

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1014

H.P. 724

House of Representatives, February 4, 1999

An Act to Allow Private Maintenance of Public Easements.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative McKEE of Wayne.
Cosponsored by Senator NUTTING of Androscoggin and
Representatives: BAKER of Bangor, COWGER of Hallowell, DUPLESSIE of Westbrook,
FISHER of Brewer, VOLENIK of Brooklin.

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

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Sec. 1. 23 MRSA §3101, as amended by PL 1997, c. 682, §1, is further amended by adding at the end a new paragraph to read:

Owners of parcels of land directly benefited by a public easement are deemed to have an appurtenant easement in a way or bridge for purposes of utilizing the process in this subchapter to maintain that public easement.

Sec. 2. Study. The Committee to Study Public Easements, referred to in this section as the "committee," is created.

1. The committee consists of 7 members appointed as follows:

A. The President of the Senate shall appoint 2 Senators, one of whom is a member of the Joint Standing Committee on State and Local Government and one of whom is a member of the Joint Standing Committee on Judiciary;

B. The Speaker of the House of Representatives shall appoint 2 members of the House of Representatives, one of whom is a member of the Joint Standing Committee on State and Local Government and one of whom is a member of the Joint Standing Committee on Judiciary;

C. The Maine State Bar Association shall appoint one member with expertise in property law;

D. The Maine Municipal Association shall appoint one member; and

E. The President of the Senate and the Speaker of the House of Representatives shall jointly name one member of the public with an interest in public easements.

All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments.

2. The first-named Senator is the Senate chair of the committee and the first-named member of the House of Representatives is the House chair of the committee.

3. When appointment of all members is completed, the chairs shall call and convene the committee for the first meeting, which must be no later than September 15, 1999.

2 4. The committee shall examine the following issues:

4 A. The Constitutional, statutory and common law relating to public easements in the State;

6 B. The legal characteristics of public easements, including
8 the rights, responsibilities and burdens of various parties
10 with respect to a public easement. Parties include owners
12 of property that borders the public easement,
municipalities, frequent users of the public easement and
the public in general;

14 C. The history of how public easements have been created in
particular circumstances and whether public easements have
been illegally created;

16 D. Methods of resolving problems created by inadequate
18 public maintenance of public easements and methods of
compensating persons who have maintained public easements at
20 their own expense in the past; and

22 E. The need for changes in state law to provide fairness
24 for all parties in the creation, maintenance and use of
public easements.

26 5. Upon approval of the Legislative Council, the Office of
Policy and Legal Analysis shall provide necessary staffing
28 services to the committee.

30 6. Legislative members are entitled to receive the
legislative per diem and reimbursement of necessary expenses for
32 attendance at authorized meetings of the committee. Public
members who are not otherwise compensated by their employers or
34 otherwise are entitled to receive reimbursement of necessary
expenses and a per diem equal to the legislative per diem for
36 attendance at authorized meetings of the committee.

38 7. The committee shall submit a report together with any
recommended legislation to the Second Regular Session of the
40 119th Legislature no later than December 1, 1999. If the
committee requires a limited extension of time to conclude its
42 study and make its report, it may apply to the Legislative
Council, which may grant the extension.

44 8. The chairs of the committee, with assistance from staff,
46 shall administer the study budget. Within 10 days after its
first meeting, the committee shall present a work plan and
48 proposed budget to the Legislative Council for approval. The
committee may not incur expenses that would result in the study
50 group exceeding its approved budget. Upon request from the

2 committee, the Executive Director of the Legislative Council or
the director's designee shall promptly provide the committee
4 chair and staff with a status report on the study budget,
expenses incurred and paid and available funds.

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8 SUMMARY

10 This bill allows persons who are directly benefited by a
public easement to utilize a statutory procedure for collecting
12 funds to maintain the public easement. It also creates a study
group to examine issues relating to public easements, including
14 examination of the rights, responsibilities and burdens created
by public easements and how to ensure fairness to all parties
16 affected by public easements.