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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2353

S. P. 826

In Senate, January 14, 1974

Referred to Committee on Natural Resources. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Richardson of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

**AN ACT to Clarify Certain Administrative Aspects of the Saco River
Corridor Commission.**

Emergency preamble. Whereas Acts of the Legislature do not become effective until 90 days after adjournment of the Legislature unless enacted as emergencies; and

Whereas, the 106th Legislature in regular session enacted Chapter 150 of the private and special laws of 1973 which established the Saco River Corridor Commission; and

Whereas, certain aspects of said legislation relating to the corporate status of the commission, the duties of the Attorney General and other matters need to be clarified or modified before hearings are held and the land within the Saco River Corridor is divided into districts; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. P. & S. L., 1973, c. 150, § 1, amended. Subsection 9 of section 2 of section 1 of chapter 150 of the private and special laws of 1973 is amended to read as follows:

9. **100-year floodplain.** "100-year floodplain" means any land adjacent to the fresh-water portions of the Saco River or the Ossipee River which is of lower elevation than the profile of the 100 year flood established for that location by the U. S. Army Corps of Engineers or which was actually covered by flood waters in the flood of March, 1936. For the Little Ossipee River it shall mean any land which ~~was actually~~ **is known to have been** covered by flood waters ~~in the flood of March 1936~~ **the past 100 years** or which is of lower elevation than the 100 year flood ~~to be~~ established for that location on the basis of information developed by the Soil Conservation Service of the United States Department of Agriculture, or by other state or federal agency. For the tidal portions of the Saco River, it shall mean any lands within the Corridor of lower elevation than 9 feet above mean sea level as defined by the U. S. Army Corps of Engineers. Where the location of the boundary of the 100-year floodplain is at issue under this Act, the district boundary map adopted by the commission shall be prima facie evidence of the location of said boundary.

Sec. 2. P. & S. L., 1973, c. 150, § 1, amended. Paragraph A of subsection 10 of section 2 of section 1 of chapter 150 of the private and special laws of 1973 is amended to read as follows:

A. Not more than ~~2 persons~~ **full-time employees or the equivalent thereof** not living on the premises shall be employed in the home occupation or enterprise;

Sec. 3. P. & S. L., 1973, c. 150, § 1, amended. The first paragraph of section 3 of section 1 of chapter 150 of the private and special laws of 1973 is amended to read as follows:

There is hereby created the Saco River Corridor, herein referred to as the "corridor," which shall include ~~the water surface of~~ the Saco River from the landward side of the rock jetty in Saco Bay to the New Hampshire border; ~~the water surface of~~ the Ossipee River from its confluence with the Saco River to the New Hampshire border; and the ~~water surface of~~ Little Ossipee River from its confluence with the Saco River to ~~Balch Pond on~~ the New Hampshire border **at Balch Pond.**

Sec. 4. P. & S. L., 1973, c. 150, § 1, amended. The first paragraph of section 4 of section 1 of chapter 150 of the private and special laws of 1973 is amended to read as follows:

To carry out the purpose stated in section 1, there is hereby created the Saco River Corridor Commission, **a body corporate and politic**, hereafter in this Act called the "commission". The commission is charged with implementing this Act within the Saco River Corridor **and shall have and exercise all the powers and authorities necessary to carry out the purposes of this Act and the powers and authorities granted herein.** The commission shall consist of one member and one alternate from each municipality whose jurisdiction includes lands or bodies of water encompassed by the Saco River Corridor.

Sec. 5. P. & S. L., 1973, c. 150, § 1, amended. The 3rd paragraph of section 4 of section 1 of chapter 150 of the private and special laws of 1973 is amended to read as follows:

Appointed and elected officials of the municipalities with lands within the corridor shall be eligible to serve as members of the commission, and such service shall not be considered a conflict of interest. The members shall be sworn to the faithful performance of their duties as such by a dedimus justice and 7 members or alternates qualified to vote shall constitute a quorum for the transaction of business.

Sec. 5-A. P. & S. L., 1973, c. 150, § 1, amended. The 2nd paragraph of section 5 of section 1 of chapter 150 of the private and special laws of 1973 is amended to read as follows:

Alternate members shall be allowed to participate in all proceedings of the commission, but shall vote only in the absence of the regular member from the municipality which they represent. Public hearings conducted under the authority of this Act may be held by a single member, alternate or hearing officer designated by the commission.

