

# MAINE STATE LEGISLATURE

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H. of S.

L.D. 225

(Filing No. H-505 )

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 173, L.D. 225, Bill, "An Act Regarding Dam Registration Fees"

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. 30-A MRSA c. 187, sub-c. VI is enacted to read:

SUBCHAPTER VI

MUNICIPAL REGULATION OF WATER LEVELS AND  
MINIMUM FLOWS

§4454. Municipal regulation

Pursuant to the provisions of this subchapter, a municipality may adopt an ordinance under its home rule authority to regulate water level regimes and minimum flow requirements for impounded bodies of water and dams that are entirely within its corporate boundary.

§4455. Registration for authority to regulate

Prior to regulating a water level regime or minimum flow on any impounded body of water, a municipality shall adopt an ordinance and submit that ordinance to the Commissioner of Environmental Protection for review and approval. An ordinance adopted under this section must include:

**COMMITTEE AMENDMENT**



2           **Sec. 7. 38 MRSA §§835 and 836**, as enacted by PL 1983, c. 417,  
§6, are repealed.

4           **Sec. 8. 38 MRSA §837**, as affected by PL 1989, c. 890, Pt. A,  
6           §40 and amended by Pt. B, §196, is repealed.

8           **Sec. 9. 38 MRSA §840, sub-§1, ¶¶C and D**, as affected by PL  
10           1989, c. 890, Pt. A, §40 and repealed and replaced by Pt. B,  
§197, are amended to read:

12           C. Used to store water for a downstream facility licensed  
14           by the Federal Energy Regulatory Commission or authorized  
under the Federal Power Act, Section 23, provided that the  
16           owner of the downstream facility possessed a majority  
ownership of the upstream dam as of January 1, 1983; or

18           D. Operating with a permit setting water levels issued  
20           under the protection of natural resources laws, sections  
22           480-A to 480-S; the site location of development laws,  
sections 481 to 490; the small hydroelectric generating  
24           facilities laws, sections 631 to 636; the land use  
regulation laws, Title 12, sections 681 to 689; or any other  
26           statute regulating the construction or operation of dams; or

28           **Sec. 10. 38 MRSA §840, sub-§1, ¶E** is enacted to read:

30           E. A dam regulated by one or more municipalities by  
32           ordinance or interlocal agreement pursuant to Title 30-A,  
chapter 187, subchapter VI.

34           **Sec. 11. 38 MRSA §841, sub-§4**, as affected by PL 1989, c. 890,  
Pt. A, §40 and amended by Pt. B, §202, is repealed.

36           **Sec. 12. 38 MRSA §843** is enacted to read:

38           §843. Municipal authority

40           The commissioner shall review an ordinance submitted  
42           pursuant to Title 30-A, chapter 187, subchapter VI for  
44           consistency with this article. If the commissioner determines  
46           that the ordinance includes all substantive provisions of this  
48           article and includes all provisions required by Title 30-A,  
chapter 187, subchapter VI, the commissioner shall approve that  
municipality for authority to establish water level regimes and  
minimum flow requirements for impoundments and dams.

50           **Sec. 13. Transition.** On the effective date of this Act:

COMMITTEE AMENDMENT "A" to H.P. 173, L.D. 225

1. The Department of Environmental Protection shall work expeditiously to divest itself of title and interest in all dams required under the dam abandonment provisions of the Maine Revised Statutes, Title 38, section 835; and

2. The position of Environmental Specialist III at the Department of Environmental Protection that is funded by fees collected through the dam registration program is abolished. All funds remaining in the dam registration account are retained by the department and may be used by the department only for costs associated with adjudicatory hearings conducted by the department pursuant to Title 38, section 840.

**Sec. 14. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Bureau of Land Quality Control</b>		
Positions	(-1.0)	(-1.0)
Personal Services	(\$30,657)	(\$46,885)
All Other	(21,694)	(30,091)
Provides for the deallocation of funds through the elimination of one Environmental Specialist III position and general operating costs for the dam registration program.		
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>		
<b>TOTAL</b>	<u>(\$52,351)</u>	<u>(\$76,976)</u>

**FISCAL NOTE**

	1993-94	1994-95
<b>APPROPRIATIONS/ALLOCATIONS</b>		
Other Funds	(\$52,351)	(\$76,976)
<b>REVENUES</b>		
Other Funds	(\$57,559)	(\$76,776)

2 Elimination of the Dam Registration Program will result in a  
3 decrease of dedicated revenues collected by the Department of  
4 Environmental Protection. The estimated reductions of dedicated  
5 revenues to the department are \$57,559 and \$76,776 for fiscal  
6 years 1993-94 and 1994-95, respectively.

8 The bill deauthorizes one Environmental Specialist III  
9 position and all associated operating costs for the dam program  
10 for total savings of \$52,351 and \$76,976 for fiscal years 1993-94  
11 and 1994-95, respectively. The difference between the reductions  
12 in revenues and the amount of savings is covered by an existing  
13 balance forward.

14 Establishment of processing fees for water level petitions  
15 will result in insignificant increases of dedicated revenues to  
16 the Department of Environmental Protection from processing fees.  
17 However, these fees, when combined with the program's remaining  
18 balance of funds, are likely to only cover the costs of water  
19 level hearings for the next couple of years.

22 The Department of Environmental Protection will incur some  
23 minor additional costs to transfer its interests in several  
24 abandoned dams. These costs can be absorbed within the  
25 department's existing budgeted resources.

### STATEMENT OF FACT

30 This amendment repeals the dam registration and abandonment  
31 program. The authority of the Commissioner of Environmental  
32 Protection to establish water level regimes and minimum flows for  
33 dam and impoundments is retained, but municipalities are  
34 permitted to assume that authority for dams and impoundments  
35 within their boundaries either by ordinance and by interlocal  
36 agreements.

38 The Commissioner of Environmental Protection is directed to  
39 divest itself of title and interest in all dams acquired through  
40 the dam abandonment provisions of the Maine Revised Statutes,  
41 Title 38, section 835 which is repealed in the amendment.

44 The amendment abolishes one Environmental Specialist III  
45 position at the Department of Environmental Protection and  
46 requires that funds remaining in the dam registration account be  
47 used to offset costs associated with conducting water level  
48 hearings.

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