

# MAINE STATE LEGISLATURE

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Date: 5-31-11

(Filing No. S-183)

**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE  
SENATE  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 147, L.D. 514, Bill, "An Act Regarding Conveyance of Easements across Railroad Rights-of-way"

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

**Sec. 1. 5 MRSA §6209, sub-§6**, as amended by PL 1993, c. 728, §13, is further amended to read:

**6. Legislative approval.** ~~Land~~ Except as provided in subsection 7, land acquired under this chapter may not be sold or used for purposes other than those stated in this chapter, unless approved by a 2/3 majority of the Legislature.

**Sec. 2. 5 MRSA §6209, sub-§7** is enacted to read:

**7. Conveyance of an access easement across a rail trail.** Notwithstanding any other provision of law, the Director of the Bureau of Parks and Lands within the Department of Conservation, with the approval of the Governor and the Commissioner of Conservation, may sell or otherwise convey in accordance with Title 12, section 1814-A access rights by easement across a rail trail acquired under this chapter.

For the purposes of this subsection, "rail trail" means a former railroad right-of-way in which the Department of Conservation holds an ownership interest and that is:

- A. No longer used for rail service; and
- B. Managed by the Department of Conservation for use as a recreational trail.

**Sec. 3. 12 MRSA §598, sub-§4**, as enacted by PL 1993, c. 639, §1, is amended to read:

**4. Reduced.** "Reduced" means a reduction in the acreage of an individual parcel or lot of designated land under section 598-A. "Reduced" does not mean a reduction in the value of the property. "Reduced" does not mean the conveyance of an access right by easement in accordance with section 1814-A.

**COMMITTEE AMENDMENT**

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1           **Sec. 4. 12 MRSA §598, sub-§5**, as amended by PL 1997, c. 678, §7, is further  
2 amended to read:

3           **5. Substantially altered.** "Substantially altered", in the use of designated lands,  
4 means changed so as to significantly alter physical characteristics in a way that frustrates  
5 the essential purposes for which that land is held by the State. The essential purposes of  
6 state parks, historic sites, public access sites, facilities for boats and the Allagash  
7 Wilderness Waterway are the protection, management and improvement of these  
8 properties for public recreation, conservation, scenic values, nature appreciation, historic  
9 preservation and interpretation, public access and related purposes. The essential  
10 purposes of public reserved and nonreserved lands are the protection, management and  
11 improvement of these properties for the multiple use objectives established in section  
12 1847. The essential purposes of lands acquired through the Land for Maine's Future  
13 Board that are not held by the Department of Inland Fisheries and Wildlife or by the  
14 Department of Conservation are the protection, management and improvement of those  
15 lands for recreation, conservation, farming, open space, plant and animal habitat, scenic  
16 values, public access and related purposes. The essential purposes of state-owned  
17 wildlife management areas and game farms are the protection, management and  
18 improvement of those properties for fish and wildlife habitat and propagation, hunting,  
19 trapping, fishing, recreation, propagation and harvesting of forest and other natural  
20 products and related purposes. "Substantially altered" does not mean the conveyance of  
21 an access right by easement in accordance with section 1814-A.

22           **Sec. 5. 12 MRSA §1814-A** is enacted to read:

23 **§1814-A. Easements across rail trails**

24           To the extent permitted by the deed or other instrument of ownership, the director,  
25 with the consent of the Governor and the commissioner, may sell or otherwise convey a  
26 right of access by easement across a rail trail as provided in this section. For the purposes  
27 of this section, "rail trail" means a former railroad right-of-way that is no longer used for  
28 rail service, in which the department has an ownership interest and that is managed by the  
29 department for use as a recreational trail.

30           **1. Notice.** At least 30 days prior to conveying a right of access by easement under  
31 this section, the director shall notify interested parties of the proposed conveyance,  
32 providing the location and purpose of the access easement and the anticipated date of  
33 conveyance. The notice must provide a name and contact information for a person at the  
34 bureau to whom inquiries may be made and comments submitted. For the purposes of  
35 this section, "interested parties" means owners of property abutting the parcel on which  
36 the proposed right of access is located, local trail clubs, statewide trail associations, the  
37 municipality in which the proposed easement is located, the Land for Maine's Future  
38 Board, each Legislator and other persons with a known interest in the use of the segment  
39 of the rail trail affected by the proposed conveyance.

40           **2. Terms of conveyance.** The access easement must include terms that ensure the  
41 transaction does not unreasonably interfere with the safety, maintenance and continuity of  
42 the rail trail. The access easement must ensure that public investment in the rail trail is  
43 protected by a negotiated exchange of value. The exchange of value may include, but is

1 not limited to, negotiated improvements to the rail trail or payment of survey, title and  
2 appraisal expenses associated with the conveyance of the right of access by easement.

3 **3. Proceeds from sale of an access easement.** Proceeds from the sale of a right of  
4 access by easement under this section must be deposited in the Maine State Parks and  
5 Recreational Facilities Development Fund established under section 1825.

6 **4. Opportunity for review by legislative committee.** A Legislator receiving  
7 notification under subsection 1 may notify the director of concerns and may in writing  
8 request review of the proposed access easement by the joint standing committee of the  
9 Legislature having jurisdiction over parks and lands matters. A Legislator requesting a  
10 review under this subsection shall notify the chairs of the joint standing committee of the  
11 request.

12 When a request for legislative review is received under this subsection, the director may  
13 not finalize the transfer until the legislative committee has met and reviewed the proposed  
14 transaction.'

15

**SUMMARY**

16 This amendment clarifies the authority of the Director of the Bureau of Parks and  
17 Lands within the Department of Conservation to convey a right of access by easement  
18 across a rail trail. It requires the director to notify interested parties at least 30 days prior  
19 to conveying a right of access by easement and defines "interested parties." The  
20 definition of interested parties includes Legislators. The amendment provides an  
21 opportunity for a Legislator to object to a proposal conveyance and necessitates approval  
22 by the Legislature if an objection is received prior to the conveyance of a right of access  
23 by easement.

24 The amendment requires an access easement to contain terms ensuring the safety,  
25 maintenance and continuity of the rail trail and protection of the public investment and  
26 specifies that a negotiated exchange of value may include improvements to the rail trail  
27 and that proceeds from the sale of a right of access by easement must be deposited into  
28 the Maine State Parks and Recreational Facilities Development Fund.

**FISCAL NOTE REQUIRED**  
**(See Attached)**



# 125th MAINE LEGISLATURE

LD 514

LR 1453(02)

**An Act Regarding Conveyance of Easements across Railroad Rights-of-way**

**Fiscal Note for Bill as Amended by Committee Amendment "A" S-183**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor savings - General Fund

### Fiscal Detail and Notes

Eliminating the requirement of legislative approval and replacing it with legislative review for conveyance of access rights by easement across rail trails will result in minor General Fund savings as a result of reduced processing time. No change to the budget is required.