



House of Representatives

General Assembly

File No. 214

January Session, 2015

Substitute House Bill No. 5092

House of Representatives, March 26, 2015

The Committee on Planning and Development reported through REP. MILLER, P. of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute 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 Section 13a-49 of the general statutes is repealed and the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, 2015, and*
3 *applicable to discontinuances or partial discontinuances considered on or after*
4 *said date*):

5 (a) (1) The selectmen of any town may, subject to approval by a
6 majority vote at any regular or special town meeting, by a writing
7 signed by them, discontinue any highway or private way, or land
8 dedicated as such, in its entirety, or may discontinue any [portion] part
9 thereof or any property right of the town or public therein, except
10 when laid out by a court or the General Assembly, and except where
11 such highway is within a city, or within a borough having control of
12 highways within its limits. [Any]

13 (2) Whenever the selectmen of a town meet to take final action on
14 the discontinuance or partial discontinuance of a highway or private
15 way, or land dedicated as such, the selectmen shall provide written
16 notice of their meeting to each owner of property that bounds the
17 highway or private way, or land dedicated as such. Such notice shall
18 be provided by mailing a notice of the date, time, place and subject of
19 such meeting of the selectmen to such owner at such owner's address,
20 as shown on the last-completed grand list of the town, by first class
21 mail, postmarked at least fifteen days prior to the date of such meeting.
22 If, in the opinion of the selectmen, the boundary lines or limits of such
23 highway or private way, or land dedicated as such, have become lost
24 or uncertain, the selectmen shall make reasonable efforts to identify the
25 boundary lines or limits of such highway or private way, or land
26 dedicated as such, and shall give notice of such meeting to each owner
27 of property that bounds such identified boundary line or limit in
28 accordance with this subdivision. Such reasonable efforts need not
29 include an examination of title, or abstracts thereof, or a land survey.

30 (3) If the selectmen vote to discontinue or partially discontinue the
31 highway or private way, or land dedicated as such, and such
32 discontinuance or partial discontinuance is approved by a majority
33 vote at any regular or special town meeting held on or after October 1,
34 2015, the selectmen shall cause to be recorded on the land records of
35 the town a notice of such discontinuance or partial discontinuance,
36 which notice shall include (A) a listing of each parcel of property
37 identified pursuant to subdivision (2) of this subsection to bound (i)
38 such highway or private way, or land dedicated as such, or (ii) such
39 identified boundary line or limit, and (B) the name of the owner of
40 each such parcel of property as shown in the last-completed grand list
41 of the town.

42 (4) (A) Except as provided in subparagraph (B) of this subdivision,
43 any person aggrieved [may be relieved by application] by a
44 discontinuance or partial discontinuance under this subsection may,
45 not later than six months after notice of discontinuance or partial
46 discontinuance is recorded on the land records of the town pursuant to

47 subdivision (3) of this subsection, apply to the [Superior Court, to be
48 made and proceeded with in the manner prescribed in section 13a-62]
49 superior court for the judicial district in which such town is located.

50 (B) Any owner of property who is aggrieved by the failure to
51 receive the meeting notice required under subdivision (2) of this
52 subsection may apply to the Superior Court not later than six months
53 after notice of discontinuance or partial discontinuance is recorded on
54 the land records of the town pursuant to subdivision (3) of this
55 subsection. No discontinuance or partial discontinuance shall be
56 invalidated by such court on the basis of the selectmen's failure to
57 provide the meeting notice required under subdivision (2) of this
58 subsection to an owner of property if the town establishes that (i) a
59 meeting notice that meets the requirements of subdivision (2) of this
60 subsection was mailed to such owner's address, as shown in the
61 applicable last-completed grand list of the town, or (ii) the selectmen
62 made a good faith effort to identify the parcels of property that bound
63 the highway or private way, or land dedicated as such, or such
64 identified boundary line or limit, in accordance with subdivision (2) of
65 this subsection, and mailed notice to each owner of such identified
66 parcels of property, as shown in the applicable last-completed grand
67 list of the town.

68 (b) Whenever a petition has been presented to the selectmen for
69 such discontinuance or partial discontinuance of any land dedicated as
70 a highway or private way but which has not been actually used,
71 worked or accepted [,] as a highway [,] by the town, and such
72 discontinuance or partial discontinuance has not been made by the
73 selectmen and approved by the town within twelve months after such
74 presentation, any person aggrieved may [be relieved by application]
75 apply to said court [, to be made and proceeded with] in the manner
76 prescribed in section 13a-62, as amended by this act.

