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Legislative Document

No. 1269

H.P. 908

House of Representatives, March 28, 2013

**An Act To Require an Independent Analysis of the Impact of and a
Review Process for an East-west Highway prior to Development**

Reference to the Committee on Transportation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CHAPMAN of Brooksville.
Cosponsored by Representatives: CASSIDY of Lubec, HARLOW of Portland.

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

2 **Sec. 1. 23 MRSA §4252** is enacted to read:

3 **§4252. East-west highway impact study; review**

4 **1. Impact study.** Notwithstanding any provision of law to the contrary, prior to the
5 development of a proposed private or public-private partnership project for a highway or
6 utility corridor that traverses the State in an east-west manner, referred to in this section
7 as "the project," the department shall require a comprehensive independent analysis of all
8 environmental, economic and cultural risks and impacts of the development of such a
9 highway or utility corridor on the residents and landscape of this State. The cost of this
10 analysis must be paid by the entity proposing development of the highway or utility
11 corridor, whether a private entity or an entity engaged in a public-private partnership with
12 the State. Notwithstanding any provision of law to the contrary, a state department or
13 agency is prohibited from expending any funds for the facilitation and oversight of a
14 comprehensive independent analysis of a highway or utility corridor conducted pursuant
15 to this section.

16 **2. Public disclosure.** All plans for the project, including detailed maps of the route
17 and the analysis prepared pursuant to subsection 1, must be fully available to the public
18 for review.

19 **3. Public comment and site plan review.** The project is subject to the following
20 requirements.

21 **A.** The entity proposing the project, referred to in this subsection as "the entity,"
22 shall give written notice to the municipal officers of the municipalities through which
23 the project may run and in the unorganized territories the county commissioners with
24 jurisdiction over the areas through which the project may run and shall publish
25 notices of the proposal in newspapers of general circulation in the municipalities and
26 areas.

27 **B.** The department shall hold an adjudicatory public hearing within a municipality or
28 in a representative number of the municipalities through which the project may run.
29 The hearing must be conducted in accordance with Title 5, chapter 375, subchapter 4.
30 Administrative expenses of a hearing held pursuant to this subsection and all costs
31 incurred by the department in holding the hearing must be paid for by the entity.

32 **C.** The municipal officers, or their designees, from a municipality through which the
33 project may run have intervenor status if they request it from the commissioner
34 within 60 days of notification under paragraph A. The intervenor status granted under
35 this paragraph applies in any proceeding held pursuant to this section. Immediately
36 upon the commissioner's receipt of such a request, the intervenors have all rights and
37 responsibilities commensurate with this status.

38 **D.** An abutting property owner has intervenor status in any public hearing held
39 pursuant to paragraph B if the property owner requests it from the commissioner no
40 later than 10 days following public notice of the hearing. Immediately upon the
41 commissioner's receipt of such a request, the intervenor has all rights and

1 responsibilities commensurate with this status. A party granted intervenor status
2 under this paragraph is not eligible for intervenor assistance grants or reimbursements
3 pursuant to paragraph E.

4 For purposes of this paragraph, "abutting property owner" means an owner of
5 property that is both contiguous to the property on which a project is proposed and
6 within one mile of the location of the project.

7 E. The commissioner shall reimburse or make assistance grants for the direct
8 expenses of intervention of any party granted intervenor status under paragraph C,
9 not to exceed \$50,000. The department shall adopt rules governing the award and
10 management of intervenor assistance grants and reimbursement of expenses to ensure
11 that the funds are used in support of direct, substantive participation in the
12 proceedings before the department. Allowable expenses include, without limitation,
13 analysis of environmental, economic and cultural risks and impacts, traffic analyses,
14 the retention of expert witnesses and attorneys and other related items. Expenses not
15 used in support of direct, substantive participation in the proceedings before the
16 department, including attorney's fees related to court appeals, are not eligible for
17 reimbursement under this paragraph.

18 For the purposes of this subsection, county commissioners shall act as municipal officers
19 for unincorporated townships, and assessors of plantations shall act as municipal officers
20 for plantations.

21 **Sec. 2. Resolve 2011, c. 147** is repealed.

22 **Sec. 3. Retroactivity.** That section of this Act that repeals Resolve 2011, chapter
23 147 applies retroactively to August 30, 2012.

24 **SUMMARY**

25 This bill requires a comprehensive independent analysis to be conducted prior to the
26 development of a proposed private or public-private partnership project for a highway or
27 utility corridor that traverses the State in an east-west manner. The cost of the analysis
28 must be paid entirely by the private entity. The bill specifically prohibits any state
29 department or agency from spending any funds for the facilitation and oversight of a
30 comprehensive independent analysis of such a highway or utility corridor.

31 This bill requires that the plans for the proposed project be made available to the
32 public for review. This bill also imposes public notice and hearing requirements and
33 provides intervenor status to municipalities through which the proposed project may pass
34 and to landowners whose land abuts the project similar to the public and local
35 participation requirements for solid waste facility siting.

36 This bill also repeals Resolve 2011, chapter 147, "Resolve, To Require the
37 Department of Transportation To Facilitate and Oversee a Study of the Feasibility of an
38 East-west Highway," retroactive to the effective date of that resolve.