

MAINE STATE LEGISLATURE

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D. OFR.

1

L.D. 2107

2

(Filing No. S- 442)

3

STATE OF MAINE

4

SENATE

5

112TH LEGISLATURE

6

SECOND REGULAR SESSION

7

SENATE AMENDMENT " D " to H.P. 1495, L.D. 2107,

8

Bill, "AN ACT to Clarify the Application of Water

9

Quality Standards to Hydroelectric Projects."

10

Amend the Bill by striking out everything after

11

the title and inserting in its place the following:

12

'Emergency preamble. Whereas, Acts of the Legis-

13

lature do not become effective until 90 days after

14

adjournment unless enacted as emergencies; and

15

Whereas, certain ambiguities exist concerning the

16

statutory authority of the Board of Environmental

17

Protection and the Maine Land Use Regulation Commis-

18

sion to issue water quality certification; and

19

Whereas, this legislation is immediately neces-

20

sary to clarify that authority; and

21

Whereas, in the judgment of the Legislature,

22

these facts create an emergency within the meaning of

23

the Constitution of Maine and require the following

24

legislation as immediately necessary for the preser-

25

vation of the public peace, health and safety; now,

26

therefore,

27

Be it enacted by the People of the State of Maine as

28

follows:

29

Sec. 1. 38 MRS A §363-C is enacted to read:

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§363-C. Water quality certification of hydroelectric

31

proposals

32

In determining the appropriate water quality

33

standards to apply to a hydroelectric project appli-

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SENATE AMENDMENT " D" to H.P. 1495, L.D. 2107

1 cation under section 636, the board or, when the
2 project is to be located within the jurisdiction of
3 the Maine Land Use Regulation Commission, the Maine
4 Land Use Regulation Commission shall apply the provi-
5 sions of this section for the purpose of water quali-
6 ty certification determinations pursuant to the
7 United States Water Pollution Control Act, Section
8 401.

9 Where the board or, where appropriate pursuant to
10 chapter 5, subchapter I, article 1, subarticle 1-B,
11 the Maine Land Use Regulation Commission determines
12 that the impoundment of the proposed hydroelectric
13 development would become thermally stratified, caus-
14 ing the dissolved oxygen concentrations in the lower
15 portions of the water column, known as the
16 hypolimnion, to fall below the water quality stan-
17 dards of the existing classification, those waters
18 will not be considered to be failing to attain their
19 classification on account of that condition, provided
20 that the dissolved oxygen concentrations in the upper
21 portions of the stratified impoundment, known as the
22 epilimnion, will meet or exceed the applicable dis-
23 solved oxygen standard of the existing classification
24 for that water in addition to all other applicable
25 water quality requirements of this Title.

26 Sec. 2. 38 MRSa §636, sub-§8 is enacted to read:

27 8. Water quality certification. The project
28 meets the requirements of state and federal water
29 quality law for the issuance of a water quality cer-
30 tificate pursuant to the United States Water Pollu-
31 tion Control Act, Section 401.

32 Emergency clause. In view of the emergency cited
33 in the preamble, this Act shall take effect when ap-
34 proved.

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SENATE AMENDMENT "D" to H.P. 1495, L.D. 2107

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STATEMENT OF FACT

2 The purpose of this amendment is to provide a
 3 reasonable, administrative procedure for dealing with
 4 the ambiguity of the existing water quality standards
 5 when applied to hydroelectric proposals. This proce-
 6 dure allows hydroelectric developments to be approved
 7 when the dissolved oxygen characteristics of the pro-
 8 posed impoundment are "lake-like" so long as all oth-
 9 er provisions of the hydropower licensing and water
 10 quality laws are met.

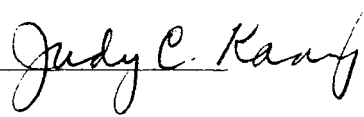
11 The amendment strengthens "one-stop" licensing by
 12 requiring that findings related to federal water
 13 quality certification be made as part of the rivers
 14 bill hydropower licensing process. The amendment
 15 makes it clear that, in order to approve a hydropower
 16 license, the Board of Environmental Protection or the
 17 Maine Land Use Regulation Commission must find that
 18 the project meets the requirements of federal and
 19 state water quality law.

20 The amendment also adds an emergency preamble and
 21 emergency clause to the bill.

22

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23 (Sen. Kany)
 24 SPONSORED BY:
 25 COUNTY: Kennebec



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