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An Act To Strengthen Landowner Rights in Certain Eminent Domain Situations

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

Whereas, there are many utility proposals pending that may involve the taking of landowner property and the procedures governing those takings need to be modified to adequately protect the interests of those property owners; and

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

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

Sec. 1. 35-A MRSA §6503, sub-§1-A is enacted to read:

1-A. Mediation. Notwithstanding any other provision of law, if the owner of property taken by eminent domain disputes the amount of damages offered by the taker, the owner may choose to have a qualified independent appraiser approved by the owner determine the amount of damages. The taker must pay all costs of the appraiser. The appraiser, in determining the amount of damages, must include the effect of the taking on the value of surrounding property of the owner that is not taken. If the owner agrees to the amount determined by the appraiser, the taker shall pay that amount and may not contest the amount under subsection 2 or any other provision of this chapter. If the owner does not wish to proceed under this subsection or does not agree to the amount determined by the appraiser pursuant to this subsection, the owner may apply to the county commissioners under subsection 2.

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

SUMMARY

This bill modifies the law governing the exercise of eminent domain by public utilities. Under current law, an owner can apply to the county commissioners to settle the amount of damages paid by the utility to the owner. Under this bill, the owner is provided the option of having an independent appraiser, approved by the owner and paid for by the utility, establish the amount of damages. The amount determined under this process is required to include the effect of the taking on the value of surrounding land of the owner not taken by the utility.