

MAINE STATE LEGISLATURE

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CHAPTER 203

LAYING OUT, ALTERING OR DISCONTINUING
HIGHWAYS

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§ 2051. Power of commissioners

County commissioners may lay out, alter or discontinue highways leading from town to town and grade hills in any such highway. Nothing in any city charter shall be so construed as to deprive them of the power to lay out, alter or discontinue county roads within the limits thereof. Responsible persons may present, at their regular session, a written petition describing a way and stating whether its location, alteration, grading or discontinuance is desired, or an alternative action, in whole or in part. The commissioners may act upon it, conforming substantially to the description, without adhering strictly to its bounds.

R.S.1954, c. 89, § 35.

§ 2052. Notice

Being satisfied that the petitioners are responsible and that an inquiry into the merits is expedient, the county commissioners shall cause 30 days' notice to be given of the time and place of their meeting by posting copies of the petition, with their order thereon, in 3 public places in each town in which any part of the

way is, by serving one on the State Highway Commission and serving one on the clerks of such towns and publishing it in some newspaper, if any, in the county. The fact that notice has been so given, being proved and entered of record, shall be sufficient for all interested, and evidence thereof.

R.S.1954, c. 89, § 36.

§ 2053. Costs

When their decision is against the prayer of the petitioners, the county commissioners shall order them to pay to the treasurer of the county, at a time fixed, all expenses incurred on account of it, and if they are not then paid, they shall issue a warrant of distress against the petitioners therefor.

R.S.1954, c. 89, § 37.

§ 2054. Proceedings; return; durable monuments erected

The county commissioners shall meet at the time and place appointed and view the way, and there, or at a place in the vicinity, hear the parties interested. If they judge the way to be of common convenience and necessity or that any existing way shall be altered, graded or discontinued, they shall proceed to perform the duties required; make a correct return of their doings, signed by them, accompanied by an accurate plan of the way, and state in their return when it is to be done, the names of the persons to whom damages are allowed, the amount allowed to each and when to be paid. When the way has been finally established and open to travel, they shall cause durable monuments to be erected at the angles thereof.

R.S.1954, c. 89, § 38.

§ 2055. Return filed; appeal

The return of the commissioners, made at their next regular statute session after the hearing provided for in section 2054, shall be placed on file and remain in the custody of their clerk for inspection without record. The case shall be continued to their next regular term of record, and at any time on or before the 3rd day thereof, if no appeal from the location be taken, all persons aggrieved by their estimate of damages shall file their notice of appeal. If no such notice is then presented or pending, the proceedings shall be closed, recorded and become effectual; all claims for damages not allowed by them be forever barred; and all damages awarded under sections 2051 to 2061, 2101, 2151

and 2152 paid out of the county treasury except as provided in section 2101. If an appeal from the location be taken in accordance with section 2063, then notice of appeal on damages may be filed with the clerk of the county commissioners within 60 days after the final decision of the appellate court in favor of such way as has been certified to him, to the Superior Court in the county where the land is situated, which court shall determine the same in the same manner as is provided in section 2058, when no appeal on location is taken.

R.S.1954, c. 89, § 39; 1959, c. 317, § 37.

§ 2056. Damages; increase

When a notice of appeal for increase of damages is presented within the time allowed, the case shall be further continued until a final decision respecting damages is made. If the county commissioners then are of opinion that their proceedings, or any part thereof, ought not to take effect, subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners or any part thereof, designating what part, is not granted for that reason. Upon such judgment no damages shall be allowed for that part of the prayer of the petitioners not granted, but the costs shall be paid by the county; or if of opinion that such increase of damages should prevent a confirmation of a part or parts only of their proceedings, they shall designate such part or parts, and enter judgment accordingly; and the whole proceedings shall be recorded and become effectual. This section shall not apply when a location has been determined by a committee of the Superior Court upon appeal from the decision of the county commissioners thereon. In such case proceedings regarding the location shall become effectual as if no appeal for increase of damages had been taken.

R.S.1954, c. 89, § 40.

§ 2057. —Estimation and award

If any person's property is damaged by laying out, altering or discontinuing a highway or town way, the county commissioners or the municipal officers of towns shall estimate the amount, and in their return state the share of each separately. Damages shall be allowed to the owners of reversions and remainders and to tenants for life and for years in proportion to their interests in the estate taken. Said commissioners or officers shall not order such damages to be paid, nor shall any right thereto accrue to the claimant, until the land over which the

highway or alteration is located has been entered upon and possession taken for the purpose of construction or use.

