

MAINE STATE LEGISLATURE

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L.D. 321

(Filing No. S-114)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 164, L.D. 321, Bill, "An Act to Certify and Register Municipalities under the Site Location of Development Act"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 38 MRSA §489, as amended by PL 1987, c. 812, §§17 and 18, is repealed.

Sec. 2. 38 MRSA §489-A is enacted to read:

§489-A. Municipal review of development

The Department of Environmental Protection may register municipalities to grant permits required by section 483 under the following conditions.

1. Kinds of projects. The following kinds of projects may be reviewed by registered municipalities pursuant to this section:

A. Residential and nonresidential subdivisions of 20 or more acres but less than 100 acres;

B. Structures as described in section 482, subsection 6, paragraph A, which occupy a ground area in excess of 60,000 square feet but less than 100,000 square feet;

C. Structures as described in section 482, subsection 6, paragraph A, which occupy a total floor area of 100,000 square feet or more but less than 150,000 square feet of floor area; or

D. Structures as described in section 482, subsection 6, paragraph B, which occupy a ground area in excess of 3 acres but less than 7 acres of nonvegetated land.

COMMITTEE AMENDMENT "A" to S.P. 164, L.D. 321

- 1 2. Registration. The department shall register
2 municipalities to grant permits for projects under subsection 1
3 if the municipality meets all of the following criteria:
- 5 A. A municipal planning board or reviewing authority is
6 established;
- 7
- 8 B. A comprehensive plan consistent with Title 30-A, chapter
9 187 has been adopted with standards and objectives
10 determined by the department to be at least as stringent as
11 this article;
- 12
- 13 C. Subdivision regulations have been adopted that are
14 consistent with Title 30-A, chapter 187, and determined by
15 the department to be at least as stringent as criteria set
16 forth in section 484;
- 17
- 18 D. Site plan review regulations have been adopted with
19 criteria which are determined by the department to be at
20 least as stringent as section 484;
- 21
- 22 E. A professional planning staff to provide professional
23 planning assistance and advice to the municipal reviewing
24 authority has been retained or the municipality has
25 otherwise arranged to provide professional planning
26 assistance to advise the municipal reviewing authority on
27 project review;
- 28
- 29 F. Procedures for public hearing and notification have been
30 established including:
- 31
- 32 (1) Notice to the department upon receipt of an
33 application, including a description of the project;
- 34
- 35 (2) Notice of issuance and denial to the applicant and
36 department, including the reason for denial;
- 37
- 38 (3) Public notification of the application and any
39 hearings; and
- 40
- 41 (4) Satisfactory hearing procedures;
- 42
- 43 G. Procedures for appeal by aggrieved parties of local
44 decisions are defined; and
- 45
- 46 H. A registration form, provided by the department, has
47 been completed and submitted by the municipality,
48 demonstrating compliance with the criteria under this
49 subsection.

COMMITTEE AMENDMENT "A " to S.P. 164, L.D. 321

1 3. Certification. A municipality certified by the
2 Department of Economic and Community Development under Title 30-A
3 chapter 191, may be registered if the department finds the
4 municipality has fulfilled the requirements of subsection 2 and
5 applies to be registered.

7 4. Suspension of registration. If the commissioner finds
8 that a municipality no longer meets the criteria set forth under
9 subsection 2, the commissioner may suspend the registration and
10 shall notify the municipality accordingly. If registration is
11 suspended, the commissioner shall recommend actions for the
12 municipality to come into compliance with this section.

13 5. Transition. Municipalities registered under former
14 section 489 as it existed on October 1, 1975, shall be certified
15 under this section for one year from the effective date of this
16 section. Thereafter, the municipality must comply with the
17 requirements under subsection 2.

18 6. Central list of pending projects. The department shall
19 maintain and make available a list of projects pending municipal
20 review under this section.

21 7. Technical assistance. The department and other state
22 review agencies shall provide technical assistance to
23 municipalities upon request for projects reviewed under this
24 section.

