

Transportation/Utility Corridor Related Questions

Prepared by: Maine Municipal Association
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1. *Have there been any new developments that have been made public that MMA is aware of? Taking into consideration the increased public outcry and concern with the private/public partnership on the east-west highway, it is expected that the Legislature will either significantly amend or completely remove itself from involvement in the project. Furthermore, it is rumored that Cianbro intends to move forward with the east-west project without state-level assistance, of any kind, including any form of enabling legislation. Until the Legislature acts dispositively on this issue, it is difficult to determine how this process will progress with complete accuracy. Municipalities concerned with the corridor might want to consider developing ordinances to regulate this activity should Cianbro decide to move forward without state-level support.*
2. *What is the status of the feasibility study? The study is currently on hold, waiting for the outcome of several pieces of legislation submitted this session to repeal the Department of Transportation's study authority.*
3. *The Governor has announced that it is on "hold". Is there a timeframe for resuming the study? The practical reality is that with the enactment of Resolve 2011, Chapter 147, the Department was provided authority to conduct the study. However, the Department's report back deadline of January 15, 2013 has come and gone. The political reality is that the project will most likely remain on hold until the Legislature acts on legislation submitted this year to repeal the Department's feasibility study authority.*
4. *Does the Legislative authorization for the MDOT to conduct the feasibility study, or the appropriation for the funding of the feasibility study expire or sunset? As noted above, the Department's report back deadline was January 15, 2013. Normally, legislative committees of jurisdiction, in this case the Transportation Committee, grant permission to extend the report-back deadline. As indicated above, it is unlikely that an extension will be granted until the Legislature has acted on the east-west highway related legislation submitted this session. With respect to the study funding, the Department was directed to conduct the study within existing resources. Upon receiving authority to construct the east-west highway, the developer has required to reimburse the Department the estimated \$300,000 cost of the study. The entire process is currently in limbo.*
5. *Are there any bills pending before the Legislature that would have an effect either positively or negatively on the ability for this corridor proposal or a similar corridor proposal to occur? As of April 3, 2013, seven east-west highway related bills had been printed. Summaries and links to those bills are provided in Attachment 1.*
6. *Realistically, are there any new pieces of legislation that would need to be adopted at some point in time in order for a project such as the East/West corridor proposal to occur? It is assumed that legislation will be needed to "connect" the corridor to*

jurisdictions outside of Maine. It is also generally believed that in order to construct a major highway across the state, certain amounts of enabling legislation would be reasonably required, to make uniform and at least partially preempt local regulatory authorities that could frustrate the effort, provide some degree of eminent domain authority, etc. With respect to the development of an all inclusive list of necessary legislation, MMA staff does not have the expertise needed to respond to the question. However, interested municipalities may want to consider proactive action on this matter by developing and implementing related ordinances focused of the regulation of highway and energy utility corridors.

Transportation/Utility Corridor Related Legislation

LD 362, *An Act To Prohibit Use of Public Funds for a Private Transportation Study.* This bill prohibits the use of Department of Transportation funds to pay for traffic and revenue study or finance plan in connection with a proposal for a transportation facility made by a private entity.
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0142&item=1&snum=126>

LD 721, *An Act To Provide Transparency in Public-private Partnerships for Transportation Projects.* Under current law, materials used or submitted in connection with a proposal for a public-private partnership for a transportation project are confidential. This bill provides that those materials are public records.
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0493&item=1&snum=126>

LD 870, *Resolve, Regarding a Study by the Department of Transportation of the Most Efficient Options for Improving East-west Transit and Transportation.* This resolve directs the Department of Transportation to study the existing highways and railroad assets that now serve as an east-west transport corridor to determine the most efficient options for improving east-west transit and transportation in the State.
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0295&item=1&snum=126>

LD 985, *Resolve, To Repeal the Requirement That the Department of Transportation Facilitate a Feasibility Study of an East-west Highway and Provide for Public Access to Certain Documents.* This resolve repeals Resolve 2011, chapter 147, "Resolve, To Require the Department of Transportation To Facilitate and Oversee a Study of the Feasibility of an East-west Highway." This resolve specifies that any documents created in connection with Resolve 2011, chapter 147 are public documents and are not confidential. This resolve also prohibits the department from seeking reimbursement for any study conducted pursuant to Resolve 2011, chapter 147.
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0330&item=1&snum=126>

LD 1209, *An Act To Prohibit the Use of Public Resources for a Privately Owned East-west Highway.* This bill prohibits the use of state funds or state-owned property for the construction or development of a privately owned east-west highway, including the preparation or study for the development of a privately owned east-west highway. This bill also repeals "Resolve, To Require the Department of Transportation To Facilitate and Oversee a Study of the Feasibility of an East-west Highway," retroactively to the effective date of that resolve.
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0853&item=1&snum=126>

LD 1269, *An Act To Require an Independent Analysis of the Impact of and a Review Process for an East-west Highway prior to Development.* This bill requires a comprehensive independent analysis to be conducted prior to the development of a proposed private or public-private partnership project for a highway or utility corridor that traverses the State in an east-west manner. The cost of the analysis must be paid entirely by the private entity. The bill specifically prohibits any state department or agency from spending any funds for the facilitation

and oversight of a comprehensive independent analysis of such a highway or utility corridor. This bill requires that the plans for the proposed project be made available to the public for review. This bill also imposes public notice and hearing requirements and provides intervener status to municipalities through which the proposed project may pass and to landowners whose land abuts the project similar to the public and local participation requirements for solid waste facility siting. This bill also repeals Resolve 2011, chapter 147, "Resolve, To Require the Department of Transportation To Facilitate and Oversee a Study of the Feasibility of an East-west Highway," retroactive to the effective date of that resolve.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0908&item=1&snum=126>

LD 1304, Resolve, Establishing the East-west Highway Study Commission To Oversee Further Study or Planning for an East-west Highway. This resolve establishes the East-west Highway Study Commission to oversee further study of an east-west highway.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0931&item=1&snum=126>