

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
111TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1009,
L.D. 1334, Bill, "AN ACT to Clarify the Decision-
making Process within the Department of Environmental
Protection."

Amend the Bill by striking out all of sections 1
and 2.

Further amend the Bill in section 3 in subsection
2 in the next to the last paragraph in the 4th line
(page 5, line 11 in L.D.) by inserting after the
underlined word "not" the underlined word 'otherwise'

Further amend the Bill in section 4 in subsection
3 in the 8th and 9th lines (page 5, lines 32 and 33
in L.D.) by striking out the underlined words "accep-
tance of the application" and inserting in their
place the underlined words 'receipt of the notifica-
tion'

Further amend the Bill by adding at the end
before the statement of fact the following:

'Sec. 7. 38 MRSA §474, sub-§1, as enacted by PL
1979, c. 504, §3, is amended to read:

1. Wetlands permit. If the applicant for the
wetlands 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

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1 that the proposed activity will comply with the fore-
2 going standards.

3 Within 30 days after receipt of a completed applica-
4 tion for a permit, the board or municipality shall
5 either issue the permit or deny the permit setting
6 forth the reasons therefor or order a hearing thereon
7 within 30 days of the order for which hearing ade-
8 quate public notice shall be given. Within 30 days
9 after the adjournment of such hearing, the board or
10 municipality shall either issue the permit or deny
11 the permit setting forth the reasons therefor. In the
12 event that a permit applied for is denied either by
13 the municipality or the board, the applicant may
14 request a hearing before either of the above with
15 reasonable public notice given.

16 In municipalities that have been delegated the
17 authority to issue permits under this Article, within
18 30 days after receipt of a completed application for
19 a permit, the municipality shall either issue the
20 permit or deny the permit setting forth the reasons
21 therefor or order a hearing thereon within 30 days of
22 the order for which hearing adequate public notice
23 shall be given. Within 30 days after the adjournment
24 of the hearing, the municipality shall either issue
25 the permit or deny the permit setting forth the
26 reasons therefor. In the event that a permit applied
27 for is denied by the municipality, the applicant may
28 request a hearing before the municipality with
29 reasonable public notice given.

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

34 No permit issued by a municipality shall may become
35 effective until 30 days subsequent to its issuance,
36 but if approved by the board in less than 30 days
37 then the effective date shall be the date of
38 approval. A copy of the application for the permit

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1 and the permit issued by the municipality shall be
2 sent to the board immediately upon its issuance by
3 registered mail. The board shall review ~~such~~ that
4 permit and either approve, deny or modify it as it
5 deems necessary. Failure of the board to act within
6 30 days of the receipt of the permit by the munici-
7 pality shall constitute its approval and the permit
8 shall be effective as issued.

9 When winter conditions prevent the board or munici-
10 pality from evaluating a permit application, the
11 board or municipality, upon notifying the applicant
12 of ~~such~~ that fact, may defer action on the applica-
13 tion for a reasonable period. The applicant shall not
14 during the period of deferral fill or cause to be
15 filled, dredge or cause to be dredged, drain or cause
16 to be drained or otherwise alter ~~such~~ that coastal
17 wetland.

18 Sec. 8. 38 MRSA §483, sub-§2, as enacted by PL
19 1981, c. 449, §7, is amended to read:

20 2. Application. Any person intending to con-
21 struct or operate a development shall, before com-
22 mencing construction or operation, notify the ~~board~~
23 department in writing of his intent and of the nature
24 and location of the development, together with other
25 information as the board may by regulation require.
26 The board or the commissioner shall ~~within 30 days of~~
27 ~~receipt of the notification,~~ either approve the pro-
28 posed development, upon such terms and conditions as
29 are appropriate and reasonable or disapprove the pro-
30 posed development setting forth the reasons therefor
31 or schedule a hearing thereon in the manner herein-
32 after provided.

33 Any person as to whose development the board has
34 issued an order without a hearing may request, in
35 writing, within 30 days after notice of the board's
36 decision, a hearing before the board. This request
37 shall set forth, in detail, the findings and conclu-
38 sions of the board to which ~~such~~ that person objects,

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1 the basis of the objections and the nature of the
2 relief requested. Upon receipt of the request, the
3 board shall schedule and hold a hearing limited to
4 the matters set forth in the request. Hearings shall
5 be scheduled in accordance with section 484.

6 Sec. 9. 38 MRSA §625, first ¶, as enacted by PL
7 1979, c. 465, is amended to read:

8 The board shall, within 30 days of receipt of a
9 completed application, either approve the proposed
10 small hydroelectric power project, upon such terms
11 and conditions as are appropriate and reasonable, or
12 disapprove the proposed small hydroelectric power
13 project setting forth the reasons therefor, or sched-
14 ule a hearing thereon in the manner provided in this
15 section.'

16 Further amend the bill by renumbering the sec-
17 tions to read consecutively.

18 STATEMENT OF FACT

19 This amendment deletes the first 2 sections of
20 the original bill since the changes have been
21 incorporated in another bill enacted this session.
22 The amendment also makes 3 minor technical correc-
23 tions.

24 The amendment adds 3 new sections. Each section
25 amends a statute administered by the Department of
26 Environmental Protection to bring administrative
27 procedures into conformance. These statutes include
28 alteration of wetlands, the site location law and the
29 small hydro licensing statutes.

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