

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)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1296

6
7 S.P. 427

In Senate, March 24, 1983

8 Referred to the Committee on Energy and Natural Resources. Sent down
9 for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Kany of Kennebec.

Cosponsors: Representative Mitchell of Vassalboro, Representative Dia-
mond of Bangor and Representative Davis of Monmouth.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Promote the Wise Use and
18 Management of Maine's Outstanding River
19 Resources.
20

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

23 Sec. 1. 12 MRSA §§647 to 650 are enacted to
24 read:

25 §647. Maine's rivers

26 The Legislature finds:

27 1. Rivers and streams a natural resource. That
28 the State's nearly 32,000 miles of rivers and streams
29 comprise one of its most important natural resources,
30 historically vital to the state's commerce and indus-
31 try and to the quality of life enjoyed by Maine
32 people;

1 2. Increase in value of rivers and streams.
2 That the value of its rivers and streams has
3 increased in recent years due to the improvement in
4 the quality of their waters, the restoration of their
5 fisheries, the growth in demand for hydropower and
6 the expanding interest in river recreation activi-
7 ties, leading at times to conflict among these uses;

8 3. Use of rivers and streams. That its rivers
9 and streams afford the state's people with major
10 opportunities for the enjoyment of nature's beauty,
11 unique recreational activities and solace from an
12 industrialized society, as well as for economic
13 expansion through the development of hydropower, the
14 revitalization of waterfronts and ports and the
15 attraction of both tourists and desirable new indus-
16 tries; and

17 4. Policy. That the best interests of the
18 state's people are served by a policy which recog-
19 nizes the importance that their rivers and streams
20 have for meeting portions of several public needs,
21 provides guidance for striking a balance among the
22 various uses which affords the public maximum benefit
23 and seeks harmony rather than conflict among these
24 uses.

25 §648. Declaration of policy

26 In its role as trustee of the public waters, the
27 Legislature declares that the well-being of the citi-
28 zens of this State depends on striking a carefully
29 considered and well-reasoned balance among the com-
30 peting uses of the state's rivers and streams. Fur-
31 ther, the Legislature declares that such a balance
32 shall:

33 1. Restoration of water. Restore waters to a
34 condition clean enough to allow fishing and swimming
35 in all our rivers and streams;

36 2. Revitalization of waterfronts. Revitalize
37 waterfronts and ports;

38 3. Maintenance of scenic beauty. Maintain, even
39 in areas where development occurs, the scenic beauty
40 and character of our rivers;

1 4. Increase hydroelectric power. Increase the
2 hydroelectric power available to replace foreign oil
3 in the State;

4 5. Hydropower development. Streamline proce-
5 dures to facilitate hydropower development under
6 reasoned environmental, technical and public safety
7 constraints;

8 6. Fisheries. Restore anadromous fisheries and
9 improve the productivity of inland fisheries;

10 7. Recreation. Expand the opportunities for
11 outdoor recreation; and

12 8. Outstanding river stretches. Protect the
13 special resource values of the flowing waters and
14 shorelands of the state's most outstanding river
15 stretches, as identified by the Department of
16 Conservation's 1982 Maine Rivers Study.

17 Further, the Legislature finds that with careful
18 planning our foreseeable needs for all of these uses
19 may be reasonably integrated harmoniously with one
20 another on the state's 32,000 miles of rivers and
21 streams.

22 §649. Special protection for outstanding rivers

23 In accordance with section 648, subsection 8, the
24 Legislature declares that certain rivers, because of
25 their unparalleled natural and recreational values,
26 provide irreplaceable social and economic benefits to
27 the people in their existing state. It is the
28 Legislature's intent that no new dams be constructed
29 on these river and stream segments without the spe-
30 cific authorization of the Legislature, and that ad-
31 ditional development or redevelopment of dams exist-
32 ing on these segments, as of the date of the enact-
33 ment of this section, shall be designed and executed
34 in a manner that either enhances or does not diminish
35 the significant resource values of these river seg-
36 ments identified by the 1982 Maine Rivers Study. No
37 license or permit under Title 38, chapter 5, or any
38 other state law which regulates dam development or
39 redevelopment may be issued for construction of new
40 dams on the river and stream segments subject to this

1 special protection without the specific authorization
2 of the Legislature, or for additional development or
3 redevelopment of existing dams on the river and
4 stream segments subject to this special protection
5 where the additional development or redevelopment
6 diminishes the significant resource values of these
7 river and stream segments.

8 Further, the Legislature finds that projects
9 inconsistent with this policy on new dams and
10 redevelopment of existing dams will alter the physical
11 and chemical characteristics and designated uses
12 of the waters of these river and stream segments. It
13 finds that these impacts are unacceptable and constitute
14 violations of the state's water quality standards.
15 The Legislature directs that no project which
16 fails to meet the requirements of this section may be
17 certified under the United States Clean Water Act,
18 Section 401.

19 For purposes of this section, outstanding river
20 and stream segments meriting special protection shall
21 include:

22 1. Allagash River. The Allagash River from
23 Gerald Brook in Allagash to the Churchill Dam in
24 T.10, R.12, W.E.L.S., including its tributaries the
25 Musquacook Stream from the Allagash River to the
26 outlet of Clear Lake in T.10, R.11, W.E.L.S.;
27 Allagash Stream from its inlet to Chamberlain Lake
28 to the outlet of Allagash Pond in T.9, R.15,
29 W.E.L.S.; and Chemguasabamticook Stream from its
30 inlet into Long Lake to the outlet of
31 Chemguasabamticook Lake, excluding Round Pond in
32 T.13, R.12, W.E.L.S., Harvey Pond, Long Lake,
33 Umsaskis Lake, Musquacook Lakes (1-5), Little Round
34 Pond in T.8, R.13, W.E.L.S., Allagash Lake and
35 Clayton Lake;

36 2. Aroostook River. The Aroostook River from
37 the Sheridan Dam in Ashland to Millinocket Stream,
38 including its tributaries Millinocket Stream from the
39 Aroostook River to the outlet of Millinocket Lake;
40 Munsungan Stream from the Aroostook River to the
41 outlet of Little Munsungan Lake; St. Croix Stream
42 from the Aroostook River to Hall Brook in T.9, R.5,
43 W.E.L.S.; the Big Machias River from the Aroostook

1 River to the outlet of Big Machias Lake; and Squa Pan
2 Stream from the Aroostook River to the outlet of Squa
3 Pan Lake, excluding Round Pond in T.7, R.9, W.E.L.S.;

4 3. Dead River. The Dead River from the Kennebec
5 River to the Long Falls Dam on Flagstaff Lake;

6 4. Dennys River. The Dennys River from Hinkley
7 Point in Dennysville to the outlet of Meddybemps
8 Lake;

9 5. East Machias River. The East Machias River,
10 including the Maine River, from Newcomb Point in East
11 Machias to the outlet of Pocomoonshine Lake, exclud-
12 ing Hadley Lake, Second Lake, Round Lake, Crawford
13 Lake, Lower Mud Lake and Upper Mud Lake;

14 6. Kennebec River. The Kennebec River from Bay
15 Point in Georgetown to the Edwards Dam in Augusta and
16 from the confluence of the Dead River with the
17 Kennebec River to the Harris Dam in Indian Stream
18 Township;

19 7. Machias River. The Machias River, including
20 Fourth and Fifth Lake Streams, from Fort O'Brien in
21 Machias to the outlet of Fifth Machias Lake, includ-
22 ing its tributaries the West Branch Machias River
23 from the Machias River to the outlet of Lower Sabao
24 Lake; Old Stream from the Machias River to the outlet
25 of First Lake; and Mopang Stream from the Machias
26 River to the outlet of Mopang Second Lake, excluding
27 Machias Lakes (1-4), Lower Pond and Mopang First
28 Lake;

