MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)

OF	MINORITY	
1	L.	.D. 309
2	Date: $5/26/15$ (Filing No. S-	124
3	JUDICIARY	
4	Reproduced and distributed under the direction of the Secretary of the Senate.	
5	STATE OF MAINE	
6	SENATE	
7	127TH LEGISLATURE	
8	FIRST REGULAR SESSION	
9 10 11	COMMITTEE AMENDMENT "A" to S.P. 124, L.D. 309, Bill, "An A Connect the Citizens of the State to the State's Natural Resources by Estable Standards for Relief from Regulatory Burdens"	
12 13	Amend the bill in Part A in section 1 in §851 by inserting after subsection following:	6 the
14 15	'7. Takings variance. "Takings variance" means a decision by the State to departure from the requirements of a regulation that imposes a regulatory taking.'	permit
16 17	Amend the bill in Part A in section 1 in §851 by renumbering the subsections t consecutively.	o read
18 19	Amend the bill in Part A in section 1 by striking out all of §856 (page 3, lines in L.D.) and inserting the following:	1 to 7
20	' <u>§856. Relief</u>	
21 22	Damages or a takings variance is available as relief for a regulatory taking, option of the State.	at the
23 24 · · 25 26 27 28	1. Damages. If the State chooses to pay damages, the fact finder shall awa property owner an amount it determines comprises the diminution in fair market caused by regulation, and title in the real property remains with the property of Payment of damages pursuant to this section operates to grant to and vest in the Statisht to enforce the regulation as to the real property. Damages are limited to damages pursuant to Title 14, section 8105, subsection 1.	value wner. ite the
29 30 31	2. Takings variance. If the State chooses to grant a takings variance, the regulatory taking may not be applied to the real property upon wheregulatory taking would otherwise occur.'	
32 33 34	Amend the bill in Part A in section 1 in §859 in subsection 5 by striking out paragraphs C and D (page 4, lines 39 and 40 and page 5, lines 1 and 2 in L.D. inserting the following:	

Page 1 - 127LR0978(02)-1

COMMITTEE AMENDMENT " A " to S.P. 124, L.D. 309

2	property;
3 4	D. Purchase the real property, or an interest in the real property or a portion of the real property, or pay compensation; or
5	E. Grant a takings variance.'
6	SUMMARY
7 8 9 0 1 2 3	This amendment adds a takings variance as an option for the State when a property owner's land is subject to a regulatory taking. A takings variance is a decision by the State to permit departure from the requirements of a regulation. If a fact finder determines that a regulatory taking has occurred, the State must choose between paying damages to the property owner, as provided in the bill, and granting a takings variance. Granting a takings variance means that the regulation causing the regulatory taking may not be applied to the property.
4	The State may also grant a takings variance as a settlement offer as part of the mandatory mediation process.

FISCAL NOTE REQUIRED (See attached)



127th MAINE LEGISLATURE

LD 309

LR 978(02)

An Act To Connect the Citizens of the State to the State's Natural Resources by Establishing Standards for Relief from Regulatory Burdens

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-124)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - General Fund Potential current biennium cost increase - Highway Fund Potential current biennium cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

This legislation creates a process for landowner relief related to regulatory takings. Depending upon the number or extent of any lawsuits filed, General Fund, Other Special Revenue Funds and Highway Fund costs could be increased as a result of any payments to landowners. The Judicial Department and the Department of the Attorney General will also require additional General Fund appropriations for staff and appraiser fees.