

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

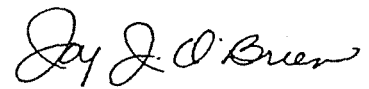
No. 321

S.P. 164

In Senate, February 22, 1989

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOY J. O'BRIEN
Secretary of the Senate

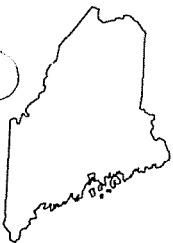
Presented by Senator LUDWIG of Aroostook.

Cosponsored by Representative NADEAU of Lewiston, Representative POULIOT of Lewiston and Representative FOSS of Yarmouth.

STATE OF MAINE

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

**An Act to Certify and Register Municipalities under the Site Location of
Development Act.**



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

3 Sec. 1. 38 MRSA §489, as amended by PL 1987, c. 812, §§17 and
5 18, is repealed.

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

9 §489-A. Municipal review of development

11 1. Registration. A municipality may apply to be registered
13 with the Department of Environmental Protection, on forms
15 provided by the department, to substitute permits issued pursuant
to Title 30-A, section 4551 for permits required by section 483
for residential and nonresidential subdivisions more than 20
acres but less than 100 acres.

17 A municipality may be registered to substitute permits required
19 by section 483 for site projects of more than 60,000 square feet
21 and less than 100,000 square feet in ground area or more than
23 100,000 square feet and less than 150,000 square feet of floor
25 area or which occupies more than 3 acres and less than 7 acres of
nonvegetated land if the municipality has adopted a site plan
review ordinance. Municipalities shall be certified by the
Department of Economic and Community Development and registered
with the department, when the municipality has:

27 A. Established a municipal planning board or reviewing
29 authority;

31 B. Adopted a comprehensive plan;

33 C. Adopted subdivision regulations consistent with Title
35 30-A, chapter 191, and site plan review regulations both of
which provide review criteria at least as protective as the
criteria set forth in section 484;

37 D. Established and maintains professional planning staff
39 responsible for advising the municipal reviewing authority
41 in project review or has otherwise arranged for the
provision of professional planning assistance to advise the
municipal reviewing authority on project review;

43 E. Made provisions for prompt notice to the department upon
45 receipt of an application, written notification to the
47 applicant and the department of the issuance of or denial of
a permit, stating the reason therefor, public notice and
satisfactory hearing procedures; and

49 F. Submitted complete registration forms to demonstrate
51 compliance with the above criteria.

1 In the event that the Commissioner of Environmental Protection
2 finds that a municipality has failed to satisfy one or more of
3 the above listed criteria, the commissioner may suspend the
4 registration and shall notify the municipality accordingly and
5 make recommendations to the municipality to establish compliance
6 with this subsection.

7
8 Registration expires on the date on which compliance under Title
9 30-A, chapter 191 is required.

11 2. Registration; certified municipalities. A municipality
12 certified by the Department of Economic and Community Development
13 under Title 30-A, chapter 191 shall be registered in accordance
14 with subsection 1, if the Department of Environmental Protection
15 finds the municipality has fulfilled the requirements of
16 subsection 1, paragraphs A to F.

17
18 3. Registration; uncertified municipalities. A
19 municipality not certified under Title 30-A, chapter 191, and
20 registered by the department prior to the effective date of this
21 section, shall continue to be registered until the date on which
22 compliance under Title 30-A, chapter 191 is required.

23
24 4. Review process. Upon review and final action by the
25 municipal reviewing authority of an application for a development
26 proposal, one copy of the project application, one copy of the
27 record of review and action by the municipal reviewing authority
28 and one copy of the notification form provided by the Department
29 of Environmental Protection shall be submitted to the department
30 within 14 days. The department shall review the application and,
31 within 30 days of final action by the municipal reviewing
32 authority, notify the municipality of the intent to exercise
33 state jurisdiction. If the department does not act within the
34 30-day period, this inaction shall constitute its waiver of state
35 jurisdiction and the municipal permits shall be effective as
36 issued.

37
38 For those projects reviewed by a registered municipality which
39 otherwise would have required state review, the municipality may
40 seek technical assistance from the Department of Environmental
41 Protection or other state review agencies.

42
43 5. State jurisdiction. The Commissioner of Environmental
44 Protection may require a project to be submitted for review in
45 accordance with sections 481 to 488, if, in the opinion of the
46 commissioner, the project will have a potentially significant
47 environmental impact, would set a precedent or would be likely to
48 impact more than one municipality. State jurisdiction must be
49 exerted within 30 days of receipt of notification of final action
50 by the local reviewing agency. State review also may be
51 initiated by petition in writing from the local reviewing
authority of the municipality in which the project is located, or

1 the local reviewing authority of an adjoining municipality. The
2 petition must be filed within 30 days of completion of the first
3 substantive review, as defined in Title 1, section 302 by the
4 municipal reviewing agencies.

5
6 6. Exception. If a proposed subdivision is located in more
7 than one municipality, the authority provided in subsection 1
8 shall not apply.

9
10 7. Joint enforcement. Any person who violates any permit
11 issued under this section is subject to section 349 in addition
12 to any penalties which the municipality may impose. This section
13 may be enforced by the department and the municipality which
14 issued the permit.

15
16
17 **STATEMENT OF FACT**

18
19
20 The purpose of this bill is to recognize the increased
21 capacity of municipalities to review development projects as a
22 result of the technical and financial assistance provided under
23 Maine's growth management law. Municipalities certified under
24 that law will be registered by the Department of Environmental
25 Protection and the department will accept the local review as
26 having satisfied the requirements of the site location of
27 development laws. Certification will be made by the Department
28 of Economic and Community Development if the standards under the
29 site location of development laws are met.

30
31 This bill will eliminate what may be unnecessary and
32 duplicative review and allow the Department of Environmental
33 Protection to focus its resources on projects that have potential
34 for significant environmental impact.
35