29 8. Moose River. The Moose River from its inlet
30 into Attean Pond to its confluence with Number One
31 Brook in Beattie Township;

32 9. Narraguagus River. The Narraguagus River
33 from Fickett Point in Millbridge to the outlet of
34 Eagle Lake, excluding Beddington Lake and Deer Lake;

35 10. Penobscot River. The Penobscot River,
36 including the Eastern Channel, from Sandy Point in
37 Stockton Springs to the Veazie Dam, including its
38 tributaries the West Branch of the Penobscot from its
39 inlet into Ambajejus Lake to the western Boundary of

1 T.3, R.10, and from its inlet into Chesuncook Lake to
2 the dam at Seboomook Lake; the East Branch Penobscot
3 River from the Penobscot River to the outlet of Grand
4 Lake Matagamon; the Wassataquoik Stream from the East
5 Branch of the Penobscot River to Annis Brook in T.4,
6 R.9, W.E.L.S.; the Webster Brook from its inlet into
7 Grand Lake Matagamon to Telos Dam in T.6, R.11,
8 W.E.L.S.; the Seboeis River from the East Branch of
9 the Penobscot River to the outlet of Grand Lake
10 Seboeis; the Sawtelle Brook from the Seboeis River to
11 the outlet of Sawtelle Pond; and the Shin Brook from
12 the Seboeis River to the outlet of lower Shin Pond,
13 excluding Passamagamet Lake, Webster Lake, White
14 Horse Lake and Snowshoe Lake;

15 11. Pleasant River. The Pleasant River from
16 Seavey Point in Addison to the outlet of Pleasant
17 River Lake;

18 12. Saco River. The Saco River from the Little
19 Ossipee River to the New Hampshire border;

20 13. St. Croix River. The St. Croix River from
21 the Route 1 bridge in Calais to the outlet of Spednik
22 Lake, excluding Woodland Lake and Grand Falls Flow-
23 age;

24 14. St. John River. The St. John River from one
25 mile above the foot of Big Rapids in Allagash to the
26 Baker Branch, including its tributaries the Big Black
27 River from the St. John River to the Canadian border;
28 the Northwest Branch from the St. John River to the
29 outlet of Beaver Pond in T.12, R.17, W.E.L.S.; the
30 Southwest Branch from the Baker Branch to 5 miles
31 downstream of the Canadian border; and the Baker
32 Branch from the St. John River to 1.5 miles below
33 Baker Lake;

34 15. Sheepscot River. The Sheepscot River from
35 the Route 1 bridge in Wiscasset to Hall-Dale Road in
36 Montville, excluding Long Pond and Sheepscot Pond;
37 and

38 16. West Branch Pleasant River. The West Branch
39 Pleasant River from the East Branch to the outlet of
40 Fourth West Branch Pond in Shawtown Township, exclud-
41 ing Silver Lake and West Branch Ponds (1-3).

1 §650. Report

2 The State Planning Office shall provide a report
3 no later than December 1, 1986, to the Legislature
4 detailing the status of policy accomplishments pur-
5 suant to this chapter.

6 Sec. 2. 12 MRSA §4811, as amended by PL 1973, c.
7 564, §1, is further amended by adding after the first
8 paragraph a new paragraph to read:

9 It is further declared that, in accordance with
10 section 648, subsection 8, certain river and stream
11 segments, as identified in the Department of
12 Conservation's 1982 Maine Rivers Study, are signifi-
13 cant river segments and deserve special shoreland
14 zoning controls designed to protect their natural and
15 recreation features.

16 Sec. 3. 12 MRSA §4811-B is enacted to read:

17 §4811-B. Significant river segments identified

18 For purposes of this chapter, significant river
19 segments include the following:

20 1. Aroostook River. The Aroostook River from
21 the railroad bridge in Bugbee in Washburn to the
22 Sheridan Dam in Ashland, and from St. Croix Stream in
23 Masardis to the Masardis and T.10, R.6, W.E.L.S.
24 townline, excluding segments in T.9, R.5, W.E.L.S.;
25 including its tributary the Big Machias River from
26 the Aroostook River in Ashland to the Ashland and
27 Garfield Plantation townlines;

28 2. Dennys River. The Dennys River from the
29 railroad bridge in Dennysville Station to the dam at
30 Meddybemps Lake, excluding the western shore in
31 Edmunds Township and No. 14 Plantation;

32 3. East Machias River. The East Machias River
33 from the Route 1 bridge in East Machias to the East
34 Machias and T.18, E.D., B.P.P. townline, and from the
35 T.19, E.D., B.P.P. and Wesley townline to the outlet
36 of Crawford Lake in Crawford, excluding Hadley Lake;

1 4. Fish River. The Fish River from the bridge
2 in Fort Kent Mills to the Fort Kent and Wallagrass
3 Plantation townline, and from the Portage Lake and
4 T.14, R.6, townline to the Portage Lake and T.13,
5 R.7, W.E.L.S. townline, excluding Portgage Lake;

6 5. Machias River. The Machias River from the
7 Whitneyville and Machias townline to the Northfield
8 T.19, M.D., B.P.P. townline;

9 6. Mattawamkeag River. The Mattawamkeag River
10 from the outlet of Mattakeunk Stream in Winn to the
11 Mattawamkeag and Kingman Township townline, and from
12 the Reed Plantation and Bancroft townline to the East
13 Branch, including its tributaries the West Branch
14 from the Mattawamkeag River to the Haynesville T.3,
15 R.3, W.E.L.S. townline and from its inlet into Upper
16 Mattawamkeag Lake to the Route 2 bridge; the East
17 Branch from the Mattawamkeag River to the Haynesville
18 and Forkstown Township townline and from the T.4, R
19 3, W.E.L.S. and Oakfield townline to Red Bridge in
20 Oakfield; the Fish Stream from the Route 95 bridge in
21 Island Falls to the Crystal-Patten townline; and the
22 Baskehegan Stream from its inlet into Crooked Brook
23 Flowage in Danforth to the Danforth and Brookton
24 Township townline;

25 7. Narraguagus River. The Narraguagus River
26 from the ice dam above the railroad bridge in
27 Cherryfield to the Beddington and Devereaux Township
28 townline, excluding Beddington Lake;

29 8. East Branch of Penobscot. The East Branch of
30 the Penobscot from the Route 157 bridge in Medway to
31 the East Millinocket and Grindstone Township
32 townline;

33 9. Pleasant River. The Pleasant River from the
34 railroad bridge in Columbia Falls to the Columbia and
35 T.18, M.D., B.P.P. townline, and from the T.24, M.D.,
36 B.P.P. and Beddington townline to the outlet of
37 Pleasant River Lake;

38 10. Rapid River. The Rapid River from the
39 Magalloway Plantation and Upton townline to the
40 outlet of Pond in the River;

1 11. St. Croix River. The St. Croix River from
2 the Lambert Lake Township and Vanceboro townline to
3 the railroad bridge in Vanceboro;

4 12. West Branch Pleasant River. The West Branch
5 Pleasant River from the East Branch to the Brownville
6 and Williamsburg Township townline; and

7 13. West Branch of Union River. The West Branch
8 of the Union River from the Route 9 bridge in Amherst
9 to the outlet of Great Pond in the Town of Great
10 Pond.

11 Sec. 4. 12 MRSA §4812-C is enacted to read:

12 §4812-C. Municipal enforcement

13 No public utility, water district, sanitary dis-
14 trict or any utility company of any kind may install
15 services to any new structure located in a shoreland
16 area, as defined by section 4811, unless written
17 authorization attesting to the validity and currency
18 of all local permits required under this chapter has
19 been issued by the appropriate municipal officials.

20 The Attorney General or municipal officers may
21 institute proceedings to enjoin suspected violations
22 of a shoreland zoning ordinance and, if a violation
23 is found by the court, the municipal officers, in an
24 action instituted by them, may be allowed attorneys'
25 fees.

