

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 591

H.P. 426

House of Representatives, March 6, 1989

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

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative GOULD of Greenville.

Cosponsored by Representative MICHAUD of East Millinocket, Representative JACQUES of Waterville and Senator LUDWIG of Aroostook.

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STATE OF MAINE

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

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An Act to Clarify Parties Which May Petition the Board of  
Environmental Protection for a Water Level Hearing.

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

3 **38 MRSA §840, sub-§1**, as amended by PL 1987, c. 402, Pt. A,  
5 §205, is further amended to read:

7 1. Power. The board may on its own motion and shall at the  
9 request of the owner, lessee or person in control of a dam, or  
11 upon receipt of petitions from the lesser of at least 25% or 50  
13 of the littoral or riparian proprietors or from a water utility  
having the right to withdraw water from the body of water for  
which the water level regime is sought, conduct an adjudicatory  
hearing for the purpose of establishing a water level regime for  
the body of water impounded by any dam that is neither:

15 A. Licensed by the Federal Energy Regulatory Commission;

17 B. Authorized under the Federal Power Act, Section 23;

19 C. Used to store water for a downstream facility licensed  
21 by the Federal Energy Regulatory Commission or authorized  
23 under the Federal Power Act, Section 23, provided that the  
owner of the downstream facility possessed a majority  
ownership of the upstream dam as of January 1, 1983; nor

25 D. Operating with a permit setting water levels issued  
27 under the great ponds laws, sections 391 to 394; the  
alteration of coastal wetlands laws, sections 471 to 478;  
29 the site location of development laws, sections 481 to 490;  
the small hydroelectric generating facilities laws, sections  
31 631 to 636; the land use regulation laws, Title 12, sections  
681 to 689; the stream alteration laws, sections 425 to 430;  
33 or any other statute regulating the construction or  
operation of dams.

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37 **STATEMENT OF FACT**

39 A water utility has an immediate interest in any water level  
41 regime established by the board with respect to impounded water  
which is a source of supply for the utility.

43 The purpose of this bill is to permit a water utility to  
45 petition the board to conduct a hearing to establish a water  
level regime for any such source of supply which is impounded by  
a dam.