Abandoned and Discontinued Roads Commission.