

# MAINE STATE LEGISLATURE

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L.D. 1513

Date: 3/31/22

(Filing No. H-898)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1121, L.D. 1513, "An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences"

Amend the bill by striking out the title and substituting the following:

**'An Act To Establish the Maine Abandoned and Discontinued Roads Commission'**

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

**'Sec. 1. 5 MRSA §12004-I, sub-§83-A is enacted to read:**

**83-A.**

<u>Transportation:</u>	<u>Maine Abandoned and Discontinued</u>	<u>Expenses Only</u>	<u>23 MRSA</u>
<u>Roads</u>	<u>Roads Commission</u>		<u>§3036</u>

**Sec. 2. 23 MRSA §3036 is enacted to read:**

**§3036. Maine Abandoned and Discontinued Roads Commission**

The Maine Abandoned and Discontinued Roads Commission, referred to in this section as "the commission," is established by Title 5, section 12004-I, subsection 83-A and operates in accordance with this section.

**1. Members.** The commission consists of the following 12 members:

A. One member who is an employee of the Department of Inland Fisheries and Wildlife, designated by the Commissioner of Inland Fisheries and Wildlife;

B. One member who is an employee of the Department of Agriculture, Conservation and Forestry, designated by the Commissioner of Agriculture, Conservation and Forestry;

C. One member who is an employee of the Department of Transportation, designated by the Commissioner of Transportation;

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1 D. One member who is an employee of the Office of the Attorney General, designated  
2 by the Attorney General;

3 E. Four members appointed by the President of the Senate, who, in making the  
4 appointments, shall take into consideration any recommendation made by the  
5 association or organization from whose membership the appointment is made, as  
6 follows:

7 (1) One member of a statewide association representing municipalities;

8 (2) One member of a statewide association representing woodland property  
9 owners;

10 (3) One member of a statewide association of attorneys who has expertise in real  
11 estate law; and

12 (4) One member of a land trust organization; and

13 F. Four members appointed by the Speaker of the House, who, in making the  
14 appointments, shall take into consideration any recommendation made by the  
15 association or organization from whose membership the appointment is made, as  
16 follows:

17 (1) One member of a statewide association representing county governments;

18 (2) One member of a statewide organization representing all-terrain vehicle users  
19 or snowmobile users;

20 (3) One member of a statewide association representing residents of the State  
21 living on or owning property that abuts an abandoned or discontinued road or that  
22 is accessible only by traveling over an abandoned or discontinued road; or, if no  
23 such association exists, a resident of the State living on property that abuts an  
24 abandoned or discontinued road or that is accessible only by traveling over an  
25 abandoned or discontinued road; and

26 (4) One member of the general public who is a resident of the State not directly  
27 affected by matters related to abandoned or discontinued roads.

28 **2. Duties. The commission shall:**

29 **A. Consider the following:**

30 (1) Property owner liability, including personal injury, property damage and  
31 environmental damage liability resulting from public use of an abandoned or  
32 discontinued road;

33 (2) Public easement retention over an abandoned or discontinued road, including  
34 the scope of permitted and actual public use;

35 (3) Statutory terminology related to abandoned or discontinued roads; and

36 (4) The statutory process for the abandonment or discontinuation of a road,  
37 including barriers to determining the legal status of a road;

38 B. For matters relating to abandoned and discontinued roads other than those described  
39 by paragraph A, prioritize matters for consideration by the commission by determining  
40 which matters related to abandoned and discontinued roads have a significant negative  
41 impact, qualitatively or quantitatively, on:

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- (1) Owners of property that abuts an abandoned or discontinued road;
- (2) Owners of property accessible only by traveling over an abandoned or discontinued road;
- (3) Recreational users of an abandoned or discontinued road;
- (4) Members of the public;
- (5) Municipal, county or state governments; and
- (6) The physical integrity of an abandoned or discontinued road and surrounding land;

C. Develop recommendations on ways to address matters considered by the commission, including recommendations for statutory changes; and

D. Review legislation affecting abandoned or discontinued roads and provide information to joint standing committees of the Legislature upon request.

**3. Chair.** The members of the commission shall elect from among the membership a chair, who serves a 3-year term. The chair continues to hold the office until a successor is elected and may serve multiple terms. The chair calls and presides over meetings of the commission. In the absence of the chair, the member designated by the Commissioner of Inland Fisheries and Wildlife or the member designated by the Commissioner of Agriculture, Conservation and Forestry may preside over meetings.

**4. Term of office.** Members of the commission serve 3-year terms. A member may serve after the expiration of that member's term until a successor has been appointed. A member may serve multiple terms.

