

# MAINE STATE LEGISLATURE

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L.D. 1567

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DATE: 3/20/96

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UTILITIES AND ENERGY

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

COMMITTEE AMENDMENT "A" to H.P. 1123, L.D. 1567, Bill, "An Act to Facilitate Sewer and Water Main Extensions"

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Sec. 1. 38 MRSA §1163, as repealed and replaced by PL 1993, c. 721, Pt. B, §3 and affected by Pt. H. §1, is repealed and the following enacted in its place:

§1163. Sewer extensions

1. Assurance. A sanitary district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:

A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and

B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

If the municipal officers fail to issue a response to a written request from a district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.

Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension,

COMMITTEE AMENDMENT

2 the trustees of the district shall publish notice of the proposed  
4 extension in a newspaper having a general circulation that  
includes all municipalities through which the sewer extension  
will pass.

6 2. Appeal. For an intermunicipal sewer extension, when  
8 written assurance is denied by municipal officers pursuant to  
10 subsection 1, an aggrieved party may appeal, within 15 days of  
12 the decision, to the State Planning Office, referred to in this  
14 subsection as the "office," for a review of the municipal  
officers' decision. Notwithstanding Title 5, chapter 375,  
subchapter IV, the following procedures apply to the review by  
the office.

16 A. The office may request any additional information from  
18 the sanitary district, the municipality or the department.  
20 All information requested by the office must be submitted  
within 30 days of the request, unless an extension is  
granted by the office.

22 B. Within a reasonable time, the office shall hold a  
24 hearing. The office shall give at least 7 days' written  
26 notice of the hearing to the sanitary district, the  
municipality and the party that requested the hearing. The  
hearing is informal and the office may receive any  
information it considers necessary.

28 C. Within 15 days of the hearing and within 60 days of the  
30 request for review, the office shall make a decision that  
32 must include findings of fact on whether the sewer extension  
proposal is inconsistent with adopted municipal plans and  
ordinances regulating land use. The decision of the office  
constitutes final agency action.

34 D. Notwithstanding subsection 1, if the office determines  
36 that the sewer extension proposal is not inconsistent with  
38 adopted municipal plans and ordinances regulating land use,  
40 the office shall issue written assurance that the proposal  
is consistent with adopted municipal plans and ordinances  
regulating land use, and the sanitary district may construct  
the sewer extension.

42 Sec. 2. 38 MRSA §1252, sub-§7, as repealed and replaced by PL  
44 1993, c. 721, Pt. B, §5 and affected by Pt. H, §1, is repealed  
46 and the following enacted in its place:

48 7. Sewer extensions. Sewer extensions are governed by this  
subsection.

2 A. A sewer district may not construct any sewer extension  
4 unless it acquires from the municipal officers or the  
6 designee of the municipal officers of any municipality  
8 through which the sewer extension will pass written  
10 assurance that:

12 (1) Any development, lot or unit intended to be served  
14 by the sewer extension is in conformity with any  
16 adopted municipal plans and ordinances regulating land  
18 use; and

20 (2) The sewer extension is consistent with adopted  
22 municipal plans and ordinances regulating land use.

24 If the municipal officers fail to issue a response to a  
26 written request from a district for written assurance within  
28 45 calendar days of receiving the request in writing, the  
30 written assurance is deemed granted.

32 Not less than 7 days prior to the meeting at which the  
34 trustees will take final action on whether to proceed with  
36 the extension, the trustees of the district shall publish  
38 notice of the proposed extension in a newspaper having a  
40 general circulation that includes all municipalities through  
42 which the sewer extension will pass.

44 B. For an intermunicipal sewer extension, when written  
46 assurance is denied by municipal officers pursuant to  
48 paragraph A, an aggrieved party may appeal, within 15 days  
50 of the decision, to the State Planning Office, referred to  
in this paragraph as the "office," for a review of the  
municipal officers' decision. Notwithstanding Title 5,  
chapter 375, subchapter IV, the following procedures apply  
to the review by the office.

(1) The office may request any additional information  
from the sewer district, the municipality or the  
department. All information requested by the office  
must be submitted within 30 days of the request, unless  
an extension is granted by the office.

(2) Within a reasonable time, the office shall hold a  
hearing. The office shall give at least 7 days'  
written notice of the hearing to the sewer district,  
the municipality and the party that requested the  
hearing. The hearing is informal and the office may  
receive any information it considers necessary.

(3) Within 15 days of the hearing and within 60 days of  
the request for review, the office shall make a

2 decision that must include findings of fact on whether  
3 the sewer extension proposal is inconsistent with  
4 adopted municipal plans and ordinances regulating land  
5 use. The decision of the office constitutes final  
6 agency action.

7 (4) Notwithstanding paragraph A, if the office  
8 determines that the sewer extension proposal is not  
9 inconsistent with adopted municipal plans and  
10 ordinances regulating land use, the office shall issue  
11 written assurance that the proposal is consistent with  
12 adopted municipal plans and ordinances regulating land  
13 use, and the sewer district may construct the sewer  
14 extension.'

15 Further amend the bill by inserting at the end before the  
16 statement of fact the following:  
17

#### 18 **FISCAL NOTE**

19 The additional costs associated with an appeals process can  
20 be absorbed by the State Planning Office utilizing existing  
21 budgeted resources.'

#### 22 **STATEMENT OF FACT**

23 This amendment replaces the bill. The amendment amends the  
24 sanitary and sewer district laws that require a sanitary or sewer  
25 district to acquire from any municipality, prior to constructing  
26 a sewer extension, written assurance that the sewer extension is  
27 consistent with adopted municipal plans and ordinances regulating  
28 land use.

29 The amendment specifies that it is the municipal officers or  
30 their designee who provides such written assurance and requires  
31 that they respond to a written request within 45 days or the  
32 written assurance is deemed granted.  
33

34 The amendment also provides a procedure for appealing the  
35 decision of the municipal officers to the State Planning Office.  
36 After a hearing, if the office determines that the sewer  
37 extension proposal is not inconsistent with the adopted municipal  
38 plans and ordinances, the office shall issue written assurance  
39 that the proposal is consistent with the plans and ordinances,  
40 and the district may construct the sewer extension. The decision  
41 of the State Planning Office constitutes final agency action.  
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43 The amendment also adds a fiscal note to the bill.  
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