Sec. 6. P. & S. L., 1973, c. 150, § 1, amended. Subsection 1 of section 8 of section 1 of chapter 150 of the private and special laws of 1973 is amended by adding a new paragraph E, to read as follows:

E. Sue and be sued in its own name, plead and be impleaded.

Sec. 7. P. & S. L., 1973, c. 150, § 1, amended. Sections 11 through 31 of section 1 of chapter 150 of the private and special laws of 1973 are repealed and the following enacted in place thereof:

Sec. 11. Use districts and classifications. The land and water area within the Saco River Corridor shall be classified by the commission according to the following land and water use districts:

1. Resource Protection;
2. Limited Residential;
3. General Development.

Within each of these districts the possible uses of land and water shall be divided into the following 3 categories:

1. Uses for which no permit from the commission is required;
2. Uses allowed by permit;
3. Prohibited uses.

Sec. 12. Resource Protection District.

1. Areas to be included. The Resource Protection District shall include the following areas:

- A. Wetlands, swamps, marshes and bogs;
- B. Areas where the entire width of the corridor on one or both sides of the river is within the 100-year floodplain;

C. Land in private ownership designated for inclusion within this district by the owner thereof and accepted by the commission because of its importance as a fish and wildlife habitat or its educational, scientific, scenic, historic or archaeological value, or its open space value;

D. Land held in federal, state and municipal ownership which is designated for inclusion within this district by the controlling state, local or federal agency or board and accepted by the commission because of its importance as a fish and wildlife habitat or its educational, scientific, scenic, historic or archaeological value, or its open space value;

E. Land subject to easements or other legal restrictions which limit permissible uses to those allowed within this district;

F. Areas of importance as a fish or wildlife habitat or containing exceptional educational, scientific, scenic, historic or archaeological resources, which are nominated in writing to the commission by a municipal or state agency and approved by the commission after public hearing in the municipality within which the area is located.

(1) Areas of importance as fish and wildlife habitat shall be included within the Resource Protection District upon a finding by the commission that all of the following requirements are met:

(a) The area of importance to a specific species of fish, migratory birds or other wildlife which inhabits the Saco River Corridor;

(b) The maintenance and preservation of the populations of such species will promote the public welfare; and

(c) More intensive development would result in the total or partial loss of the wildlife resources to be protected.

(2) Areas of exceptional scenic importance shall be included within the Resource Protection District upon a finding by the commission that all of the following requirements are met:

(a) The area is of exceptional scenic value because of distinct and clearly identifiable geological formations, vegetation or other natural features such as bluffs, cliffs, rapids, falls, rock out-croppings or islands;

(b) The natural features are visible from the river or from an accepted road during the months of June through September;

(c) Preservation of the scenic value of the area will promote the public welfare; and

(d) More intensive development would result in the total or partial loss of the scenic value of the area.

(3) Areas of exceptional historic importance shall be included within the Resource Protection District only upon a finding by the commission that all of the following requirements are met:

(a) The area to be included is associated with persons or events of national, state or local historic significance;

(b) The area to be included, or the persons or events associated with the area, have been described or alluded to in historic documents, state or local histories, historic novels or other published materials;

(c) Protection of the historic values of the area will contribute to public understanding and appreciation of the history of the Saco River Valley and its people; and

(d) More intensive development would result in the total or partial loss of the historic value of the area.

(4) Areas of exceptional archaeological importance shall be included within the Resource Protection District upon a finding by the commission that all of the following requirements are met;

(a) The area to be included is one of exceptional importance as a source of fossils or prehistoric Indian remains;

(b) The protection of the area would promote the public welfare by increasing public understanding and appreciation of the past of the Saco River Valley and its inhabitants; and

(c) More intensive development would result in the total or partial loss or inaccessibility of such fossils or Indian remains.

(5) Areas of exceptional scientific and educational importance shall be included within the Resource Protection District only upon a finding by the commission that all of the following requirements are met:

(a) The area contains rare or unusual flora, fauna, or other natural features of scientific or educational importance;

(b) That protection of the area will promote scientific and educational purposes;

(c) More intensive development would result in the total or partial destruction of the educational or scientific value of the area.

