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An Act To Amend the Private Way Laws with Regard to Road Associations

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

Sec. 1. 23 MRSA §3101, sub-§2, as enacted by PL 2007, c. 625, §1, is amended to read:

2. Call of meeting. When 4 or more parcels of land are benefited by a private road, private way or bridge as an easement or by fee ownership of the private road, private way or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting. The notary may issue a warrant or similar written notice setting forth the time, place and purpose of the meeting. Copies of the warrant or similar written notice must be mailed by means of the United States Postal Service to the owners of all the parcels benefited by the private road, private way or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. ~~If mailing copies of the warrant or similar written notice to all such owners is not possible, the notary shall post a notice in a public place.~~ The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on. Subsequent meetings may be called in the same manner or by a commissioner or board appointed at a previous meeting pursuant to subsection 5.

Sec. 2. 23 MRSA §3101, sub-§4-A is enacted to read:

4-A. Road associations. A road association through its commissioner or board may address present and future repair and maintenance of a private road, private way or bridge until the association is dissolved by a majority vote of its members.

Sec. 3. 23 MRSA §3101, sub-§5-A is enacted to read:

5-A. Easements. A road association under this section may negotiate an easement for the installation of a ditch, drain, culvert or other storm water management infrastructure to benefit the road. The easement must specify when a ditch, drain, culvert or other storm water management infrastructure must be maintained and include reasonable performance standards to guide the timing and extent of its upkeep and repair. The easement must also be recorded at the registry of deeds in the county in which the property subject to the easement is located. A ditch, drain, culvert or other storm water management infrastructure subject to an easement under this subsection must be under the control of and maintained by the road association.

Sec. 4. 23 MRSA §3105 is repealed and the following enacted in its place:

§ 3105. Use of town equipment

1. Fire and police protection; protecting or restoring a great pond. The inhabitants of any town or village corporation at a legal town or village corporation meeting may authorize the municipal officers of the town or assessors of the village corporation to use its highway equipment on

private roads, private ways or bridges within the town or village corporation, whenever the municipal officers or assessors consider it advisable in the best interests of the town or village corporation for fire and police protection and for the purposes of protecting or restoring a great pond as defined in Title 38, section 480-B, subsection 5 if:

A. The private road, private way or bridge is within the watershed of the great pond;

B. The great pond:

(1) Is listed on the Department of Environmental Protection's list of bodies of water most at risk pursuant to Title 38, section 420-D, subsection 3;

(2) Has been listed as impaired in an integrated water quality monitoring and assessment report submitted by the Department of Environmental Protection to the United States Environmental Protection Agency pursuant to the federal Clean Water Act, 33 United States Code, Section 1315(b) at least once since 2002; or

(3) Is identified as having threats to water quality in a completed watershed survey that uses a protocol accepted by the Department of Environmental Protection;

C. The Department of Environmental Protection or the municipality determines that the private road, private way or bridge is contributing to the degradation of the water quality of the great pond based upon an evaluation of the road, way or bridge using a protocol accepted by the department;

D. The repair complies with best management practices required by the Department of Environmental Protection; and

E. The private road, private way or bridge is maintained by a road association organized under this subchapter or Title 13-B.

Effective 90 days following adjournment of the 124th
Legislature, First Regular Session, unless otherwise indicated.