

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1173

(Filing No. S-224)

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 864, L.D. 1173, Bill, "An Act Related to the Adoption of Municipal Ordinances and Comprehensive Plans and to Revise Notice Requirements for Certain Zoning Changes"

Amend the amendment by striking out all of section 3 and inserting its place the following:

Sec. 3. 30-A MRSA §4352, sub-§9, as enacted by PL 1991, c. 504, §2, is repealed and the following enacted in its place:

9. Notice; general requirements. Before adopting a new zoning ordinance or map, amending an existing zoning ordinance or map or adopting a shoreland zoning ordinance or map under Title 38, chapter 3, subchapter I, article 2-B, the municipal reviewing authority must post and publish notice of the public hearing required under subsection 1 in accordance with the following provisions.

A. The notice must be posted in the municipal office at least 14 days before the public hearing.

B. The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing.

Sec. 4. 30-A MRSA §4352, sub-§10 is enacted to read:

10. Additional notice; limited areas. Notice must be given in accordance with this subsection and subsection 9 when a municipality has proposed an amendment to an existing zoning ordinance or map that has the effect of prohibiting all industrial, commercial or retail uses within a geographically specific portion of the municipality where any of these uses are permitted or has the effect of permitting any industrial, commercial or retail uses where all of these uses are prohibited.

SENATE AMENDMENT

2 A. The notice must contain a copy of a map indicating the
portion of the municipality affected by the proposed
4 amendment.

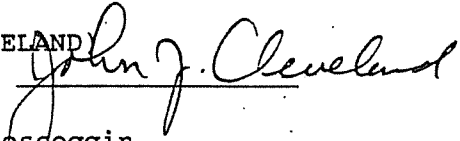
6 B. For each parcel within the municipality that is in or
abutting the portion of the municipality affected by the
8 proposed amendment, the notice must be mailed by first class
10 mail at least 14 days before the public hearing to the last
12 known address of the person to whom property tax on each
14 parcel is assessed. The municipal officers shall prepare
16 and file with the municipal clerk a written certificate
indicating those persons to whom the notice was mailed and
at what addresses, when it was mailed, by whom it was mailed
and from what location it was mailed. This certificate
constitutes prima facie evidence that notice was sent to
those persons named in the certificate.

18 Any action challenging the validity of an amendment to a zoning
20 ordinance or map based on a municipality's failure to comply with
22 paragraph B must be brought in Superior Court within 30 days
24 after the adoption of the amended ordinance or map. The Superior
26 Court may invalidate an amended ordinance or map if the appellant
28 demonstrates that the appellant was entitled to receive a notice
30 under paragraph B, that the municipality failed to send the
notice as required, that the appellant had no knowledge of the
proposed amendment to the ordinance or map and that the appellant
was materially prejudiced by that lack of knowledge. Nothing in
this subsection alters the right of a person to challenge the
validity of any ordinance based on the failure of the
municipality to provide notice as required in paragraph A and
subsection 9.'

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36 **STATEMENT OF FACT**

38 This amendment replaces section 3 of the bill. This
40 amendment clarifies the notification requirements for
42 municipalities when they adopt, amend or alter zoning
44 ordinances. Under this amendment there are 2 types of notice
46 requirements: a general provision for notice of the adoption,
48 amendment or replacement of zoning ordinances; and additional,
50 individualized notices to persons affected by the adoption of
52 amendments to zoning ordinances that would allow or prohibit
54 commercial, industrial or retail uses in geographically specific
portions of the municipality.

50 (Senator CLEVELAND
52 SPONSORED BY:



COUNTY: Androscoggin

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