

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1637

S.P. 570

In Senate, March 3, 1999

An Act Regarding the Boundaries of State and State Aid Highways.

Submitted by the Department of Transportation pursuant to Joint Rule 204.
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator O'GARA of Cumberland.
Cosponsored by Representative JABAR of Waterville and
Representatives: FISHER of Brewer, SAVAGE of Union.

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

2 Sec. 1. 23 MRSA §653, as amended by PL 1971, c. 593, §22, is
4 repealed and the following enacted in its place:

6 §653. Highway boundaries

8 1. Authority. The department may establish the boundary
10 lines, limits or locations of any or all state highways and state
12 aid highways and cause durable monuments to be erected at the
14 angles thereof.

16 2. Reestablishment of lost or doubtful boundaries.
18 Whenever in the opinion of the department the boundary lines,
20 limits or location of any state highway or state aid highway or
22 any part thereof are lost, uncertain or doubtful, the department
24 may reestablish those lines, limits or location; land lying
26 within those lines is a part of the highway right-of-way. The
28 department shall file with the town clerk of the town in which
30 the highway is located and with the registry of deeds in the
32 county in which the highway is located maps showing the boundary
34 lines, limits or location of such a reestablished highway, and
36 those lines, boundaries, limits and location are those of the
38 reestablished highway. The department shall post descriptions of
40 those parts of such highways that lie within towns in one
42 conspicuous place in those towns and in the vicinity of the
44 highway, and it shall publish a description of those parts of
46 highways that lie within any county in a newspaper, if any, in
48 that county.

50 In the absence of record, plan or layout sufficient to
52 reestablish the boundary lines, limits or location of a state
54 highway or state aid highway, the width of a state highway or
56 state aid highway is deemed to extend to and include the area
58 lying outside the shoulders and ditch lines and within any
60 landmarks or historic features such as fences, fence posts, tree
62 rows, stone walls, corner stones or other similar monuments
64 indicating the boundary line.

66 In the absence of record, plan or layout or any landmarks or
68 historic features that evidence the location of the boundaries of
70 the right-of-way, the width of a state highway or state aid
72 highway is deemed to extend to and include the shoulders and
74 ditch lines adjacent to that highway and to the top of cuts or
76 toe of fills where they exist.

78 Any person aggrieved by the reestablishment of boundary lines,
80 limits and location of a reestablished highway may file a
82 complaint for the assessment of damages to the Superior Court in
84 the county where the reestablished highway is located within 60
86 days from the filing of maps with the registry of deeds, and not
88 thereafter, and the court shall assess the damages, if any, by
90 jury, as long as the reestablished boundary lines, limits or

2 location are not the same as originally established. The
3 department shall pay from its funds all expenses incurred and the
4 amount of final judgment and costs, except that the amount of the
5 final judgment and costs if damages are awarded must be paid by
6 the plaintiff if the plaintiff fails to recover any damages.

7 **Sec. 2. 23 MRSA §2060**, as amended by PL 1975, c. 711, §4, is
8 repealed and the following enacted in its place:

10 **§2060. Discontinuance where new state highway**

12 **1. General procedures.** When the Department of
13 Transportation has constructed a highway over substantially the
14 same route as that of a county or town way and has recorded the
15 plans of that highway in the registry of deeds, the county
16 commissioners or municipal officers may, on their own motion,
17 after notice and hearing, proceed to alter or discontinue the
18 portion of that way not within the limits of the highway. The
19 department shall give notice and proceed as provided in this
20 chapter or chapter 304, as applicable, including serving any
21 public utility having facilities located in that portion to be
22 discontinued. Notice to abutters must include notice that all or
23 a portion of the discontinued roadway may pass to the abutters
24 unless an exception in the plans and order of discontinuance is
25 requested. Any aggrieved person may appeal as provided in the
26 applicable chapter. The plans prepared by the department and
27 recorded in the registry of deeds may be referred to in
28 describing those portions of the county or town way to be
29 discontinued.

30 **2. Effect and exceptions.** Upon discontinuance, all
31 interests of the county or municipality pass to the abutting
32 property owners to the center of the way in accordance with
33 section 3026. When the Department of Transportation is an
34 abutting owner, then the interests in the way pass to the
35 property owner opposite the department's ownership in accordance
36 with a plan showing the right-of-way line established for the new
37 highway location by the department. The plan must be referenced
38 in the order of discontinuance.

39 **3. Exclusion.** This section does not apply in cases where
40 the county or municipality owns the fee interest in the road to
41 be discontinued.

42 **SUMMARY**

43 This bill accomplishes the following:

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50 1. It provides a method for determining the boundaries of
state or state aid highways in cases where there is no recorded

2 layout of the highway or in cases where the boundary is
uncertain; and

4 2. It provides a method for transferring to abutting
property owners any interest that may pass to the Department of
6 Transportation upon the discontinuance by a town or county, of a
way that has been reconstructed by the department.

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10 The purpose of this bill is to reduce the time, costs and
paperwork required for these activities.