

# 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)

(EMERGENCY)  
FIRST REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 652

H.P. 450

House of Representatives, February 21, 1985

Referred to the Committee on Energy and Natural Resources and ordered printed. Sent up for concurrence.

EDWIN H. PERT, Clerk

Presented by Representative Diamond of Bangor.

Cosponsored by Senator Kany of Kennebec, Representative Hoglund of Portland and Representative Kimball of Buxton.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-FIVE

AN ACT Related to the Use and Development of  
the West Branch of the Penobscot  
River.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Land Use Regulation Commission is required by law to process Great Northern Paper Company's application to construct the "Big A" Hydroelectric Project within 105 days from January 11, 1985; and

Whereas, it is important that the Maine Land Use Regulation Commission have access to, and review, all relevant information necessary for its assessment of the application to have the maximum impact on the decision rendered on the project by the Federal Government; and

1           Whereas, an extension of that processing period  
2 is required to ensure proper and comprehensive review  
3 of the application; and

4           Whereas, an extension of the processing period  
5 would not cause a delay in construction of the  
6 project, as federal approval is necessary before any  
7 construction may begin; and

8           Whereas, federal approval of the project could  
9 not be expected until at least 1987; and

10           Whereas, the economic and environmental concerns  
11 over the impact the project would have on the future  
12 use and development of the West Branch of the  
13 Penobscot River are of importance to the people of  
14 the State; and

15           Whereas, unless this legislation is enacted as  
16 emergency legislation this time extension cannot be  
17 effected; and

18           Whereas, in the judgment of the Legislature,  
19 these facts create an emergency within the meaning of  
20 the Constitution of Maine and require the following  
21 legislation as immediately necessary for the preser-  
22 vation of the public peace, health and safety; now,  
23 therefore,

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

26           **Sec. 1. Findings.** The Legislature finds and de-  
27 clares as follows:

28           Great Northern Paper Company has filed an appli-  
29 cation with the Maine Land Use Regulation Commission  
30 pursuant to the Maine Revised Statutes, Title 38,  
31 chapter 5, subchapter I, Article I, subarticle I-B,  
32 to obtain a permit to construct a dam on the West  
33 Branch of the Penobscot River for the generation of  
34 hydroelectric power, the project known as the "Big A"  
35 Hydroelectric Project;

36           This application was determined by the Maine Land  
37 Use Regulation Commission to be completed on January  
38 11, 1985;

1 Pursuant to the Maine Revised Statutes, Title 38,  
2 section 635-A, the Maine Land Use Regulation Commis-  
3 sion is required to issue a decision on this permit  
4 application within 105 working days from January 11,  
5 1985;

6 Great Northern's "Big A" application is one of  
7 the most complex permit applications in the history  
8 of the State and will require the Maine Land Use Reg-  
9 ulation Commission to undertake extensive technical  
10 analysis of energy, financial, environmental and eco-  
11 nomic issues, as required under the Maine Revised  
12 Statutes, Title 38, section 636;

13 On March 29, 1984, Great Northern Paper Company  
14 submitted an application for a license to construct  
15 the "Big A" project to the Federal Energy Regulatory  
16 Commission pursuant to the Federal Power Act;

17 This application to the Federal Energy Regulatory  
18 Commission is only now in the initial stage of review  
19 by the Federal Energy Regulatory Commission, with no  
20 decision anticipated for several years;

21 The Federal Energy Regulatory Commission has de-  
22 cided to prepare an Environmental Impact Statement  
23 prior to deciding whether to issue a license;

24 This Environmental Impact Statement will not be  
25 completed until 1986;

26 This Environmental Impact Statement provides the  
27 Maine Land Use Regulation Commission with important  
28 data on both the environmental impacts and the eco-  
29 nomic benefits of the "Big A" project, which would  
30 otherwise be unavailable to it;

31 Adherence to the time limit in the Maine Revised  
32 Statutes, Title 38, section 635-A, under which Maine  
33 Land Use Regulation Commission is required to decide  
34 on the permit application in 105 working days, will  
35 prevent the Maine Land Use Regulation Commission from  
36 having access to this Environmental Impact Statement  
37 data;

38 Adherence to this 105-working day time limit im-  
39 poses needlessly restrictive time constraints on the

1 Maine Land Use Regulation Commission's decision-mak-  
2 ing processes and prevents the Maine Land Use Regula-  
3 tion Commission from making a complete and thorough  
4 assessment of the "Big A" project, because of the un-  
5 usual complexity of the application and the limited  
6 staff resources available to the Maine Land Use Regu-  
7 lation Commission;

8 If the Maine Land Use Regulation Commission was  
9 given an extension of 90 working days after the issu-  
10 ance of the final Environmental Impact Statement by  
11 the Federal Energy Regulation Commission in which to  
12 decide whether to grant a permit, there would be no  
13 delay in the commencement of the "Big A" project  
14 since the necessary federal license would not be  
15 ruled upon within that time.

16 **Sec. 2. Policy and purposes.** The Legislature  
17 declares that the Maine Land Use Regulation Commis-  
18 sion's decision is of such significance to the State  
19 that it should not be affected by either unnecessari-  
20 ly restrictive time constraints or incomplete infor-  
21 mation. It is the purpose of this Act to allow the  
22 Maine Land Use Regulation Commission access to the  
23 information which will be provided by the Federal En-  
24 ergy Regulation Commission on the Environmental Im-  
25 pact Statement, as well as to allow the Maine Land  
26 Use Regulation Commission sufficient time to make a  
27 complete and thorough assessment of the project.

28 **Sec. 3. "Big A" hydroelectric project; time ex-**  
29 **ension.** Notwithstanding the time limit for process-  
30 ing applications set forth in the Maine Revised Stat-  
31 utes, Title 38, section 635-A, the Maine Land Use  
32 Regulation Commission may make a decision to approve  
33 or disapprove the permit application submitted to the  
34 Maine Land Use Regulation Commission by the Great  
35 Northern Paper Company for the "Big A" project within  
36 90 working days after the issuance by the Federal En-  
37 ergy Regulatory Commission of the final Environmental  
38 Impact Statement. No decision shall be made by Maine  
39 Land Use Regulation Commission on the application  
40 prior to issuance of the Environmental Impact State-  
41 ment by the Federal Energy Regulatory Commission.

42 **Emergency clause.** In view of the emergency cited  
43 in the preamble, this Act shall take effect when ap-

1 proved.

2 STATEMENT OF FACT

3 This bill is intended to ensure that the Maine  
4 Land Use Regulatory Commission has the time and in-  
5 formation necessary to make a reasoned decision on  
6 Great Northern's "Big A" application. Under present  
7 time constraints, the Maine Land Use Regulation Com-  
8 mission, with a staff of 15 people, must complete an  
9 analysis of the application and decide whether to is-  
10 sue a permit within 105 working days--a process that  
11 will take the Federal Energy Regulatory Commission,  
12 with a staff of hundreds several years to review.  
13 The proposed extension not only ensures a thorough  
14 assessment of the project, but also allows the Maine  
15 Land Use Regulation Commission access to the informa-  
16 tion that will be developed in the Federal Energy  
17 Regulatory Commission's Environmental Impact State-  
18 ment.

19 Importantly, the extension would not cause delay  
20 in Great Northern Paper Company's ability to commence  
21 construction of the project, as no work may begin un-  
22 til the Federal Government gives its approval, which  
23 is expected no earlier than 1987. Since it is impor-  
24 tant that the decisions made in Maine carry the most  
25 influence possible, extending the Maine Land Use Reg-  
26 ulation Commission's timetable to allow for a more  
27 thorough review is important.

28

0993011885