

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 914, L.D. 1257, Bill, "An Act to Require Compensation for Loss of Property Value Due to State or Local Regulation"

Amend the bill in section 1 in that part designated "§843." by striking out all of subsection 4 (page 2, lines 7 to 15 in L.D.) and inserting in its place the following:

'4. Exemption for regulation of noxious or harmful uses and shoreland zoning. Purchase or compensation is not required under this Act if the regulation is:

A. An exercise of the police power to prevent property use that is noxious or poses demonstrable harm to the health and safety of the public. A use is considered a noxious use only if it amounts to a public nuisance in fact. Determination by a governmental unit that a use is noxious or poses a demonstrable harm to public health and safety is not binding on the court. Review of that determination must be de novo; or

B. A shoreland zoning ordinance adopted under Title 38, chapter 3, subchapter I, article 2-B.'

Further amend the bill in section 1 in that part designated "§844." by striking out all of subsection 2 (page 2, lines 31 to 34 in L.D.) and inserting in its place the following:

'2. Application. This Act applies to regulations that are adopted after the effective date of this Act.'

COMMITTEE AMENDMENT

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill may significantly increase the number of civil cases filed in the court system depending on the effect of future legislation, regulations and municipal ordinances. Additional General Fund appropriations may be required to cover the costs associated with the additional caseload. The amount and timing of these additional costs can not be determined at this time. The collection of additional filing fees may also increase General Fund revenue. These amounts also can not be determined at this time.

The Department of the Attorney General also may require additional General Fund appropriations to provide legal services to defend the State for additional claims of "takings" as a result of state regulations currently authorized and pending but adopted after the effective date of this Act. The amount of the additional costs that may be incurred by the Department of the Attorney General can not be determined at this time.

Municipalities must reimburse property owners when local regulations adopted after the effective date of this Act lower the owner's property value by more than 50%. The State will not be required to fund 90% of the additional local costs for any reimbursements. Since this Act applies prospectively, only, future changes in municipal regulations would be at the discretion of the local units of government and not represent a state mandate pursuant to the Constitution of Maine.

The State may also incur significant additional costs to reimburse property owners for reductions in property values caused by state regulations that are pending and authorized on the effective date of this Act. The amounts and the timing of any reimbursements will depend on the outcome of suits filed in the court system. This bill will also significantly increase the costs associated with implementing any future legislation and regulations that may reduce property values.'

SUMMARY

The original bill requires a governmental unit that imposes a regulation on a landowner's property that reduces the value of that property by at least 50% to compensate the owner for the loss or purchase the property at the preregulatory value. The bill provides an exception for regulations that prohibit noxious

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2 or harmful uses of property. This amendment adds an exemption
for shoreland zoning ordinances.

4 This amendment makes the bill purely prospective. It
6 applies only to regulations adopted after the effective date of
the Private Property Protection Act. The amendment also adds a
fiscal note to the bill.

COMMITTEE AMENDMENT