MAINE STATE LEGISLATURE

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L.D. 225

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· 4	(Filing No. H-505)
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8	STATE OF MAINE HOUSE OF REPRESENTATIVES
10	116TH LEGISLATURE FIRST REGULAR SESSION
12	COMMITTEE AMENDMENT " \mathcal{A} " to H.P. 173, L.D. 225, Bill, "A
14	Act Regarding Dam Registration Fees"
16	Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in it.
18	place the following:
20	Sec. 1. 30-A MRSA c. 187, sub-c. VI is enacted to read:
22	SUBCHAPTER VI
24	MUNICIPAL REGULATION OF WATER LEVELS AND MINIMUM FLOWS
. 26	§4454. Municipal regulation
28	
30	Pursuant to the provisions of this subchapter, municipality may adopt an ordinance under its home rule authority to regulate water level regimes and minimum flow requirements for
32	impounded bodies of water and dams that are entirely within its corporate boundary.
34	
	§4455. Registration for authority to regulate
36 .	Drien to megulating a vector level vector or -ini flow or
38	Prior to regulating a water level regime or minimum flow on any impounded body of water, a municipality shall adopt and any impounded body of water, a municipality shall adopt and any impounded body of water, a municipality shall adopt any impounded body of water, a municipality shall adopt any impounded body of water, a municipality shall adopt any impounded body of water level regime or minimum flow or minimu
40	ordinance and submit that ordinance to the Commissioner of Environmental Protection for review and approval. An ordinance adopted under this section must include:

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COMMITTEE	AMENDMENT	"41	9.0	to	H.P.	173,	L.D.	225

	•
	1. Substance of state law. All substantive provisions of
2	Title 38, chapter 5, subchapter 1, article 3-A. The ordinance
	may not allow a municipality to establish a water level regime or
4 .	minimum flow requirements for any dam listed in Title 38, section
	840, subsection 1, paragraphs A to D; and
6	
	2. Commissioner as petitioner. Provisions allowing the
8	Commissioner of Environmental Protection and any municipality
_	downstream of the impoundment to petition the municipality for an
.0	adjudicatory hearing.
.2	An ordinance adopted under this subchapter may establish a
	fee for adjudicatory hearings conducted by the municipality.
.4	ree for adjudicatory hearings conducted by the municipality.
. 4	§4456. Interlocal agreements
16	34400. Interlocal adreements
L6 _.	Two or more municipalities may enter into an interlocal
L8'	agreement under this section to regulate water level regimes and
.0	
	minimum flow requirements for impounded bodies of water and dams
20	that are entirely within the corporate boundaries of those
	municipalities only if each municipality has adopted an ordinance
22	that has been approved by the Commissioner of Environmental
	Protection pursuant to this subsection.
24	CAACT Assumption of puthonity
26	§4457. Assumption of authority
20	Immediately upon the semmissions is appropriately an endingues
	Immediately upon the commissioner's approval of an ordinance
28	submitted under this subchapter, all powers and duties of the
	Commissioner of Environmental Protection set forth in Title 38,
30	chapter 5, subchapter 1, article 3-A, vest in that municipality.
	Con 2 29 MDCA \$252 and \$5 D
32	Sec. 2. 38 MRSA §352, sub-§5-B, as enacted by PL 1991, c. 591,
	Pt. U, §2, is amended in that part designated "TABLE 1" in that
34	part relating to "Title 38" by adding a section 840 as follows:
36	840, Fee for water level
	petitions 100 0
38	C
	Sec. 3. 38 MRSA §815-A, as enacted by PL 1991, c. 591, Pt. E,
10	§37, is repealed.
	G 4 00 7 00 C 1 004 6
12	Sec. 4. 38 MRSA §816, as amended by PL 1989, c. 545, §§4 to
	6, is repealed.
14	G . E . CO 3 CT G
. •	Sec. 5. 38 MRSA §830, as amended by PL 1991, c. 591, Pt. E,
16	$\S\S38$ and 39, is repealed.

 $\S40$ and amended by Pt. B, $\S195$, is repealed.

Sec. 6. 38 MRSA §831, as affected by PL 1989, c. 890, Pt. A,

2	Sec. 7. 38 MRSA §§835 and 836, as enacted by PL 1983, c. 417, §6, are repealed.
4	
6	Sec. 8. 38 MRSA $\S 837$, as affected by PL 1989, c. 890, Pt. A, $\S 40$ and amended by Pt. B, $\S 196$, is repealed.
8	Sec. 9. 38 MRSA §840, sub-§1, ¶¶C and D, as affected by PI 1989, c. 890, Pt. A, §40 and repealed and replaced by Pt. B,
10	§197, are amended to read:
12	C. Used to store water for a downstream facility licensed by the Federal Energy Regulatory Commission or authorized
14	under the Federal Power Act, Section 23, provided that the owner of the downstream facility possessed a majority
16	ownership of the upstream dam as of January 1, 1983; er
18	D. Operating with a permit setting water levels issued under the protection of natural resources laws, sections
20	480-A to 480-S; the site location of development laws, sections 481 to 490; the small hydroelectric generating
22	facilities laws, sections 631 to 636; the land use
24	regulation laws, Title 12, sections 681 to 689; or any other statute regulating the construction or operation of dams. : or
26	Sec. 10. 38 MRSA §840, sub-§1, ¶E is enacted to read:
28	
30	E. A dam regulated by one or more municipalities by ordinance or interlocal agreement pursuant to Title 30-A,
•	chapter 187, subchapter VI.
32	Sec. 11. 38 MRSA §841, sub-§4, as affected by PL 1989, c. 890,
34	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	<u>pursuant to Title 30-A, chapter 187, subchapter VI for</u> <u>consistency with this article. If the commissioner determines</u>
I.	that the ordinance includes all substantive provisions of this
44	article and includes all provisions required by Title 30-A,
46	chapter 187, subchapter VI, the commissioner shall approve that municipality for authority to establish water level regimes and
- 7	minimum flow requirements for impoundments and dams.

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

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- 1. The Department of Environmental Protection shall work
 2 expeditiously to divest itself of title and interest in all dams
 required under the dam abandonment provisions of the Maine
 4 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.

	Other Special Revenue to carry out th	e purposes of thi	s Act.
16		1002.04	1004.05
18		1993-94	1994-95
	ENVIRONMENTAL PROTECTION,	•	
20	DEPARTMENT OF		•
22	Bureau of Land Quality Control	·	
24	Positions	(-1.0)	(-1.0)
•	Personal Services	(\$30,657)	(\$46,885)
26	All Other	(21,694)	(30,091)
28	Provides for the deallocation through the elimination of one I		
30	Specialist III position and operating costs for the dam re	general	
32	program.	-	

34 DEPARTMENT OF ENVIRONMENTAL PROTECTION

36	TOTAL	·	(\$52,351)	(\$76,976)

FISCAL NOTE
40 1993-94 1994-95
42 APPROPRIATIONS/ALLOCATIONS

44 Other Funds (\$52,351) (\$76,976)
46
REVENUES

Other Funds (\$57,559) (\$76,776)

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

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

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

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

STATEMENT OF FACT

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

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

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

The amendment also adds a fiscal note to the bill.

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