

MAINE STATE LEGISLATURE

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Date: 5-26-09

(Filing No. S-213)

TRANSPORTATION

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STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 294, L.D. 767, Bill, "An Act To Promote Fairness and Protect Economic Development in Transportation Projects Undertaken by the State"

Amend the bill in section 1 by striking out all of §153-C and inserting the following:

§153-C. Acquisition of property identified in transportation planning; new bypass highway project

1. Acquisition of property. If the Department of Transportation prepares an environmental impact statement as required by the federal National Environmental Protection Act of 1969 for permitting for the location of a new bypass highway project and property will be affected by the limits of the final bypass right-of-way and the property owner submits a request in writing to the department that the department acquire that portion of the owner's property determined necessary for the new bypass highway project, the department shall acquire the property determined necessary if:

A. The department has received a least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers that will be incorporated into the environmental impact statement for corridor alignment indicating that certain property will be necessary for the purposes set forth in section 153-B, subsection 1; and

B. The fair market value is determined in accordance with this subchapter.

The request submitted by the property owner under this subsection must be submitted to the department within 9 months of the date that the department receives the least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers under paragraph A.

2. Deadline for acquisition; extension. The following provisions govern the deadline for acquisition of property by the Department of Transportation pursuant to subsection 1.

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A. The department shall acquire affected properties pursuant to this subchapter within 2 years from the date of issuance of the least environmentally damaging practicable alternative determination from the United State Army Corps of Engineers under subsection 1, paragraph A.

B. Notwithstanding paragraph A, if funding for the new bypass highway project is not available or if state or federal regulations preclude the department from acquiring real property, the department may extend the time period for acquisition of affected properties up to 2 years. Any extension under this paragraph must be submitted no later than 90 days before the expiration of the 2 years under paragraph A to the joint standing committee of the Legislature having jurisdiction over transportation matters for its review and comment.

3. Reservation of eminent domain powers. Nothing in this section affects or alters the rights of the Department of Transportation to exercise its rights of eminent domain under this Title.

SUMMARY

This amendment provides that if the Department of Transportation is preparing an environmental impact statement as required by the federal National Environmental Protection Act of 1969 for permitting for the location of a new bypass highway project, and property will be affected by the limits of the final bypass right-of-way, and the property owner submits a request in writing that the department acquire that portion of property determined necessary for the new bypass highway project, the department is directed to acquire that property if the following 2 conditions are met. First, the department must have received a least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers that will be incorporated into the environmental impact statement for corridor alignment indicating that certain property will be necessary. Secondly, the fair market value must be determined according to current law under the laws governing the State Claims Commission.

The amendment further directs the department to acquire affected properties within 2 years from the date of issuance of the least environmentally damaging practicable alternative determination from the United States Army Corps of Engineers. The amendment provides that if funding for the new bypass highway project is not available or if state or federal regulations preclude the department from acquiring real property, the department may extend the time period for acquisition of affected properties up to 2 years. Any extension must be submitted to the joint standing committee of the Legislature having jurisdiction over transportation matters for its review and comment.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



124th MAINE LEGISLATURE

LD 767

LR 1828(02)

**An Act To Promote Fairness and Protect Economic Development in Transportation Projects
Undertaken by the State**

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

Committee: Transportation

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - Highway Fund

Fiscal Detail and Notes

This bill provides that if a property owner submits a request to the Department of Transportation to purchase their property which is affected by a new bypass highway project and a fair market value assessment has been completed and the Department has received a least environmentally damaging practicable alternative determination, the Department must purchase the property. This bill could increase Highway Fund costs if such purchases are necessary. Any additional costs would be offset by reductions in other Highway Fund projects.