

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

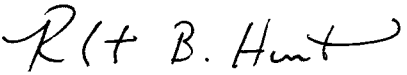
No. 1914

H.P. 1275

House of Representatives, May 6, 2025

An Act to Address Housing Density Requirements in Sole Source Aquifer Island and Peninsular Communities

Reference to the Committee on State and Local Government suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative STOVER of Boothbay.
Cosponsored by Representatives: EATON of Deer Isle, GEIGER of Rockland, HEPLER of
Woolwich, MATLACK of St. George, MITCHELL of Cumberland, STROUT of Harrington,
Senators: GROHOSKI of Hancock, RENY of Lincoln.

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

2 **Sec. 1. 30-A MRSA §4364, sub-§10** is enacted to read:

3 **10. Application.** For a sole source aquifer municipality, the applicability of this
4 section is governed by section 4364-D. For the purposes of this subsection, "sole source
5 aquifer municipality" has the same meaning as in section 4364-D, subsection 1, paragraph
6 C.

7 **Sec. 2. 30-A MRSA §4364-A, sub-§11** is enacted to read:

8 **11. Application.** For a sole source aquifer municipality, the applicability of this
9 section is governed by section 4364-D. For the purposes of this subsection, "sole source
10 aquifer municipality" has the same meaning as in section 4364-D, subsection 1, paragraph
11 C.

12 **Sec. 3. 30-A MRSA §4364-B, sub-§14** is enacted to read:

13 **14. Application.** For a sole source aquifer municipality, the applicability of this
14 section is governed by section 4364-D. For the purposes of this subsection, "sole source
15 aquifer municipality" has the same meaning as in section 4364-D, subsection 1, paragraph
16 C.

17 **Sec. 4. 30-A MRSA §4364-C, sub-§4** is enacted to read:

18 **4. Application.** For a sole source aquifer municipality, the applicability of this section
19 is governed by section 4364-D. For the purposes of this subsection, "sole source aquifer
20 municipality" has the same meaning as in section 4364-D, subsection 1, paragraph C.

21 **Sec. 5. 30-A MRSA §4364-D** is enacted to read:

22 **§4364-D. Housing density exemption for certain island and peninsular municipalities**

23 **1. Definitions.** For the purposes of this section, unless the context otherwise indicates,
24 the following terms have the following meanings.

25 A. "Hydrogeology" means the science of the occurrence, distribution and movement
26 of groundwater.

27 B. "Sole source aquifer" means an aquifer designated by the United States
28 Environmental Protection Agency pursuant to 42 United States Code, Section
29 300h-3(e) as the sole or principal drinking water source for an area that if contaminated
30 would create a significant hazard to public health.

31 C. "Sole source aquifer municipality" means a municipality that is located wholly or
32 partially on an island or peninsula and relies on a primary drinking water supply
33 derived from a sole source aquifer.

34 **2. Exemption from increased housing density requirements pending geological**
35 **evaluation.** Notwithstanding any provision to the contrary in sections 4364 to 4364-C, a
36 sole source aquifer municipality is not required to allow increased housing density in an
37 area within the municipality unless a licensed geologist determines that the groundwater
38 and septic capacity of the municipality can support an increase in housing density. A sole
39 source aquifer municipality shall pursue the geological evaluation described in subsection
40 3 consistent with the time frames established in rules adopted by the Department of
41 Economic and Community Development pursuant to subsection 7.

1 **3. Evaluation of groundwater and septic capacity.** A sole source aquifer
2 municipality shall contract with a qualified geologist who is licensed in this State and has
3 expertise and experience in the field of hydrogeology to determine whether the
4 groundwater and septic capacity within the municipality or a particular area within the
5 municipality can support an increase in housing density. The evaluation process must
6 include an analysis of the following:

7 A. The specific soils and geology of the area being considered for an increase in
8 housing density;

9 B. The capacity of existing groundwater resources to support additional density
10 without adversely impacting drinking water supplies;

11 C. The ability of septic systems to function safely and effectively, accounting for
12 existing and planned future development; and

13 D. The proximity to salt water and potential impacts on groundwater and septic system
14 performance.

15 After completing the analysis as required pursuant to this subsection, the geologist
16 performing the evaluation shall complete a report that includes the geologist's
17 recommendations and findings, including whether the evidence shows that the groundwater
18 and septic capacity in the area evaluated can support an increase in housing density.

19 **4. Municipal action following evaluation report.** This subsection governs the effect
20 of the evaluation report under subsection 3 on the obligations of the sole source aquifer
21 municipality with respect to the requirements of sections 4364 to 4364-C.

22 A. If the evaluation report demonstrates that the municipality or a particular area within
23 the municipality can support increased housing density, the sole source aquifer
24 municipality shall develop or amend its comprehensive plan and zoning ordinances to
25 allow increased density as required under sections 4364 to 4364-C, but only to the
26 extent the area can support the increase consistent with the findings of the evaluation
27 report.

28 B. If the evaluation report demonstrates that the municipality or a particular area within
29 the municipality cannot support increased housing density, the municipality remains
30 exempt from the requirements of sections 4364 to 4364-C for the area determined to
31 be unable to support increased density.

32 **5. Implementation date.** Notwithstanding sections 4364 to 4364-C, for a sole source
33 aquifer municipality required to comply with sections 4364 to 4364-C as provided in
34 subsection 4, paragraph A, wherever the term "implementation date" appears in sections
35 4364 to 4364-C, the applicable date is the date the evaluation report completed pursuant to
36 subsection 3 is received by the municipality.

37 **6. Reporting requirements.** A sole source aquifer municipality shall submit an
38 annual report to the Department of Economic and Community Development detailing the
39 municipality's progress toward completing the evaluation required under this section and
40 any actions taken by the municipality to address housing density.

41 **7. Rule-making authority.** The Department of Environmental Protection and the
42 Department of Economic and Community Development shall adopt rules pursuant to this
43 subsection as follows.

A. The Department of Economic and Community Development shall adopt rules to implement this section, including but not limited to:

(1) Rules establishing a time frame in which sole source aquifer municipalities must obtain an evaluation pursuant to subsection 3; and

(2) Other rules establishing guidance for municipal compliance with this section.

B. The Department of Environmental Protection shall adopt rules limited to:

(1) Rules establishing criteria by which sole source aquifer municipalities may select a licensed geologist to perform the evaluation required under subsection 3;
and

(2) Other rules as necessary to facilitate the performance of the evaluation pursuant to subsection 3.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill establishes an exemption from the Maine Revised Statutes, Title 30-A, sections 4364 to 4364-C for municipalities that are located wholly or partially on an island or peninsula and rely on a primary drinking water supply derived from a sole source aquifer. The bill provides that such a municipality is exempt from these provisions until a licensed geologist has analyzed the groundwater and septic capacity within the municipality or a particular area within the municipality and determined that it can support an increase in housing density. If the licensed geologist determines in the geologist's evaluation report that the area can support an increase in housing, the municipality is required to comply with the provisions of Title 30-A, sections 4364 to 4364-C, to the extent that the licensed geologist determines the area can support the increase. If the geologist's evaluation report indicates the area cannot support an increase in housing density, the municipality is exempt from Title 30-A, sections 4364 to 4364-C.

The Department of Economic and Community Development and the Department of Environmental Protection are directed to adopt rules to implement this legislation. The Department of Environmental Protection has rule-making authority limited to establishing criteria by which municipalities may select a licensed geologist and other rules necessary to perform the geological evaluation required under this legislation.