

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

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Legislative Document

No. 569

H. P. 445

House of Representatives, February 4, 1969

Referred to Committee on State Government. Sent up for concurrence and 1000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Foster of Mechanic Falls.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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**AN ACT** Relating to Damage to Private Water Supplies Resulting from  
Alteration of Highways.

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**Emergency preamble.** Whereas Acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, the present system of reimbursement for well damage by legislative resolve is a great hardship to those in need of a prompt determination and settlement of such claims; and

Whereas, it is imperative that the following legislation be enacted at the earliest possible time to prevent further hardship and delay resulting from such system; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**R. S., T. 23, § 652, amended.** Section 652 of Title 23 of the Revised Statutes is amended to read as follows:

**§ 652. Proceedings on damage claims**

1. **Change of grade.** Whenever the commission shall change the grade of any state or state aid highway as provided in chapters 1 to 19 to the injury of an owner of adjoining land, ~~he~~ **such owner** may within 6 months after com-

pletion of the work according to the records of the commission apply to the commission in writing for a determination and assessment of his damages. If the commission is unable to settle such damages at what it deems a reasonable amount, the commission or interested parties may apply to the Land Damage Board in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases.

2. Private water supplies. In the event an owner of land adjacent to a state or state aid highway conceives that a private water supply on that land has been destroyed or rendered unfit for human consumption by the commission constructing, reconstructing or maintaining the highway, such owner may apply in writing to the commission for a determination of the alleged cause and assessment of the damage and if such claim is founded on construction, the owner shall present such application within 6 months after completion date of the work as that date appears in the records of the commission.

The application shall set forth the name and address of the owner, the owner's source of title, the location of the property, a description of the damage, the cause to which the damage is attributed and the name and address of any lien holder.

A. If the commission determines that it did not cause the alleged damage to such water supply, a copy of the determination shall be served by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court.

B. If the commission determines that any damage to the privately owned water supply was caused by construction of or maintenance on a portion of the state highway system a copy of the determination shall be served by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court and shall set forth an offer of settlement which shall be either :

- (1) To replace the water supply ; or
- (2) To repair the damage to the water supply ; or
- (3) To pay a designated sum of money ; or
- (4) To purchase the realty served by the water supply in the event the cost of repair or replacement of the water supply exceeds the appraisal value of the realty.

C. The commission may issue rules and regulations in accordance with standards of the Department of Health and Welfare and the Public Health Service regarding water potability for the determination of the degree of contamination, pollution or fitness for domestic use.

D. The commission shall in its determination consider the necessity for installation or replacement of piping, tanks, pumps, heating systems or other related fixtures.

E. If the commission is unable to settle at what it deems a reasonable settlement the commission or owner may apply to the Land Damage Board

in writing for a determination of the alleged cause and assessment of the damage. The proceedings shall then be the same as in condemnation cases.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.