

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 568

H.P. 423 House of Representatives, February 26, 1987
Reference to the Committee on Transportation suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative NORTON of Winthrop. (By Request)

STATE OF MAINE

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

AN ACT to Discontinue Town Ways and Public
Easements.

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2
3

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

6 23 MRSA §3026, sub-§1, as enacted by PL 1981, c.
7 683, §1, is amended to read:

8 1. General procedures. A municipality may ter-
9minate in whole or in part any interests held by it
10for highway purposes. A municipality may discontinue
11a town way or public easement or any portion of a
12town way or public easement at a meeting called by
13warrant containing an article for that purpose after
14the municipal officers have given best practicable
15notice to all abutting property owners and the munic-
16ipal planning board or office and have filed an order

1 of discontinuance with the municipal clerk that specifies
2 the location of the way or easement, the names
3 of abutting property owners and the amount of damages,
4 if any, determined by the municipal officers to
5 be paid to each abutter.

6 Upon approval of the discontinuance order by the legislative
7 body, and unless otherwise stated in the order, a public
8 easement shall, in the case of town
9 ways, be retained and all remaining interests of the
10 municipality shall pass to the abutting property owners
11 to the center of the way. For purposes of this
12 section, the words "public easement" shall include,
13 without limitation, an easement for public utility
14 facilities necessary to provide service pursuant to
15 Title 33, sections 465 and 467.

16 STATEMENT OF FACT

17 Currently, when a municipality discontinues a
18 town way, it retains a public easement, with the
19 abutting owners obtaining title to the remaining
20 property. A public easement is an easement held by a
21 municipality for purposes of public access to land or
22 water not otherwise connected to a public way. This
23 bill eliminates the easement provision, allowing all
24 property involved to pass to the abutting property
25 owners.

26 This bill will establish the common law practice
27 which applied prior to 1965, calling for all property
28 involved in a discontinued road to pass to the property
29 owners with no easement retained by the municipality.
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