

To: Key Municipal Officials

From: Rebecca Graham, Legislative Advocate, State and Federal Relations

Re: LD 596 - An Act To Improve the Law Regarding Abandoned Roads

Date: June 2, 2021

The committee on State and Local Government voted unanimously to support [LD 596](#) *An Act To Improve the Law Regarding Abandoned Roads*, sponsored by Sen. Ned Claxton of Androscoggin.

The bill complicates the nebulous realm of abandoned roads law which rather than policy decision occurs by a natural process and is a fact based determination as covered in MMA's March 26, 2021, [Legislative Bulletin](#).

The state has not found the bill to be a mandate, however as it stands now the bill requires a formal declaration of abandonment at a regularly scheduled meeting provided that two conditions are met. First, the municipal officers must determine that the road in question has not been kept passable at municipal expense for 30 or more years, as is the case in existing law. Second, that the municipality has not received more than 84 months' worth of revenue under the Local Road Assistance Program for any segment of the abandoned road during the period of non-maintenance.

This process can also be requested by a resident obligating a municipal response for any road not formally abandoned prior to enactment.

At least 30 days prior to the meeting, municipalities must provide notice to all "affected property owners," who are defined as owners of property that abut the road to be declared abandoned and the property owners for which the road is the only access route, adjacent municipalities that may have interest or for which abandonment may affect their access to property.

The notice must educate the property owners and include information regarding the potential retention of a public easement, the affected property owners' maintenance obligations, the right of affected owners to enter into road maintenance agreements, including the authority to create private easements and a description of the evidence used to determine the road abandoned.

Upon a written request signed by at least 25% of the affected property owners, the municipal officers must conduct a public hearing prior to holding the declaratory vote. If the municipal officers declare the road abandoned, the clerk must record an attested certificate of the declaration of abandonment with the registry of deeds. If a public easement is retained, it is limited to foot or motor vehicle traffic.

The definition of a motor vehicle is the same as found in the motor vehicle statutes (Title 29-A, §101, sub§ 41), which defines a vehicle as a self-propelled vehicle not operated exclusively on railroad tracks, excluding snowmobiles, non-permitted ATVs, motorized wheelchairs and electric bicycles.

As proposed in LD 596, any aggrieved party may appeal an abandonment determination to the local board of appeals, or in the absence of an appeals board, to the county commissioners, placing county government in the middle of a local issue for which property taxpayers in that community must foot the bill for their determination.

Since this bill received unanimous support, it will be presented to the entire Legislature on a consent agenda and will likely be enacted without a deep review or debate.

Because this is being voted on today, I am asking for your assistance. It would be greatly appreciated if you could connect with your Senate and House of Representative members to discuss concerns with LD 596. To search for your House of Representative member and their contact information check the site available [here](#). For your Senator and their contact information check this [site](#).

Our goal is to have a member of the committee pull the bill from the consent agenda so the entire Legislature can discuss the proposal's merits and issues.

Please consider calling or emailing them with any details of how your community may be affected by this new process today and your experience with discontinued and abandoned roads in your community.

Thank you for your assistance with this issue. If you have any questions, please contact me at either rgraham@memun.org or 207-350-0419.