26 Sec. 5. 12 MRSA §§4815 and 4815-A are enacted to
27 read:

28 §4815. Guidelines for shoreland zoning along sig-
29 nificant river segments

30 The Board of Environmental Protection and the
31 Maine Land Use Regulation Commission, acting pursuant
32 to the administrative direction of the State Planning
33 Office, shall by December 15, 1983, adopt minimum
34 guidelines for the protection of the shorelands along
35 significant river segments identified in section
36 4811-B. In addition to addressing the general con-
37 cerns for shoreland protection, stated in section
38 4811 and section 4813, these guidelines shall specify

1 land use standards designed to maintain the special
2 value of these particular river segments. These
3 guidelines shall include more protective frontage,
4 setback and screening requirements designed to protect
5 the scenic beauty and undeveloped character of
6 these river segments. These guidelines shall address,
7 but not be limited to, new permanent structures,
8 roads and gravel pits.

9 §4815-A. Municipal ordinance review and certifica-
10 tion

11 Each municipality with shorelands along signifi-
12 cant river segments, as identified in section 4811-B,
13 shall review the adequacy of the zoning on these
14 shorelands to protect the special values cited for
15 these river segments by the Department of
16 Conservation's 1982 Maine Rivers Study and for con-
17 sistency with the guidelines established under
18 section 4815. Prior to December 15, 1984, each such
19 municipality shall certify to the State Planning
20 Office either that its existing zoning for these
21 areas is at least as restrictive as the guidelines
22 adopted by the Board of Environmental Protection and
23 the Maine Land Use Regulation Commission, pursuant to
24 section 4815, or that it has amended its zoning for
25 this purpose. This certification shall be accompa-
26 nied by the ordinances and zoning maps covering these
27 areas. Failure to accomplish the purposes of this
28 subsection shall result in adoption of suitable ordi-
29 nances for these municipalities, as provided for in
30 section 4813.

31 Sec. 6. 12 MRSA §7056, sub-§4 is enacted to
32 read:

33 4. Wetland laws. The Commissioner of Environ-
34 mental Protection may designate personnel from within
35 the department, who may issue civil and criminal sum-
36 monses to appear in court to answer charges of viola-
37 tions of Title 38, chapter 3, subchapter I, Article
38 5, as it applies to the alteration of coastal wet-
39 lands and violations of Title 38, chapter 3, subchap-
40 ter I, Article 1-A, as it applies to great ponds.

41 Sec. 7. 12 MRSA §7776-A is enacted to read:

1 §7776-A. Special protection for outstanding river
2 segments

3 In accordance with section 648, subsection 8,
4 outstanding river segments shall include:

5 1. Aroostook River. The Aroostook River from
6 the Canadian border to the Masardis and T.10, R.6,
7 W.E.L.S. townline, excluding the segment in T.9, R.5,
8 W.E.L.S., including its tributaries the Big Machias
9 River from the Aroostook River to the Ashland and
10 Garfield Plantation townline; the St. Croix Stream
11 from the Aroostook River in Masardis to the Masardis
12 and T.9, R.5, W.E.L.S. townline; and the Squa Pan
13 Stream from the Aroostook River in Masardis to the
14 outlet of Squa Pan Lake;

15 2. Carrabassett River. The Carrabassett River
16 from the Kennebec River to the Carrabassett Valley
17 and Mt. Abram Township townline;

18 3. Crooked River. The Crooked River from its
19 inlet into Sebago Lake in Casco to the Waterford and
20 Albany Township townlines;

21 4. Dennys River. The Dennys River from the
22 railroad bridge in Dennysville Station to the outlet
23 of Meddybemps Lake, excluding the western shore in
24 Edmunds Township and No. 14 Plantation;

25 5. East Machias River. The East Machias River,
26 including the Maine River, from the old powerhouse in
27 East Machias to the East Machias and T.18, E.D.,
28 B.P.P. townline, from the T.19, E.D., B.P.P. and
29 Wesley townline to the outlet of Crawford Lake, and
30 from the No. 21 Plantation and Alexander townline to
31 the outlet of Pocomoonshine Lake, excluding Hadley
32 Lake, Lower Mud Pond and Upper Mud Pond;

33 6. Fish River. The Fish River from the bridge
34 in Fort Kent Mills to the Fort Kent and Wallagrass
35 Plantation townline, from the T.16, R.6, W.E.L.S.
36 and Eagle Lake townline to the Eagle Lake and
37 Winterville Plantation townline, and from the T.14,
38 R.6, W.E.L.S. and Portage Lake townline to the Por-
39 tagage Lake and T.13, R.7, W.E.L.S. townline, excluding
40 Portage Lake;

1 7. Kennebago River. The Kennebago River from
2 its inlet into Cupsuptic Lake to the Rangeley and
3 Lower Cupsuptic Township townline;

4 8. Kennebec River. The Kennebec River from the
5 Route 148 bridge in Madison to the Caratunk and The
6 Forks Plantation townline, excluding the western
7 shore in Concord Township, Pleasant Ridge Plantation
8 and Carrying Place Township, and excluding Wyman
9 Lake;

10 9. Machias River. The Machias River from the
11 Route 1 bridge to the Northfield and T.19, M.D.,
12 B.P.P. townline, including its tributaries the Old
13 Stream from the Machias River to the northern most
14 crossing of the Wesley and T.31, M.D., B.P.P.
15 townline, excluding the segments in T.25, M.D.,
16 B.P.P. and T.31, M.D., B.P.P.;

17 10. Mattawamkeag River. The Mattawamkeag River
18 from the Penobscot River to the Mattawamkeag and
19 Kingman Township townline, and from the Reed
20 Plantation and Bancroft townline to the East Branch,
21 including its tributaries the West Branch from the
22 Mattawamkeag River to the Haynesville and T.3, R.3,
23 W.E.L.S. townline and from its inlet into Upper
24 Mattawamkeag Lake in Island Falls to the Hersey and
25 Moro Plantation townline; the East Branch from the
26 Mattawamkeag River to the Haynesville and Forkstown
27 Township townline and from the T.4, R.3, W.E.L.S. and
28 Oakfield townline to the Smyrna and Dudley Township
29 townline; the Fish Stream for the West Branch of the
30 Mattawamkeag River to the Crystal and Patten
31 townline; the Molunkus Stream from the Silver Ridge
32 Township and Benedicta townline to the East Branch
33 Molunkus Stream; the Macwahoc Stream from the Silver
34 Ridge Township and Sherman townline to the outlet of
35 Macwahoc Lake; and the Baskehegan Stream from the
36 Mattawamkeag River to the Danforth and Brookton Town-
37 ship townline, and from the Brookton Township and
38 Topsfield townline to the Topsfield and Kossuth Town-
39 ship townline, excluding Baskehegan Lake and Crooked
40 Brook Flowage;

41 11. Narraguagus River. The Narraguagus River
42 from the upper limit of Academy Pool in Cherryfield
43 to the Beddington and Devereaux Township townline,
44 excluding Beddington Lake;

1 12. Penobscot River. The Penobscot River from
2 the Bangor Dam in Bangor to the Veazie Dam, including
3 its tributary the East Branch of the Penobscot from
4 the Penobscot River to the East Millinocket and
5 Grindstone Township townline;

6 13. Piscataquis River. The Piscataquis River
7 from the Penobscot River to the Monson and Blanchard
8 Plantation townline, including its tributaries the
9 East and West Branches of the Piscataquis River from
10 the Blanchard Plantation and Shirley townline to the
11 Shirley and Little Squaw Township townline; the
12 Seboeis Stream from its confluence with the
13 Piscataquis River in Howland to the Howland and
14 Mattamiscontis Township townline and from the
15 Mattamiscontis and Maxfield townline to the Maxfield
16 and Seboeis Plantation townline, excluding Shirley
17 Pond and West Shirley Bog;

