

MAINE STATE LEGISLATURE

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TRANSPORTATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 847, L.D. 1152, Bill, "An Act to Clarify the Authority of the Department of Transportation to Determine Condition of Property Prior to Acquiring"

Amend the bill by striking everything after the enacting clause and before the emergency clause and inserting in its place following:

Sec. 1. 23 MRSA §153, as amended by PL 1991, c. 462, is repealed.

Sec. 2. 23 MRSA §153-B is enacted to read:

§153-B. Property for highways; acquisition

1. Acquisition of property. The Department of Transportation, on behalf of the State, may take over and hold for the State such property as it determines necessary to:

A. Lay out and establish, construct, improve or maintain, provide a change of location or alignment of or provide drainage for state and state aid highways;

B. Provide rest areas, parking strips, roadside and landscape development for the preservation and development of natural scenic beauty;

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2 C. Provide for the health, safety and welfare of the public
using a state or state aid highway;

4 D. Secure materials, with necessary ways and access, for
the construction, improvement and maintenance of state and
6 state aid highways;

8 E. Secure the relocation, removal or disposal of automobile
graveyards and junkyards not in conformity with Title 30-A,
10 chapter 183, subchapter I;

12 F. Erect administrative, storage and operational buildings
used in effecting the objectives in conformity with section
14 1; or

16 G. Construct, improve and maintain transportation projects
as directed by law and provide mitigation for existing or
18 potential environmental effects of transportation projects.

20 2. Survey and appraisal. When property is to be purchased
or taken over and held for the State, the department shall first
22 cause the property or interest in the property to be acquired to
be surveyed and described, and a plan of the property made, and
24 to be appraised by one or more appraisers. The owner or the
owner's designated representative must be given an opportunity to
26 accompany the appraisers during the appraiser's inspection of the
property. All persons employed by the department are authorized,
28 to the extent necessary for surveys and preliminary engineering,
to enter and cross all lands within, adjoining and adjacent to
30 the area to be surveyed in carrying out the objectives of this
section. The department may prescribe a procedure to waive the
32 appraisal in cases involving the acquisition by sale or donation
of property.

34 3. Entry; soundings, drillings and examinations. Persons
36 employed by the department may enter upon the property or
building with the consent of the owner, for the purpose of making
38 soundings, drillings and examinations as the department
determines necessary for the purpose of this subchapter. If the
40 department is unable to obtain consent of the owner, the
department is authorized to seek an administrative inspection
42 warrant for the purpose of making soundings, drillings and
examinations.

44 4. Notification to potential buyer. If an owner decides to
46 sell the property after the owner has been notified by the
department that it plans to purchase or take the property, it is
48 the responsibility of the owner to inform the potential buyer
that the department intends to purchase or take the property.
50 The department, as early in its property owner notification
process as possible, shall remind the property owner of this
52 responsibility.

A of S.

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Sec. 3. 23 MRSA §1915, sub-§2, as repealed and replaced by PL 1981, c. 318, § 4, is amended to read:

2. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures ~~shall~~ must be in accordance with this section and sections ~~153-through~~ 153-A to 159.

Sec. 4. 30-A MRSA §3760, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections ~~153~~ 153-A to 159.'

STATEMENT OF FACT

This amendment replaces the original bill. It clarifies the authority of the Department of Transportation to determine the condition of property prior to acquiring a parcel. This bill allows the department with the owner's consent to enter upon land to perform soundings, drillings and other examinations of the property to assess the physical as well as environmental condition of the property. In the event that the department is unable to obtain the consent of the owner, the department may obtain an administrative inspection warrant to enter upon the property or building.

This amendment makes technical and structural changes by repealing the Maine Revised Statutes, Title 23, section 153 and enacting these provisions as section 153-B. The amendment also provides correct statutory cross-references.