

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 441, L.D. 624, Bill, "An Act to Establish a Harbor Management Fund and Deal with Abandoned Watercraft"

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. 12 MRSA §557, sub-§1, as enacted by PL 1975, c. 339, §6, is amended to read:

1. Public Lands Management Fund. To accomplish the purposes of this chapter, there is established a Public Lands Management Fund. All income received by the Bureau of Public Lands pursuant to section 553, subsection 3, paragraph E, excepting income from the public reserved lots and from submerged lands, shall must be recorded on the books of the State in a separate account and shall-be deposited with the Treasurer of State, to be credited to the Public Lands Management Fund.

Sec. 2. 12 MRSA §557-A is enacted to read:

§557-A. Submerged Lands Fund

1. Submerged Lands Fund. The submerged lands fund, in this section called the "fund," is established as a nonlapsing fund to support the efforts of the Bureau of Public Lands in managing submerged lands. The fund is administered by the Director of the Bureau of Public Lands.

2. Purpose. All money credited to the fund must be used to manage submerged lands except as provided in section 558-B.

Sec. 3. 12 MRSA §558-A, sub-§10 is enacted to read:

COMMITTEE AMENDMENT

2 10. Revenues. All revenues from the bureau's activities
3 under this section accrue to the Submerged Lands Fund established
4 in section 557-A.

6 Sec. 4. 12 MRSA §558-B is enacted to read:

8 §558-B. Shore and Harbor Management Fund

10 1. Creation of fund. The Shore and Harbor Management Fund,
11 referred to in this section as the "fund," is established as a
12 nonlapsing fund to support shore and harbor management
13 improvement activities. The fund is administered by the Director
14 of the Bureau of Public Lands.

16 2. Purpose. The purpose of the fund is to support shore
17 and harbor management improvement activities by providing grants
18 to municipalities. These activities include but are not limited
19 to the development of harbor management plans and public access
20 facilities.

22 3. Revenues. Annual revenues in excess of the operating
23 expenses of the submerged lands leasing program described in
24 section 558-A and the expenses of the abandoned watercraft
25 program described in chapter 202-C must be deposited in the fund.

26 4. Administration. The director shall develop criteria for
27 awarding grants under this section. Money in the fund not
28 immediately required pursuant to this section must be invested by
29 the Treasurer of State as authorized by Title 5, section 138.
30 Interest on these investments must be credited to the fund.

32
34 Sec. 5. 12 MRSA c. 202-C is enacted to read:

36 CHAPTER 202-C

38 ABANDONED WATERCRAFT

40 §591. Definitions

42 As used in this chapter, unless the context otherwise
43 indicates, the following terms have the following meanings.

44 1. Abandoned watercraft. "Abandoned watercraft" means any
45 watercraft that is inoperative and neglected, submerged or
46 partially submerged or that has been left by the owner in coastal
47 waters without intention of removal. This includes motors,
48 electronic and mechanical equipment and other machinery
49 customarily used in the operation of watercraft.
50

2 2. Director. "Director" means the Director of the Bureau
of Public Lands.

4 3. Owner. "Owner" means the person who claims lawful
possession of a watercraft by legal title or equitable interest
6 in the watercraft that entitles that person to possession.

8 4. Coastal waters. "Coastal waters" means those waters
within the jurisdiction of the State under Title 1, section 2,
10 including intertidal land as defined in section 572.

12 5. Watercraft. "Watercraft" means any type of vessel,
boat, barge, float or craft 20 or more feet in length that is
14 used or capable of use as a means of transportation on water.
"Watercraft" includes seaplanes.

16 **§592. Eligibility**

18 An abandoned watercraft is subject to removal under this
20 chapter only under the following conditions.

22 1. Illegal abandonment. A permit under Title 38, section 9
has not been granted by the municipal board or commission
24 entrusted with harbor management for the area.

26 2. Landowner permission. A landowner has not granted
permission to a watercraft owner to abandon a watercraft on that
28 landowner's property.

30 3. Prompt notice. Notice has been given the director
within 120 days of abandonment of watercraft abandoned after July
32 1, 1993.

34 4. Watercraft abandoned less than 25 years. Notice has
been given the director before January 1, 1994 of watercraft
36 abandoned for less than 25 years before the effective date of
this section.

38 5. Watercraft abandoned more than 25 years. Watercraft
that has been abandoned for more than 25 years before the
40 effective date of this section is not subject to removal under
42 this chapter.

44 The municipal board or commission entrusted with harbor
management is responsible for the notice requirements under this
46 section.

48 **§593. Ownership**

50 The municipal board or commission entrusted with harbor
management shall attempt to determine the owner of a watercraft
52 considered by that body to be abandoned.

2 §594. Responsibility of the director

4 1. Owner notification. After notification under section
6 592, the director shall investigate any report of an abandoned
8 watercraft and give notice to the owner if an owner can be
10 identified. The notice must require the owner to respond within
12 15 days and to remove the watercraft from the coastal waters
14 within 60 days of notification by the director or, if the
16 watercraft is icebound, within 60 days of ice-out in the body of
18 water where the watercraft is located. If the owner of a
20 watercraft to whom the director has given notice does not respond
22 to the notice and remove the watercraft within the time period
24 specified, or the owner can not be identified or contacted, the
26 watercraft is considered abandoned.

2. Removal by State. Beginning July 1, 1993 the director
shall establish and implement, subject to available funding, a
program to remove from coastal waters those abandoned watercraft
that have been reported under section 593. The program must
provide that if another agency of government is responsible for
removal of an abandoned watercraft, the director shall notify
that agency of the existence of that abandoned watercraft.
Funding for removal by the director comes from funds available
from the Submerged Lands Fund.

