

# MAINE STATE LEGISLATURE

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P. 922

L.D. 2369

(Filing No. S- 719)

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 922, L.D. 2369, Bill, "An Act to Further Enhance and Protect Maine's Great Ponds"

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. 5 MRSA §12004-I, sub-§24-B is enacted to read:

<u>24-B.</u>	<u>Great Pond</u>	<u>Not Autho-</u>	<u>38 MRSA</u>
<u>Environment</u>	<u>Task Force</u>	<u>rized</u>	<u>§1842</u>

Sec. 2. 12 MRSA §7792, sub-§5, as amended by PL 1991, c. 301, §2, is further amended to read:

5. Restrictions for airmobiles. Rules restricting the operation of airmobiles in fish or wildlife preserves, conservation areas or other areas where the operation may harm the natural environment; and

Sec. 3. 12 MRSA §7792, sub-§6, as enacted by PL 1991, c. 301, §3, is amended to read:

6. Scalloping permitted by rule; Frenchboro area. Rules permitting the taking of scallops in the Frenchboro area, as defined in section 6954-A, subsection 1, except that the rules may not permit the use of drags more than 30 inches wide and may not permit the use of drag ropes more than 3/8 inch in diameter, ~~and~~ and

Sec. 4. 12 MRSA §7792, sub-§7 is enacted to read:

7. Areas off limits to watercraft. Rules to define areas off limits to all watercraft during time periods critical for wildlife protection.

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2           **Sec. 5. 12 MRSA §7792**, as amended by PL 1991, c. 301, §§2 and  
3, is further amended by adding at the end a new paragraph to  
4 read:

6           Rules adopted pursuant to this section must be written in a  
7 clear and easy-to-understand format for educational purposes.  
8 These rules must be attached to and distributed with each  
9 watercraft registration form together with a summary of the rules  
10 and information on how to prevent water contamination and  
11 minimize wildlife disturbance.

12           **Sec. 6. 30-A MRSA §4215, sub-§2, ¶¶B and C**, as amended by PL  
13 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

16           B. A replacement for an existing ~~waste--water~~ wastewater  
17 disposal system has been constructed so that it  
18 substantially complies with departmental rules and  
19 applicable municipal ordinances; or

20           C. The dwelling unit's ~~waste--water~~ wastewater is connected  
21 to an approved sanitary sewer system; ~~or~~.

24           **Sec. 7. 30-A MRSA §4215, sub-§2, ¶D**, as amended by PL 1989, c.  
25 104, Pt. A, §42 and Pt. C, §§8 and 10, is repealed.

26           **Sec. 8. 30-A MRSA §4326, sub-§3, ¶C**, as enacted by PL 1989, c.  
27 104, Pt. A, §45 and Pt. C, §10, is amended to read:

30           C. Protect, maintain and, when warranted, improve the water  
31 quality of each water body pursuant to Title 38, chapter 3,  
32 subchapter I, article 4-A and ensure that the water quality  
33 will be protected from long-term and cumulative increases in  
34 phosphorus from development in great pond watersheds;

36           **Sec. 9. 30-A MRSA §4326, sub-§3, ¶H**, as enacted by PL 1989, c.  
37 104, Pt. A, §45 and Pt. C, §10, is amended to read:

38           H. Ensure that the value of historical and archeological  
39 resources is recognized and that protection is afforded to  
40 those resources that merit it; and

42           **Sec. 10. 30-A MRSA §4326, sub-§3, ¶I**, as amended by PL 1991, c.  
43 622, Pt. F, §29, is further amended to read:

46           I. Encourage the availability of and access to traditional  
47 outdoor recreation opportunities, including, without  
48 limitation, hunting, boating, fishing and hiking; and  
49 encourage the creation of greenbelts, public parks, trails  
50 and conservation easements. Each municipality should

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2 identify and encourage the protection of undeveloped  
3 shoreland and other areas identified in the local planning  
4 process as meriting such protection; and

6 Sec. 11. 30-A MRSA §4326, sub-§3, ¶J is enacted to read:

8 J. Develop management goals for great ponds pertaining to  
9 the type of shoreline character, intensity of surface water  
10 use, protection of resources of state significance and type  
11 of public access appropriate for the intensity of use of  
12 great ponds within a municipality's jurisdiction.

