

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
FIRST SPECIAL SESSION
107TH LEGISLATURE

(Filing No. H-1221)

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1948,
L.D. 2134, Bill, "AN ACT Enabling Municipalities to Conduct
Soil Tests to Determine Feasibility of Solid Waste Disposal
Sites."

Amend said Bill by striking out everything after the
enacting clause and inserting in place thereof the following:

4 MRSA §180 is enacted to read:

§180. Site inspection warrants

1. District Court Judge may issue warrants to conduct
surveys and tests on land that is under consideration for
purchase or taking through eminent domain by the State or any
of its political subdivisions. The Supreme Judicial Court shall
provide by rule the manner and circumstances for the issuance
of such warrants subject to the following conditions:

1. Compelling need. There is a compelling need for the
issuance of the warrant, such as required compliance with
state statutes or regulations or <--> protection of the public
health, safety or welfare;

2. Notice to owner. The owner of the land shall be
served notice at least 14 days prior to the day when any
survey or test is initiated;

3. Completion within 30 days. All tests and surveys shall be completed within 30 days of entry;

4. Distance from occupied dwelling. No soils test may be conducted within 200 yards of an occupied dwelling;

5. Site restoration. Upon completion of any soils test or analysis, all holes, pits or trenches created thereby shall be filled in and the site restored as best practicable to its original condition; and

6. Compensation for damages. The owner of land subject to a survey or test shall have the right to be compensated for any actual damage caused as a result of the surveys and tests. Upon request of the landowner within 30 days after entry on his premises, the municipal officers shall hold a public hearing to determine whether he is entitled to compensation for actual damages caused by the testing. The municipal officers shall publish a notice of the time and place of hearing in a newspaper having general circulation in the municipality at least 7 days before the hearing. The municipality shall pay the landowner forthwith the amount of compensation to which the municipal officers determine he is entitled. If the landowner is aggrieved by the decision of the municipal officers, he may appeal to the Superior Court as provided in Rule 80B of the Maine Rules of Civil Procedure.'

Statement of Fact

This amendment permits municipalities to conduct necessary soil testing examination or other review of existing topography and soils in a much simpler manner than the present system which requires eminent domain or purchase. It is felt that the approval of the court will prevent arbitrary or capricious exercise of this privilege by municipal authorities. This provision will follow exactly the present administrative warrants that courts presently have and for which the Supreme Judicial Court prescribes.

Reported by the Committee of Conference.

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of the House.
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