

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

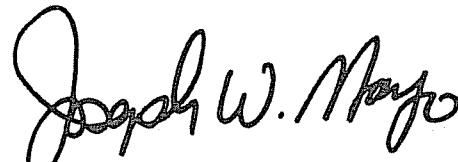
No. 1403

H.P. 1051

House of Representatives, May 3, 1993

An Act to Provide Access to Landlocked Property.

Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BENNETT of Norway.

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

2 Sec. 1. 23 MRSA §2051, as amended by PL 1975, c. 711, §1, is
4 further amended to read:

6 **§2051. Power of commissioners**

8 County commissioners may lay out, alter, close for
10 maintenance or discontinue highways within the unorganized areas
12 of their counties and grade hills in ~~any--such--highway~~ those
14 highways. The county commissioners may lay out, alter, close for
16 maintenance or discontinue a public easement as defined in
18 section 3021, subsection 2 within any portion of the county. The
20 county commissioners may close county roads for maintenance and
22 preserve the right-of-way for the use of abutting landowners, and
24 any others using said that way for the access to their property,
26 and public utilities and corporations with facilities legally
28 located within said that way, at their own risk. Responsible
30 persons may present, at their regular session, a written petition
describing a way and stating whether its location, alteration,
grading, closing for maintenance or discontinuance is desired, or
an alternative action, in whole or in part. The commissioners
may on petition lay out a public easement for any occupant of
land or for owners who have cultivated land in the county if the
land will be connected to a town way or highway after the
establishment of the public way. After a public easement has
been laid out, it may be taken pursuant to section 2057. The
commissioners may act upon it a petition, conforming
substantially to the description of the way requested, without
adhering strictly to its bounds.

32 Sec. 2. 23 MRSA §2057, as amended by PL 1975, c. 711, §§2 and
34 3, is further amended to read:

36 **§2057. Estimation and award**

38 ~~If any~~ When a person's property is damaged by laying out,
40 altering or discontinuing a county highway or public easement,
42 the county commissioners shall estimate the amount, and, in their
44 return, state the share of each separately. Damages shall must
46 be determined as if the land were taken for highway purposes
48 under chapter 3. Damages shall must be allowed to the owners of
50 reversions and remainders and to tenants for life and for years
in proportion to their interests in the estate taken. When
damages are owed for establishment of a public easement, the
costs accrued in response to the petition and the damages must be
paid by the petitioner or petitioners to benefit, in equal
shares, to the treasurer of the county before construction may
begin. Said The commissioners shall may not order such the
damages to be paid, nor shall may any right thereto to damages
accrue to the claimant, until the land over which the highway,

2 public easement or alteration is located has been entered upon
and possession taken for the purpose of construction or use.

4 **Sec. 3. 23 MRSA §3021, sub-§2**, as enacted by PL 1975, c. 711,
6 §8, is amended to read:

8 **2. Public easement.** "Public easement" means an easement
held by a municipality or by a county, for purposes of public
10 access to land or water not otherwise connected to a public way,
and includes all rights enjoyed by the public with respect to
12 private ways created by ~~statute prior to the effective date of~~
this Act law before July 29, 1976. Private ways created pursuant
to former sections 3001 and 3004 ~~prior to the effective date of~~
14 this Act before July 29, 1976 are public easements.

16 **STATEMENT OF FACT**

18 This bill allows owners of land to petition the county
20 commissioners, as they are allowed to petition the municipal
officers of a municipality, to lay out a public easement,
22 formerly a private way, to provide access to that property. The
petitioner or petitioners who would benefit by accessibility to
24 their property are made responsible for the costs and damages
assessed for the laying out of the way.