14 Sec. 12. 30-A MRSA §4404, sub-§§15 and 16, as enacted by PL  
15 1989, c. 878, Pt. A, §86, are amended to read:

16 15. River, stream or brook. Any river, stream or brook  
17 within or abutting the proposed subdivision has been identified  
18 on any maps submitted as part of the application. For purposes  
19 of this section, "river, stream or brook" has the same meaning as  
20 in Title 38, section 480-B, subsection 9; and

22 16. Storm water. The proposed subdivision will provide for  
23 adequate storm water management;

24 Sec. 13. 30-A MRSA §4404, sub-§17, as enacted by PL 1989, c.  
25 762, §3 and affected by §4, is amended to read:

28 17. Spaghetti-lots prohibited. If any lots in the proposed  
29 subdivision have shore frontage on a river, stream, brook, great  
30 pond or coastal wetland as these features are defined in Title  
31 38, section 480-B, none of the lots created within the  
32 subdivision have a lot depth to shore frontage ratio greater than  
33 5 to 1; and

34 Sec. 14. 30-A MRSA §4404, sub-§18 is enacted to read:

36 18. Lake phosphorus concentration. The long-term  
37 cumulative effects of the proposed subdivision will not  
38 unreasonably increase a great pond's phosphorus concentration  
39 during the construction phase and life of the proposed  
40 subdivision.

42 Sec. 15. 30-A MRSA §4406, sub-§4 is enacted to read:

44 4. Permit display. A person issued a permit pursuant to  
45 this subchapter in a great pond watershed shall have a copy of  
46 the permit on site while work authorized by the permit is being  
47 conducted.

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2           **Sec. 16. 38 MRSA §3, first ¶**, as repealed and replaced by PL  
1987, c. 655, §3, is amended to read:

4           In all harbors wherein channel lines have been established  
6           by the municipal officers, as provided in section 2, and in all  
7           other coastal and tidal waters and harbors and great ponds where  
8           mooring rights of individuals are claimed to be invaded and  
9           protection is sought of the harbor master, the harbor master  
10          shall assign and indicate only to the masters or owners of boats  
11          and vessels the location which that they may occupy for mooring  
12          purposes and shall change the location of those moorings from  
13          time to time when the crowded condition of that harbor or great  
14          pond, the need to conform to section 7-A or other conditions  
15          render the change desirable.

16           **Sec. 17. 38 MRSA §410-I, sub-§2**, as enacted by PL 1991, c.  
17          345, is amended to read:

18           **2. Ranking of watersheds.** In cooperation with the  
19          commissioner, the agencies identified in subsection 1 shall  
20          identify those watersheds that should receive highest priority  
21          for corrective action for nonpoint source pollution and those  
22          actions recommended in great pond watersheds to control  
23          phosphorus runoff.

24           **Sec. 18. 38 MRSA §410-J, sub-§4**, as enacted by PL 1991, c.  
25          345, is amended to read:

26           **4. Development.** The commissioner shall develop best  
27          management practice guidelines to reduce and prevent nonpoint  
28          source pollution from development-related activities. State  
29          agencies shall follow these guidelines in construction or  
30          remodeling activities for state buildings and other capital  
31          improvements. The commissioner shall provide guidance and  
32          technical assistance to the ~~Department of Economic and~~ Office of  
33          Community Development and municipalities to support  
34          implementation through growth management programs ~~required~~  
35          authorized by the growth management laws, Title 30-A, chapter  
36          187, subchapter II and municipal subdivision ordinances.