18 14. Pleasant River. The Pleasant River from the
19 dam in Columbia Falls (formerly the Hathaway Dam) to
20 the Columbia and T.18, M.D., B.P.P. townline, and
21 from the T.24, M.D., B.P.P. and Beddington townline
22 to the outlet of Pleasant River Lake in Beddington;

23 15. Rapid River. The Rapid River from the
24 Magalloway Plantation and Upton townline to the
25 outlet of Pond in the River;

26 16. Saco River. The Saco River from the Little
27 Ossipee River to the New Hampshire border;

28 17. St. Croix River. The St. Croix River from
29 the cotton mill dam in Milltown to the Calais and
30 Baring Plantation townline, from the Baring
31 Plantation and Baileyville townline to the
32 Baileyville and Fowler Township townline, and from
33 the Lambert Lake Township and Vanceboro townline to
34 the outlet of Spednik Lake, excluding Woodland Lake
35 and Grand Falls Flowage;

36 18. St. George River. The St. George River from
37 the Route 90 bridge in Warren to the outlet of Lake
38 St. George in Liberty, excluding White Oak Pond,
39 Seven Tree Pond, Round Pond, Sennebec Pond, Trues
40 Pond, Stevens Pond and Little Pond;

1 19. St. John River. The St. John River from the
2 Hamlin Plantation and Van Buren townline to the Ft.
3 Kent and St. John Plantation townline, and from the
4 St. John Plantation and St. Francis townline to the
5 Allagash and St. Francis townline;

6 20. Sandy River. The Sandy River from the
7 Kennebec River to the Madrid and Township E townline;

8 21. Sheepscot River. The Sheepscot River from
9 the Head Tide dam in Alna to the Hall-Dale Road in
10 Montville, excluding Long Pond and Sheepscot Pond;

11 22. West Branch Pleasant River. The West Branch
12 Pleasant River from the East Branch to the Brownville
13 and Williamsburg Township townline; and

14 23. West Branch Union River. The West Branch
15 Union River from the Route 181 bridge in Mariaville
16 to the outlet of Great Pond in the Town of Great
17 Pond.

18 Sec. 8. 12 MRSA §7777, sub-§1, as enacted by PL
19 1979, c. 420, §1, is amended to read:

20 1. Eligibility. In order to obtain a permit, an
21 applicant shall demonstrate to the satisfaction of
22 the commissioner that the proposed activity will not:

23 A. Unreasonably interfere with existing recrea-
24 tional and navigational uses;

25 B. Cause unreasonable soil erosion;

26 C. Unreasonably interfere with the natural flow
27 of any waters;

28 D. Unreasonably harm any wildlife habitat; and

29 E. Lower the quality of any waters.

30 If the proposed activity is a crossing of an out-
31 standing river segment, as identified in section
32 7776-A, the applicant shall demonstrate that no
33 reasonable alternative exists which would have less
34 adverse effect upon the natural and recreation fea-
35 tures of the river segment.

1 Sec. 9. 12 MRSA §7780, sub-§1, as enacted by PL
2 1979, c. 420, §1, is amended to read:

3 1. Public works and private crossing and dam
4 projects. Notwithstanding section 7776, that section
5 shall not apply to river, stream or brook crossings
6 in connection with public works projects which alter
7 not more than a total of 300 feet in any mile of
8 shore nor to private crossing or dam projects which
9 alter not more than a total of 100 feet in any mile
10 of shore. Alterations to both shores of the river,
11 stream or brook shall be combined in arriving at a
12 total shore footage. This exception shall not apply
13 to any project on outstanding river segments, as
14 identified in section 7776-A.

15 Sec. 10. 30 MRSA §§1987 to 1989 are enacted to
16 read:

17 §1987. River corridor commissions encouraged

18 1. Findings. The Legislature finds:

19 A. That the effectiveness of local governments
20 in implementing their responsibilities under
21 shoreland zoning can be enhanced by coordination
22 and cooperation among municipalities;

23 B. That river corridor commissions have proven
24 their effectiveness as one mechanism to bring
25 about such coordination and cooperation;

26 C. That additional river corridor commissions
27 are not likely to be formed without state
28 encouragement and incentives; and

29 D. That such cooperation serves state interests
30 as stated in Title 12, section 648 and chapter
31 424.

32 2. Purpose. It is the policy of the State to
33 encourage the formation of river corridor commis-
34 sions. The purpose of this law is to:

35 A. Clarify procedures for forming river corridor
36 commissions;

1 B. Delegate authority to the Commissioner of
2 Conservation to approve acceptable proposals to
3 form the river corridor commissions;

4 C. Grant additional powers to those river corri-
5 ridor commissions beyond those provided for in
6 chapter 203; and

7 D. Provide a portion of the funding for the
8 operation of the river corridor commissions.

9 §1988. Definitions

10 As used in this chapter, unless the context indi-
11 cates otherwise, the following terms have the follow-
12 ing meanings.

13 1. Commission. "Commission" means a river cor-
14 ridor commission granted approval by the commissioner
15 under section 1989.

16 2. Commissioner. "Commissioner" means the Com-
17 missioner of Conservation.

18 3. Department. "Department" means the Depart-
19 ment of Conservation.

20 §1989. Approval of river corridor commissions

21 The commissioner may grant commission status and
22 all the privileges and powers enjoyed by the commis-
23 sions, as specified in this chapter, when he finds
24 that:

25 1. Occupation of shoreland by 2 or more munici-
26 palities. Two or more municipalities, which collec-
27 tively occupy enough of the shoreland on a river
28 segment to be effective in managing the shorelands of
29 the river, have entered into an agreement, pursuant
30 to the requirements of chapter 203, which satisfies
31 the requirements of section 1989-A;

32 2. Comprehensive plan. The same municipalities
33 have prepared a comprehensive plan which satisfies
34 the requirements of section 1989-B;

1 3. Ordinance. The same municipalities have pre-
2 pared an ordinance to implement the comprehensive
3 plan which satisfies the requirements of section
4 1989-C; and

5 4. Other commissions. No other commission
6 exists on the same river, or the distance between the
7 proposed and existing commissions makes the formation
8 of one larger commission impractical.

9 Sec. 11. 30 MRSA §§1989-A to 1989-C are enacted
10 to read:

11 §1989-A. Interlocal agreement

12 In addition to the requirements of section 1953,
13 the interlocal agreement shall be consistent with
14 regulations adopted by the commissioner under the
15 Maine Administrative Procedure Act, Title 5, chapter
16 375. These regulations may include, but are not
17 limited to:

18 1. Minimum duration. The minimum duration of
19 the agreement;

20 2. Members; appointment. How members may be
21 appointed;

22 3. Municipal responsibilities for financing.
23 What the towns' responsibilities for financing the
24 commission are; and

25 4. Withdrawal. How and under what circumstances
26 towns may withdraw from the commission.

27 §1989-B. Comprehensive plan

28 The comprehensive plan shall be consistent with
29 regulations adopted by the commissioner under the
30 Maine Administrative Procedure Act, Title 5, chapter
31 375. These regulations may include, but are not
32 limited to:

33 1. Resources; problems. What resources or prob-
34 lems the plan must address;

35 2. Information; analyses. Information and anal-
36 yses the plan must contain; and

1 3. Specificity; clarity. The degree of
2 specificity and clarity sought in the plan.

3 §1989-C. Ordinance

4 The ordinance to implement the plan shall be at
5 least as restrictive as the state's guidelines for
6 municipal shoreland zoning ordinances and shall
7 supersede existing shoreland zoning ordinances. The
8 ordinance shall contain adequate procedures for pro-
9 cessing permit requests and for considering appeals
10 of a decision made by the commission. The commis-
11 sioner may promulgate additional regulations specify-
12 ing the content of the ordinance under the Maine
13 Administrative Procedure Act, Title 5, chapter 375.