77 Sec. 2. Section 13a-62 of the general statutes is repealed and the
78 following is substituted in lieu thereof (*Effective October 1, 2015*):

79 Any person aggrieved by the doings of the selectmen in laying out a

80 highway may, within [eight] six months after the survey thereof has
 81 been accepted by the town, apply to the superior court for the judicial
 82 district in which such town is located for relief, causing such selectmen
 83 to be cited to show cause why such relief should not be granted. Such
 84 application shall be heard and determined by a committee of three
 85 disinterested persons to be appointed by the court. If such committee
 86 finds that such highway is not of common convenience and necessity,
 87 said court shall set aside such layout, and, if said court sets aside such
 88 layout, the costs shall be paid by the town; but, if such committee finds
 89 that such highway is of common convenience and necessity, the
 90 application shall be dismissed with costs. The report of such committee
 91 may be set aside by the court for any irregularity or improper conduct
 92 on its part. Proceedings under this section shall not prevent or delay
 93 the opening or occupation of such highway.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015, and applicable to discontinuances or partial discontinuances considered on or after said date</i>	13a-49
Sec. 2	<i>October 1, 2015</i>	13a-62

Statement of Legislative Commissioners:

In section 1(a)(4), "notice of approval" was changed to "notice of discontinuance or partial discontinuance" for consistency.

PD *Joint Favorable Subst.*

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.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
All Municipalities	Potential Cost	Less than \$1,000	Less than \$1,000

Explanation

The bill requires municipalities to notify adjoining property owners when taking final action on the discontinuance of a highway or private way.

There is a cost, estimated to be less than \$1,000 annually, to those municipalities that discontinue a highway or private way, associated with mailing such notices to effected property owners.

The Out Years

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

OLR Bill Analysis

sHB 5092

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

SUMMARY:

This bill requires town selectmen, before they meet to take final action on the discontinuance of all or part of a highway, private way, or land dedicated to such use, to notify owners of abutting properties. It requires the selectmen to record certain information in the land records if both the selectmen and a majority vote at a town meeting approve the discontinuance. These provisions apply to any decisions made at a regular or special town meeting held on or after October 1, 2015.

By law, with limited exceptions, selectmen can discontinue all or part of a highway, private way, or land dedicated to such use. Such discontinuance requires approval by a majority vote at a regular or special town meeting.

The bill allows a property owner who is aggrieved because he or she did not receive the required meeting notice to apply to the Superior Court for relief within six months after the discontinuance approval notice is recorded in the land records. It also reduces, from eight months to six months, the period during which a person aggrieved by a discontinuance may appeal to Superior Court.

Additionally, the bill reduces, from eight months to six months, the period during which a person aggrieved by the selectmen's decision to lay out (i.e., designate) a highway may appeal to Superior Court.

The bill makes technical changes.

EFFECTIVE DATE: October 1, 2015, and applicable to

discontinuances or partial discontinuances considered on or after that date.

MEETING TO ACT ON A DISCONTINUANCE

Under the bill, starting October 1, 2015, before the selectmen meet to take final action on a discontinuance, they must send written notice of the meeting to the owner of each property that bounds the highway, private way, or dedicated land. The notice must (1) include the date, time, place, and subject of the meeting and (2) be sent by first class mail at least 15 days before the meeting to each property owner's address, as shown on the most recent grand list. If the selectmen believe that the boundary lines of a highway or private way have become lost or uncertain, they must make reasonable efforts to identify the lines and notify the owners that bound such lines. The reasonable efforts do not have to include (1) examining titles or abstracts or (2) a land survey.

RECORDING AN APPROVED DISCONTINUANCE

Under the bill, if the selectmen and a majority of the town meeting approve a discontinuance on or after October 1, 2015, the selectmen must record notice of the approval in the land records. The notice must include (1) a list of each parcel that bounds the affected highway, private way, or dedicated land; (2) the identified boundary line; and (3) the name of each affected parcel owner, as shown in the most recent grand list.

INVALIDATING A DISCONTINUANCE

Under the bill, a discontinuance or partial discontinuance may not be invalidated on the basis of the selectmen's failure to provide the required meeting notice if the town establishes that (1) the notice was mailed to the owner's address as shown on the most recent grand list or (2) the selectmen (a) made a good-faith effort to identify the parcels that bound the highway, private way, dedicated land, or identified boundary line and (b) mailed notice to each owner, as shown on the most recent grand list.

BACKGROUND

Grand List

The grand list is a listing of all real estate parcels within a municipality. The listing generally includes a (1) property owner's address, (2) property location, and (3) assessed value.

Related Law

The law gives property owners bounding a partially or completely discontinued or abandoned highway a right-of-way, over such highway, to the nearest or most accessible highway (CGS § 13a-55).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2015)