37           **Sec. 19. 38 MRSA §410-K**, as enacted by PL 1991, c. 345, is  
38          amended to read:

39           **§410-K. Program review**

40           Prior to January 1, 1993, the commissioner shall submit to  
41          the joint standing committee of the Legislature having  
42          jurisdiction over energy and natural ~~resources~~ resource matters a  
43          report detailing the effectiveness of the program and making  
44          recommendations for program improvements and fee amounts for

2 permit applications under chapter 3, subchapter I, articles 5-A  
3 and 6. The commissioner shall make recommendations on the  
4 advisability of enacting statutory or regulatory exemptions from  
5 the water quality discharge licensing requirements of section 413  
6 for those activities conducted in compliance with best management  
7 practice guidelines under this article. The commissioner shall  
8 submit with these recommendations an analysis of the legal and  
9 enforcement issues raised by these exemptions, specifically, the  
10 need to adopt by rule best management practice guidelines. In  
11 recommending fees pursuant to this section, the commissioner  
12 shall consider the cost of technical review and compliance  
13 inspection for best management practices and shall recommend fees  
14 that cover these costs.

15 Sec. 20. 38 MRSA §417-A is enacted to read:

16 §417-A. Manure spreading

17 When the ground is frozen, a person may not spread manure on  
18 agricultural fields within a great pond watershed unless this  
19 activity is in accordance with a conservation plan for that land  
20 on file with a state soil and water conservation district.

21 Sec. 21. 38 MRSA §419, sub-§1, ¶C-1 is enacted to read:

22 C-1. "Household laundry detergent" as used in this section  
23 means a cleaning agent used primarily in private residences  
24 for washing clothes.

25 Sec. 22. 38 MRSA §419, sub-§2-A is enacted to read:

26 2-A. Household laundry detergent. After January 1, 1993, a  
27 person may not sell or offer for sale in this State a household  
28 laundry detergent that contains more than 0.5% phosphorus by  
29 weight expressed as elemental phosphorus.

30 Sec. 23. 38 MRSA §438-A, sub-§1, as amended by PL 1991, c. 46,  
31 §2, is further amended to read:

32 1. Land use guidelines. In accordance with Title 5,  
33 chapter 375, subchapter II, the Board of Environmental Protection  
34 shall adopt, and from time to time shall update and amend,  
35 minimum guidelines for municipal zoning and land use controls  
36 which that are designed to carry out the legislative purposes  
37 described in section 435 and the provisions of this article.  
38 These minimum guidelines shall must include provisions governing  
39 building and structure size, setback and location, and  
40 establishment of resource protection, general development,  
41 limited residential, commercial fisheries and maritime  
42 activities, activity zones and other zones. Within each zone,

the board shall prescribe uses which that may be allowed with or without conditions and shall establish criteria for the issuance of permits and nonconforming uses, land use standards and administrative and enforcement procedures. These guidelines must also include a requirement for a person issued a permit pursuant to this article in a great pond watershed to have a copy of the permit on site while work authorized by the permit is being conducted. The board shall comprehensively review and update its guidelines and shall reevaluate and update the guidelines at least once every 4 years.

A. Minimum guidelines adopted by the board under this subsection may not require the issuance of a municipal permit for the repair and maintenance of an existing road culvert or for the replacement of an existing road culvert, as long as the replacement culvert is:

(1) Not more than one standard culvert size wider in diameter than the culvert being replaced;

(2) Not more than 25% longer than the culvert being replaced; and

(3) Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this paragraph shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block fish passage in the water course.

Sec. 24. 38 MRSA §480-E, sub-§6 is enacted to read:

6. Permit display. A person issued a permit pursuant to this article for activities in a great pond watershed shall have a copy of the permit on site while work authorized by that permit is being conducted. Activities exempt by rule from the requirements of this article are not required to be in compliance with this subsection.

Sec. 25. 38 MRSA §485-A, sub-§4 is enacted to read:

4. Permit display. A person issued a permit pursuant to this article for activities in a great pond watershed shall have a copy of the permit on site while work authorized by that permit is being conducted.

