

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 773

S.P. 285

In Senate, March 9, 1995

**An Act to Amend the Laws Pertaining to the Control of Phosphorus
Transport in Watersheds.**

Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator LORD of York.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 30-A MRSA §4404, sub-§18**, as enacted by PL 1991, c. 838, §14, is amended to read:

6 **18. Lake phosphorus concentration.** The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision. Any method developed to determine phosphorus concentration in great pond watersheds must incorporate a methodology that accounts for the distance of a subdivision from a great pond and the characteristics of land that influence a subdivision's impact on phosphorus concentrations, including, but not limited to, soil types and slopes.

16 **Sec. 2. 38 MRSA §488, sub-§5, ¶B**, as amended by PL 1993, c. 383, §26 and affected by §42, is further amended to read:

20 B. A development that consists only of a subdivision if:

22 (1) The average density of the subdivision is not higher than one lot for every 5 acres of developable land in the parcel;

26 (2) The developable land in the parcel totals 200 acres or less and at least 50% of the developable land in the parcel is preserved in perpetuity through conservation easements pursuant to Title 33, chapter 7, subchapter VIII-A, in units no smaller than 10 acres in size and of dimensions that accommodate within each unit boundary a rectangle measuring 250 feet by 500 feet;

34 (3) The conservation easements preserve the land in an essentially undeveloped natural state, including the preservation of farmland having a history of agricultural use and the preservation of forest land for harvesting by uneven-aged selection methods designed to retain the natural character of the area, except that other methods of harvesting are permissible following a natural disaster;

44 (4) The conservation easements grant a 3rd-party right of enforcement, as defined in Title 33, section 476, to the department. The conservation easements granting a 3rd-party right of enforcement must be submitted to and accepted by the commissioner;

- 2 (5) All significant wildlife habitat that is mapped or
4 that qualifies for mapping under section 480-B,
subsection 10 is included in the preserved land area
under subparagraph (3);
- 6 (6) No clearing, grading, filling or other development
8 activity occurs on sustained slopes in excess of 30%;
- 10 (7) If the developable land in the parcel not subject
12 to the requirements of subparagraphs (3) and (5) is
14 located wholly or in part in the watershed of any lake
16 or pond classified GPA under section 465-A, long-term
18 measures to control phosphorus transport are taken in
20 accordance with a phosphorus control plan that is
22 consistent with standards for phosphorus control
adopted by the board and that utilizes a methodology to
determine phosphorus transport that accounts for the
distance of the developable land from those lakes and
ponds and the characteristics of land that influence
phosphorus transport from the developable land,
including, but not limited to, soil types and slopes;
- 24 (8) Soil erosion and sedimentation during development
26 of the subdivision are controlled in accordance with a
28 plan approved by the municipality in which the
subdivision is located or by the soil and water
conservation district for the county in which the
subdivision is located;
- 30 (9) The nonpreserved, developable land in the parcel
32 is not located wholly or partly within the shoreland
34 zone of a lake or pond classified GPA under section
465-A; and
- 36 (10) At the time all necessary conservation easements
38 are filed with the department and at least 30 days
40 prior to the commencement of clearing and construction
42 activity, the person creating the subdivision notifies
44 the commissioner in writing on a form supplied by the
46 commissioner that the exemption afforded by this
48 paragraph is being used. The person creating the
subdivision shall file with that form a set of site
plans, including the plans required under subparagraphs
(7) and (8), and other evidence sufficient to
demonstrate that the requirements of this paragraph
have been met. The commissioner shall forward a copy
of the form to the municipality in which the
subdivision is located.

2 For purposes of this paragraph, "developable land in the
3 parcel" means all contiguous land in the same ownership
4 except for coastal wetlands, freshwater wetlands, rivers,
5 streams and brooks as defined in section 480-B and except
6 for any surface water classified GPA under section 465-A;

8 **STATEMENT OF FACT**

10 This bill requires that any method developed to determine
11 phosphorus concentration in great pond watersheds must
12 incorporate a methodology that accounts for the distance of a
13 subdivision from a great pond and the characteristics of land
14 that influence a subdivision's impact on phosphorus
15 concentrations, including, but not limited to, soil types and
16 slopes.