25 8. Review process. Upon final action by the municipal
26 reviewing authority of an application under this section:

27 A. The municipality shall submit to the department within
28 14 days of final action by the municipal reviewing
29 authority, one copy of the project application, one copy of
30 the record of review and action and one copy of the
31 notification form provided by the department;

32 B. The department shall review the application and, within
33 45 days of final action by the municipal reviewing
34 authority, notify the municipality if the department intends
35 to exercise jurisdiction; and

36 C. If the department does not act within the 45-day period,
37 this inaction constitutes its waiver of state jurisdiction
38 and the municipal permits shall be effective as issued.

39 9. State jurisdiction. The department shall review
40 projects for registered municipalities if:

41 A. The commissioner finds that the project will have a
42 potentially significant environmental impact, may set a
43 potentially significant environmental impact, may set a
44 potentially significant environmental impact, may set a
45 potentially significant environmental impact, may set a
46 potentially significant environmental impact, may set a
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COMMITTEE AMENDMENT "A " to S.P. 164, L.D. 321

1 precedent or could impact more than one municipality. In
3 making this finding, the commissioner shall consider all
public comments submitted to the department;

5 B. The local reviewing authority in which the project is
7 located petitions the board in writing;

9 C. The local reviewing authority, in a municipality
11 adjoining the municipality in which a project is located,
13 petitions the board in writing; or

15 D. The proposed project is located in more than one
17 municipality.

19 State jurisdiction must be exerted within 45 days of final action
21 by the municipal reviewing authority.

23 10. Appeal of decision by commissioner to review. An
25 aggrieved party may appeal the decision by the commissioner to
27 exert or not exert state jurisdiction over the proposed project
29 to the board. Review and actions taken by the department or the
31 board are subject to appeal procedures governing the department
and board.

33 11. Joint enforcement. Any person who violates any permit
35 issued under this section is subject to the provisions of section
37 349, in addition to any penalties which the municipality may
39 impose. Any permits issued or conditions imposed by a local
41 authority shall be enforced by the department and the
43 municipality that issued the permit.

45 Sec. 3. Allocation. The following funds are allocated from
47 Other Special Revenue funds to carry out the purposes of this Act.

	1989-90	1990-91
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Maine Environmental Protection Fund		
All Other	\$(30,275)	\$(70,000)
Deallocates funds due to the anticipated reduction in subdivision and structure application fees.		

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FISCAL NOTE

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This bill would:

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7 1. Result in a reduction in dedicated revenue to the
Department of Environmental Protection (Maine Environmental
9 Protection Fund, Acct. #04531.2) of \$30,275 for fiscal year
1989-90 and \$70,000 for fiscal year 1990-91. This loss of
11 dedicated revenue is based on a 15% reduction in subdivision and
structure applications expected to occur over a 12-month to
13 24-month period; and

13

15 2. Require a deallocation from the Maine Environmental
Protection Fund in the amount of \$30,275 for fiscal year 1989-90
17 and \$70,000 for fiscal year 1990-91. This deallocation is
required due to the anticipated reduction of budgeted revenue.'

19

21

STATEMENT OF FACT

23

25 This amendment clarifies the registration of municipalities
under the site location of development laws. It does not impose
27 additional review requirements on a municipality but does allow
the Department of Environmental Protection to avoid duplicative
29 reviews of certain projects under the site location of
development laws.

31

33 The current authority for municipal review of subdivisions
is expanded under this amendment to include structures and
35 projects with significant nonvegetated land. To be eligible for
this process, a municipality must have a local ordinance and
37 review process that is at least as stringent as the laws,
regulations and process used by the department to determine
compliance. To be eligible, the municipality also must have
39 access to professional planners.

39

41 This amendment differs from the original bill in that it
explicitly makes this process voluntary for municipalities that
43 qualify. It also requires the department to make available a
list of projects pending under this provision and to provide
45 technical assistance to municipalities undertaking review.

45

47 The requirements for the department to exert state
jurisdiction over projects are expanded and appeal provisions are
set forth in the law.

Reported by Senator Kany for the Committee on Energy and
Natural Resources. Reproduced and Distributed Pursuant to
Senate Rule 12.

(5/15/89)

(Filing No. S-114)