

MAINE STATE LEGISLATURE

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103

L.D. 1839

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UTILITIES

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

COMMITTEE AMENDMENT "A" to H.P. 1360, L.D. 1839, Bill, "An Act to Amend the Charter of the Berwick Sewer District"

Amend the bill by striking out all of section 1 and inserting in its place the following:

Sec. 1. P&SL 1963, c. 154, §5, as amended by P&SL 1989, c. 103, is further amended to read:

Sec. 5. Offenses and penalties. Any person who shall place, discharge or leave places, discharges or leaves any offensive or injurious matter or material on or in the conduits, catch basins or receptacles or sewers of or used by said district contrary to its rules or regulations, or shall willfully injure injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by said district for the purposes of this act shall be is liable to pay twice the amount of the damages to said district, to be recovered in any proper action; and any person on conviction of either of the acts of willful injury aforesaid shall mentioned in this section may be punished by a fine not exceeding \$1,000 per day for each day in violation of the standards and requirements and by imprisonment not exceeding one year, or by both.

Any Pursuant to the Maine Revised Statutes, Title 38, section 1252, subsection 8 and federal law, any industrial user who violates the pretreatment standards and requirements of the district shall-be is subject to a fine of not exceeding \$1,000 per day for each day the industrial user is in violation of such standards and requirements. The In addition or as an

COMMITTEE AMENDMENT

alternative, the district may seek injunctive relief to ensure compliance with the terms of its pretreatment standards and requirements and may seek an award of reasonable attorney's fees in actions brought under this section.

Notwithstanding other civil or criminal penalties provided by federal or state law, except penalties sought by the district pursuant to Title 38, section 1252, subsection 8, the district may assess administrative penalties not exceeding \$1,000 per day for each violation by an industrial user of any pretreatment standard or requirement adopted by the district and contained in the district's rules. In assessing any penalties under this paragraph, the board must conduct its proceedings in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. An aggrieved party may appeal the decision of the board of trustees in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the district assesses administrative penalties under this section, the district may not seek civil monetary penalties pursuant to Title 38, section 1252, subsection 8. Nothing in this paragraph prohibits the district from seeking injunctive relief pursuant to Title 38, section 1252, subsection 8 in addition to administrative penalties assessed under this paragraph.'

Further amend the bill by inserting before the statement of fact the following:

FISCAL NOTE

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department.'

STATEMENT OF FACT

This amendment modifies the bill to provide that the district may seek and assess penalties against industrial users who violate the district's pretreatment standards in an amount up to but not exceeding \$1,000 a day. This is consistent with general state law and meets the requirements of federal law. This amendment also provides that when the district assesses penalties it conduct its proceedings in accordance with the Maine Administrative Procedure Act.

This amendment also adds a fiscal note to the bill.