

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (After Deadline)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1772

8
9 S.P. 630

In Senate, June 16, 1983

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

12 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 27.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Kany of Kennebec.

Cosponsor: Representative Hall of Sangerville.

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Assure Consideration of
20 On-site Impacts of Major Developments
21 Under the Site Location Law.
22

23 Emergency preamble. Whereas, Acts of the Legis-
24 lature do not become effective until 90 days after
25 adjournment unless enacted as emergencies; and

26 Whereas, it is the intention of this Legislature
27 that the Board of Environmental Protection and Com-
28 missioner of Environmental Protection have the
29 authority to consider all impacts of major new devel-
30 opment on the natural resources and existing uses
31 that will be affected by such a development, wherever
32 the impact may occur; and

33 Whereas, the Maine Supreme Judicial Court has
34 declared that "the intent and entire thrust of the
35 Site Location of Development Law is not primarily

1 directed at the development site itself, but rather
2 at the effects of the development of that site will
3 have upon the natural environment of the locality
4 surrounding the site;" and

5 Whereas, the Maine Supreme Judicial Court has, as
6 a result, interpreted the Site Location of Develop-
7 ment law to prohibit the Board of Environmental Pro-
8 tection from considering the effects that a proposed
9 development may have within the boundaries of the
10 development site; and

11 Whereas, many valuable natural resources in this
12 State are both limited in number and confined to
13 relatively small areas, including areas of
14 exceptionally high value for historic or recreational
15 use, wildlife nesting or spawning areas, and
16 high-value agricultural uses, among others; and

17 Whereas, the location of new development in these
18 areas could completely eradicate the value of the
19 area for such a use, to the substantial and
20 long-lasting detriment of the people of the state;
21 and

22 Whereas, the summer season is the principal
23 period for the planning, administrative review and
24 construction of new developments; and

25 Whereas, in the judgment of the Legislature,
26 these facts create an emergency within the meaning of
27 the Constitution of Maine and require the following
28 legislation as immediately necessary for the preser-
29 vation of the public peace, health and safety; now,
30 therefore,

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

33 Sec. 1. 38 MRSA §481, as amended by PL 1981, c.
34 449, §3, is further amended to read:

35 §481. Findings and purpose

36 The Legislature finds that the economic and
37 social well-being of the citizens of the State of
38 Maine depend upon the location of state, municipal,

1 quasi-municipal, educational, charitable, commercial
2 and industrial developments with respect to the natu-
3 ral environment of the State; that many developments
4 because of their size and nature are capable of caus-
5 ing irreparable damage to the people and the environ-
6 ment on the development sites and in their surround-
7 ings; that the location of such developments is too
8 important to be left only to the determination of the
9 owners of such developments; and that discretion must
10 be vested in state authority to regulate the location
11 of developments which may substantially affect envi-
12 ronment.

13 The Legislature further finds that certain
14 geological formations particularly sand and gravel
15 deposits, contain large amounts of high quality
16 ground water. The ground water in these formations is
17 an important public and private resource, for drink-
18 ing water supplies and other industrial, commercial
19 and agricultural uses. The ground water in these
20 formations is particularly susceptible to injury from
21 pollutants, and once polluted, may not recover for
22 hundreds of years. It is the intent of the Legis-
23 lature, that activities that discharge or may dis-
24 charge pollutants to ground water may not be located
25 on these formations.

26 The purpose of this subchapter is to provide a
27 flexible and practical means by which the State, act-
28 ing through the Board of Environmental Protection, in
29 consultation with appropriate state agencies, may
30 exercise the police power of the State to control the
31 location of those developments substantially affect-
32 ing local environment in order to insure that such
33 developments will be located in a manner which will
34 have a minimal adverse impact on the natural environ-
35 ment within the development sites and of their sur-
36 roundings and protect the health, safety and general
37 welfare of the people.

38 Sec. 2. 38 MRSA §482, sub-§3, as enacted by PL
39 1969, c. 571, §2, is amended to read:

40 3. Natural environment of a locality. "Natural
41 environment of a locality" includes the character,
42 quality and uses of land, air and waters in the
43 development site or the area likely to be affected by

1 such development, and the degree to which such land,
2 air and waters are free from nonnaturally occurring
3 contamination.

4 Sec. 3. 38 MRSA §484, sub-§2, as amended by PL
5 1971, c. 613, §5, is further amended to read:

6 2. Traffic movement. The developer has made ade-
7 quate provision for traffic movement of all types
8 into, out of or ~~into~~ within the development area;

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

12 STATEMENT OF FACT

13 This bill reverses the interpretation of the Site
14 Location of Development law given by the Maine
15 Supreme Judicial Court in Valente v. Board of Envi-
16 ronmental Protection, Decision No. 3247, June 14,
17 1983, as explained in the emergency preamble.

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