

MAINE STATE LEGISLATURE

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Report A

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3 TRANSPORTATION

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5 STATE OF MAINE
6 HOUSE OF REPRESENTATIVES
7 123RD LEGISLATURE
8 SECOND REGULAR SESSION

9 COMMITTEE AMENDMENT "A" to H.P. 1488, L.D. 2102, Bill, "An Act To
10 Allow Road Associations To Determine Assessments According to Majority Vote Cast at
11 a Duly Held Meeting"

12 Amend the bill by striking out everything after the enacting clause and before the
13 summary and inserting the following:

14 'Sec. 1. 23 MRSA §3101, as amended by PL 2007, c. 162, §1, is repealed and the
15 following enacted in its place:

16 **§3101. Call of meetings; maintenance; repairs**

17 **1. Definitions.** As used in this subchapter, unless the context otherwise indicates,
18 the following terms have the following meanings.

- 19 A. "Private way" means a public easement as defined in section 3021, subsection 2.
- 20 B. "Repairs and maintenance" does not include paving, except in locations where
- 21 limited paving is demonstrated to be a cost-effective approach for fixing an erosion
- 22 problem or to repair and maintain pavement existing as of July 1, 2007.
- 23 "Maintenance" includes, but is not limited to, snowplowing.

24 **2. Call of meeting.** When 4 or more parcels of land are benefited by a private road,
25 private way or bridge as an easement or by fee ownership of the private road, private way
26 or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels
27 are owned by different persons, may make written application to a notary public to call a
28 meeting. The notary may issue a warrant or similar written notice setting forth the time,
29 place and purpose of the meeting. Copies of the warrant or similar written notice must be
30 mailed by means of the United States Postal Service to the owners of all the parcels
31 benefited by the private road, private way or bridge at the addresses set forth in the
32 municipal tax records at least 30 days before the date of the meeting. If mailing copies of
33 the warrant or similar written notice to all such owners is not possible, the notary shall
34 post a notice in a public place. The notice must inform the owners of the planned
35 meeting's agenda and specify all items to be voted on. The notice, if mailed, must be

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1 accompanied by proxy and absentee voting forms. The notice, if posted, must provide
2 information on how to obtain proxy and absentee voting forms. Subsequent meetings
3 may be called in the same manner or by a commissioner or board appointed at a previous
4 meeting pursuant to subsection 5.

5 **3. E-mail.** E-mail may be used as an alternative to United States mail for sending
6 notices and other materials under this section with the agreement of the receiving party as
7 long as the communication includes the current address and telephone number of the
8 sender for purposes of verification.

9 **4. Voting.** Each parcel of land benefited by a private road, private way or bridge
10 represents one vote under this section. The call to a meeting may state that an owner may
11 elect to appoint another owner to vote in the owner's stead. Owners voting by absentee
12 ballot must be polled on all voting items that were not included in the agenda and the
13 final tally must be reported to the owners.

14 **5. Commissioner or board; repair and maintenance assessment.** The owners of
15 parcels of land benefited by a private road, private way or bridge at a meeting called
16 pursuant to subsection 2 may choose a commissioner or board, to be sworn. By a majority
17 vote, the owners may determine what repairs and maintenance are necessary and the
18 materials to be furnished or amount of money to be paid by each owner for repairs and
19 maintenance. The determination of each owner's share of the total cost must be fair and
20 equitable. The commissioner or board shall report the outcome of all votes to all the
21 owners by United States mail within 30 days. Special assessments for emergency repairs
22 and maintenance may be made at a duly held meeting called for that purpose. Emergency
23 repairs and maintenance are those actions necessary to maintain or restore the
24 functionality of the private road, private way or bridge.

25 **6. Commercial or forest management purposes.** This section does not apply to a
26 private road, private way or bridge constructed or primarily used for commercial or forest
27 management purposes.

28 **Sec. 2. 23 MRSA §3102,** as amended by PL 1999, c. 552, §2, is further amended
29 to read:

30 **§3102. Commissioner's or board's duties; neglect of owners to pay**

31 The commissioner or board chosen under section 3101, with respect to the private
32 road, private way or bridge, has the powers of a road commissioner. If any owner, on
33 requirement of the commissioner or board, neglects to furnish that owner's proportion of
34 labor, materials or money, the same may be furnished by the other owners and recovered
35 of the owner neglecting to pay in a civil action, together with costs of suit and reasonable
36 attorney's fees. The commissioner's or board's apportioning of the cost of repairs to the
37 road undertaken pursuant to the provisions of section 3101 may not exceed 1% of an
38 individual owner's property valuation in any calendar year.

39 **Sec. 3. 23 MRSA §3103,** as amended by PL 2005, c. 479, §1, is further amended
40 to read:

1 **§3103. Contracts for repair; assessments**

2 The owners, at a meeting held under section 3101, may by a majority vote authorize a
3 contract to be made for making repairs to and ~~keeping~~ maintaining the private road,
4 private way or bridge ~~in repair~~ by the year or for a lesser time and may raise money for
5 that purpose and ~~choose assessors to assess it on the owners in proportion to each owner's~~
6 interest pursuant to section 3101, subsection 5. ~~An owner's interest is based on the~~
7 ~~assessed valuation for property tax on the owner's parcel that is benefited by the private~~
8 ~~way or bridge. The assessors shall deliver their assessment with a warrant for its~~
9 ~~collection to the commissioner. The warrant must be in substance such as is prescribed~~
10 ~~for collection of town taxes.~~ The commissioner or board shall collect the same money as
11 town taxes are collected, and ~~be~~ is liable for neglect of duty as town collectors are for
12 similar neglects.

13 **Sec. 4. 23 MRSA §3104**, as amended by PL 1997, c. 682, §2, is further amended
14 to read:

15 **§3104. Penalties and process**

16 Money recovered under sections 3102 and 3103 is for the use of ~~such~~ the owners. In
17 any process for its recovery, a description of the owners in general terms as owners of
18 parcels of land benefited by the private road, private way or bridge, clearly describing the
19 private road, private way or bridge, is sufficient. Such process is not abated by the death
20 of any owner or by the transfer of any owner's interest.'

21 **SUMMARY**

22 This amendment is similar to the bill in that it amends the laws pertaining to road
23 associations formed under the private ways laws by allowing them to make assessments
24 using any method they choose that is endorsed by a majority vote at a duly held meeting.
25 The amendment establishes guidelines for notifying lot owners of any meeting scheduled
26 to deal with maintenance and repair of the private road, private way or bridge. The
27 amendment adds maintenance of a road to the laws pertaining to road repairs.

28 The amendment, which is the majority report of the committee, also provides that
29 maintenance includes, but is not limited to, snowplowing. The amendment also provides
30 that e-mail is an acceptable form of communication for the purposes of calling a meeting.
31 The amendment further changes the guidelines for notification of lot owners of meetings.