

# MAINE STATE LEGISLATURE

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MAJORITY  
NATURAL RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 1065, L.D. 1503, Bill, "An Act to Amend the Site Location of Development Laws"

Amend the bill by striking out everything after the title and before the enacting clause.

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 38 MRSA §488, sub-§19, as enacted by PL 1995, c. 704, Pt. A, §20 and affected by Pt. C. §2, is amended to read:

**19. Municipal capacity.** A structure, as defined in section 482, subsection 6, that is from 3 acres up to and including 7 acres or a subdivision, as defined in section 482, subsection 5, that is made up of 15 or more lots for single-family, detached, residential housing, common areas or open space with an aggregate area of from 30 acres up to and including 100 acres is exempt from review under this article if located wholly within a municipality or municipalities having delegated review pursuant to section 489-A or meeting the criteria in paragraphs A to E D as determined by the department. The planning board of the municipality in which the development is located or an adjacent municipality may petition the commissioner to review such a structure or subdivision if it has regional environmental impacts. This petition must be filed within 20 days of the receipt of the application by the municipality. State jurisdiction must be exerted, if at all, within 30 days of receipt of the completed project application by the commissioner from the municipality or within 30 days of receipt of any

COMMITTEE AMENDMENT

modification to that application from the municipality. Review by the department is limited to the identified regional environmental impacts. The criteria are as follows:

A. A municipal planning board or reviewing authority is established and the municipality has adequate resources to administer and enforce the provisions of its ordinances. In determining whether this criterion is met, the commissioner may consider any specific and adequate technical assistance that is provided by a regional council;

B. The municipality has adopted a site plan review ordinance. In determining the adequacy of the ordinance, the commissioner may consider model site plan review ordinances commonly used by municipalities in this State that address the issues reviewed under applicable provisions of this article prior to July 1, 1997; and

C. The municipality has adopted subdivision regulations. In determining the adequacy of these regulations, the commissioner may consider model subdivision regulations commonly used by municipalities in this State; and

D. The State Planning Office has determined that the municipality has a comprehensive land use plan and land use ordinances or zoning ordinances that are consistent with Title 30-A, chapter 187 in providing for the protection of wildlife habitat, fisheries, unusual natural areas and archaeological and historic sites.

The department, in consultation with the State Planning Office, shall publish a list of those municipalities determined to have capacity pursuant to this subsection. This list need not be established by rule and must be published by January 1, 1997. ~~If the department fails to publish the list by January 1, 1997, municipalities with a site plan or subdivision ordinances or regulations are deemed to have capacity for corresponding projects until January 1, 1998, or until the list is published, whichever period is longer.~~ The list must specify whether a municipality has capacity to review structures or subdivisions of lots for single-family, detached, residential housing, common areas or open space or both types of development. The department may recognize joint arrangements among municipalities and regional organizations in determining whether the requirements of this subsection are met. On and after January 1, 2003, the department shall ~~irrebuttably~~ presume and publish that each municipality with a population of ~~2,500~~ 5,000 or more, as measured by the United States Census of the year 2000, has capacity as provided in this subsection. The department may review municipalities that are determined or presumed to have

capacity pursuant to this subsection for compliance with the criteria in paragraphs A to D, and if the department determines that a municipality does not meet the criteria, the department may modify or remove the determination of capacity.

A modification to a development that was reviewed by a municipality and exempted pursuant to this subsection is exempt as long as the modification will not cause the total area of the development to exceed the maximum acreage specified in this subsection for that type of development or, based upon information submitted by the municipality concerning the development and modification, the department determines that the modification may be adequately reviewed by the municipality.

**Sec. 2. Transition.** The Department of Environmental Protection and the State Planning Office shall consult with municipalities that will be presumed to have capacity pursuant to the Maine Revised Statutes, Title 38, section 488, subsection 19 on or after January 1, 2003 to assist those municipalities in developing capacity as defined by the criteria in Title 38, section 488, subsection 19, paragraphs A to D.

