

MAINE STATE LEGISLATURE

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H. P. 720

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Date: 6/5/17

L.D. 960
(Filing No. H-434)

Majority
JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 720, L.D. 960, Bill, "An Act To Base Value in Eminent Domain Takings of Businesses on Going Concern Value"

Amend the bill by inserting before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill by inserting after section 4 the following:

'Sec. 5. Application. This Act applies to a taking of property or any interest in property that displaces a business as defined in the Maine Revised Statutes, Title 23, section 242, subsection 2 for which a notice of condemnation as required by Title 23, section 154 is filed on or after January 1, 2008.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF
Highway and Bridge Improvement 0406

Initiative: Allocates funds for the increased costs of eminent domain proceedings.

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 720, L.D. 960

1	HIGHWAY FUND	2007-08	2008-09
2	All Other	\$475,000	\$910,000
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4	HIGHWAY FUND TOTAL	\$475,000	\$910,000

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SUMMARY

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This amendment is the majority report of the Joint Standing Committee on Judiciary.

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This amendment adds a mandate preamble.

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This amendment adds an appropriations and allocations section.

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This amendment adds an application section to provide that the bill applies to a taking of property that displaces a business for which a notice of condemnation is filed on or after January 1, 2008. A business is defined, in part, as any lawful activity, excepting a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property and for the manufacture, processing or marketing of products, commodities or any other personal property.

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FISCAL NOTE REQUIRED

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(See attached)

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 960

LR 799(02)

An Act To Base Value in Eminent Domain Takings of Businesses on Going Concern Value

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Exempted

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
Highway Fund	\$475,000	\$910,000	\$910,000	\$910,000
Appropriations/Allocations				
Highway Fund	\$475,000	\$910,000	\$910,000	\$910,000

State Mandates

Required Activity

The requirements that municipalities hire licensed appraisers in certain eminent domain proceedings and that appraisals encompass determination of the going concern value of a business would represent state mandates. Costs for damages could be high. Any related activities (letters, meetings, site visits, legal services, staff time, etc.) necessary to the accomplishment of the new criteria would be considered mandated activities as well, even if the costs of those activities are minor. Pursuant to inclusion of the mandate preamble, a two-thirds vote of the members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional costs.

Unit Affected

Municipality

Costs

Significant

Fiscal Detail and Notes

This bill includes Highway Fund allocations of \$475,000 and \$910,000 in fiscal years 2007-08 and 2008-09, respectively, for the Department of Transportation to cover the costs of certain changes in the requirements of eminent domain proceedings.