Sec. 26. 38 MRSA c. 20 is enacted to read:

CHAPTER 20

PROTECTION OF MAINE LAKES

§1841. Declaration of policy

Maine's great ponds are an important element of the State's economy and traditional way of life. Their abundance and relatively high water quality are precious resources in light of the growing inadequacy of water supplies and the deterioration of natural settings and habitat in many other states. The use of great ponds as a source for drinking water, recreation and power production is vital to the State.

To protect the public trust, the State's great ponds must be protected from degradation. They must be managed according to watershed boundaries, while a diversity of lake setting types within each region of the State is maintained. Potable water from the State's great ponds should require minimal treatment.

A primary goal of the protection of the State's great ponds is to ensure that consistent land use management policies and regulations are applied throughout the direct watershed of each great pond.

The State's goals in managing the surface uses of great ponds are to avoid or minimize conflicts among recreational users, energy producers, shoreland owners and other users; maintain traditional water-dependent businesses; and ensure that the intensity of use allowed on a great pond is in keeping with its capacity to accommodate that use.

§1842. Great Pond Task Force

There is established, pursuant to Title 5, section 12004-I, subsection 24-B, the Great Pond Task Force, referred to in this chapter as the "task force," to coordinate the State's great pond protection efforts.

1. Composition. The task force is composed of the State Planning Director or the director's designee, who serves as chair; the Commissioner of Conservation, the Commissioner of Environmental Protection, the Commissioner of Transportation, the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife or the commissioners' designees; the Director of the Division of Health Engineering within the Department of Human Services or the director's designee; the Director of the Natural Resources Center at the University of Maine or the director's designee; and 4



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2 public members appointed by the Governor representing  
3 environmental concerns, recreational concerns, the concerns of  
4 landowners and the interests of water utilities.

6 2. Terms. Public members are appointed for 3-year terms,  
7 except initial terms are as follows: one public member is  
8 appointed for a one-year term; one public member is appointed for  
9 a 2-year term; and 2 public members are appointed for 3-year  
10 terms. A member may not serve more than 2 consecutive 3-year  
11 terms.

12 3. Duties. The task force shall:

14 A. In developing the management strategy as directed under  
15 section 1843, solicit input from the public, municipal  
16 officers and interested organizations;

18 B. Develop guidelines for state rules governing surface  
19 uses of great ponds that avoid or minimize conflicts between  
20 user groups;

22 C. Develop guidelines to establish a great pond  
23 classification system according to the intensity of  
24 development and use of the great pond. This system should  
25 be as consistent with the classification system used by the  
26 Maine Land Use Regulation Commission as possible;

28 D. Develop guidelines, recommended siting procedures and  
29 recommended standards for state construction of public  
30 access sites and recommend policies for siting permanent or  
31 temporary public toilets at boat launching facilities funded  
32 by the State;

34 E. Develop a plan for strengthening enforcement for  
35 violations occurring on and around great ponds through  
36 training, equipping and funding municipal enforcement. This  
37 plan must include a review of appropriate funding  
38 mechanisms, including dedicated funds, and recommendations  
39 for streamlining the enforcement process for violations  
40 occurring on and around great ponds;

42 F. In updating the great ponds management strategy,  
43 reevaluate the department's phosphorus allocation method and  
44 how it can be applied in the State;

46 G. Educate the public about activities detrimental to water  
47 quality in great ponds, including the use of lawn  
48 fertilizers and pesticides;

2 H. Subject to available funding, develop a plan for phasing  
4 out substandard wastewater disposal systems around great  
6 ponds pursuant to this chapter; and

8 I. Work with the Department of Human Services to study how  
10 to improve the removal of phosphorus in wastewater disposal  
12 systems and mechanisms to accomplish this process.

