

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 883

H.P. 655 House of Representatives, March 23, 1987  
Reference to the Committee on Energy and Natural  
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative WARREN of Scarborough.

Cosponsored by Representatives RIDLEY of Shapleigh, SOUCY  
of Kittery and NADEAU of Saco.

STATE OF MAINE

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

1 AN ACT Relating to Local School Costs and the  
2 Local Subdivision Law.  
3

4 Be it enacted by the People of the State of Maine as  
5 follows:

6 30 MRSA §4956, sub-§3, as amended by PL 1985, c.  
7 794, Pt. A, §2, is further amended to read:

8 3. Guidelines. When promulgating any subdivision  
9 regulations and when reviewing any subdivision for  
10 approval, the planning board, agency or office, or  
11 the municipal officers, shall consider the following  
12 criteria and before granting approval shall determine  
13 that the proposed subdivision:

14 A. Will not result in undue water or air pollu-  
15 tion. In making this determination it shall at

- 1 least consider: The elevation of land above sea  
2 level and its relation to the flood plains, the  
3 nature of soils and subsoils and their ability to  
4 adequately support waste disposal; the slope of  
5 the land and its effect on effluents; the availa-  
6 bility of streams for disposal of effluents; and  
7 the applicable state and local health and water  
8 resources regulations;
- 9 B. Has sufficient water available for the rea-  
10 sonably foreseeable needs of the subdivision;
- 11 C. Will not cause an unreasonable burden on an  
12 existing water supply, if one is to be utilized;
- 13 D. Will not cause unreasonable soil erosion or  
14 reduction in the capacity of the land to hold wa-  
15 ter so that a dangerous or unhealthy condition  
16 may result;
- 17 E. Will not cause unreasonable highway or public  
18 road congestion or unsafe conditions with respect  
19 to use of the highways or public roads existing  
20 or proposed;
- 21 F. Will provide for adequate sewage waste dis-  
22 posal;
- 23 G. Will not cause an unreasonable burden on the  
24 ability of a municipality to dispose of solid  
25 waste and sewage, if municipal services are to be  
26 utilized;
- 27 I. Will not have an undue adverse effect on the  
28 scenic or natural beauty of the area, aesthetics,  
29 historic sites or rare and irreplaceable natural  
30 areas or any public rights for physical or visual  
31 access to the shoreline;
- 32 J. Is in conformance with a duly adopted subdi-  
33 vision regulation or ordinance, comprehensive  
34 plan, development plan, or land use plan, if any;
- 35 K. The subdivider has adequate financial and  
36 technical capacity to meet the above stated stan-  
37 dards;

1 L. Whenever situated, in whole or in part, with-  
2 in 250 feet of any pond, lake, river or tidal wa-  
3 ters, will not adversely affect the quality of  
4 that body of water or unreasonably affect the  
5 shoreline of that body of water.

6 Furthermore, when lots in a subdivision have  
7 frontage on an outstanding river segment, as de-  
8 fined in subsection 1-A, the proposed subdivision  
9 plan shall require principal structures to have a  
10 combined lot shore frontage and setback from the  
11 normal high-water mark of 500 feet. To avoid  
12 circumventing the intent of this provision, when-  
13 ever a proposed subdivision adjoins a shoreland  
14 strip narrower than 250 feet which is not lotted,  
15 the proposed subdivision shall be reviewed as if  
16 lot lines extended to the shore. These frontage  
17 and set-back provisions shall not apply either  
18 within areas zoned as general development or its  
19 equivalent under shoreland zoning, Title 12, sec-  
20 tion 4813, or within areas designated by ordi-  
21 nance as densely developed. The determination of  
22 which areas are densely developed shall be based  
23 on a finding that, as of the effective date of  
24 this Act, existing development meets the require-  
25 ments of subsection 1;

26 M. Will not, alone or in conjunction with exist-  
27 ing activities, adversely affect the quality or  
28 quantity of ground water; and

29 N. The subdivider will determine, based on the  
30 Federal Emergency Management Agency's Flood  
31 Boundary and Floodway Maps and Flood Insurance  
32 Rate Maps, whether the subdivision is in a  
33 flood-prone area. If the subdivision, or any part  
34 of it, is in such an area the subdivider will de-  
35 termine the 100-year flood elevation and flood  
36 hazard boundaries within the subdivision. The  
37 proposed subdivision plan shall include a condi-  
38 tion of plat approval requiring that principal  
39 structures on lots in the subdivision shall be  
40 constructed with their lowest floor, including  
41 the basement, at least one foot above the  
42 100-year flood elevation.

1 The municipal reviewing authority may require that  
2 the person making the application provide documenta-  
3 tion setting out the effects the subdivision would  
4 have on local public education costs. The municipal  
5 reviewing authority may assess these fees against the  
6 person making the application, upon approval of that  
7 application, as it considers sufficient to offset any  
8 rise in local public education costs due to the sub-  
9 division.

10 STATEMENT OF FACT

11 Many communities are having financial problems as  
12 a result of increasing populations. Often, the prob-  
13 lems are caused by large housing subdivisions coming  
14 into a community. These subdivisions can cause a  
15 community to have to undertake a substantial capital  
16 expenditure as a result of the growth, such as a new  
17 building, school bus or wing addition to a school.

18 This bill allows the municipal planning board,  
19 agency or office to require an applicant for subdivi-  
20 sion approval, to provide information and documenta-  
21 tion outlining the effects of the subdivision on lo-  
22 cal education costs. If those costs rise as a result  
23 of the subdivision, the municipal reviewing authority  
24 has the power to assess a one-time fee against the  
25 subdivision owner to cover those costs, as long as  
26 the costs can be directly attributed to the subdivi-  
27 sion.

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