2. Uses for which no permit from the commission is required. Uses within the Resource Protection District for which no permit from the commission is required shall include:

A. Open space uses which do not involve development including erosion and flood control, parks, game management, harvesting of cranberries and wild crops, tent camping, picnic areas, fishing, hunting and other forms of outdoor recreation compatible with the purposes of this district;

B. Piers, docks and floats in compliance with state and federal requirements and applicable performance standards;

C. Forestry, agriculture, horticultural and aquacultural uses not involving development.

D. Maintenance, reconstruction or relocation of existing public ways or bridges.

3. Uses allowed by permit. Uses within the Resource Protection District which may be allowed by permit shall include:

A. Structures related, necessary and accessory to the uses for which no permit is required;

B. Dredging, filling or alteration of wetlands related, necessary and accessory to permitted uses;

C. Any fill or deposit of material related, necessary and accessory to permitted uses;

D. Sand, gravel and topsoil (loam) excavations.

E. Necessary expansion or enlargement of nonconforming uses;

F. Reconstruction of nonconforming structures damaged or destroyed by casualty.

4. Prohibited uses. Prohibited uses within the Resource Protection District shall include:

A. Structures designed for human habitation;

B. Buildings not related, necessary and accessory to uses for which no permit is required;

C. Any fill or deposit of materials, or dredging or alteration of wetlands, not permitted as accessory to uses allowed within the district;

D. Billboards;

E. Commercial uses other than those undertaken and permitted pursuant to subsections 2 and 3;

F. Industrial or manufacturing uses;

G. Dumping or disposing of any liquid or solid wastes other than agricultural utilization of animal wastes;

H. Uses prohibited in the Limited Residential or General Development District.

Sec. 13. Limited Residential District.

1. Areas to be included. The Limited Residential District shall include lands within the corridor which may be suitable for development, but which are not necessary for the growth of areas of intensive development. The Limited Residential District shall serve as the residuary district and shall include all areas within the corridor which are not included in the Resource Protection or General Development Districts.

2. Uses for which no permit from the commission is required. Uses for which no permit from the commission is required within the Limited Residential District shall include those uses for which no permit from the commission is required within the Resource Protection District.

3. Uses allowed by permit. Uses within the Limited Residential District which may be allowed by permit shall include:

- A. Uses allowed by permit within the Resource Protection District;
- B. Roads;
- C. Commercial establishments related, necessary and accessory to uses allowed without permit except as prohibited by subsection 4;
- D. Home occupations or enterprises;
- E. Single family residences and accessory structures meeting all of the following criteria:
 - (1) The minimum frontage on the river measured at the normal or mean high water line shall be 100 feet;
 - (2) The minimum setback from the river shall be 100 feet from the normal or mean high water line;
 - (3) The combined river frontage and setback shall be not less than 500 feet;
 - (4) The structures and fill shall not encroach on the 100-year floodplain;
 - (5) Where there is an accepted road as of the effective date of this Act within 500 feet of the normal or mean high water mark of the river with different land ownership on either side of the road, the landowner on the far side of the road from the river shall have an aggregate of setback from the river and frontage on the far side of the road equal to 500 feet;
- F. Libraries and firehouses;
- G. Public utility structures;
- H. Necessary expansion or enlargement of nonconforming uses;
- I. Reconstruction of nonconforming structures damaged or destroyed by casualty.

4. Prohibited uses. Prohibited uses within the Limited Residential District shall include:

- A. Hotels, motels, mobile home parks and trailer courts;
- B. Restaurants, cafeterias or other commercial establishments involved in the preparation or sale of food or other beverages;
- C. Commercial uses other than those undertaken and permitted pursuant to subsections 2 and 3;

- D. Any fill or deposit of materials, or dredging or alteration of wetlands, not permitted as accessory to uses allowed within this district;
- E. Manufacturing and industrial uses;
- F. Hospitals and clinics;
- G. Billboards;
- H. All uses prohibited in the General Development District.

Sec. 14. General Development District.

1. Areas to be included. The General Development District shall include those areas within the corridor which exhibit a clearly defined pattern of intensive residential, commercial or industrial development and such reserve growth areas as may be deemed necessary by the commission after considering whether or not:

- A. There is a suitable area outside the corridor which could adequately accommodate the anticipated growth of the area of intensive development;
- B. The growth of the area of intensive development within the corridor is both necessary and desirable;
- C. The reserve growth area qualifies for inclusion in the Resource Protection District;
- D. The reserve growth area is suitable for the uses permitted within this district;
- E. The uses permitted in this district within the reserve growth area would result in water quality degradation; and
- F. The uses permitted in this district within the reserve growth area would unreasonably interfere with the fish or wildlife habitat or educational, scenic, scientific, historic or archaeological values of those areas eligible for inclusion within the Resource Protection District.

