

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 615

S.P. 230

In Senate, February 17, 2009

An Act To Strengthen Landowner Rights in Certain Eminent Domain Situations

(EMERGENCY)

Reference to the Committee on Judiciary 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 MARRACHÉ of Kennebec.
Cosponsored by Representative HILL of York and
Senators: BLISS of Cumberland, CRAVEN of Androscoggin, SIMPSON of Androscoggin,
Representatives: ADAMS of Portland, BRYANT of Windham, FLETCHER of Winslow,
ROTUNDO of Lewiston, WAGNER of Lewiston.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** there are many utility proposals pending that may involve the taking of
4 landowner property and the procedures governing those takings need to be modified to
5 adequately protect the interests of those property owners; and

6 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
7 the meaning of the Constitution of Maine and require the following legislation as
8 immediately necessary for the preservation of the public peace, health and safety; now,
9 therefore,

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

11 **Sec. 1. 35-A MRSA §6503, sub-§1-A** is enacted to read:

12 **1-A. Mediation.** Notwithstanding any other provision of law, if the owner of
13 property taken by eminent domain disputes the amount of damages offered by the taker,
14 the owner may choose to have a qualified independent appraiser approved by the owner
15 determine the amount of damages. The taker must pay all costs of the appraiser. The
16 appraiser, in determining the amount of damages, must include the effect of the taking on
17 the value of surrounding property of the owner that is not taken. If the owner agrees to
18 the amount determined by the appraiser, the taker shall pay that amount and may not
19 contest the amount under subsection 2 or any other provision of this chapter. If the owner
20 does not wish to proceed under this subsection or does not agree to the amount
21 determined by the appraiser pursuant to this subsection, the owner may apply to the
22 county commissioners under subsection 2.

23 **Emergency clause.** In view of the emergency cited in the preamble, this
24 legislation takes effect when approved.

25 SUMMARY

26 This bill modifies the law governing the exercise of eminent domain by public
27 utilities. Under current law, an owner can apply to the county commissioners to settle the
28 amount of damages paid by the utility to the owner. Under this bill, the owner is
29 provided the option of having an independent appraiser, approved by the owner and paid
30 for by the utility, establish the amount of damages. The amount determined under this
31 process is required to include the effect of the taking on the value of surrounding land of
32 the owner not taken by the utility.