

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
NATURAL RESOURCES

JULY 1997

MEMBERS:

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Sen. John M. Nutting

Sen. Jeffrey H. Butland

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ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
August 1997

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i>	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101/107/135

The law makes discharges from nonconforming underground oil storage tanks and piping ineligible for coverage by the Ground Water Oil Clean-up Fund if the discharge is discovered or reported after October 1, 1998, except that it extends eligibility for coverage until October 1, 1999 if the facility or tank was not operated or used to store oil after the required removal date and the applicant for coverage was unable to secure financing to remove the facility or tank or unable to obtain the services of a certified underground oil storage tank installer or remover.

The law extends fund coverage of eligible spill clean-up costs incurred by owners and operators of oil storage tanks until December 31, 2005. It also eliminates from the language that will govern the Ground Water Oil Clean-up Fund after the fund insurance program ends provisions for additional fund transfers to the Finance Authority of Maine and the Maine State Housing Authority. The law makes other changes necessary to fully effectuate the extension of the groundwater fund insurance program from December 31, 1999 to December 31, 2005.

LD 1582

An Act to Clarify and Amend the Storm Water Management Laws, the Erosion and Sedimentation Control Laws, and the Site Location of Development Laws

PUBLIC 502

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROWE TREAT	OTP-AM	H-643

LD 1582 proposed to amend the erosion and sedimentation control laws, the storm water management laws and the site location of development laws.

The bill proposed to amend the erosion and sedimentation laws to clarify that sites must be maintained to prevent erosion and sedimentation.

It proposed to amend provisions describing the relationship between storm water management laws and other related laws. It proposed to provide that when a joint order is necessary pursuant to both the natural resources protection laws and the storm water management laws, the review period may be extended. It proposed to amend the provision allowing a municipality or quasi-municipality to substitute a management system for storm water for permit requirements to allow the municipality or quasi-municipality to elect to have this substitution take effect either when the system is approved by the department or when the system is completed.

It proposed that a storm water permit would not be required when a permit is required pursuant to the site location of development laws. However, when the development is reviewed pursuant to the site location of development laws solely under the traffic threshold, so that storm water management may not be reviewed under the site location of development laws, a separate storm water permit might be required.

It proposed to change a reference from "impervious area" to "disturbed area" in the fee provision addressing disturbed area.

It proposed to provide authority for the Department of Environmental Protection to establish a compensation fee program to provide an alternative method of meeting the quality standards for certain sites.

It proposed to repeal and replace the list of types of development that require a permit pursuant to the site location of development laws to correct a conflict created during the previous session and to add a new permit threshold addressing oil refineries.

It proposed to change "minimum performance standards" to "standards" in Title 38, section 484, subsection 2, relating to traffic movement standards.

It proposed to amend the new "storm water" standard to provide that the storm water standard for metallic mineral mining and advanced exploration activity would continue to be the standard in department rules adopted to implement Title 38, section 484, subsections 3 and 7.

It proposed to repeal and replace Title 38, section 488, subsections 11 and 16 to correct conflicts created during the previous session.

It proposed to add a provision allowing municipalities to review applications for modifications that, in some cases, may result in a development larger than the upper area threshold specified.

It proposed to amend the provision addressing rulemaking to provide that rulemaking to implement the optional compensation fee program or to update the list of "watersheds of bodies of water most at risk from new development" or the list of "sensitive or threatened regions or watersheds" would not be considered major substantive rulemaking. It also proposed to extend from January 1, 1997 to January 31, 1997 the date by which rules relating to the storm water management laws and certain sections of the site location of development laws must be provisionally adopted and submitted to the Legislature.

It proposed to provide an allocation provision for the storm water compensation fund.

Committee Amendment "A" (H-643) proposed to remove the emergency preamble and emergency clause from the bill. It proposed to change references in the storm water management laws from "erosion control" to "storm water control" and to lower the fee required when vegetative means of storm water control are used from \$250 for each additional acre over five acres of disturbed area to \$125 for each additional acre.