3. Removal by 3rd party. The director may authorize a 3rd
party to remove abandoned watercraft if the director is satisfied
that the work will be completed. Ninety-five percent of the
proceeds from the sale of the salvaged watercraft accrue to the
3rd party and 5% accrue to the Submerged Lands Fund.

4. Hazardous conditions. Notwithstanding the time periods
for owner removal specified in subsection 1, if the director
determines at any time that a watercraft is a health or safety
hazard, the director may immediately remove the watercraft from
the coastal waters.

5. Disposal of watercraft. If the director removes a
watercraft from coastal waters under this section, the director
may sell the watercraft. Any proceeds from the sale must first
be applied to the costs to the State directly related to the
expense of removal of the watercraft. The money may then be
applied to any liens against the watercraft. Any money that
remains must accrue to the Submerged Lands Fund established under
section 557-A.

6. Intertidal land. Abandoned watercraft located on
intertidal land may not be removed by the director without the
permission of the landowner.

2 7. Rules. The director may adopt, in accordance with Title
3 5, chapter 375, rules necessary to carry out the purposes of this
4 chapter.

5 §595. Method of removal

6 The method of removal of abandoned watercraft, whether by
7 the owner, by a 3rd party or by the State, must comply with all
8 state and federal environmental laws.

9 §596. Civil action

10 If the State is not compensated for removal costs under the
11 provisions of section 594, the State may bring a civil action
12 against the owner of the abandoned watercraft to cover any cost
13 of state removal of the abandoned watercraft from coastal
14 waters. The court in its discretion may award an additional 50%
15 of the cost of removal. The penalty is payable to the submerged
16 lands leasing program.

17 **Sec. 6. Allocation.** The following funds are allocated from the
18 Public Lands Management Fund to carry out the purposes of this
19 Act.

	1991-92	1992-93
CONSERVATION, DEPARTMENT OF		
Public Lands Management Fund		
Positions	(2.0)	(2.0)
Personal Services	(\$50,267)	(\$70,685)
All Other	(22,073)	(29,550)
Capital Expenditures	(4,080)	(2,000)
Provides for the deallocation of funds to transfer submerged land activities to the Submerged Lands Fund.		
DEPARTMENT OF CONSERVATION		
TOTAL	(\$76,420)	(\$102,235)

20 **Sec. 7. Allocation.** The following funds are allocated
21 from the Submerged Lands Fund to carry out the purposes of this
22 Act.

	1991-92	1992-93
CONSERVATION, DEPARTMENT OF		
Submerged Lands Fund		

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2	Positions	2.0	2.5
	Personal Services	\$50,267	\$76,935
4	All Other	22,073	30,550
	Capital Expenditures	4,080	3,000
6			
8	Provides funds for a		
	part-time Planning and		
10	Research Associate I		
	position, a part-time		
12	Resource Administrator		
	position, a Planning and		
14	Research Associate II		
	position and general		
16	operating expenses to		
	implement submerged land		
18	activities. This allocation		
	also provides funds for a		
20	part-time Planning and		
	Research Associate position		
22	for fiscal year 1992-93 to		
	manage abandoned watercraft		
24	activities.		
26	DEPARTMENT OF CONSERVATION		
	TOTAL	<u>\$76,420</u>	<u>\$110,485</u>

FISCAL NOTE

30 **1992-93**
APPROPRIATIONS/ALLOCATIONS

32 Other Funds \$8,250

34 This bill establishes a Submerged Lands Fund and a Shore and
 36 Harbor Management Fund administered by the Bureau of Public
 38 Lands. Submerged lands rental fees currently deposited in the
 40 Public Lands Management Fund will be deposited in the Submerged
 42 Lands Fund. The dedicated revenue transferred is estimated at
 44 \$76,420 in fiscal year 1991-92 and \$110,485 in fiscal year
 46 1992-93. Current allocations from the Public Lands Management
 48 Fund to the submerged lands program are reduced by \$76,420 and
 \$102,235 and reallocated from the Submerged Lands Fund with a net
 increase of allocations of \$8,250 in fiscal year 1992-93. If
 this revenue exceeds allocations from the Submerged Lands Fund,
 the excess will accrue to the Shore and Harbor Management Fund
 and can be expended by financial order authorization.

This bill provides that the State may bring an action in
 District Court to recover the costs of removing abandoned
 watercraft from coastal waters. The additional workload and
 administrative costs associated with the few cases generated by

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2 the new civil provisions will be absorbed within the budgeted
resources of the Judicial Department. The Department of the
4 Attorney General will absorb the costs associated with bringing
civil action to recover costs within its budgeted resources.'

6
8 **STATEMENT OF FACT**

10 This amendment differs from the original bill in that it
creates a broader shore and harbor management fund to support
12 activities along the shore as well as in harbors. The Shore and
Harbor Management Fund is financed by excess revenues from the
submerged lands program rather than by a statewide mooring fee.

14 The sections of this amendment relating to abandoned
16 watercraft specify criteria for reporting requirements and for
eligibility for removal, allow implementation of the program
18 subject to available funding, allow removal by 3rd parties and
increase the penalty for abandonment. A criminal provision is
20 removed. Money is reallocated to the Submerged Lands Fund and a
fiscal note is added.
22

Reported by the Committee on Energy and Natural Resources.
Reproduced and distributed under the direction of the Clerk
of the House.
(5/15/91) (Filing No. H-330)