

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "C" 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Sec. 3. 30-A MRSA §4352, sub-§9, as enacted by PL 1991, c. 504, §2, is repealed and the following enacted in its place: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 or amending an existing zoning ordinance or map, including ordinances or amendments adopted under the laws governing growth management contained in chapter 187, subchapter II or the laws governing shoreland zoning contained in 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 14 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. That notice must be written in plain English, understandable by the average citizen.

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, within a geographically specific portion of the municipality, has the effect of either prohibiting all

2 industrial, commercial or retail uses where any of these uses is
3 permitted or permitting any industrial, commercial or retail uses
4 where any of these uses is prohibited.

6 A. The notice must contain a copy of a map indicating the
7 portion of the municipality affected by the proposed
8 amendment.

10 B. For each parcel within the municipality that is in or
11 abutting the portion of the municipality affected by the
12 proposed amendment, the notice must be mailed by first class
13 mail at least 14 days before the public hearing to the last
14 known address of the person to whom property tax on each
15 parcel is assessed. The municipal officers shall prepare
16 and file with the municipal clerk a written certificate
17 indicating those persons to whom the notice was mailed and
18 at what addresses, when it was mailed, by whom it was mailed
19 and from what location it was mailed. This certificate
20 constitutes prima facie evidence that notice was sent to
21 those persons named in the certificate. Notice is not
22 required under this paragraph for any type of zoning
23 ordinance adopted under the laws governing growth management
24 contained in chapter 187, subchapter II or the laws
25 governing shoreland zoning contained in Title 38, chapter 3,
26 subchapter I, article 2-B.

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

42 STATEMENT OF FACT

44 This amendment replaces section 3 of the bill. This
46 amendment clarifies the notification requirements for
47 municipalities when they adopt, amend or alter zoning
48 ordinances. Under this amendment there are 2 types of notice
49 requirements: a general provision for notice of the adoption,
50 amendment or replacement of zoning ordinances, including
ordinances adopted under growth management or shoreland zoning

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L.D. 1173

2 laws; and additional, individualized notices to persons affected
by the adoption of amendments to zoning ordinances that would
4 allow or prohibit commercial, industrial or retail uses in
geographically specific portions of the municipality. The
6 amendment also requires that notices of hearings be published 14
days in advance rather than 7 days and requires that the notices
8 be written in plain English, understandable to the average
citizen.

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(Senator CLEVELAND)
SPONSORED BY: John J. Cleveland
COUNTY: Androscoggin

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SENATE AMENDMENT