2. Uses for which no permit from the commission is required. Uses and accessory structures within the General Development District for which no permit from the commission is required shall include:

- A. Uses for which no permit from the commission is required within the Resource Protection District;
- B. Roads;
- C. Single family residences;
- D. Home occupations or enterprises;
- E. Multi-unit residential dwellings;
- F. Restaurants and cafeterias;
- G. Retail commercial establishments such as stores, supermarkets and pharmacies;

H. Municipal Buildings ;

I. Schools ;

J. Hospitals and clinics ;

K. Funeral homes ;

L. Warehouses ;

M. Churches ;

N. Libraries ;

O. Public utility structures ;

P. Any fill or deposit of material accessory, necessary and related to permitted uses not exceeding 100 cubic yards of material.

3. Uses allowed by permit. Uses allowed within the General Development District by permit only shall include :

A. Manufacturing and industrial uses ;

B. Sand, gravel and topsoil (loam) excavations ;

C. Dredging, filling or other alteration of wetlands ;

D. Any fill or deposit of material in excess of 100 cubic yards ;

E. Oil or petroleum storage facilities ;

F. Processing plants ;

G. Airports.

4. Prohibited uses. Prohibited uses within the General Development District shall include :

A. Dumping or disposing of any liquid or solid wastes other than agricultural uses of animal wastes and sanitary wastes in accordance with all federal, state and municipal requirements ;

B. Auto graveyards ;

C. Junkyards ;

D. Extractive uses of mining other than sand, gravel and topsoil (loam) excavations allowed by permit ;

E. Oil refineries ;

F. Smelting operations.

Sec. 15. Omitted uses.

1. Omitted uses. Uses not specifically mentioned or covered by any general category in the enumeration of permitted and prohibited uses for each district shall be deemed prohibited unless allowed by special permit upon a showing by the applicant that the soils are suitable for the proposed use and

that it will not unreasonably interfere with the use and enjoyment of their property by adjacent landowners or involve any significant:

- A. Degradation of air and water quality;
- B. Harmful alteration of wetlands;
- C. Increase in erosion or sedimentation;
- D. Danger of increased flood damage;
- E. Obstruction of flood flow;
- F. Damage to fish and wildlife habitat;
- G. Despoilation of the scenic, rural and open space character of the corridor;
- H. Overcrowding;
- I. Excessive noise;
- J. Obstruction to navigation; or
- K. Interference with the educational, scenic, scientific, historic or archaeological values of those areas designated and approved for inclusion within the Resource Protection District.

The burden of proof shall be upon the applicant to show entitlement to a permit under this section.

Sec. 16. Existing uses. Any existing building or structure or use of building or structure lawful at the effective date of this Act or of any subsequent amendment of this Act, or of any regulation adopted hereunder, may continue although such use or structure does not conform to this Act or the regulations adopted hereunder. Any existing building or structure may be repaired, maintained and improved but an existing building, structure or nonconforming use may be extended, expanded or enlarged only by permit from the commission. A nonconforming use, other than a single family residential use, which is discontinued for any reason for a period of one year shall be deemed abandoned and may not be resumed thereafter except in compliance with the requirements of this Act.

If, as a result of flood, fire or other casualty the value of a nonconforming building or structure is reduced by more than 75%, it may be rebuilt and the nonconforming use housed therein may be continued only by permit from the commission. If a nonconforming building or structure is decreased in value less than 75% by flood, fire or other casualty, it may be rebuilt in substantially the same location and in the same size without a permit from the commission, even though it would otherwise violate the requirements of this Act, provided that the rebuilding shall be commenced within 12 months of the casualty.

If 2 or more contiguous lots or portions thereof are in single ownership at the effective date of, or amendment of, this Act, and if all or part of the

lots do not meet the criteria of lot width, area, frontage or other measure required under this Act, or if a building thereon could not meet the aggregate requirements established by this Act, the lots involved shall be considered to be one parcel for the purposes of this Act.

To avoid undue hardship, nothing in this Act shall be deemed to require a change in the design, construction or intended use of any building or structure with respect to which substantial construction was legally carried out prior to the effective date of this Act. An intended use within the meaning of this section shall be any use for which such building or structure is designed as evidenced by the construction or by plans or specifications in existence as of the effective date of this Act.

Sec. 17. Permits required. After the effective date of this Act, no person shall engage in any use of land or water for which a permit is required under this Act without first obtaining a permit from the commission and complying with all federal, state and municipal regulations.

Sec. 18. Requirements for granting permits.

