

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND THIRTEENTH LEGISLATURE
4

5 Legislative Document

NO. 71
6

7 H.P. 68 House of Representatives, January 26, 1987
8 Reference to the Committee on State and Local Government
suggested and ordered printed.

9 EDWIN H. PERT, Clerk
Presented by Representative Strout of Corinth.

10 Cosponsored by Representative Boutilier of Lewiston,
Senator Tuttle of York, and Representative Macomber of South
Portland.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SEVEN
16

17 AN ACT to Repeal the Authority of County
18 Commissioners to Order the Repair of
19 Ways Maintained by a Municipality.
20

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

23 Sec. 1. 23 MRSA §3652 is repealed.

24 Sec. 2. 23 MRSA §3653 is repealed.

25 Sec. 3. 23 MRSA §3654 is repealed.

1

STATEMENT OF FACT

2 Currently, under the Maine Revised Statutes, Title
3 23, section 3652, where a town neglects to repair
4 a highway, town way or street so that it is safe and
5 convenient for passage and a municipal officer has 5
6 days' actual notice or knowledge of a defective con-
7 dition, any 3 or more persons may petition the county
8 commissioners to view the way in dispute and to hold
9 a hearing. If the county commissioners find that the
10 way is unsafe and inconvenient for travel, they may
11 order the municipality to repair the way within a
12 specified period of time and may assess the costs
13 against that municipality. Title 23, section 3653
14 governs the method by which a petition is presented
15 to the county commissioners. Title 23, section 3654
16 addresses the situation in which a town fails to make
17 the repairs ordered by the county commissioners.

18 This bill repeals these provisions in Title 23
19 and eliminates the role of county commissioners in
20 hearing appeals from municipal officers' refusal or
21 failure to repair ways for which the municipality is
22 liable. Other laws already place liability on municip-
23 al officials for failure or neglect to maintain
24 roads so as to be safe and convenient for passage.
25 For example, Title 30, section 3651 provides that in
26 default of the maintenance of highways, town ways and
27 streets so as to be safe and convenient for travel,
28 "those liable may be indicted, convicted and a rea-
29 sonable fine imposed thereof." In addition, Title 30,
30 section 3655 provides that a person who suffers bodily
31 injury or property damage through defect or want
32 of repair or sufficient railing may recover for such
33 injuries or damage if a municipal officer or road
34 commissioner or their authorized agent had 24 hours'
35 actual notice of the defect or want of repair. Such
36 liability is a sufficient incentive to municipal of-
37 ficers to ensure repair of town ways and public ease-
38 ments.

39 The bill also is consistent with the action taken
40 by the 107th Legislature in eliminating the authority
41 of county commissioners to hear petitions brought on
42 account of the municipal officers' refusal or neglect
43 to lay out, alter or widen a town way or public ease-
44 ment.

1 The role of county commissioners in ordering re-
2 pairs to ways for which a municipality is liable is
3 eliminated.

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