

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

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H.P. 1052

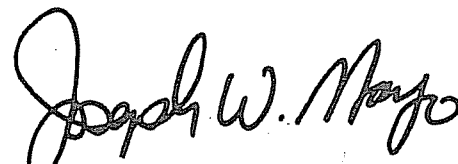
House of Representatives, May 3, 1993

An Act to Allow the Town of Berwick to Rebuild Certain Private Roads.

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative MURPHY of Berwick.
Cosponsored by Senator: CARPENTER of York.

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

4
6 Whereas, the Town of Berwick does not have the authority to
repair roads in subdivisions in the town; and

8 Whereas, there are certain roads in subdivisions in the Town
of Berwick that are in need of repair and are hazardous to the
10 residents in the subdivisions; and

12 Whereas, work should be done as soon as possible to repair
the roads; and

14
16 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
18 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

22 **Sec. 1. Authorization.** The Town of Berwick is authorized to
24 perform work on private roads within town-approved subdivisions,
subject to the provisions of this Act, for the purpose of
26 bringing those roads into conformity with the road standards
adopted by the town. A private road is defined as a road that
28 has never been accepted by the town's legislative body as a town
way, a private way or a public easement and over which the
30 general public has no legal right of access.

32 **Sec. 2. Petition by abutters.** Two thirds of the owners of
property abutting a private road within a subdivision in the Town
34 of Berwick may petition the town to perform work that brings the
road or any portion of that road into conformity with the road
36 standards adopted by the town by ordinance or subdivision
regulations. The municipal officers shall present the petition
38 for consideration by the legislative body only if all of the
following requirements have been met.

40 1. The petition is presented at least 35 days prior to the
42 annual budget meeting for consideration at that meeting.

44 2. The petition has been signed by at least 2/3 of the
owners of property abutting the private road that is the subject
46 of the petitions.

48 3. The owners who signed the petition present sufficient
proof, which satisfies the municipal officers, that they have a
50 legal right-of-way to the private road.

2 For the purposes of this section, "owner" means the person or
persons who hold legal title to the property. If an individual
4 or group of individuals owns more than one piece of property
under separate deeds, that person or group is deemed to be a
single owner for purposes of this section.

6
8 In reaching its decision, the town shall consider the
exigency of the request, whether the work is necessary for safety
10 reasons, the town's ability to perform the work and the
possibility of successful litigation by the property owners to
12 require the subdivider to perform the work. The decision by the
town is final. If the petition is granted, it must be with the
14 understanding that work required on town ways has priority over
any work to be done on private roads. The town does not obligate
16 itself in any way to accept a private road as a town way merely
by virtue of the decision to perform work pursuant to this Act.

18 **Sec. 3. Assessments.** When the town has completed the work
pursuant to this Act, the municipal officers shall determine what
20 lots or parcels of land are benefited by the road improvements
and shall estimate and assess against the owners of those lots or
22 parcels of land a sum equal to the total actual expenses of the
work, including labor, materials, equipment and any related
24 insurance or administrative costs prorated among the owners
according to the number of feet the lot or parcel of land borders
26 on the road.

28 **Sec. 4. Collection of assessments.** All assessments made pursuant
to this Act must be certified by the municipal officers and must
30 be paid within 30 days after demand or a special tax may be
assessed by the assessors against the land for the amount of the
32 expenses. This amount is included in the next annual warrant of
the tax collector and is collected in the same manner as other
34 state, county and municipal taxes are collected. The Town of
Berwick may provide by ordinance for the collection of the
36 assessments over a period of time not to exceed 5 years and may
implement this collection method if the assessed property owner
38 has agreed to this method in writing and notice of this fact has
been recorded in the York County registry of deeds. The
40 municipal officers shall annually commit to the tax collector a
list of installment payments due the town, which must be
42 collected with interest at a rate determined by the town.

44 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.
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STATEMENT OF FACT

4 This bill authorizes the Town of Berwick to perform road
work on private roads within subdivisions if 2/3 of the owners of
6 property that abuts the road petition the town. This bill does
not obligate the Town of Berwick to accept a road that the town
8 improved; the provisions of the Maine Revised Statutes, Title 23,
chapter 304 would still apply.