

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1152

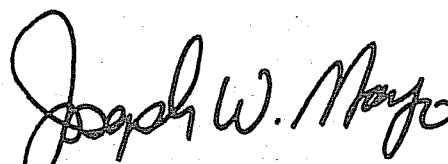
H.P. 847

House of Representatives, April 1, 1993

**An Act to Clarify the Authority of the Department of Transportation to
Determine Condition of Property Prior to Acquiring.**

(EMERGENCY)

Reference to the Committee on Transportation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative STROUT of Corinth. (GOVERNOR'S BILL)

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary for this legislation to be enacted as an emergency measure so that the Department of Transportation can effectively and efficiently accomplish its mission of providing transportation services to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 23 MRSA §153, 2nd ¶ from the end, as amended by PL 1989, c. 208, §1, is further amended to read:

Where property is to be purchased or taken over and held for the State, the department shall first cause the property or interest in the property necessary to be acquired to be surveyed and described and a plan of the property made and to be appraised by one or more appraisers. The owner or the owner's designated representative shall must be given an opportunity to accompany the appraisers during the appraiser's inspection of the property. All persons employed by the department are authorized, to the extent necessary for surveys and preliminary engineering, to enter and cross all lands within, adjoining and adjacent to the area to be surveyed in carrying out the objectives of this section. Upon notification to the landowner the department or its authorized agents and employees may enter upon any lands, waters or premises in the State for the purpose of making soundings, drillings and examinations as the department determines necessary or convenient for the purposes of this chapter and the entry is not a trespass. A landowner whose property is physically damaged by the soundings, drillings or examinations, and whose property is not acquired by the department and who is unable to agree on the amount of damages with the department, may have the claim determined by the State Claims Commission in the manner provided by this subchapter. The department may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property.

STATEMENT OF FACT

2
4 This amendment clarifies the authority of the Department of
6 Transportation to determine the condition of property prior to
8 acquiring a parcel. This bill allows the department to enter
10 upon land to perform soundings, drillings and other examinations
12 of the property to assess the physical as well as environmental
14 condition of the property. The language used in this bill is
 similar to the Maine Revised Statutes, Title 23, section 1967,
 subsection 3, which authorizes the Maine Turnpike Authority to
 enter upon land to perform these types of examinations. This
 bill also provides any aggrieved landowner an opportunity to have
 the State Claims Commission assess just compensation for damages.