1. Permits. The commission shall grant permits for uses allowed under this Act upon a showing by the applicant that the soils are suitable for the proposed use and that it will be in compliance with all applicable performance standards and requirements established under this Act. The commission shall also find that the proposed use will not involve any unreasonable:

- A. Degradation of air and water quality;
- B. Harmful alteration of wetlands;
- C. Increase in erosion or sedimentation;
- D. Danger of increased flood damage;
- E. Obstruction of flood flow;
- F. Damage to fish and wildlife habitat;
- G. Despoliation of the scenic, rural and open space character of the corridor;
- H. Overcrowding;
- I. Excessive noise;
- J. Obstruction to navigation; or
- K. Interference with the educational, scenic, scientific, historic or archaeological values of those areas designated and approved for inclusion within the Resource Protection District.

The burden of proof shall be upon the applicant to show entitlement to a permit under this section, but if the applicant makes the requisite showing, a permit shall be issued by the commission.

Sec. 19. Permits with conditions. Permits granted under this Act may be made subject to such reasonable conditions concerning setback, location, spacing, size of structure or development, type of construction, time of completion, landscaping, retention of trees, screening, reclamation, erosion control, noise level, quantity and quality of discharge, sewage disposal and manner and method of operation, as the commission deems necessary to avoid the dangers enumerated in section 18. For the purpose of enforcement, permits issued by the commission and conditions thereof shall be considered as orders of the commission.

Sec. 20. Designation of land use districts. Within 90 days after effective date of this Act, the commission shall transmit to the planning board of each municipality within the corridor a copy of the comprehensive plan submitted to the Legislature by the Saco River Environmental Advisory Committee, a map showing the approximate boundaries of the corridor within the municipality, together with all information in its possession concerning the location of the floodplain, the location of wetland areas, lands in municipal, state and federal ownership, areas which exhibit a clearly defined pattern of intensive residential, commercial or industrial development and such other information as may be helpful to the planning board in recommending district boundaries. Within 60 days after the receipt of these materials and after consultation with the municipal officers, affected landowners and interested citizens, the planning board of each municipality within the corridor shall submit to the commission a set of recommendations for district boundaries for the portion of the corridor within their jurisdiction. In making such recommendations, the planning board shall be guided by the comprehensive plan submitted to the 106th Legislature by the Saco River Environmental Advisory Committee, and by the general purposes of this Act as expressed in section 1. In developing their recommended district boundaries, the planning boards shall adopt the following priorities:

1. Areas of intensive residential, commercial, and industrial development and reserve growth areas shall be recommended for inclusion in the General Development District;
2. Areas which qualify for inclusion within the Resource Protection District and which have not yet been intensively developed shall be recommended for inclusion in the Resource Protection District;
3. All remaining areas within the corridor shall be identified and recommended for inclusion within the Limited Residential District.

Within 60 days of the receipt of the recommendations of the planning board, the commission shall give notice and hold a public hearing on the proposed district boundaries in each municipality and within 30 days thereafter the commission shall establish the boundaries of the districts. If the planning board does not submit recommendations for district boundaries within the 60-day period provided by this section, the commission may, after notice and public hearing, adopt official district boundaries without further reference to the planning board. The deadlines established under this section may be extended for 60 days by the commission for good cause.

Where there is an existing zoning ordinance in a municipality applicable to lands within the corridor, the planning board, in making its recommendations for district boundaries under this section, shall consider the problems of dual administration and as far as is consistent with the purposes of this Act, shall recommend district boundaries compatible with those previously established by the municipality.

Sec. 21. District boundary maps. Maps showing district boundaries within the Saco River Corridor shall be kept in the office of the commission and the maps or conformed copies of them shall be available for public inspection during normal business hours. Copies of those portions of such maps including the area of each municipality shall be furnished by the commission to the municipal officers thereof and shall be available for public inspection at the office of the town clerk or at the town office.

Sec. 22. Relation to municipal, state and federal regulations. Nothing in this Act shall prevent municipal, state or federal authorities from adopting and administering more stringent requirements regarding performance standards or permitted uses within use districts established by the commission or within districts overlapping the districts established pursuant to this Act. Where there is a conflict between a provision adopted under this Act and any other municipal, state or federal requirement applicable to the same land or water areas within the corridor, the more restrictive provision shall take precedence. All performance standards, rules and regulations proposed for hearing by the commission shall be submitted to the Department of Environmental Protection, the State Planning Office, the Greater Portland Council of Governments and the Southern Maine Regional Planning Commission at least 7 days prior to the hearing for review and comment. The commission shall not promulgate any rule or regulation establishing air or water quality standards within the corridor in conflict with the rules and regulations of the Department of Environmental Protection without the prior approval of the Director of the Department of Environmental Protection or the Board of Environmental Protection.

