

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1596

S.P. 522

In Senate, December 13, 2011

An Act To Amend the Laws Governing Discontinued Town Ways

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 9, 2011. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

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

2 **Sec. 1. 23 MRSA §3026, sub-§1**, as enacted by PL 1981, c. 683, §1, is amended
3 to read:

4 **1. General procedures.** A municipality may terminate in whole or in part any
5 interests held by it for highway purposes. A municipality may discontinue a town way or
6 public easement after the municipal officers have given best practicable notice to all
7 abutting property owners and the municipal planning board or office and have filed an
8 order of discontinuance with the municipal clerk that specifies the location of the way,
9 the names of abutting property owners, the restrictions, if any, on the easement pursuant
10 to subsection 3 and the amount of damages, if any, determined by the municipal officers
11 to be paid to each abutter.

12 Upon approval of the discontinuance order by the legislative body, and unless otherwise
13 stated in the order, a public easement ~~shall~~ must, in the case of town ways, be retained
14 and all remaining interests of the municipality ~~shall~~ pass to the abutting property owners
15 to the center of the way. For purposes of this section, the words "public easement" ~~shall~~
16 include, without limitation, an easement for public utility facilities necessary to provide
17 service.

18 **Sec. 2. 23 MRSA §3026, sub-§3** is enacted to read:

19 **3. Restrictions on the public easement.** The municipal officers may propose
20 restrictions on the use of the public easement on a discontinued way by describing the
21 restrictions in the order of discontinuance prepared for approval by the legislative body.
22 Restrictions may include, but are not limited to, seasonal, time of day and motorized
23 vehicle limitations. Subsequent revision of approved restrictions must be adopted
24 pursuant to subsection 1.

25 **SUMMARY**

26 Under existing law, a public easement is retained on discontinued town ways. This
27 bill authorizes municipal officers to propose placing restrictions on the public easement,
28 such as limiting motorized vehicle traffic, as part of the discontinuance order approved by
29 the local legislative body.