14 Sec. 12. 30 MRSA §§1990 to 1992 are enacted to
15 read:

16 §1990. Powers of a river corridor commission

17 Notwithstanding the provisions of section 1953,
18 subsection 6, an approved commission may exercise the
19 following powers:

20 1. Amendment to comprehensive plan. To amend
21 the comprehensive plan, after notice and hearing on
22 the proposed amendment in accordance with the Maine
23 Administrative Procedure Act, Title 5, chapter 375;

24 2. Adoption of rules, regulations or ordinances.
25 To adopt and amend rules, regulations or ordinances
26 covering an area up to 500 feet from the mean
27 highwater mark or to the limit of the 100 year
28 floodplain, which ever is greater, necessary to
29 implement the comprehensive plan, after notice and
30 hearing on the proposed amendment or adoption, in ac-
31 cordance with the Maine Administrative Procedure Act,
32 Title 5, chapter 375;

33 3. Issuance of permits. To issue permits, sub-
34 ject to reasonable conditions for activities requir-
35 ing permits, or to deny permits pursuant to ordi-
36 nances and regulations adopted by the commission;

37 4. Fees. To assess fees for permit or variance
38 applications, or for any publications of the commis-
39 sion;

1 5. Conservation easements. To acquire conserva-
2 tion easements or other interest in real estate by
3 gift, purchase, grant, bequest, devise or lease for
4 the purpose of conserving or properly utilizing land
5 or water areas within the jurisdiction of the commis-
6 sion;

7 6. Suit. To sue and be sued; and

8 7. Enforcement. To enforce the rules, ordi-
9 nances or regulations of the commission by institu-
10 ting any lawful action, injunction or other proceed-
11 ing to prevent, restrain, correct or abate any viola-
12 tion of its rules, regulations or ordinances, and to
13 impose fines as permitted under Title 12, chapter
14 424.

15 §1991. Commission budget; financing; staff

16 The commission shall prepare and submit to the
17 commissioner a biennial budget sufficient to cover
18 its operating and other expenses. Provided the com-
19 mission continues to satisfy the requirements of
20 section 1989, the commissioner shall request funds to
21 match the funds raised by the commission. In no
22 event may the state contribution exceed \$25,000 for
23 any one commission in any year. The commission may
24 accept contributions of any type from any source to
25 assist it in carrying out its assigned tasks, and
26 make such agreements with respect to the administra-
27 tion of such funds, not inconsistent with the purpose
28 of this law, as are required as conditions precedent
29 to receiving such funds, federal or otherwise. Staff
30 of the commission shall not be considered employees
31 of the State.

32 §1992. Appeals to Superior Court

33 Except where otherwise specified by law, any
34 party or person aggrieved by any order or decision
35 of the commission may, within 30 days after notice of
36 the filing of that order or decision, appeal to the
37 Superior Court by filing a notice of appeal stating
38 the grounds for appeal. The appeals shall be taken
39 pursuant to Title 5, section 11001.

1 Sec. 13. 30 MRSA §4956, sub-§1, as repealed and
2 replaced by PL 1975, c. 475, §1, is amended by adding
3 at the end a new paragraph to read:

4 A densely developed area is defined as any com-
5 mercial, industrial or compact residential area of 10
6 or more acres with an existing density of at least
7 one principal structure per 2 acres. A principal
8 structure is defined as any building other than one
9 which is used for purposes wholly incidental or ac-
10 cessory to the use of another building on the same
11 premises.

12 Sec. 14. 30 MRSA §4956, sub-§1-A is enacted to
13 read:

14 1-A. Special protection for the shorelands of
15 outstanding river segments. In accordance with Title
16 12, section 648, subsection 8, outstanding river seg-
17 ments shall include:

18 A. The Aroostook River from the Canadian border
19 to the Masardis and T.10, R.6, W.E.L.S. townline,
20 excluding the segment T.9, R.5, W.E.L.S.;

21 B. The Carrabassett River from the Kennebec
22 River to the Carrabassett Valley and Mt. Abram
23 Township townline;

24 C. The Crooked River from its inlet into Sebago
25 Lake to the Waterford and Albany Township
26 townline;

27 D. The Damariscotta River from the Route 1
28 bridge in Damariscotta to the dam at Damariscotta
29 Mills;

30 E. The Dennys River from the Route 1 bridge to
31 the outlet of Meddybemps Lake, excluding the
32 western shore in Edmunds Township and No 14
33 Plantation;

34 F. The East Machias River, including the Maine
35 River, from the Route 1 bridge to the East
36 Machias and T.18, E.D., B.P.P. townline, from the
37 T.19, E.D., B.P.P. and Wesley townline to the
38 outlet of Crawford Lake, and from the No. 21

- 1 Plantation and Alexander townline to the outlet
2 of Pocomoonshine Lake, excluding Hadley Lake,
3 Lower Mud Pond and Upper Mud Pond;
- 4 G. The Fish River from the bridge at Fort Kent
5 Mills to the Fort Kent and Wallagrass Plantation
6 townline, from the T.16, R.6, W.E.L.S. and Eagle
7 Lake townline to the Eagle Lake and Winterville
8 Plantation townline, and from the T.14, R.6,
9 W.E.L.S. and Portage Lake townline to the Portage
10 Lake and T.13, R.7, W.E.L.S. townline, excluding
11 Portage Lake;
- 12 H. The Kennebago River from its inlet into
13 Cupsuptic Lake to the Rangeley and Lower
14 Cupsuptic Township townline;
- 15 I. The Kennebec River from Thorns Head Narrows
16 in North Bath to the Edwards Dam in Augusta,
17 excluding Perkins Township, and from the Route
18 148 bridge in Madison to the Caratunk and The
19 Forks Plantation townline, excluding the western
20 shore in Concord Township, Pleasant Ridge
21 Plantation and Carrying Place Township and
22 excluding Wyman Lake;
- 23 J. The Machias River from the Route 1 bridge to
24 the Northfield and T.19, M.D., B.P.P. townline;
- 25 K. The Mattawamkeag River from the Penobscot
26 River to the Mattawamkeag and Kingman Township
27 townline, and from the Reed Plantation and
28 Bancroft townline to the East Branch in
29 Haynesville;
- 30 L. The Narraguagus River from Fickett Point in
31 Millbridge to the Beddington and Devereaux Town-
32 ship townlines, excluding Beddington Lake;
- 33 M. The Penobscot River, including the Eastern
34 Channel, from Sandy Point in Stockton Springs to
35 the Veazie Dam, including its tributary the East
36 Branch of the Penobscot from the Penobscot River
37 to the East Millinocket and Grindstone Township
38 townline;

- 1 N. The Piscataquis River from the Penobscot
2 River to the Monson and Blanchard Plantation
3 townline;
- 4 O. The Pleasant River from the bridge in Addison
5 to the Columbia and T.18, M.D., B.P.P. townline,
6 and from the T.24, M.D., B.P.P. and Beddington
7 townline to the outlet of Pleasant River Lake;
- 8 P. The Rapid River from the Magalloway
9 Plantation and Upton townline to the outlet of
10 Pond in the River;
- 11 Q. The Saco River from the Little Ossipee River
12 to the New Hampshire border;
- 13 R. The St. Croix River from the Route 1 bridge
14 in Calais to the Calais and Baring Plantation
15 townline, from the Baring Plantation and
16 Baileyville townline to the Baileyville and
17 Fowler Township townline, and from the Lambert
18 Lake Township and Vanceboro townline to the
19 outlet of Spednik Lake, excluding Woodland Lake
20 and Grand Falls Flowage;
- 21 S. The St. George River from the Route 1 bridge
22 in Thomaston to the outlet of Lake St. George in
23 Liberty, excluding White Oak Pond, Seven Tree
24 Pond, Round Pond, Sennebec Pond, Trues Pond,
25 Stevens Pond and Little Pond;
- 26 T. The St. John River from the Van Buren and
27 Hamlin Plantation townline to the Ft. Kent and
28 St. John Plantation townline, and from the St.
29 John Plantation and St. Francis townline to the
30 Allagash and St. Francis townline;
- 31 U. The Sandy River from the Kennebec River to
32 the Madrid and Township E townline;
- 33 V. The Sheepscot River from the railroad bridge
34 in Wiscasset to the Hall-Dale Road in Montville,
35 excluding Long Pond and Sheepscot Pond;
- 36 W. The West Branch Pleasant River from the East
37 Branch in Brownville to the Brownville and
38 Williamsburg Township townline; and

1 X. The West Branch Union River from the Route
2 181 bridge in Mariaville to the outlet of Great
3 Pond in the Town of Great Pond.

