# MAINE STATE LEGISLATURE

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1	L.D. 838
2	(Filing No. H- 191)
2	(filling No. n- 171)
3	STATE OF MAINE
4	HOUSE OF REPRESENTATIVES
5	112TH LEGISLATURE
6	FIRST REGULAR SESSION
7	COMMITTEE AMENDMENT " $oldsymbol{ heta}$ " to H.P. 567, L.D. 838,
8	Bill, "AN ACT to Protect Freshwater Wet Lands."
9	Amend the bill by striking out all of section 4
10	and inserting in its place the following:
11	'Sec. 4. 38 MRSA §407, as enacted by PL 1981, c.
12	705, Pt. W, §1, is repealed.
,	
13	Sec. 5. 38 MRSA §407-A is enacted to read:
14	§407-A. Identification of freshwater wetlands
15	1. Criteria. For the purposes of this Article,
16 17	areas identified by the department as freshwater wet-
17	lands shall be limited to areas:
18	A. Which are of 10 or more contiguous acres;
10	
19 20	B. Which are characterized predominately by wetland soils and vegetation; and
20	wectand sorts and vegetation; and
21	C. Which are not subject to the jurisdiction of
22	sections 391 to 396, sections 471 to 478 or Title
23	12, sections 7776 to 7780.
24	These areas may contain small inclusions of land that
25	does not conform to the criteria of this subsection.
26	2. Identification of freshwater wetlands. The
27 28	department may periodically review and revise the
28 29	maps identifying freshwater wetlands adopted by the commissioner, as required by Public Law 1981, chapter
30	705, Part W. The adoption or amendment of maps iden-
31	tifying freshwater wetlands shall be subject to the
32	rule-making requirements of the Maine Administrative
33	Procedure Act, Title 5, chapter 375, except as pro-

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#### COMMITTEE AMENDMENT "A" to H.P. 567, L.D. 838

- vided in this section. At least 90 days prior to the adoption or amendment of a map, the commissioner shall:
- A. Send the map of the affected area to the municipal officers or their designees;
- 6 B. Send a notice to each person recorded as owning the affected land; and
- 8 C. Publish notice in newspapers of general cir-9 culation throughout the State and in the area af-10 fected.
- During the 90-day period after the notice has been given, alteration of the affected wetland shall be prohibited without a permit.
- 3. Maps available. The map delineating the boundaries of wetlands that meet the criteria of this section shall be available at the office of the municipality in which the wetlands are located.'
- Further amend the bill in section 5, in the amending clause, 2nd line (page 3, line 18 in L.D.) by striking out the following: ", 410-D and 410-E" and inserting in their place the following: 'and 410-D'
- Further amend the bill in section 5, in that part designated "§409." by striking out all of the first paragraph and inserting in its place the following:
- 'If the applicant for a permit demonstrates, to the satisfaction of the board or municipality, as applicable, that the proposed activity will not unreasonably result in any of the following, the board or municipality, as applicable, shall grant the permit upon such terms as are necessary to ensure that the proposed activity will comply with the standards:
- 33 Further amend the bill in section 5, in that part

### COMMITTEE AMENDMENT " $\theta$ " to H.P. 567, L.D. 838

- designated "§410-A." by striking out the 3rd para-1 2 graph and inserting in its place the following:
- 3 'When a municipality which has been delegated the 4 authority to issue a permit under section 410 issues a permit, a copy of the application for the permit 5 and the permit issued by that municipality shall be 6 7 sent by registered mail to the board immediately upon 8 its issuance.
- 9 Further amend the bill in section 5 by striking out all of that part designated "§410-C." 10
- Further amend the bill in section 5, in that part 11 12 designated "§410-D." by renumbering the section to be '§410-C.' 13
- 14 Further amend the bill in section 5, by striking out all of that part designated "§410-E." and insert-15 ing in its place the following: 16
- 17 '§410-D. Exemptions
- 18 The following shall be exempt from the provisions 19 of this Article.
- 20 1. Agricultural activities. Draining freshwater wetland for the purpose of growing agri-21 22 cultural products is exempt from the provisions of this Article. This exemption applies only so long as 23 24 the land is being used for growing agricultural
- 25 products.
- 2. Forestry activities. Alteration 26 freshwater wetland associated with normal forestry 27 28 management and harvesting activities is exempt from 29 the provisions of this Article.
- 30 3. Peat mining. Alteration of a freshwater 31 wetland for the purposes of exploring for or mining 32 peat are exempt from the provisions of this Article,
- 33 but are subject to Article 6, where applicable.

### COMMITTEE AMENDMENT "A" to H.P. 567, L.D. 838

1 4. Hydropower projects. Alteration 2 freshwater wetland associated with the operation of a 3 hydropower project as defined in section 632 is ex-4 empt from the provisions of this Article, but is sub-5 ject to chapter 5, Article 1, subarticle 1-B, where applicable. 6 5. Interstate pipelines. Alteration of freshwater wetlands associated with the construction, 7 8 operation, maintenance or repair of an interstate pipeline is exempt from the provisions of this Arti-9 10 11 cle, but is subject to Article 6, where applicable. 12 6. Other. The Board of Environmental Protection 13 may by rule exempt from this Article activities hav-14 ing insignificant impact on wetland values, including, but not limited to, repairs and maintenance of 15 16 existing structures or waive such procedural requirements as it deems consistent with the purposes of 17 18 this Article. Nothing in this Article may prohibit the minor repair of existing permanent structures which would require less than a total of one cubic 19 20 yard of material to be filled, deposited, dredged, 21 22 moved or removed in any freshwater wetland; normal 23 maintenance or repair of presently existing ways, 24 roads or railroad beds; or maintenance and repair of 25 installations and facilities of any utility as de-26 fined in Title 23, section 255, abutting or crossing 27 the freshwater wetlands, provided that no watercourse 28 is substantially altered. 29 Further amend the bill by striking out all of section 6 and inserting in its place the following: 30 31 'Sec. 6. Appropriation. The following funds are opriated from the General Fund to carry out the 32 appropriated 33 purposes of this Act.

ENVIRONMENTAL PROTECTION,

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1985-86

1986-87

## COMMITTEE AMENDMENT "#" to H.P. 567, L.D. 838

1	DEPARTMENT OF		
2 3 4 5	Positions Personal Services All Other Capital Expenditures	(6) \$110,858 19,622 2,400	(6) \$158,550 4,776
6	Total	\$132,880	\$163,326'
7	STATEMENT OF FACT		
8	The purposes of this amendment are:		
9 10	1. To change the current law to reflect the fact that wetland maps have been adopted;		
11 12 13 14 15	2. To delete from the bill the requirement that municipalities which have been delegated the authority to regulate wetlands need to have permits they issue approved by the Board of Environmental Protection and to require instead that a copy of an approved permit be sent to the board;		
17 18	<ol><li>To clarify the agric exemption; and</li></ol>	cultural and	hydropower
19	4. To add an exemption	for interstate	pipelines.
20			3683051585

Reported by the Majority of the Committee on Energy and Natural Resources Reproduced and distributed under the direction of the Clerk of the House

5/24/85 (Filing No. H-191)