

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1975

H.P. 1468

House of Representatives, February 10, 2022

**An Act Concerning Winter Maintenance on Private Roads in the
Town of Windham**

(EMERGENCY)

Reported by Representative MATLACK of St. George for the Joint Standing Committee on State and Local Government pursuant to Private and Special Law 2021, chapter 10, section 4.

Reference to the Committee on State and Local Government suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the Town of Windham has provided winter maintenance service to
4 approximately 101 private ways in the town for several years; and

5 **Whereas,** approximately 1,700 residents live on the private ways maintained in the
6 winter by the Town of Windham and have come to rely on this service; and

7 **Whereas,** continuation of this service may expose the Town of Windham to legal
8 liability; and

9 **Whereas,** cessation of this service may expose the Town of Windham to legal
10 liability; and

11 **Whereas,** this Legislature enacted Private and Special Law 2021, chapter 10 to allow
12 the Town of Windham time to work with residents to resolve this situation; and

13 **Whereas,** Private and Special Law 2021, chapter 10 is repealed on June 30, 2022;
14 and

15 **Whereas,** the Town of Windham has been unable, despite its best efforts, to
16 successfully resolve all aspects of this complicated and long-standing situation and is now
17 asking the Legislature for additional time to resolve the situation; and

18 **Whereas,** the Legislature recognizes the difficulties facing the Town of Windham and
19 is willing to assist the town for a reasonable period of time; and

20 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
21 the meaning of the Constitution of Maine and require the following legislation as
22 immediately necessary for the preservation of the public peace, health and safety; now,
23 therefore,

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

25 **Sec. 1. P&SL 2021, c. 10, §4** is amended to read:

26 **Sec. 4. Town of Windham report.** The Town of Windham may submit a report
27 to the ~~Joint Standing Committee on State and Local Government by February 1, 2022~~ joint
28 standing committee of the Legislature having jurisdiction over state and local government
29 matters by October 1, 2024. The report, if submitted, ~~must include the following~~
30 ~~information:~~ may detail the progress made by the council and the town manager to conform
31 the use of public funds to provide winter maintenance on private ways with applicable
32 constitutional and statutory laws.

33 ~~A. A detailed description of the progress made by the council and the town manager~~
34 ~~to conform the use of public funds to provide winter maintenance on private ways with~~
35 ~~applicable constitutional and statutory laws;~~

36 ~~B. An assessment by the Town of Windham fire-rescue chief regarding the use of fire-~~
37 ~~rescue vehicles on private ways in the town for fire and safety protection;~~

38 ~~C. An assessment by the Town of Windham police chief regarding the use of police~~
39 ~~vehicles on private ways in the town for public health and safety; and~~

1 D. ~~An assessment of whether winter maintenance by the Town of Windham of its~~
2 ~~designated private ways has an environmental impact on the surrounding water bodies.~~

3 The joint standing committee may report out a bill based on the report to the ~~Second~~
4 ~~First~~ Regular Session of the ~~130th~~ 132nd Legislature.

5 **Sec. 2. P&SL 2021, c. 10, §4-A** is enacted to read:

6 **Sec. 4-A. Public easement sufficient for winter maintenance.** Beginning
7 October 1, 2024, the council and the Town of Windham may use public equipment to
8 perform winter maintenance on a private way, including snow removal and surface
9 treatment for the public purpose of ensuring the health and safety of the residents of the
10 Town of Windham and minimizing environmental damage to surrounding water bodies, as
11 long as at least 50% of the owners of property abutting the private way have issued a public
12 easement to the town.

13 **Sec. 3. P&SL 2021, c. 10, §5** is amended to read:

14 **Sec. 5. Repeal.** ~~This Act is repealed June 30, 2022~~ Sections 2, 3 and 4 of this Act
15 are repealed October 1, 2024.

16 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
17 takes effect when approved.

18 SUMMARY

19 This bill extends the repeal date of Private and Special Law 2021, chapter 10 until
20 October 1, 2024 with the following additional amendments:

21 1. It permits the Town of Windham to submit a report to the joint standing committee
22 of the Legislature having jurisdiction over state and local government matters by October
23 1, 2024 and permits the committee to report out a bill to the First Regular Session of the
24 132nd Legislature; and

25 2. It permits the Town of Windham, beginning October 1, 2024, to provide winter
26 maintenance, for public health and safety purposes and certain environmental purposes, on
27 private ways over which at least 50% of the abutting property owners have issued the town
28 a public easement.

29 The bill is reported out by the Joint Standing Committee on State and Local
30 Government pursuant to Private and Special Law 2021, chapter 10. The committee has not
31 taken a position on the substance of this bill. By reporting this bill out the committee is not
32 suggesting and does not intend to suggest that it agrees or disagrees with any aspect of this
33 bill. The committee is reporting the bill out for the sole purpose of having a bill printed
34 that can be referred to the committee for an appropriate public hearing and subsequent
35 processing in the normal course. The committee is taking this action to ensure clarity and
36 transparency in the legislative review of the proposals contained in the bill.