4 Sec. 15. 30 MRSA §4956, sub-§3, ¶L, as repealed
5 and replaced by PL 1971, c. 454, is amended to read:

6 L. Whenever situated, in whole or in part,
7 within 250 feet of any pond, lake, river or tidal
8 waters, will not adversely affect the quality of
9 such that body of water or unreasonably affect
10 the shoreline of such that body of water.

11 Furthermore, when lots in a subdivision have
12 frontage on an outstanding river segment, as de-
13 finied in subsection 1-A, the proposed subdivision
14 plan requires principal structures to have a com-
15 bined lot shore frontage and setback from the
16 normal high water mark of 500 feet. To avoid
17 circumventing the intent of this provision, when-
18 ever a proposed subdivision adjoins a shoreland
19 strip narrower than 250 feet which is not lotted,
20 the proposed subdivision shall be reviewed as if
21 lot lines extended to the shore. These frontage
22 and set-back provisions shall not apply where the
23 shore lots are within or adjoining a densely
24 developed area, as defined in subsection 1.

25 Sec. 16. 33 MRSA §668, first ¶, as enacted by PL
26 1969, c. 566, §2, is amended to read:

27 No conservation restriction as defined in section
28 667 held by any governmental body or held on a river
29 shoreline and approved by the Commissioner of Conser-
30 vation as needed for the conservation of the state's
31 outstanding river resources, by a private nonprofit
32 corporation of this State, whose purposes include
33 conservation of land or water areas or of a partic-
34 ular ~~such~~ area, shall may be unenforceable on account
35 of lack of privity of estate or contract or lack of
36 benefit to particular land or on account of the bene-
37 fit being assignable or being assigned to any other
38 governmental body or, a private nonprofit corporation
39 of this State with like purposes. All such restric-
40 tions shall be duly recorded and indexed in the
41 registry of deeds for the county where the land lies
42 so as to affect its title, in the manner of other

1 conveyances of interests in land, and shall describe
2 the land subject to said the restrictions by adequate
3 legal description or by reference to a recorded plan
4 showing its boundaries.

5 Sec. 17. 36 MRSA §1760, sub-§42, is enacted to
6 read:

7 42. Fish passage facilities. Taxes on the sale
8 or use of materials used in the construction of fish
9 passage facilities in new, reconstructed or
10 redeveloped dams when such fish passage facilities
11 are built in accordance with plans and specifications
12 approved by the Department of Inland Fisheries and
13 Wildlife or the Department of Marine Resources shall
14 be refundable.

15 The State Tax Assessor shall refund sales or use tax
16 paid on these construction materials upon the submis-
17 sion by a person of the following:

18 A. A certification from the Department of Inland
19 Fisheries and Wildlife or the Department of
20 Marine Resources that the fish passage facilities
21 were constructed in accordance with approved
22 plans and specifications; and

23 B. An application for a tax rebate which shall
24 state at a minimum the construction materials
25 purchased, its manufacturers, its cost, the use
26 of which the purchaser has made of the materials
27 and the seller from whom the purchase was made.

28 Sec. 18. 38 MRSA §621, as enacted by PL 1979, c.
29 465, is repealed.

30 Sec. 19. 38 MRSA §622, as amended by PL 1981, c.
31 470, Pt. A, §168, is repealed.

32 Sec. 20. 38 MRSA §§623-625, as enacted by PL
33 1979, c. 465, are repealed.

34 Sec. 21. 38 MRSA §626, as amended by PL 1981, c.
35 470, Pt. A, §169, is repealed.

36 Sec. 22. 38 MRSA c. 5, sub-c. 1, Art. 1,
37 sub-art. 1-B is enacted to read:

1 Subarticle 1-B. Permits for hydropower projects

2 §630. Short title

3 This subarticle may be cited and referred to in
4 proceedings and agreements as the "Maine Waterway
5 Development and Conservation Act."

6 §631. Purposes

7 The Legislature finds and declares that the sur-
8 face waters of the State constitute a valuable
9 indigenous and renewable energy resource, and that
10 hydropower development utilizing these waters is
11 unique in its benefits and impacts to the natural
12 environment, health, safety and general welfare of
13 the citizens of the State.

14 The Legislature declares that it is the policy of
15 the State to support and encourage the development of
16 hydropower projects by simplifying and clarifying re-
17 quirements for permits while assuring reasonable pro-
18 tection of natural resources and the public interest
19 in use of waters of the State. It is the purpose of
20 this subarticle to require a single application and
21 permit for the construction, reconstruction or struc-
22 tural alteration of all hydropower projects, includ-
23 ing water storage projects. The permit application
24 process shall be administered by the Department of
25 Environmental Protection, except that for hydropower
26 projects within the jurisdiction of the Maine Land
27 Use Regulation Commission, the commission shall ad-
28 minister the permit application process under this
29 Act.

30 §632. Definitions

31 As used in this subarticle, unless the context
32 indicates otherwise, the following terms have the
33 following meanings.

34 1. Board. "Board" means the Board of Environ-
35 mental Protection, except that, for any hydropower
36 project within the jurisdiction of the Maine Land Use
37 Regulation Commission, "board" means the Maine Land
38 Use Regulation Commission.

1 2. Department. "Department" means the Depart-
2 ment of Environmental Protection.

3 3. Hydropower project. "Hydropower project"
4 means any development which utilizes as a source of
5 electrical or mechanical power or which regulates for
6 the purpose of generating electrical or mechanical
7 power the flow of water. A hydropower project devel-
8 opment includes all powerhouses, dams, water con-
9 duits, transmission lines, water impoundments, roads
10 and other appurtenant works and structures that are
11 part of the development.

12 §633. Prohibition

13 1. Permit required. No person may initiate con-
14 struction or reconstruction of a hydropower project,
15 or structurally alter a hydropower project in ways
16 which change water levels or flows above or below the
17 dam, without first obtaining a permit from the board.

18 2. Exceptions. This subarticle shall not apply
19 to activities for which, prior to the effective date
20 of this Act, a permit or permits have been issued
21 pursuant to any of the following laws: Land use
22 regulation laws, Title 12, sections 681 to 689;
23 stream alteration laws, Title 12, sections 7776 to
24 7780; great ponds laws, sections 391 to 394; altera-
25 tion of coastal wetlands laws, sections 471 to 478;
26 site location of development laws, sections 481 to
27 490; and small hydroelectric generating facilities
28 laws, sections 621 to 626.

29 3. Exemptions. Normal maintenance and repair of
30 an existing and operating hydropower project shall be
31 exempt from this subarticle provided that:

32 A. The activity does not involve any dredging,
33 filling or construction below the normal high
34 water line of any great pond, coastal wetland,
35 river, stream or brook; and

36 B. The activity does not involve any dredging,
37 filling or construction on the land adjacent to
38 any great pond, coastal wetland, river, stream,
39 or brook such that any dredged spoil, fill or
40 structure may fall or be washed into those
41 waters.