R.S.1954, c. 89, § 41.

§ 2058. —Appeals

Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time within 30 days after the commissioners' return is made, to the Superior Court, in the county where the land is situated, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and shall include in the complaint a statement setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record and order the damages therein recovered to be paid as provided in section 2057. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners. The committee shall be allowed a reasonable compensation for their services to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts.

R.S.1954, c. 89, § 42; 1959, c. 317, § 38.

§ 2059. Removing growth and opening way

The owners of land taken under sections 2051 to 2060 shall be allowed not exceeding one year after the proceedings regarding the location are finally closed to take off timber, wood or any erection thereon. A time not exceeding 2 years shall be allowed for making and opening the way.

R.S.1954, c. 89, § 43; 1959, c. 378, § 58.

§ 2060. Discontinuance where new state highway

When the State Highway Department has constructed a highway over substantially the same route as that of a county

road and has recorded the plans of same in the registry of deeds, the county commissioners may, on their own motion, after notice and hearing, proceed to alter or discontinue the portion of said county road not within the limits of said highway. They shall give notice and proceed as provided in sections 2052 and 2054 to 2058, including serving any public utility having facilities located in said portion to be discontinued, and any aggrieved person shall have an appeal as therein provided. The plans prepared by the department and on record in the registry of deeds may be referred to in describing those portions of the county road to be discontinued.

1959, c. 136.

§ 2061. Discontinuance before damages paid; proceedings

When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained and order them paid. Any person aggrieved may have them assessed by a committee or jury as provided.

R.S.1954, c. 89, § 44.

§ 2062. Same petition for towns, plantations or outside lands; appeals

County commissioners in their counties may, upon the same petition, lay out, alter or discontinue highways through a town or towns or a plantation or plantations and tracts of land not in any town or plantation. In respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue highways leading from town to town. In respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to section 4001. In case of an appeal to the Superior Court, the appeal may be made within 30 days after the return of the commissioners has been placed on the files. The proceedings upon the appeal shall be according to section 4002. If no appeal is made, the case shall

be continued to the next regular term after the regular term to which the return is made.

R.S.1954, c. 89, § 58; 1959, c. 317, § 40.

§ 2063. Hearings; appeals; stay

Parties interested may appear, jointly or severally, at the time of hearing before the commissioners on a petition for laying out, altering, grading or discontinuing a highway. Any such party may appeal from their decision thereon within 30 days after it has been placed on file to the Superior Court in said county, which appeal may be prosecuted by him or by any other party who so appeared. All further proceedings before the commissioners shall be stayed until a decision is made in the appellate court.

R.S.1954, c. 89, § 59; 1959, c. 317, § 41.

§ 2064. Proceedings on appeal

If no person appears to prosecute the appeal provided for in section 2063, the judgment of the commissioners may be affirmed. If the appellant appears, the court may appoint a committee of 3 disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court may appoint some suitable person in his place. They shall give such notice as the court has ordered, view the route, hear the parties and make their report to the court within 60 days or such further time as the court allows after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

R.S.1954, c. 89, § 60; 1959, c. 317, § 42.

§ 2065. Judgment on appeal

If the judgment of the commissioners in favor of laying out, grading or altering a way, as prayed for, is wholly reversed on appeal, they shall proceed no further. In all cases when the judgment of the commissioners is reversed on appeal, no petition praying substantially for the same thing shall be entertained by them for 2 years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court. In all cases they shall carry into full effect the judgment of the appellate court in the same manner as if made

by themselves. The party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The committee provided for in section 2064 shall be allowed a reasonable compensation for their services, to be fixed by the court upon the presentation of their report and paid from the county treasury upon the certificate of the clerk of courts. The costs allowed the prevailing party and the fees of the committee shall be collected as provided in section 2053. This section shall not apply to any case where the judgment has been reversed on account of informality in the proceedings.

R.S.1954, c. 89, § 61.

§ 2066. Committee sworn

All such committees provided for in section 2064, whether agreed on or appointed on appeal from the county commissioners, may be sworn at any time before viewing the route and hearing the parties.

R.S.1954, c. 89, § 62.