Sec. 23. General performance standards.

1. Standards. Unless otherwise specified, the following performance standards shall be applicable to all uses of land and water areas within the corridor, whether or not a permit is required from the commission:

A. Buildings. No building shall be located closer to the Ossipee, Little Ossipee or Saco rivers than 100 feet from the normal or mean high water line, nor shall any building be located less than 30 feet from any accepted road. Within the Resource Protection and Limited Residential Districts there shall be no construction or placement of residential structures within the 100-year floodplain.

B. Septic systems. Within the Resource Protection District or Limited Residential District no part of a septic system or other system of underground sewage disposal shall be located within the 100-year floodplain.

C. Piers, docks, and other shoreline construction. On the Ossipee and Little Ossipee Rivers and fresh-water portions of the Saco River:

(1) No privately owned pier, dock or float shall extend more than 10% of the width of the river at any time or extend into the water more than 10 feet perpendicular to the shore, whichever is less;

(2) All piers, docks or floats shall be temporary and capable of seasonal removal.

D. Agriculture.

(1) All agriculture practices shall be in conformance with existing state and federal laws and regulations relating to the use of insecticides, herbicides, fertilizers and cleaning agents, and with state and federal laws and regulations to the placement of disposal of wastes in waterways or on the banks thereof.

(2) Where soil is tilled an untilled buffer strip of natural vegetation shall be retained between the tilled ground and the normal or mean high water line of the river. The width of this strip shall be a minimum of 25 feet, measured directly from the normal or mean high water line of the river.

E. Clearing trees on shoreline. Clearing of trees and conversion to other vegetation is allowed for agriculture. Clearing of trees and conversion to other vegetation is allowed for approved construction or other uses requiring access to the shore subject to the following limitations. A cleared opening not greater than 30 feet in width for each 100 feet of shoreline may be created in the strip extending 50 feet inland from the normal or mean high water line for each residential use or other use requiring access to the shore. Where natural vegetation is removed, it shall be replaced and maintained with other vegetation.

F. Timber harvesting. The following standards shall govern timber harvesting within 250 feet of the normal or mean high water line of any water body within the corridor.

(1) Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained.

(2) In any stand, harvesting shall remove not more than 40% of the volume of trees 6 inches in diameter and larger, measured at 4½ feet above ground level in any 10-year period.

(3) No significant accumulation of slash shall be left within 50 feet of the normal or mean high water line of any water body within the corridor. At distances greater than 50 feet from the normal or mean high water line of such water bodies extending to the limits of the corridor, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground.

(4) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

Sec. 24. Additional performance standards. The commission, after notice and public hearing, may establish such additional performance standards as it deems necessary to carry out the purposes of this Act, provided that such standards are consistent with the standards established in section 23.

1. Standards. In establishing additional performance standards under this section for any permitted use, the commission shall endeavor to develop standards which will assure that the uses under consideration will be located on suitable soils and will not result in unreasonable:

- A. Degradation of air and water quality;
- B. Harmful alteration of wetlands;
- C. Increase in erosion or sedimentation;
- D. Obstruction of flood flow;
- E. Destruction of fish and wildlife habitat;
- F. Despoliation of the scenic, rural and open space character of the corridor;
- G. Overuse of the rivers for recreation;
- H. Overcrowding;
- I. Excessive noise;
- J. Obstruction to navigation; or
- K. Interference with the educational, scenic, historic or archaeological values of those areas designated and approved for inclusion within the Resource Protection District.

Sec. 25. Amendments to district boundaries and performance standards. The commission may initiate, and any municipal agency, an organization qualified under section 31 or any property owner or lessee may petition for a change in the boundary of any land use district or for amendments to any additional performance standard adopted pursuant to section 24.

No change in a district boundary shall be approved unless substantial evidence shows that:

- 1. The area is better suited for uses other than those permitted in the district in which it is situated; or
- 2. Changes in conditions have made the present classification unreasonable.

No amendment to performance standards shall be approved unless substantial evidence shows that:

- 1. Conditions exist which were not evident when the performance standard was adopted;
- 2. The performance standard does not serve the purpose of this Act; or

3. The amendment would better fulfill the purpose of this Act.

Sec. 26. Variance from performance standards.

