

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

COMMITTEE AMENDMENT "A" to H.P. 590, L.D. 730, Bill,
"AN ACT Relating to the Dredging, Filling or otherwise Altering
Coastal Wetlands."

Amend said Bill in section 3 in that part designated
"§471." in the 7th line (same in L.D.) by inserting after the
underlined word "Protection" the following: 'or a municipality
acting under the provisions of sections 473 and 474'

Further amend said Bill in section 3 by striking out all
of that part designated "§473." and inserting in place thereof
the following:

§473. Permit granting authority

All permits shall be issued by the Board of Environmental
Protection, except that, in the case of permits for the
erection of piers not involving any dredging or filling which
are intended for the exclusive benefit of the abutting land-
owner for noncommercial recreational or improvement purposes only,
and occupy a total of less than 100 square feet of land below
the mean low water mark, a municipality may apply, on forms
provided by the board, to the Board of Environmental Protection
for authority to issue such permits. The board shall grant
such authority if it finds that the municipality has:

1. Planning board. Established a planning board; and
2. Adopted zoning ordinance. Adopted a zoning ordinance
approved by the board and the Land Use Regulation Commission,
pursuant to Title 12, chapter 424; and
3. Notice. Made provision by ordinance or regulation for

prompt notice to the board and the public upon receipt of application and written notification to the applicant and the board of the issuance of or denial of a permit stating the reasons therefor; and

4. Application form. Developed a suitable application form.

In the event that the board finds that a municipality has failed to satisfy one or more of the above listed criteria, it shall notify the municipality accordingly and make recommendations through which it may establish compliance. The municipality may then submit a modified application for approval.

If at any time the board determines that a municipality may be failing to exercise its permit granting authority in accordance with its approved procedures or the purposes of this Article as embodied in the standards set forth in section 474, it shall notify the municipality of the specific alleged deficiencies and shall order a public hearing, of which adequate public notice shall be given, to be held in the municipality to solicit public or official comment thereon. Following such hearing, if it finds that such deficiencies will persist, it shall revoke the municipality's permit granting authority. The ^{municipality} may reapply for authority at any time.

§474. Permits; standards

If the applicant for the permit demonstrates to the satisfaction of the board or municipality as appropriate, that the proposed activity will not unreasonably interfere with existing recreational and navigational uses; nor cause

unreasonable soil erosion; nor unreasonably interfere with the natural flow of any waters; nor unreasonably harm wildlife or freshwater, estuarine or marine fisheries; nor lower the quality of any waters, the board or municipality shall grant the permit upon such terms as are necessary to insure that the proposed activity will comply with the foregoing standards.

Within 30 days after receipt of a completed application for a permit, the board or municipality shall either issue the permit or deny the permit setting forth the reasons therefor or order a hearing thereon within 30 days of the order for which hearing adequate public notice shall be given. Within 30 days after the adjournment of such hearing, the board or municipality shall either issue the permit or deny the permit setting forth the reasons therefor. In the event that a permit applied for is denied either by the municipality or the board, the applicant may request a hearing before either of the above with reasonable public notice given.

The board shall issue no permit without notifying the municipality in which the proposed alteration is to occur and considering any comments filed within a reasonable period by said municipality.

No permit issued by a municipality shall become effective until 30 days subsequent to its issuance. A copy of the application for the permit and the permit issued by the municipality shall be sent to the board immediately upon its

issuance by registered mail. The board shall review such permit and either approve, deny or modify it as it deems necessary. Failure of the board to act within 30 days of the receipt of the permit by the municipality shall constitute its approval and the permit shall be effective as issued.

When winter conditions prevent the board or municipality from evaluating a permit application, the board or municipality, upon notifying the applicant of such fact, may defer action on the application for a reasonable period. The applicant shall not during the period of deferral fill or cause to be filled, dredge or cause to be dredged, drain or cause to be drained or otherwise alter such coastal wetland.'

Further amend said Bill in section 3 in that part designated "§474." in the 7th line (same in L.D.) by striking out the underlined words and figure "less than \$100 nor"

Further amend said Bill in section 3 in that part designated "§477." in the 5th line (same in L.D.) by inserting after the underlined words "prohibit the" the following: 'minor repair of existing permanent structures which would require less than a total of one cubic yard of material to be filled, deposited, dredged, moved or removed in any coastal wetland or'

Further amend said Bill in section 3 by renumbering those parts designated "§474. to §477." to be '§475. to §478.'

Statement of Fact

This amendment provides for municipal granting of permits for the specified activities relating to coastal wetlands.

Reported by the Committee on Natural Resources.

Reproduced and distributed under the direction of the Clerk of the House.

5/15/75

(Filing No. H-354