1 4. Reduced procedures. The Board of Environ-
2 mental Protection and the Maine Land Use Regulation
3 Commission shall promulgate regulations designed to
4 reduce procedural requirements and establish specific
5 standards for those maintenance activities, the
6 proper execution of which are deemed to have no sig-
7 nificant impact upon the environment and which are
8 not inconsistent with the purposes of this
9 subarticle. These maintenance activities include,
10 but are not limited to: The repair or replacement of
11 gates and trashracks; the resurfacing of dam and
12 powerhouse structures; and the dredging of a power
13 canal behind closed headgates.

14 §634. Permit requirements

15 1. Coordinated permit review. Permits required
16 under the following laws shall not be required by any
17 state agency for projects reviewed under this
18 subarticle: Land use regulation laws, Title 12, sec-
19 tions 681 to 689; stream alteration laws, Title 12,
20 sections 7776 to 7780; great ponds laws, sections 391
21 to 394; alteration of coastal wetlands laws, sections
22 471 to 478; and site location of development laws,
23 sections 481 to 490. Notwithstanding section 654,
24 the board may attach reasonable conditions consist-
25 ent with this Act concerning the operation of
26 hydropower projects. The board shall give written
27 notice to the Commissioner of Inland Fisheries and
28 Wildlife and the Commissioner of Marine Resources
29 of the intent of any applicant for a permit to con-
30 struct a dam. This notice shall constitute notice of
31 intent as required under Title 12, sections 6121,
32 6122 and 7702. Issuance of a water quality certifi-
33 cate required under the United States Water Pollution
34 Control Act, Section 401, shall be coordinated for
35 the applicant under this subarticle by the Department
36 of Environmental Protection.

37 2. Application. An application for a permit re-
38 quired by section 633 shall be made on forms provided
39 by the board and shall be filed with the board.
40 Public notice of the filing shall be made as required
41 by the board.

42 3. Application review. Within 10 working days
43 of receiving a completed application, the Commis-

1 sioner of Environmental Protection or the Director of
2 the Maine Land Use Regulation Commission, as appro-
3 appropriate, shall notify the applicant of the official
4 date on which the application was accepted.

5 The commissioner or the director, as appropriate,
6 shall circulate the application among the Department
7 of Environmental Protection, Department of Conserva-
8 tion, Department of Inland Fisheries and Wildlife,
9 Department of Marine Resources, Department of Trans-
10 portation, Maine Historic Preservation Commission and
11 the Office of Energy Resources. For projects within
12 the jurisdiction of the Maine Land Use Regulation
13 Commission, the director may request and obtain tech-
14 nical assistance and recommendations from the staff
15 of the department. The department shall respond to
16 the requests in a timely manner. The department's
17 recommendations shall be considered by the commission
18 in acting upon a project application.

19 §635. Board decision

20 The board shall, within 30 days of receipt of a
21 completed application, either:

22 1. Approval. Approve the proposed project upon
23 such terms and conditions as are appropriate and
24 reasonable to protect and preserve the environment
25 and the public's health, safety and general welfare,
26 including the public interest in replacing oil with
27 hydroelectric energy. These terms and conditions may
28 include, but are not limited to:

29 A. Establishment of a water level range for the
30 body of water impounded by a hydropower project;

31 B. Establishment of instantaneous minimum flows
32 for the body of water affected by a hydropower
33 project; and

34 C. Provision for the construction and mainte-
35 nance of fish passage facilities;

36 2. Disapproval. Disapprove the proposed proj-
37 ect, setting forth in writing the reasons for the
38 disapproval; or

1 3. Hearing. Schedule a hearing on the proposed
2 project. Any hearing held under this subsection
3 shall follow the notice requirements and procedures
4 for an adjudicatory hearing under Title 5, chapter
5 375, subchapter IV. At any such hearing, the burden
6 shall be upon the applicant to demonstrate to the
7 board that, over the expected life of the project,
8 the advantages of the project outweigh the adverse
9 impacts and that the public's health, safety and wel-
10 fare will be adequately protected. Within 45 days
11 after the board adjourns any hearing held under this
12 subsection, it shall make findings of fact and issue
13 an order approving or disapproving the proposed
14 project, as provided in subsections 1 and 2.

15 §636. Approval criteria

16 The board shall approve an application for a
17 permit when it finds that the following mandatory and
18 balancing criteria have been fulfilled.

19 1. Mandatory criteria. The following mandatory
20 criteria have been met.

21 A. The applicant has the financial capability
22 and technical ability to undertake the project.
23 In the event that the applicant is unable to dem-
24 onstrate financial capability, the board may
25 grant the permit contingent upon the applicant's
26 demonstration of financial capability prior to
27 commencement of the activities permitted.

28 B. The applicant has made adequate provisions
29 for protection of public safety.

30 C. The applicant has made adequate provisions
31 for traffic movement of all types out of or into
32 the development area.

33 D. Within the jurisdiction of the Maine Land Use
34 Regulation Commission, the project is consistent
35 with zoning adopted by the commission.

36 2. Balancing criteria. The advantages of the
37 project outweigh the direct and cumulative adverse
38 impacts over the life of the project based upon con-
39 sideration of the following criteria:

1 A. Whether the applicant has made adequate
2 provisions for fitting the project harmoniously
3 into the natural environment and whether the
4 project will result in significant benefit or
5 harm to soil stability, water quality, coastal
6 and inland wetlands or the natural environs of
7 any surface waters;

8 B. Whether the project will result in signifi-
9 cant benefit or harm to fish and wildlife
10 resources. In making its determination, the
11 board shall consider other existing uses of the
12 watershed and fisheries management plans adopted
13 by the Department of Inland Fisheries and Wild-
14 life, the Department of Marine Resources and the
15 Atlantic Sea Run Salmon Commission;

16 C. Whether the project will result in signifi-
17 cant benefit or harm to historic and
18 archeological resources;

19 D. Whether the project will result in signifi-
20 cant benefit or harm to the public rights of ac-
21 cess to and use of the surface waters of the
22 State for navigation, fishing, fowling, recrea-
23 tion and other lawful public uses;

24 E. Whether the project will result in signifi-
25 cant flood control benefits or flood hazards; and

26 F. The energy benefits of the project, includ-
27 ing, without limitation, the benefits arising out
28 of the replacement of fossil fuels with
29 indigenous hydroelectricity.

30 This section shall not be construed as requiring
31 that the board conduct or consider an economic
32 cost-benefit analysis of a project.

33 **Sec. 23. Commission on Local Land Use Viola-**
34 **tions.** Swift effective enforcement against suspected
35 violations of land use laws and ordinances is essen-
36 tial to the intended purpose of these statutes, but
37 it is commonly asserted that the court system is not
38 being used effectively, especially by small towns, to
39 resolve these cases. There is created a Commission
40 on Local Land Use Violations, known in this section
41 as the "commission."

1 The commission shall be composed of 11 members as
2 follows: Two members appointed by the President of
3 the Senate, one to be a member of the Joint Standing
4 Committee on Energy and Natural Resources and one to
5 be a Senator knowledgeable about land use issues; 2
6 members appointed by the Speaker of the House of
7 Representatives, one to be a member of the Joint
8 Standing Committee on Judiciary and one to be a
9 Representative knowledgeable about land use issues;
10 and 7 members appointed by the Governor, one to be a
11 local elected official, one to be an appointed local
12 official, one to be a representative of the court
13 system, one to be a representative of the Maine Asso-
14 ciation of Planners, one to be a representative of
15 the Maine Bar Association, one to represent real
16 estate interests, and one to be a representative of
17 the general public, knowledgeable about land use
18 issues. The commission shall hold an organizational
19 meeting within 30 days after the adjournment of the
20 Legislature at the call of the Chairman of the Legis-
21 lative Council. At this meeting, the commission
22 shall elect a chairman and a vice-chairman from
23 within the membership.