1. Variance. A relaxation of the performance standards enacted by this Act or adopted pursuant thereto may be granted by the commission, after notice and public hearing, upon a finding by the commission that the following provisions are met:

A. Application of the performance standard to the land or water area in question will result in undue hardship to the applicant, provided that hardship shall not be construed to include:

- (1) Any hardship attributable to any act, course of conduct or failure to act of the applicant or his predecessor in interest beginning with the owner of record on the effective date of this Act or of a performance standard adopted pursuant thereto from which a variance is sought; or
- (2) Any hardship that is not unique to the petitioner's land.

B. The variance, if granted, will not subvert the intent of this Act as stated in section 1 or as manifested in the standards from which a variance is sought; and

C. The proposed use, if a variance is granted, will not unreasonably interfere with the use and enjoyment of their lands by adjacent landowners, or result in any unreasonable:

- (1) Degradation of air and water quality;
- (2) Harmful alteration of wetlands;
- (3) Increase in erosion or sedimentation;
- (4) Danger of increased flood damage;
- (5) Obstruction of flood flow;
- (6) Damage to fish and wildlife habitat;
- (7) Despoliation of the scenic, rural and open space character of the corridor;
- (8) Overcrowding;
- (9) Excessive noise;
- (10) Obstructions to navigation; or
- (11) Interference with the educational, scenic, scientific, historic or archaeological values of those areas designated and approved for inclusion within the Resource Protection District.

No variance shall be granted because of other nonconforming uses within a district or because of similar uses in an adjoining district. The burden of proof shall be on the applicant to show entitlement to a variance under this section. The owner of a building lot of record within the corridor on the

effective date of this Act shall be entitled to a variance for a single family residence which may be granted by the commission without public hearing. Any variance granted by the commission may be granted subject to such reasonable conditions concerning matters enumerated in section 16 as the commission finds necessary to avoid the dangers enumerated in section 12. For the purposes of enforcement, variances granted hereunder and the conditions thereto shall be treated as orders of the commission.

Sec. 27. Special use variance.

1. No variance shall be granted in order to permit a use within a district in which such use is expressly prohibited, except in accordance with this section. A special use variance may be granted, after notice and public hearing, to permit a single family dwelling within the Resource Protection District upon a finding by the commission that the grant of such a special use variance is necessary to avoid undue hardship to the applicant, provided that hardship shall not be construed to include:

A. Any hardship attributable to any act, course of conduct or failure to act of the applicant or his predecessor in interest, beginning with the owner of record on the effective date of this Act; or

B. Any hardship that is not unique to the petitioner's land.

A special use variance under this section may be granted by the commission only in cases where such a variance is necessary to avoid a deprivation of property in violation of Article 1, Section 6 of the Constitution of Maine, a taking of private property without just compensation in violation of Article 1, Section 21 of the Constitution of Maine, a violation of the due process clause of the 14th Amendment of the Constitution of the United States, or a violation of other applicable state or federal constitutional provisions.

The owner of a building lot of record within the corridor on the effective date of this Act shall be entitled to a variance for a single family residence which may be granted by the commission without public hearing. Any variance granted by the commission may be granted subject to such reasonable conditions concerning matters enumerated in section 19 as the commission finds necessary to avoid the dangers enumerated in section 15. For the purposes of enforcement, special use variances granted hereunder and the conditions thereto shall be treated as orders of the commission.

Sec. 28. Certificate of compliance. It shall be unlawful to use or occupy, or permit the use or occupancy of any land, structure or part thereof created, erected, changed, converted or wholly or partly altered or enlarged in its use or structural form, which use or structure requires a permit under this Act, until a certificate of compliance has been issued therefor by the commission or its staff, stating that the requirements and conditions of approval have been met.

A certificate of compliance may contain such reasonable terms and conditions as the commission finds necessary to avoid the dangers enumerated in section 15. If a certificate of compliance is denied by the commission or its

staff, the denial shall be in writing with a statement of the reasons for such denial. The commission or its staff shall act within 30 days of an application for a certificate of compliance. The grant or denial of the certificate may be based upon information obtained by commission members, staff, consultant personnel or designated municipal officials.

The commission may establish standards within which authority shall be delegated to its staff, to issue or deny certificates of compliance. Any person aggrieved by a decision of the staff shall have the right to a review of such decision by the commission within 30 days of such decision.

For the purposes of enforcement, certificates of compliance and conditions thereto shall be treated as orders of the commission.

Sec. 29. Fees. The commission may establish reasonable fees for permit applications, variance applications and certificates of compliance. The funds derived from the collection of such fees shall be paid into the General Fund of the State. The commission may also establish a reasonable schedule of fees for providing copies of this Act, maps of district boundaries, the comprehensive plan, copies of rules and regulations, performance standards, official publications or other materials which may be requested by the public. The fees for any such materials shall be retained by the commission and used to defray the expense of printing, copying, mailing or otherwise providing such materials to the public.

