

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1504

H. P. 1334

House of Representatives, April 13, 1977

Reported by Mr. Blodgett from Committee on Natural Resources and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Amending the Great Ponds Alteration Statute.

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

Sec. 1. 38 MRSA §§ 380-385, as enacted by PL 1973, c. 608, § 1, are repealed.

Sec. 2. 38 MRSA §§ 386-397 are enacted to read:

§ 386. Findings; purpose

The Legislature finds, declares and recognizes that great ponds have great scenic beauty and unique characteristics, unsurpassed recreational, cultural, historical and environmental value of present and future benefit to the citizens of the State, and that uses are causing the rapid acceleration of the eutrophication of these great ponds and threatening the health, safety and general welfare of the citizens of Maine.

The Legislature further finds and declares that the protection and enhancement of the environment of great ponds is a matter of high urgency and priority and that this environment is being endangered by unwise uses.

The Legislature further finds and declares that the cumulative effect and impact of frequent minor alterations and occasional major alterations requires evaluation and scrutiny consistent with that potential impact.

The Legislature further finds and declares that although there are a number of existing state agencies, commissions, boards or similar entities administering various statutes and programs relating to great ponds, all of which are worthwhile and worthy of continuing support, the critical nature of the problem attending great ponds requires coordination and leadership.

The Legislature further recognizes that existing water related environmental statutes and programs were basically developed for free-flowing bodies of waters, such as rivers and streams, and as such are not adequate for application in protecting and reclaiming the water quality of great ponds, and that there is a need to facilitate research, develop programs and establish sound environmental standards that will prevent the degradation of and will encourage the enhancement of great ponds.

It is the intention of the Legislature that existing programs related to great ponds continue in their present form and that the Department of Environmental Protection provide coordination and vigorous leadership to develop new programs to achieve the purpose of this chapter. Moreover, the well-being of the citizens of Maine requires the development and maintenance of an efficient and rapid system of administering this chapter so as to minimize delays and difficulties in evaluating alterations.

§ 387. Powers and duties

1. **Criteria.** The board shall establish, after public hearing, criteria for classifying great ponds according to their trophic conditions and stages of trophic development. In establishing such criteria, the board shall consider the size, depth and volume of the ponds, the number, size and flow of inlets and outlets, the size of drainage areas, stratification, geology, aquatic plant and animal life and other appropriate physical, chemical and biological characteristics and the statutory water quality classification of these ponds.

2. **Public hearing.** The board shall classify great ponds, after public hearings, in accordance with the criteria it develops.

3. **Guidelines.** The board, after public hearing, may establish guidelines for sewage disposal and collection systems and other waste control systems to control, abate and prevent environmental damage to great ponds in each category.

§ 388. Data bank

The Department of Environmental Protection may maintain, in cooperation with other state agencies, a data bank containing all the known information pertaining to all great ponds within the State. All governmental agencies, state or federal, shall make available to the department such information in their possession relating to great ponds.

§ 389. Research

The Department of Environmental Protection is authorized to conduct research and studies to determine how water quality in great ponds can be restored and enhanced.

§ 390. Funds

The Department of Environmental Protection is the public agency of the State authorized to accept funds, public and private, for the purposes of this chapter.

§ 391. Prohibitions

No person shall perform or cause to be performed any of the following activities without first obtaining a permit from the Board of Environmental Protection: Dredging or removing materials from below the normal high water line in a great pond; constructing or repairing any permanent structure below the normal high water line in a great pond; or depositing any dredged spoil or fill below the normal high water line in a great pond or on the land adjacent thereto in such a manner that the material may fall or be washed into the great pond or bulldozing or scraping on land adjacent to a great pond in such a manner that the material or soil may fall or be washed into a great pond. Any action taken in violation of the terms or conditions of a permit issued by the board is also prohibited.

§ 392. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Great pond.** "Great pond" shall include any inland body of water which in its natural state has a surface area in excess of 10 acres, and any body of water artificially formed or increased which has a surface area in excess of 30 acres, the shore of which is owned by 2 or more persons, firms or other legal entities.

2. **Normal high water line.** "Normal high water line" shall mean that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation from predominantly aquatic to predominantly terrestrial. All land below the normal high water line shall be considered the bottom of the great pond for the purposes of this subchapter.

3. **Permanent structure.** "Permanent structure" shall mean any structure, including but not limited to causeways, piers, docks, concrete slabs, piles, marinas, retaining walls and buildings, which is fixed in the water for a period exceeding 7 months each year.

§ 393. Permit; standards

The board shall grant a permit upon proper application and upon such terms as it deems necessary to fulfill the purposes of this subchapter when it finds that a proposed activity will not unreasonably:

1. Interfere with existing aesthetic, recreational, navigational or scenic uses;
2. Harm the natural environs of the great pond or of any stream flowing into or out of the great pond;
3. Cause soil erosion;
4. Harm any aquatic or wildlife habitat;
5. Interfere with the natural flow of any waters; or

6. Lower the quality of the water.

The board shall issue no permit without first causing the municipality in which the proposed alteration is to occur to be notified of the application and without considering any comments filed within a reasonable period by the municipality.

When winter conditions prevent the board from evaluating a permit application, the board may, upon notifying the applicant, defer action on the application for a reasonable period.

§ 394. Exemptions and reduced procedures

The Board of Environmental Protection shall promulgate regulations designed to reduce procedural requirements and establish specific standards for those alterations, the proper execution of which are deemed to have no significant impact upon the great ponds and which are not inconsistent with the purposes of this chapter. Such alterations shall include, but not be limited to: The placement of water lines to serve a single family house; the movement of rocks or vegetation by hand over a shorefront length not to exceed 10 feet; the placement of sand above the high water line, when properly stabilized; the construction of rock riprap erosion control devices above the high water line; the installation of anchoring devices for mooring small boats or holding floating structures; and the installation of cables for utilities such as telephone and power. The board shall promulgate such regulations within 90 days of the effective date of this Act and may thereafter amend them as it deems necessary.

Maintenance and minor repair causing no additional intrusion of an existing structure into the great pond is exempt from this subchapter.

§ 395. Penalties

Any person found to have violated the provisions of this subchapter or standards adopted under section 391 shall be assessed a civil penalty of not more than \$200 for each day of violation. A finding that any such violation has occurred shall be prima facie evidence that the activity was performed or caused to be performed by the owner of the property upon which, or immediately adjacent to which, the violation is found to have occurred.

§ 396. Enforcement

Inland fish and game wardens, coastal wardens and all other law enforcement officers enumerated in Title 12, section 2003, shall have authority to enforce this subchapter.

§ 397. Injunction; restoration

In the event of the violation of this subchapter or standards adopted under section 393, the Attorney General may institute proceedings to enjoin further violations and to compel restoration of the affected area to its condition prior to the occurrence of the violation.

STATEMENT OF FACT

This bill provides for a unification, clarification and simplification of the law relating to great ponds. An additional statement of purpose and exemptions and diminished procedural requirements for minor alterations are new sections. All sections repealed are incorporated in substance in this bill.