

MAINE STATE LEGISLATURE

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13
A or B

L.D. 445

DATE: 4/25/95

(Filing No. H-152)

MINORITY
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 324, L.D. 445, Bill, "An Act to Change Certain Provisions of the Saco River Corridor Law"

Amend the bill by striking out all of the emergency preamble.

Further amend the bill by striking out all of section 1.

Further amend the bill in section 3 by striking out all of subsection 17-A (page 2, lines 5 to 11 in L.D.) and inserting in its place the following:

'17-A. Tributary stream. "Tributary stream" means a channel between defined banks and associated flood plain wetlands. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 series topographic map or, if not available, a 15-minute series topographic map.

B. It contains or is known to contain water flowing continuously for a period of at least 3 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

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2 D. The channel contains aquatic animals such as fish,
3 aquatic insects or mollusks in the water or, if no surface
4 water is present, within the stream bed.

6 E. The channel contains aquatic vegetation and is
7 essentially devoid of upland vegetation.

8 "Tributary stream" does not mean a ditch or other drainage way
9 constructed and maintained solely for the purpose of draining
10 storm water, nor does it mean a grassy swale.'

12 Further amend the bill by striking out all of section 4 and
13 inserting in its place the following:

14 'Sec. 4. 38 MRSA §953, as enacted by PL 1979, c. 459, §1, is
15 amended to read:

18 **§953. Saco River Corridor established**

20 There is hereby created the Saco River Corridor, herein
21 referred to as the "corridor," which ~~shall include~~ includes the
22 Saco River from the landward side of the rock jetty in Saco Bay
23 to the New Hampshire border; the Ossipee River from its
24 confluence with the Saco River to the New Hampshire border; and
25 the Little Ossipee River from its confluence with the Saco River
26 to the New Hampshire border at Balch Pond.

28 The corridor ~~shall also include~~ includes the lands adjacent
29 to these rivers to a distance of 500 feet as measured on a
30 horizontal plane from the normal or mean high water line of these
31 rivers or to the edge of the 100-year floodplain if that extends
32 beyond 500 feet, up to a maximum of 1,000 feet.'

34 Further amend the bill by striking out all of section 8 and
35 inserting in its place the following:

36 'Sec. 8. 38 MRSA §957-B, sub-§3, ¶E, as enacted by PL 1979, c.
37 459, §1, is amended to read:

40 E. ~~Single--family~~ Single-family residences and accessory
41 structures meeting all of the following performance
42 standards:

44 (1) The minimum lot frontage on the river measured at
45 the normal or mean high water line ~~shall-be~~ is 100 feet;

46 (2) The minimum setback of any building ~~from-the-river~~
47 shall-be is 100 feet from the normal or mean high water
48 line of the river and is 75 feet from the normal or
49 mean high water line of any tributary stream;
50

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2 (3) The combined river frontage and setback of any
building ~~shall-be~~ is not less than 500 feet;

4
6 (4) The structures and fill ~~shall~~ do not encroach on
the 100-year floodplain;

8 (5) Where there is an accepted road or public ~~right-of~~
way ~~right-of-way~~, as of March 19, 1974, within 500 feet
10 of the normal or mean high water mark of the river with
different land ownership on either side of the road or
12 public ~~right-of-way~~ right-of-way, the landowner on the
far side of the road or public ~~right--of--way~~
14 right-of-way from the river ~~shall-have~~ has an aggregate
of setback from the river and frontage on the far side
16 of the road or public ~~right-of-way~~ right-of-way equal
to 500 feet;

18 (6) Where there is a recorded subdivision, as of March
20 19, 1974, "frontage," for the purposes of determining
compliance with this section, ~~shall--mean~~ means lot
22 frontage on the side of the lot nearest to and most
nearly parallel to the river; and

24 (7) Where a landowner, as of March 19, 1974, owns a
26 lot abutting land owned by a public utility, and ~~sueh~~
the public utility land lies between the abutting
28 ~~landowners~~ landowner's lot and the river, "frontage,"
for the purpose of determining compliance with this
30 section, ~~shall-mean~~ means the frontage on the side of
the lot abutting ~~sueh~~ that public utility land ~~whieh~~
32 that is nearest to and most nearly parallel to the
river;'

34 Further amend the bill by striking out all of section 9 and
36 inserting in its place the following:

38 'Sec. 9. 38 MRSA §957-C, sub-§§2 and 3, as enacted by PL 1979,
40 c. 459, §1, are amended to read:

42 2. **Uses for which no permit from the commission is**
required. Uses and accessory structures within the General
44 Development District for which no permit from the commission is
required ~~shall~~ include:

46 A. Uses for which no permit from the commission is required
48 within the Resource Protection District; and

50 B. ~~---Roads;~~

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- 2 C. ~~Single-family residences;~~
- 4 D. Home occupations or enterprises;
- 6 E. ~~Multi-unit residential dwellings;~~
- 8 F. ~~Restaurants and cafeterias;~~
- 10 G. ~~Retail commercial establishments, such as stores, supermarkets and pharmacies;~~
- 12 H. ~~Municipal buildings;~~
- 14 I. ~~Schools;~~
- 16 J. ~~Hospitals and clinics;~~
- 18 K. ~~Funeral homes;~~
- 20 L. ~~Warehouses;~~
- 22 M. ~~Churches;~~
- 24 N. ~~Libraries;~~
- 26 O. ~~Public utility structures; and~~
- 28 P. ~~Any fill or deposit of material accessory, necessary and~~
 30 ~~related to permitted uses not exceeding 100 cubic yards of~~
 32 ~~material.~~

3. **Uses allowed by permit.** Uses allowed within the General Development District by permit only shall include:

- 34 A. Manufacturing and industrial uses;
- 36 B. Sand, gravel and topsoil (loam) excavations;
- 38 C. Dredging, filling or other alteration of wetlands;
- 40 D. Any fill or deposit of material in excess of 100 cubic
- 42 yards;
- 44 E. Oil or petroleum storage facilities;
- 46 F. Processing plants; and
- 48 G. Airports;
- 50 H. Roads;

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- 2 I. Single-family residences;
- 4 J. Multi-unit residential dwellings;
- 6 K. Restaurants and cafeterias;
- 8 L. Retail commercial establishments, such as stores,
supermarkets and pharmacies;
- 10 M. Municipal buildings;
- 12 N. Schools;
- 14 O. Hospitals and clinics;
- 16 P. Funeral homes;
- 18 Q. Warehouses;
- 20 R. Churches;
- 22 S. Libraries; and
- 24 T. Public utility structures except for service drops.

26 **Sec. 10. 38 MRSA §958, first and last ¶¶, as enacted by PL 1979,**
28 **c. 459, §1, are amended to read:**

30 Any existing building or structure or use of a building or
32 structure lawful March 19, 1974, or on the date of any subsequent
34 amendment of this chapter or of any regulation adopted hereunder,
36 may continue although such a use of a structure does not conform
38 to this chapter or the regulations adopted hereunder. Any
40 existing building or structure may be repaired, maintained and
42 improved, but an existing building, structure or nonconforming
44 use may be extended, expanded or enlarged only by permit from the
46 commission. A nonconforming use, other than a single family
48 residential use, ~~which that~~ is discontinued for any reason for a
50 period of one year ~~shall-be~~ is deemed abandoned and may not be
 resumed thereafter except in compliance with the requirements of
 this chapter.

 To avoid undue hardship, nothing in this chapter ~~shall~~ may
 be deemed to require a change in the design, construction or
 intended use of any building or structure with respect to which
 substantial construction was legally carried out prior to March
 19, 1974 or the effective date of any amendment to this chapter.
 An intended use within the meaning of this section ~~shall-be~~ is
 an use for which such a building or structure is designed as

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2 evidenced by the construction or by plans or specifications in
existence as of March 19, 1974 or, in the case of any intended
4 use affected by any amendment to this chapter, construction,
plans or specifications in existence on the effective date of
6 that amendment.

8 **Sec. 11. 38 MRSA §959**, as enacted by PL 1979, c. 459, §1, is
amended to read:

10 **§959. Permits required**

12 ~~After~~ Except as otherwise provided in this chapter, after
14 March 19, 1974, no a person shall may not engage in any use of
land or water for which a permit is required under this chapter
16 without first obtaining a permit from the commission and
complying with all federal, state and municipal regulations.'

18 Further amend the bill in section 10 in paragraph A in the
20 3rd line (page 4, line 11 in L.D.) by striking out the
following: "~~or-mean~~" and inserting in its place the following:
'or mean'

22 Further amend the bill in section 10 in paragraph D in
24 subparagraph (2) in the 3rd line (page 4, line 30 in L.D.) by
striking out the following: "~~or-mean~~" and inserting in its place
26 the following: 'or mean' and in the last line (page 4, line 33
in L.D.) by striking out the following: "~~or-mean~~" and inserting
28 in its place the following: 'or mean'

30 Further amend the bill in section 10 in paragraph D in
subparagraph (3) in the 2nd line (page 4, line 36 in L.D.) by
32 inserting after the following: "normal" the following: 'or mean'

34 Further amend the bill in section 12 in paragraph E-1 in the
2nd line (page 4, line 45 in L.D.) by inserting after the
36 following: "normal" the following: 'or mean'

38 Further amend the bill in section 13 in paragraph F in the
2nd line (page 5, line 9 in L.D.) by striking out the following:
40 "~~or-mean~~" and inserting in its place the following: 'or mean'

42 Further amend the bill in section 13 in paragraph F in
subparagraph (3) in the 2nd line (page 5, line 22 in L.D.) by
44 striking out the following: "~~or-mean~~" and inserting in its place
the following: 'or mean' and in the 4th line (page 5, line 24 in
46 L.D.) by striking out the following: "~~or-mean~~" and inserting in
its place the following: 'or mean'

48 Further amend the bill by striking out all of the emergency
50 clause.

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2 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
4 consecutively.

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

8

FISCAL NOTE

10

The Saco River Corridor Commission will incur some minor
12 additional costs to administer new statutory provisions. These
costs can be absorbed within the commission's existing budgeted
14 resources.'

16

STATEMENT OF FACT

18

This amendment, which is the minority report of the Joint
20 Standing Committee on Natural Resources, makes several changes to
the bill.

22

1. The bill proposes a new definition of "tributary stream"
24 under the laws relating to the Saco River Corridor Commission.
The amendment strikes that definition and inserts an expanded
26 definition of "tributary stream."

28

2. The bill proposes to eliminate the estuary from the Saco
River Corridor. The amendment preserves the estuary of the Saco
30 River within the Saco River Corridor.

32

3. Currently the Saco River Corridor Commission laws allow a
variety of uses within general development districts without any
34 permit from the commission. Under mandatory shoreland zoning
laws, these uses require a permit in general development
36 districts. If the law is not changed, the commission's law will
not be as strict as mandatory shoreland zoning. This amendment
38 requires a commission permit for these activities and thereby
ensures that the zoning standards enforced by the corridor
40 commission within the corridor are consistent with mandatory
shoreland zoning.

42

4. This amendment makes other technical changes to the bill
44 and clarifies that existing legal uses of land are grandfathered.

46

5. The amendment adds a fiscal note to the bill.

48

6. This amendment strikes the emergency preamble and the
emergency clause from the bill.