Sec. 30. Parties to proceedings. The parties to any proceeding before the commission may include the applicant, if any, any landowner whose lands will be directly affected by the proposed action of the commission, any landowner whose lands are adjacent to, directly across the river from, or within 500 feet of lands to be directly affected, any municipality or agency thereof whose jurisdiction includes lands or bodies of water to be directly affected and any citizens' group or organization qualified under section 31.

Nothing in this section shall be construed so as to limit the right of any member of the public to appear or be heard at any public hearing of the commission, subject only to such reasonable rules and regulations as the commissioner may hereafter establish.

Sec. 31. Citizens' groups or organizations.

1. A citizens' group or organization may participate in all hearings held by the commission, request and receive notices, bring judicial proceedings and exercise all other rights of parties to proceedings before the commission, provided that the group or organization is designated as qualified by an order of the commission under this section.

2. The commission shall issue an order designating a citizens' group or organization as qualified under this section if it finds that:

A. The group or organization has filed an application showing:

(1) That it has significant and definable interest in the Saco, Ossipee or Little Ossipee Rivers and their adjacent lands;

(2) That it has at least 50 members in the municipalities whose lands comprise the Saco River Corridor or at least 15 members in a municipality which will be directly affected by a proposed action of the commission.

3. Every application for designation as a qualified organization under this section shall contain the name and address of a representative or office for the receipt of notices and other communications and the names and addresses of the organization's officers, directors and members.

4. The commission may establish a period of time after which qualifications under this section will expire unless renewed; and in such cases shall give notice of the necessity for renewal not less than one month prior to the expiration date.

Sec. 32. Enforcement, inspection and penalties for violations. Standards, rules, regulations and orders issued by the commission pursuant to this Act shall have the force and effect of law. No development may be undertaken except in conformance with this Act, the standards, rules, regulations and orders issued by the commission pursuant to this Act, and no real estate or personal property shall exist or be used in violation thereof. For the purposes of inspection and to assure compliance with this Act, and any standards, rules, regulations and orders issued by the commission pursuant to this Act, commission members, staff, consultant personnel and designated municipal officials may conduct such investigations, examinations, tests and site evaluations deemed necessary to verify information presented to the commission, and may obtain access to any lands and structures subject to this Act. A violation of any provision of this Act or of said standards, rules, regulations and orders shall be punishable by the revocation of any permit, certificate of compliance or variance issued by the commission and by a fine of up to but not more than \$100 for each day of the violation. A person who willfully or knowingly falsifies any statement to the commission shall be punished by the revocation of any permit, certificate of compliance or variance granted by the commission in reliance on such statement and by a fine of up to but not more than \$1,000.

The commission shall be deemed a state commission within the meaning of the Revised Statutes, Title 5, section 191, provided that subject to written approval of the Attorney General and within the limits of the commission's budget, the commission may retain private counsel for the conduct of commission meetings, hearings and advice on other legal matters. In addition to enforcing the other penalties provided, either the commission or the Attorney General may institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this Act, or the standards, rules, regulations and orders issued by the commission pursuant to this Act.

Sec. 33. Appeals to Superior Court. Except where otherwise specified by statute, any party or person aggrieved by any order or decision of the commission in regard to any matter upon which there was a hearing before the commission and of which a record of said hearing is available, may, within 30 days after notice of the filing of such order or decision, appeal therefrom

to the Superior Court by filing a notice of appeal stating the points of appeal. Notice of the appeal shall be ordered by the court without a jury in the manner and with the rights provided by law in other civil actions so heard. The proceedings shall not be de novo. The court shall receive into evidence true copies of the transcript of the hearing, the exhibits thereto and the decision of the commission. The court's review shall be limited to questions of law and to whether the commission acted regularly and within the scope of its authority and the commission's decision shall be final so long as supported by substantial evidence. The court may affirm, reverse or remand the commission's decision for further proceedings. Appeals from all other orders or decisions of the commission, unless otherwise specified by statute, shall be taken pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Sec. 34. Severability. The provisions of this Act are severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this Act shall continue in full force and effect.

The inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill is designed to clarify certain administrative aspects of the Saco River Corridor Commission relating to the conduct of hearings and the Commission's relationship with the Attorney General, to permit a 60-day extension of the deadline for zoning the land within the Saco River Corridor, and to correct other errors and omissions in the original legislation.