The amendment proposed changes to the compensation fee program provisions in the bill.

The amendment proposed to define an oil terminal facility for purposes of the site location of development laws and to specify that an oil terminal facility within an area subject to the jurisdiction of the Maine Land Use Regulation Commission is not exempt from the site location of development laws. The amendment also proposed to clarify the application of the site location of development laws to oil terminal facilities already in existence on June 30, 1997.

The amendment proposed to strike a provision exempting certain modifications to developments from the site location of development laws if the initial developments were exempt and were reviewed by the municipality.

The amendment proposed to extend the date by which storm water rules were to be submitted for review to the Legislature and to provide that rules to update the first comprehensive lists, rather than the first established lists, of water bodies most at risk from new development and sensitive or threatened regions or watersheds are not major substantive rules.

The amendment also proposed to correct the name of the fund in the allocation provision for the Storm Water Compensation Fund.

The amendment proposed to require the Department of Environmental Protection to convene a work group and report to the Joint Standing Committee on Natural Resources by January 1, 1998 with recommendations on whether approval of an expansion of a nonconforming structure in the shoreland zone should be made contingent upon a reduction in the total nonpoint source pollution from the lot and whether the 30% expansion rule set out in the Maine Revised Statutes, Title 38, section 439-A, subsection 4 and department rules adopted pursuant to that subsection should be amended to improve the equity of its application.

The amendment also proposed to require the department, in developing rules to implement the compensation fees for watershed projects, to provide guidance to organizations receiving such fees on how to use the funds.

Enacted law summary

Public Law 1997, chapter 502 clarifies that under the erosion and sedimentation laws sites must be maintained to prevent erosion and sedimentation. It amends the storm water management laws' provisions describing the relationship between storm water management laws and other related laws. It provides that when a joint order is necessary pursuant to both the natural resources protection laws and the storm water management laws, the review period may be extended. It clarifies that a storm water permit is not required when a permit is required pursuant to the site location of development laws, except that if the development is reviewed pursuant to the site location of development laws solely under the traffic threshold, so that storm water management may not be reviewed under the site location of development laws, a separate storm water permit may be required. It amends the provision allowing a municipality or quasi-municipality to substitute a management system for storm water for permit requirements to allow the municipality or quasi-municipality to elect to have this substitution take effect either when the system is approved by the department or when the system is completed.

The law authorizes the Department of Environmental Protection to establish a compensation fee program to provide an alternative method of meeting the storm water quality standards for certain sites. It also provides an allocation for the storm water compensation fund.

It amends the site location of development laws by repealing and replacing the list of types of development that require a site law permit and by making technical corrections. It also defines an oil terminal facility for purposes of the site location of development laws, specifies that an oil terminal facility within an area subject to the jurisdiction of the Maine Land Use Regulation Commission is not exempt from the site location of development laws, and clarifies the application of the site location of development laws to oil terminal facilities already in existence on June 30, 1997.

The law amends the provision addressing rulemaking under the storm water management laws to provide that rulemaking to implement the optional compensation fee program or to update the first comprehensive lists of "watersheds of bodies of water most at risk from new development" and "sensitive or threatened regions or watersheds" is not considered major substantive rulemaking. It also extends from January 1, 1997 to February 28, 1997 the date by which rules relating to the storm water management laws and certain sections of the site location of development laws must be provisionally adopted and submitted to the Legislature.

The law requires the Department of Environmental Protection to convene a work group and report to the Joint Standing Committee on Natural Resources by January 1, 1998 with recommendations on whether approval of an expansion of a nonconforming structure in the shoreland zone should be made contingent upon a reduction in the total nonpoint source pollution from the lot and whether the 30% expansion rule set out in the Maine Revised Statutes, Title 38, section 439-A, subsection 4 and department rules adopted pursuant to that subsection should be amended to improve the equity of its application.