**5. Meetings.** The commission shall meet at least 3 times, but may meet no more than 6 times, each year.

**6. Subcommittees.** The commission may establish subcommittees to meet to conduct the work of the commission. Subcommittees may invite persons who are not members of the commission to participate in a nonvoting capacity.

**7. Public comment.** The commission shall accept public comment during its meetings.

**8. Staff support.** The Office of the Attorney General shall provide staff support to the commission.

**9. Bylaws.** The commission may, by a majority vote of the members, adopt or amend bylaws as necessary or appropriate to carry out the purposes or exercise the powers of the commission. Prior to adoption or amendment of bylaws, the commission shall ask the member designated by the Attorney General to review the bylaws and provide comments to the commission.

**10. Fund established.** The Road Commission Fund is established as a nonlapsing fund within the Office of the Attorney General to support the work of the commission. The fund consists of any funds received from any public or private source.

**11. Report.** By February 1, 2023, and annually thereafter, the commission shall submit a report of its activities and any recommended statutory changes to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the joint standing committee of the Legislature having jurisdiction over agriculture,

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conservation and forestry matters and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. If the report includes recommended statutory changes, the committee with jurisdiction over the subject of that statute may report out a bill related to the recommendation.

**Sec. 3. Initial meeting.** The initial meeting of the Maine Abandoned and Discontinued Roads Commission, established pursuant to the Maine Revised Statutes, Title 23, section 3036, must be called within 60 days of the effective date of this Act by the member designated by the Attorney General.

**Sec. 4. Initial terms.** Notwithstanding the Maine Revised Statutes, Title 23, section 3036, subsection 4, of the members initially appointed to the Maine Abandoned and Discontinued Roads Commission, the following members must be appointed to an initial term of 2 years:

1. The member designated by the Commissioner of Transportation;
2. The member designated by the Attorney General;
3. The member from a statewide association representing county governments;
4. The member from a statewide association of attorneys;
5. The member from a statewide organization representing all-terrain vehicle users or snowmobile users; and
6. The member who is a member of the general public.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Provides funding for one Research Assistant Paralegal position and related All Other costs in the Office of the Attorney General, natural resources division to provide staff support to the Maine Abandoned and Discontinued Roads Commission and to assist the commission in the conduct of its duties.

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$59,188
All Other	\$0	\$3,919
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$63,107</b>

**Road Commission Fund N950**

Initiative: Provides a base allocation for the newly established Road Commission Fund program to support the work of the Maine Abandoned and Discontinued Roads Commission in the event that funds are received from public or private sources.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
Unallocated	\$0	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

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**ATTORNEY GENERAL, DEPARTMENT OF THE  
DEPARTMENT TOTALS**

	2021-22	2022-23
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$63,107</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$500</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$63,607</b>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment replaces the bill. It establishes the Maine Abandoned and Discontinued Roads Commission. The commission is charged with prioritizing matters related to abandoned and discontinued roads that have a significant negative impact, qualitatively or quantitatively, on residential owners of property that abuts the road, recreational users of the road, members of the public, municipal, county or state governments and the physical integrity of the road and surrounding land; developing recommendations to address the prioritized matters; recommending statutory changes; and reviewing legislation. The commission has the authority to receive funds to support the work of the commission. The commission must report to the joint standing committee of the Legislature having jurisdiction over state and local government matters, the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by February 1, 2023 and annually thereafter. The committees have authority to report out bills in response to the reports. The Office of the Attorney General is required to provide staff support to the commission. The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

(See attached)

**130th MAINE LEGISLATURE****LD 1513****LR 703(02)****An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences****Fiscal Note for Bill as Amended by Committee Amendment***"A" (H-898)***Committee: State and Local Government****Fiscal Note Required: Yes**

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**Fiscal Note**

	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>Projections FY 2023-24</b>	<b>Projections FY 2024-25</b>
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$63,107	\$68,345	\$71,566
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$63,107	\$68,345	\$71,566
Other Special Revenue Funds	\$0	\$500	\$500	\$500

**Fiscal Detail and Notes**

The bill includes an ongoing General Fund appropriation of \$63,107 beginning in fiscal year 2022-23 for one Research Assistant Paralegal position and related All Other costs in the Office of the Attorney General, Natural Resources Division to provide staff support to the Maine Abandoned and Discontinued Roads Commission and to assist the commission in the conduct of its duties. The bill also includes an Other Special Revenue Funds base allocation of \$500 beginning in fiscal year 2022-23 for the newly established Road Commission Fund program to support the work of the Maine Abandoned and Discontinued Roads Commission in the event that funds are received from public or private sources.

Additional costs to the Department of Transportation, Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife associated with serving on the commission can be absorbed within existing budgeted resources.