



# House of Representatives

General Assembly

**File No. 669**

January Session, 2013

House Bill No. 6637

*House of Representatives, May 1, 2013*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 13a-49 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 The selectmen of any town may, subject to approval by a majority  
4 vote at any regular or special town meeting, by a [writing] certificate  
5 signed by them, discontinue any highway or private way, or land  
6 dedicated as such, in its entirety, or may discontinue any portion  
7 thereof or any property right of the town or public therein, except  
8 when laid out by a court or the General Assembly, and except where  
9 such highway is within a city, or within a borough having control of  
10 highways within its limits. After any such certificate is duly signed  
11 pursuant to this section, the selectmen shall give notice of such  
12 discontinuance or partial discontinuance to each property owner  
13 bounding the discontinued highway or private way, or land dedicated  
14 as such, or portion thereof, in the manner prescribed in subsection (b)

15 of section 13a-73, and shall file a copy of such notice in the office of the  
 16 town clerk. Any person aggrieved by such discontinuance or partial  
 17 discontinuance may [be relieved by application] apply to the Superior  
 18 Court [, to be made and proceeded with] in the manner prescribed in  
 19 section 13a-62. Whenever a petition has been presented to the  
 20 selectmen for such discontinuance or partial discontinuance of any  
 21 land dedicated as a highway or private way but which has not been  
 22 actually used, worked or accepted, as a highway, by the town, and  
 23 such discontinuance or partial discontinuance has not been made by  
 24 the selectmen and approved by the town within twelve months after  
 25 such presentation, any person aggrieved may [be relieved by  
 26 application] apply to said court [, to be made and proceeded with] in  
 27 the manner prescribed in section 13a-62.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	13a-49

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Various Municipalities	Cost	Minimal	Minimal

**Explanation**

The bill requires a town selectman to notify each property owner adjoining a discontinued highway or private way that such road has been discontinued.

There is a cost, expected to be minimal, associated with printing and mailing such notifications to property owners.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****HB 6637*****AN ACT CONCERNING THE DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES.*****SUMMARY:**

This bill requires that the selectmen of any town must have a signed "certificate" rather than a "writing," and obtain majority approval before discontinuing (1) a highway (including streets and roads), private way, or land dedicated as such either partially or in its entirety or (2) any property right of the town or public within the town.

The bill requires the selectmen to (1) give notice to each property owner adjoining the discontinued highway or private way, or land dedicated as such and (2) file a copy of the notice in the office of the town clerk. The notice must be given in the same manner required by law for taking land for state highway improvements or highway maintenance storage areas or garages (see BACKGROUND).

The bill also specifies that any person aggrieved by the discontinuance or partial discontinuance may apply to the Superior Court for relief. It appears that such application must be filed within eight months, but it is unclear when that period begins to run.

EFFECTIVE DATE: October 1, 2013

**DISCONTINUANCE OF HIGHWAYS AND PRIVATE WAYS BY MUNICIPALITIES*****Majority Approval by Signed Certificate***

By law, the selectmen of any town may discontinue (1) any highway, private way, or land dedicated as such either partially or in its entirety or (2) any property right of the town or public within the town, with the following exceptions:

1. when laid out by a court or the General Assembly or
2. where the highway is within a city, or within a borough having control of highways within its limits.

Under current law, a signed "writing" by the selectmen approved by a majority vote at a regular or special town meeting is needed for the discontinuance. The bill requires that the document be a signed "certificate."

### ***Application to Superior Court for Relief***

The bill allows any person aggrieved by the discontinuance or partial discontinuance of a highway or private way, or land dedicated as such to apply, within eight months, to the Superior Court for the judicial district in which the town is located for relief in the same manner available when land is taken for highway purposes. It is unclear what action triggers the beginning of the eight-month period.

## **BACKGROUND**

### ***Notice Required When Land is Taken for State Highway Purposes***

By law the commissioner of transportation may take any land he finds necessary for the layout, alteration, extension, widening, change of grade, or other improvement of any state highway or for a highway maintenance storage area or garage. An assessment of damages and benefits must be done by the commissioner and notice must be given to each person having an interest of record as follows:

1. by mailing the assessment to each person, postage prepaid;
2. if notice cannot be given to any person because his or her whereabouts or existence is unknown, notice may be given by publishing a notice at least twice in a newspaper published in the judicial district and having a daily or weekly circulation in the town in which the affected property is located (any such notice must state that it is a notice to the last owner of record or his or her surviving spouse, heirs, administrators, assigns, representatives or creditors if he or she is deceased, and must

contain a brief description of the property taken);

3. by mailing to each such person at his or her last-known address, by registered or certified mail, a copy of the published notice; or
4. if, after a search of the land and probate records, the address of any interested party cannot be found, an affidavit stating such facts and reciting the steps taken to establish the address of any such person, must be filed with, and accepted by, the clerk of the court and mailed to the last known address of the person in lieu of service of such notice (CGS § 13a-73).

**Related Law**

CGS § 13a-55 gives property owners bounding a partially or completely discontinued or abandoned highway a right-of-way to the nearest or most accessible highway.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 43    Nay 1    (04/12/2013)