

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1027, L.D. 1500, Bill, "An Act to Amend Certain Laws Governing Hazardous Waste, Septage and Solid Waste Management to Include a Land Acquisition and Eminent Domain Provision for the Remediation of Hazardous Substances and to Provide for the Reimbursement of Expenditures Made for the Acquisition of Property"

Amend the bill after the enacting clause and before section 1 by inserting the following:

'Sec. 1. 38 MRSA §1364, sub-§5, as repealed and replaced by PL 1991, c. 66, Pt. A, §40, is amended to read:

5. **Mitigation.** The commissioner may take whatever action necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by an uncontrolled site or to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards, and implementing remedies to remove, store, treat, dispose of or otherwise handle hazardous substances located in, on or over an uncontrolled site, including soil and water contaminated by hazardous substances. When the necessary action includes the installation of a public water supply or the extension of mains of an existing water utility, the department's obligation is limited to construction of those works that are necessary to furnish the contaminated or potentially contaminated properties with a supply of water sufficient for existing uses. The department is not obligated to contribute to a water utility's system development charge, nor to provide works or water sources exceeding those required to abate the threats or hazards posed by the uncontrolled site. The department may pay the costs of operation, maintenance and depreciation of the works or water supply for a period not exceeding 20 years if funds are available from Other Special Revenue or proceeds from the sale of bonds.'

2 Further amend the bill in section 1 in subsection 7 in the
3 5th and 6th lines (page 1, lines 9 and 10 in L.D.) by striking
4 out the following: "a discharge of hazardous substances" and
5 inserting in its place the following: 'threats or hazards posed
6 or potentially posed by an uncontrolled site'

8 Further amend the bill in section 1 in subsection 7 in
9 paragraph A (page 1, lines 12 and 13 in L.D.) by striking out
10 everything after the following: "further" and inserting in its
11 place the following: 'threats or hazards and to mitigate or
12 terminate the threats or hazards:'

14 Further amend the bill in section 1 in subsection 7 in
15 paragraph C in the 2nd line (page 1, line 19 in L.D.) by striking
16 out the following: "a discharge of"

18 Further amend the bill in section 1 in subsection 7 in the
19 last paragraph by inserting before the last sentence the
20 following: 'The commissioner shall report on the circumstances
21 of any taking by eminent domain to the joint standing committee
22 of the Legislature having jurisdiction over natural resource
23 matters during the next regular session following the acquisition
24 of any property by eminent domain.'

26 Further amend the bill by inserting at the end before the
27 statement of fact the following:

30 **FISCAL NOTE**

32 This bill authorizes the Department of Environmental
33 Protection to acquire property, if necessary, utilizing the
34 Uncontrolled Sites Fund in order to remediate sites as a result
35 of hazardous substance contamination. This authority will result
36 in a cost avoidance to the department when dealing with alternate
37 water supplies. No additional allocations are required for the
38 Uncontrolled Sites Fund at this time.

40 This bill also requires the department to submit a report to
41 the Legislature. These costs will be absorbed.

42 The additional work load and administrative costs associated
43 with a minimal number of additional cases filed in Superior Court
44 will be absorbed within the budgeted resources of the Judicial
45 Department. The Department of the Attorney General will absorb
46 the costs associated with reimbursement actions within budgeted
47 resources.'

50 Further amend the bill by renumbering the sections to read
consecutively.

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STATEMENT OF FACT

This amendment adds a requirement for the Commissioner of Environmental Protection to report to the Legislature whenever eminent domain proceedings are used pursuant to the Maine Revised Statutes, Title 38, section 1364, subsection 7. The amendment also specifies that the Department of Environmental Protection is responsible to a water utility only for providing the capital improvements for supplying water for existing uses on a contaminated site. This amendment also makes the terms that describe a discharge of hazardous substances more consistent with terms used in current law. A fiscal note is also added.

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-327)