

# MAINE STATE LEGISLATURE

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

(Filing No. H-1239)

COMMITTEE OF CONFERENCE AMENDMENT "B" 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

A 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 governmental unit shall hold a public hearing to determine whether he is entitled to compensation for actual damages caused by the testing. The governmental unit shall publish a notice of the time and place of hearing in a newspaper having general circulation in its area at least 7 days before the hearing. The governmental unit shall pay the landowner forthwith the amount of compensation to which it determines he is entitled. If the landowner is aggrieved by the decision of the governmental unit, 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.

Reproduced and distributed under the direction of the Clerk  
of the House.

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