

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 986, L.D. 1431, Bill, "An Act to Require the Department of Human Services to Certify all Septic Systems on Bodies of Water Used for Drinking Water Supplies before Requiring Filtration Systems"

Amend the bill by striking out all of the title and substituting the following:

'An Act to Allow Consumer-owned Water Utilities to Replace Malfunctioning Wastewater Disposal Systems under Certain Circumstances'

Further 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'Sec. 1. 22 MRSA §2647, as amended by PL 1983, c. 785, §6, is repealed.

Sec. 2. 22 MRSA §2647-A is enacted to read:

§2647-A. Protection of public water source

Any water utility or municipality and the department are authorized to take reasonable steps to protect a public water source from pollution.

1. Right of entry for water utility. Employees or agents of a water utility may enter upon land within 1,000 feet of a public water source or upon land used for commercial or industrial purposes having a facility, structure or system draining into or suspected of flowing or seeping into a public water source and inspect the facility, structure or system, including any building or structure on that land. Entry onto property under this subsection is not a trespass. The power of entry and inspection may be exercised only after the water utility has made a reasonable effort to obtain permission from the landowner for the inspection.

2 2. Right of entry for department and consumer-owned water
3 utility. Employees or agents of the department or of a
4 consumer-owned water utility as defined in Title 35-A, section
5 6101 may enter any property at reasonable hours or enter any
6 building with the consent of the owner, occupant or agent to
7 inspect a wastewater disposal system draining into or suspected
8 of flowing or seeping into a public water source. Entry onto
9 property under this subsection is not a trespass. An employee or
10 agent of the department or consumer-owned utility may seek an
11 administrative inspection warrant pursuant to the Maine Rules of
12 Civil Procedure, Rule 80E to carry out the purposes of this
13 subsection.

14 3. Remedy. In addition to rights granted to municipal
15 officers under Title 30-A, section 3428, any local or state
16 health inspector or officer may order the owner of any facility,
17 structure or system flowing or seeping into and contaminating a
18 public water source, if the contamination may result in risk to
19 the public health, to remedy the situation. The order must be
20 served in writing and state a time in which the order must be
21 complied with. An order made pursuant to this subsection is not
22 considered an adjudicatory proceeding within the meaning of the
23 Maine Administrative Procedure Act. Any person aggrieved by an
24 order may appeal to the Superior Court within 30 days.

25 4. Court-ordered remedies. The water utility, municipality
26 or department may petition the Superior Court upon failure of the
27 person named in an order served under subsection 3 to comply with
28 that order. The court, after hearing, may order that appropriate
29 measures be taken.

30 5. Remedy ordered by water district or consumer-owned
31 utility. If the municipal officers have failed to act on a
32 malfunctioning wastewater disposal unit under Title 30-A, section
33 3428 and have notified a consumer-owned water utility as defined
34 in Title 35-A, section 6101 in writing of their failure to do so,
35 the consumer-owned water utility may assume the rights of
36 municipal officers under Title 30-A, section 3428, except that it
37 may not assess a special tax under Title 30-A, section 3428,
38 subsection 4, paragraph B.

39 6. Effect on other law. Nothing in this section may be
40 construed to limit in any way any private and special or other
41 law granting a water utility or municipality greater controls for
42 protecting its public water source than those set forth in this
43 section.

FISCAL NOTE

44 The costs associated with seeking and processing
45 administrative inspection warrants will be absorbed within the

2 budgeted resources of the Judicial Department and the Department
4 of Human Services.'

6 **STATEMENT OF FACT**

8
10 This amendment replaces the original bill with language
12 allowing greater authority to consumer-owned water utilities to
14 remedy malfunctioning wastewater disposal systems. Existing law
governing the rights of water utilities to protect their source
of water supply is repealed and reorganized into subsections.

16 The amendment also adds authority for a consumer-owned water
18 utility to obtain a search warrant to inspect a malfunctioning
wastewater disposal system through the Maine Rules of Civil
20 Procedure, Rule 80E. In addition, a consumer-owned water utility
may remedy the system if municipal officials have stated that
they will not pursue the incident. The utility can recover its
costs through a civil action.

22

Reported by the Committee on Energy and Natural Resources.
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the House.
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