24 The commission shall review the use of the
25 state's court system to resolve suspected violations
26 of local ordinances under the mandatory shoreland
27 zoning laws, Title 12, chapter 424; the subdivision
28 laws Title 30, section 4956; the state plumbing laws,
29 Title 22, section 42; and other land use laws
30 enforced by municipalities. This review shall exam-
31 ine the extent to which such local ordinances are or
32 are not being adequately enforced, especially by
33 small towns, where court action appears to provide
34 the only existing appropriate recourse. The commis-
35 sion shall determine the causes for any problems
36 uncovered and document examples to support its find-
37 ings. The commission shall evaluate alternatives to
38 the existing court procedures, including the estab-
39 lishment of a statewide system of land use hearing
40 examiners. The commission shall make recommendations
41 to secure just, swift, inexpensive and effective
42 resolution of suspected land use violation cases,
43 especially by small towns, without creating unreason-
44 able burdens for the state's courts system.

1 The commission shall report its findings,
2 together with any suggested legislation, to the
3 Second Regular Session of the 111th Legislature on or
4 before January 13, 1984.

5 The State Planning Office and the Division of
6 Health Engineering in the Department of Human Ser-
7 vices shall provide staff support to the commission
8 and administer its functions.

9 All executive departments are directed to give
10 prompt assistance to the commission.

11 The commission may accept funds from any agency
12 of the United States.

13 STATEMENT OF FACT

14 This bill reflects the findings of several recent
15 planning efforts, including the 1981 State Energy
16 Plan, the 1982 Maine Rivers Study, the State of Maine
17 Comprehensive Hydropower Plan, and the State Planning
18 Office's 1982 report to the Governor on the adequacy
19 of existing laws and programs to protect the public's
20 interest in the state's outstanding rivers.

21 It creates state policy to balance the competing
22 uses of Maine's rivers and provides the mechanisms
23 necessary to implement this policy. It includes
24 amendments to 4 existing statutes which govern activ-
25 ities in the flowing waters and on the shorelands of
26 the state's rivers and streams, including the manda-
27 tory shoreland zoning statute, the alteration of
28 rivers, streams and brooks statute, the subdivision
29 statute, and the statute which governs conservation
30 easements. It creates new statutes to encourage
31 municipalities to form river corridor commissions and
32 to consolidate the state's regulatory procedures for
33 the development of hydroelectric generating facili-
34 ties.

35 Maine's River Resources Policy

36 Section 1 provides a declaration of state policy
37 on the appropriate uses of Maine's river resources
38 and prohibits the permitting or licensing of new dams

1 on 1,087 miles of 16 outstanding river segments. It
2 also establishes that additional development or
3 redevelopment of existing dams on these river seg-
4 ments must not adversely affect the resource values
5 of the rivers, and requires the State Planning
6 Office to provide a report to the Legislature by
7 December 1, 1986, detailing accomplishments made to
8 implement this policy.

9 Shoreland Zoning

10 Section 2 amends the shoreland zoning statute's
11 declaration of policy to acknowledge that certain
12 river segments deserve special treatment because of
13 their outstanding resource values.

14 Section 3 provides a list of the 171.5 miles of
15 significant river segments subject to these amend-
16 ments to the statute.

17 Section 4 requires written authorization from
18 municipal officials prior to the installation of
19 public utilities in any new structure in an area
20 under shoreland zoning. This section also allows the
21 Attorney General to take action to enjoin suspected
22 violations, and permits judges to award attorneys'
23 fees to municipalities which prevail in a court ac-
24 tion involving violation of a shoreland zoning ordi-
25 nance.

26 Section 5, consistent with the procedure under
27 which the original shoreland zoning guidelines were
28 adopted, requires the Board of Environmental Protec-
29 tion and the Maine Land Use Regulation Commission to
30 adopt minimum guidelines by December 15, 1983, for
31 use by towns to protect the special values of the
32 shorelands of the significant river segments identi-
33 fied in section 3. It also establishes a procedure
34 similar to that followed in the original shoreland
35 zoning process for review and certification of local
36 zoning ordinances by December 1, 1984, or, if the
37 municipality fails to adopt an adequate local zoning
38 ordinance, imposition of a state minimum zoning ordi-
39 nance.

40 Department of Environmental Protection Enforcement
41 Personnel

1 Section 6 empowers the Commissioner of Environ-
2 mental Protection to designate staff members to issue
3 court summonses to enforce the great ponds and alter-
4 ation of coastal wetlands statutes.

5 Alteration of Rivers, Streams and Brooks

6 Section 7 provides a list of the 726.5 miles of
7 outstanding river segments subject to these amend-
8 ments to the statute.

9 Section 8 requires applicants for permits on the
10 listed river segments to demonstrate that there is no
11 reasonable alternative to the proposed alteration
12 which would have a less adverse effect upon the sig-
13 nificant resource values of these river segments.

14 Section 9 removes the present exemption from
15 permit requirements for specific types of projects,
16 if the projects are proposed on any of the listed
17 river segments.

18 River Corridor Commissions

19 Section 10 provides an introduction and a state-
20 ment of purpose for the establishment of river corri-
21 dor commissions; defines terms used in Title 30,
22 chapter 204; and empowers the Commissioner of Conser-
23 vation to grant river corridor commission status,
24 privileges and powers under specified circumstances,
25 including an acceptable interlocal agreement, compre-
26 hensive plan and shoreland zoning ordinance.

27 Section 11 does the following:

28 1. Allows the commissioner to draft regulations
29 for interlocal agreements establishing river corridor
30 commissions;

31 2. Empowers the commissioner to establish regu-
32 lations for approval of a proposed commission's com-
33 prehensive plan; and

34 3. Specifies that a commission's zoning ordi-
35 nance must be at least as restrictive as the state's
36 guidelines for municipal shoreland zoning ordinances.
37 The commissioner may adopt additional regulations
38 governing the ordinance.

1 shorefront in question has been identified by the
2 Department of Conservation as warranting a protective
3 easement.

4 Fish Passage Facilities
5 Tax Exemption

6 Section 17 creates a new exemption from sales and
7 use taxes for materials used in the construction of
8 fish passage facilities that are built in accordance
9 with plans and specifications approved by the Depart-
10 ment of Inland Fisheries and Wildlife and Department
11 of Marine Resources. This tax exemption will apply
12 to any such new fish passage facility.

13 Section 17 pertaining to fish passage facilities
14 will have the following fiscal impact: It is esti-
15 mated that the sales and use tax exemption for fish
16 passage materials will result in a maximum loss of
17 revenue to the General Fund of \$10,000 for each of
18 the fiscal years of the next biennium (1983-84 and
19 1984-85). The amount of revenue lost will be vari-
20 able from year-to-year, and may increase on average
21 in succeeding years.

22 Hydroelectric Generating Facilities

23 Sections 18 to 21 repeal the subarticle providing
24 for licensing of small hydroelectric generating
25 facilities.

26 Section 22 enacts the new Maine Waterway Develop-
27 ment and Conservation Act, Title 38, sections 630 to
28 636.

29 Section 630 establishes the title of the Act.

30 Section 631 is a declaration of the Legislature's
31 purposes in enacting this subarticle.

32 Section 632 contains definitions of terms used in
33 this statute. The definition of "hydropower project"
34 covers all hydroelectric generating facilities,
35 hydromechanical facilities and nongenerating water
36 storage facilities in their entirety.

1 and document its findings. The commission is to
2 evaluate alternative remedies, including the estab-
3 lishment of a statewide system of land use hearing
4 examiners. The commission will report to the next
5 session of the Legislature and may recommend legis-
6 lation. The State Planning Office will provide staff
7 support and other assistance to the commission.
8 There will be no cost to the General Fund from this
9 commission.

10

2549030283