

# MAINE STATE LEGISLATURE

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 252, L.D. 288, Bill, "An Act to Clarify Access to Private Lines in a Public Way"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

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

Whereas, in order to protect the public health, safety and welfare, it is important to have in place as soon as possible clear standards for the construction of private electric transmission and distribution lines built in public ways;

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

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

Sec. 1. 35-A MRSA §2305, as amended by PL 1999, c. 398, Pt. A, §34 and affected by §§104 and 105, is repealed.

Sec. 2. 35-A MRSA §2305-B is enacted to read:

§2305-B. Construction of transmission and distribution lines

1. Transmission and distribution utilities. A transmission and distribution utility may construct and maintain its lines in,

2 upon, along, over, across or under the roads and streets in any  
3 municipality in which it is authorized to supply electricity,  
4 subject to the conditions and restrictions provided in this  
5 chapter and chapter 25.

6 **2. Persons other than transmission and distribution**  
7 **utilities.** A person other than a transmission and distribution  
8 utility may not construct or maintain electric lines, including  
9 poles or other related structures, in, upon, along, over, across  
10 or under a road, street or other public way unless:

12 A. The person satisfies the requirements of section 2503;

14 B. The person or the person's contractor hired to construct  
15 the line provides to the applicable licensing authority a  
16 performance bond:

18 (1) In the amount of the value of the line, including  
19 poles or other related structures, to be located in the  
20 public way; and

22 (2) That is enforceable for one year from the date the  
23 line is energized;

24 C. Prior to constructing the line, the person notifies the  
25 transmission and distribution utility in whose service  
26 territory the line is proposed to be built of the proposed  
27 location of the line; and

28 D. If a public utility objects to the line on the basis  
29 that it may constitute a duplication of existing  
30 transmission or distribution facilities or may interfere  
31 with the adequate and safe delivery of electricity to  
32 others, the commission issues a finding that the line is not  
33 a duplication of existing transmission or distribution  
34 facilities and does not interfere with the adequate and safe  
35 delivery of electricity to others. A finding is not  
36 required under this paragraph unless a public utility has  
37 objected in writing to the applicable licensing authority.

38 **3. Recording.** A public utility that enters into any  
39 written agreement with the owner of a facility with regard to  
40 that facility shall record that agreement in the registry of  
41 deeds in the county in which the facility is placed.

42 **4. Maintenance.** The owner of a line located in, upon,  
43 along, over, across or under a road, street or other public way  
44 is responsible for properly maintaining the line and complying  
45 with lawful directives of the applicable licensing authority. If  
46 the owner of a line fails to maintain a line properly or to

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2 comply with directives of the applicable licensing authority and  
3 the applicable licensing authority incurs any expense in  
4 maintaining the line or pays any damages as a result of the  
5 owner's failure to maintain the line properly or to comply with  
6 the directives of the licensing authority, the licensing  
7 authority may assess the owner of the line the amount of those  
8 actual costs. The assessment must be in writing and must specify  
9 the amount of the assessment, the basis for the assessment and  
10 that a lien will be created on the real estate of the owner of  
11 the line if the assessment is not paid within 90 days. If the  
12 owner of the line does not pay the assessment within 90 days, a  
13 lien is created on the real estate of the owner of the line  
14 situated in the municipality to secure the payment of actual  
15 costs incurred by the applicable licensing authority. This lien  
16 may be treated and enforced in the same manner as a tax lien  
17 under Title 36, chapter 105, subchapter IX, article 2. In  
18 addition to any other available remedies, a person aggrieved by a  
19 lien imposed or enforced by a licensing authority under this  
20 subsection may bring an action in Superior Court for a  
21 determination of the validity of the lien.

22 **5. Energizing lines.** A transmission and distribution  
23 utility may not deliver electricity over any line in, upon, along  
24 or under a road, street or other public way if the lines or  
25 related structures were constructed by a person other than a  
26 transmission and distribution utility unless the transmission and  
27 distribution utility is provided with certified copies of  
28 applicable permits required under section 2503. A transmission  
29 and distribution utility may not refuse to deliver electricity  
30 over a line if:

32 A. The owner of the line reimburses the transmission and  
33 distribution utility for the cost of connecting the line to  
34 the utility's system; and

36 B. The line meets the transmission and distribution  
37 utility's standards, provided those standards are no  
38 different from the standards the utility applies to its own  
39 lines.

40 **Emergency clause.** In view of the emergency cited in the  
41 preamble, this Act takes effect when approved.'

44 Further amend the bill by inserting at the end before the  
45 summary the following:

RWS

**FISCAL NOTE**

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The Public Utilities Commission will incur some minor additional costs to issue a finding stating whether or not a private line is a duplication of existing facilities and interferes with the adequate and safe delivery of electricity if the transmission and distribution utility objects in writing. These costs can be absorbed within the commission's existing budgeted resources.'

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**SUMMARY**

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This amendment replaces the bill. This amendment accomplishes the following.

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1. It amends the law relating to the construction of private lines in the public way and expands its application to state-regulated roads.

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2. It refines the bonding requirement for persons building private lines in a public way.

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3. It makes the requirement that the Public Utilities Commission issue a finding that a private line is not a duplication of existing facilities and does not interfere with the adequate and safe delivery of electricity to others contingent upon a transmission and distribution utility's raising these issues as an objection to the construction of a private line.

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4. It establishes that a transmission and distribution utility may not refuse to energize a line if the line meets the utility's standards, provided the standards are the same as the standards the utility applies to its own lines, and the person owning the line reimburses the utility for connecting the line to the utility's system.

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5. It adds an emergency preamble and emergency clause and a fiscal note to the bill.