The State Planning Office shall review its municipal financial assistance program to ensure that the criteria considered by the office in making grants for planning and implementation of local growth management programs are consistent with the criteria for a determination of capacity in Title 38, section 488, subsection 19.

**Sec. 3. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Maine Environmental Protection Fund</b>		
Positions - Legislative Count	(1.000)	(1.000)
Personal Services	\$36,072	\$45,271
All Other	4,150	5,000
Capital Expenditures	3,000	
Allocates funds for one additional Environmental Specialist III position and operating costs necessary to administer certain aspects of the site location of development laws.		

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

<b>TOTAL</b>	<u>\$43,222</u>	<u>\$50,271</u>
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Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

	1997-98	1998-99
<b>APPROPRIATIONS/ALLOCATIONS</b>		
Other Funds	\$43,222	\$50,271

**REVENUES**

Other Funds	\$44,405	\$53,500
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The Department of Environmental Protection will require additional Other Special Revenue allocations of \$43,222 and \$50,271 in fiscal years 1997-98 and 1998-99, respectively, for one additional Environmental Specialist III position and operating costs necessary to administer certain changes in the site location of development laws.

These additional costs to the Maine Environmental Protection Fund will be offset by the additional revenues generated by the increase in the number of application fees collected. The estimated increases of dedicated revenue to the Maine Environmental Protection Fund within the Department of Environmental Protection are \$44,405 and \$53,500 in fiscal years 1997-98 and 1998-99, respectively.

The Department of Inland Fisheries and Wildlife will incur some minor additional costs to coordinate with the Department of Environmental Protection in providing certain training to towns. These costs can be absorbed within the department's existing budgeted resources.

The State Planning Office will incur some minor additional costs to consult with municipalities and to review the office's municipal financial assistance program. These costs can be absorbed within the office's existing budgeted resources.'

**SUMMARY**

This amendment, which is the majority report of the Joint

Standing Committee on Natural Resources, removes the emergency preamble and emergency clause from the bill. It requires that the criteria for municipal capacity under the site location of development laws include a determination by the State Planning Office that the municipality has a comprehensive land use plan and land use ordinances or zoning ordinances that are consistent with the Maine Revised Statutes, Title 30-A, chapter 187 in providing for the protection of wildlife habitat, fisheries, unusual natural areas and archaeological and historic sites. The bill requires that the Department of Environmental Protection, in determining whether a municipality meets the criteria for capacity, find whether the municipality's site plan review ordinance and subdivision ordinances include protection of wildlife habitat, fisheries, unusual natural areas and archaeological and historic sites.

The amendment restores to the law language repealed in the bill creating a presumption that municipalities over a certain population threshold have the capacity to conduct site law reviews after January 1, 2003. The amendment raises the population threshold for presumed capacity from 2,500 to 5,000 and strikes the word "irrebuttable" from the provision creating the presumption of capacity.

The amendment also adds a provision exempting certain modifications to developments from the site location of development laws if the initial developments were exempt and were reviewed by the municipality.

The amendment removes from the bill a requirement that the Department of Environmental Protection coordinate with the Department of Inland Fisheries and Wildlife to provide training to local planning boards and code enforcement officers on developing and implementing effective review and protection strategies and a requirement that the Department of Environmental Protection consult with towns that have already been registered to review subdivisions to ensure that they choose whether to continue reviewing them or to forgo that authority. The amendment requires the Department of Environmental Protection and the State Planning Office to consult with municipalities that will be presumed to have capacity by January 1, 2003 to assist those municipalities in developing capacity. The amendment also requires the State Planning Office to review its municipal financial assistance program to ensure that the criteria considered by the office in making grants for local growth management programs are consistent with the criteria for a determination of municipal capacity.

The amendment also adds an allocation and a fiscal note to the bill.