14 **§1843. Great ponds management strategy**

16 The task force shall develop a state great ponds management  
18 strategy in keeping with the goals of section 1841 by July 1,  
20 1993. The strategy must be reviewed and updated at least every 5  
22 years. The strategy must:

24 1. Goals. Include a statement of goals for great ponds  
26 that includes but is not limited to:

28 A. Maintaining water quality in the State's great ponds or,  
30 where water quality is already degraded, restoring it so  
32 that algal blooms do not occur;

34 B. Ensuring that water quality is protected from long-term  
36 and cumulative increases in pollution;

38 C. Maintaining the ecological functions, biological  
40 diversity and important habitat of the natural ecosystem;

42 D. Avoiding the increase of natural hazards such as  
44 flooding;

46 E. Protecting the quality of drinking water;

48 F. Maintaining the traditional use and character of great  
50 ponds and their environs; and

G. Ensuring that the public can gain reasonable access to  
all great ponds.

2. Prevention efforts. In allocating state resources for  
great ponds management, give priority to preventing the  
deterioration of water quality over restoration efforts; and

3. Research. Include a research plan to determine  
significant existing or potential threats to water quality and  
other special values.

**Sec. 27. Phaseout of substandard wastewater disposal systems.**  
Subject to available funding, the Great Pond Task Force shall  
develop a plan to phase out substandard wastewater disposal

8. H. of C.

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2 systems within 100 feet of great ponds based on available  
resources and the risk to great ponds. The plan must consist of  
4 the following components:

6 1. A compilation of available data to identify:

8 A. The possible number of substandard wastewater disposal  
systems within 100 feet of great ponds;

10 B. The great ponds in this State that are most at risk from  
malfunctioning or substandard wastewater disposal systems;

12 C. Great ponds of unusual public value because of their use  
14 as public drinking water supplies and other important  
functions; and

16 D. Unique areas that pose unusual problems or have  
18 particularly acute problems;

20 2. A plan for compliance that recommends an attainable  
compliance date. This plan must include a ranking of priorities  
22 for replacement;

24 3. An educational component to inform the public of the  
need to upgrade substandard wastewater disposal systems;

26 4. Research into public and private financial resources to  
28 accomplish these goals. This includes community grants  
potential, any state or federal funding opportunities and the  
30 potential for public bond money; and

32 5. Through local cooperation with municipalities, lake  
associations, watershed districts and water utilities, the  
34 identification of:

36 A. Local problem areas and solutions;

38 B. Long-term needs for properties behind shorefront lots to  
accommodate subsurface wastewater disposal systems; and

40 C. Opportunities for access to appropriate land for  
42 subsurface wastewater disposal systems to serve lakefront  
lots.

44 **Sec. 28. Great Pond Task Force reporting.** The Great Pond Task  
46 Force shall report to the joint standing committee of the  
Legislature having jurisdiction over energy and natural resource  
48 matters on or before February 15, 1994 on its findings and  
recommendations under the Maine Revised Statutes, Title 38,

chapter 20. The task force shall include any recommendations for legislation to further its goals.

**Sec. 29. Training programs.** The Department of Environmental Protection shall undertake the following training activities:

1. Emphasize best management practices as a top priority in its existing programs for training people who conduct land use activities and in developing training aids and educational materials. A person who participates in and successfully completes a training program must receive a certificate from the department. The department shall keep a master list of certified people and make it available upon request;

2. Work with the Attorney General's office and the Environmental Law Committee of the Maine State Bar Association to provide periodic training for judges on the purpose and importance of the State's environmental laws; and

3. Work with state, local and county public safety, conservation and environmental protection agencies and organizations to intensify cross-training programs for enforcement and regulatory personnel.

**Sec. 30. Enforcement.** The Department of Inland Fisheries and Wildlife shall report to the Joint Standing Committee on Energy and Natural Resources before July 7, 1992 on the interest by municipalities in and the cost of implementing a program for municipal enforcement of recreational boating laws funded by an increase in boater registration fees. The Great Pond Task Force shall report its recommendations for streamlining enforcement of great pond protection laws to the Second Regular Session of the 116th Legislature.

**Sec. 31. Standish boat ramp.** The Town of Standish may not close the existing boat ramp on Sebago Lake nor may the Portland Water District deny access to the boat ramp by the public until another boat ramp for Sebago Lake in the Town of Standish is available to the public. This section does not apply if the Department of Human Services determines that the use of the public boat ramp is unreasonably threatening the use of Sebago Lake as a public water supply.

**Sec. 32. Repeal.** Section 31 of this Act is repealed January 1, 2002.

### FISCAL NOTE

2  
4 This bill establishes a Great Pond Task Force for the  
6 purpose of developing a great ponds management strategy and other  
8 guidelines. Costs associated with the Department of  
Environmental Protection and the State Planning Office providing  
assistance to the task force can be absorbed by these respective  
agencies utilizing existing budgeted resources.

10 The Department of Inland Fisheries and Wildlife will incur  
12 additional costs to adopt rules and to report to the Joint  
14 Standing Committee on Energy and Natural Resources on the  
16 interest in and cost of implementing municipal enforcement of  
recreational boating laws. These costs can be absorbed within  
the department's existing budgeted resources.

18 Costs associated with representatives of departments and  
20 agencies serving without compensation on the Great Pond Task  
22 Force and providing assistance in coordinating the State's great  
24 pond protection efforts can be absorbed by the respective  
departments and agencies within existing budgeted resources.'

### STATEMENT OF FACT

26 This amendment replaces the original bill. The major  
28 component of the bill that establishes the Great Pond Task Force  
30 is left intact with its duties expanded. Four public members are  
32 added to the task force. In addition to requirements under the  
34 original bill, the task force is charged with recommending  
36 policies for siting toilet facilities at publicly funded boat  
38 ramps, developing a plan to strengthen enforcement for violations  
occurring around great ponds, educating the public on threats to  
water quality in great ponds, working with the Department of  
Human Services to more effectively remove phosphorous in  
wastewater disposal systems and subject to available funding  
developing a plan to phase out substandard wastewater disposal  
systems.

40 The Commissioner of Inland Fisheries and Wildlife is  
42 empowered to limit access by watercraft to areas critical for  
44 wildlife protection. In addition, watercraft rules are required  
to be published in an educational format and distributed with  
each watercraft registration.

46 Variances for substandard wastewater disposal systems are  
48 repealed so that a system serving a dwelling undergoing seasonal  
conversion must meet the current plumbing code.

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2 Municipalities choosing to develop comprehensive plans are  
required to address issues relating to great ponds, and municipal  
4 reviewing authorities must address phosphorous loading in a great  
pond as part of municipal subdivision review.

6 The amendment also clarifies that harbor masters may  
allocate moorings in great ponds.

8  
10 The amendment provides that best management practice  
guidelines will be recommended for great pond watersheds most at  
12 risk. State agencies are required to comply with these  
14 guidelines. The Commissioner of Environmental Protection is  
required to recommend fee amounts for development permits that  
16 take into account the cost of review and compliance inspection of  
best practical treatment guidelines should these guidelines be  
adopted by rule.

18 The amendment limits the spreading of manure on frozen  
20 ground to those instances that are part of a plan on file with a  
Maine soil and water conservation district. The amendment also  
22 limits the amount of phosphorous in household laundry detergent.

24 A copy of any permit issued under the municipal subdivision  
laws, shoreland zoning laws, natural resources protection laws  
26 and the site location of development laws is required to be kept  
on site while the permitted work is undertaken in great pond  
28 watersheds.

30 The amendment outlines training priorities for the  
Department of Environmental Protection and requires the  
32 Department of Inland Fisheries and Wildlife to report to the  
Joint Standing Committee on Energy and Natural Resources on the  
34 interest and cost of implementing municipal enforcement of  
recreational boating laws.

36 The amendment also prohibits the Town of Standish or the  
Portland Water District from closing or denying access to the  
38 public boat ramp in the Town of Standish before a suitable  
alternative is found unless the Department of Human Services  
40 finds that use of the boat ramp threatens the public water supply.

42 The amendment also adds a fiscal note to the bill.

Reported by Senator Ludwig for the Committee on Energy and  
Natural Resources. Reproduced and Distributed Pursuant to  
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