

MAINE STATE LEGISLATURE

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DATE: 2-24-98

(Filing No. H-812)

NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1493, L.D. 2092, Bill, "An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 38 MRSA §482, sub-§5, as amended by PL 1995, c. 704, Pt. A, §5 and affected by Pt. C, §2, is further amended by amending the first paragraph to read:

5. Subdivision. A "subdivision" is the division of a parcel of land into 5 or more lots, --other--than--lots--for single-family,--detached,--residential--housing,--common--areas--or open-space, to be offered for sale or lease to the general public during any 5-year period, if the aggregate land area includes more than 20 acres; or the division of a parcel of land into 15 or more lots except that when all lots are for single-family, detached, residential housing, common areas or open space, a "subdivision" is the division of a parcel of land into 15 or more lots to be offered for sale or lease to the general public within any 5-year period, if the aggregate land area includes more than 30 acres. The aggregate land area includes lots to be offered together with the roads, common areas, easement areas and all portions of the parcel of land in which rights or interests, whether express or implied, are to be offered. This definition of "subdivision" is subject to the following exceptions:

Further amend the bill by striking out all of section 3 and inserting in its place the following:

'Sec. 3. 38 MRSA §488, sub-§19, as amended by PL 1997, c. 485, §1, is further amended by amending the first paragraph to read:

2 **19. Municipal capacity.** A structure, as defined in section
4 482, subsection 6, that is from 3 acres up to and including 7
6 acres or a subdivision, as defined in section 482, subsection 5,
8 that is made up of 15 or more lots for single-family, detached,
10 residential housing, common areas or open space with an aggregate
12 area of from 30 acres up to and including 100 acres is exempt
14 from review under this article if located wholly within a
16 municipality or municipalities ~~having delegated review pursuant~~
18 ~~to section 489-A or~~ meeting the criteria in paragraphs A to D as
20 determined by the department. The planning board of the
22 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
modification to that application from the municipality. Review
by the department is limited to the identified regional
environmental impacts. The criteria are as follows:'

24 Further amend the bill by inserting after section 3 the
26 following:

28 'Sec. 4. 38 MRSA §489-A, sub-§4, as amended by PL 1993, c.
30 383, §27 and affected by §42, is further amended to read:

32 **4. Suspension of registration.** If the commissioner finds
34 that a municipality no longer meets the criteria set forth under
36 subsection 2 or 2-A, or is not adequately implementing those
38 requirements, the commissioner may suspend the registration and
40 shall notify the municipality accordingly. The notice must
42 contain findings of fact and conclusions of law. If registration
44 is suspended, the commissioner shall recommend actions for the
municipality to come into compliance with this section. The
commissioner may waive the suspension for new projects that have
received at least one substantive municipal review prior to the
suspension of registration. If the department determines that a
municipality meets the criteria specified in section 488,
subsection 19, the department shall suspend the registration for
the type of development exempt from review in that municipality
pursuant to section 488, subsection 19.'

46 Further amend the bill in section 5 by striking out all of
48 the last sentence (page 2, lines 28 to 32 in L.D.).

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

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

FISCAL NOTE

1998-99

REVENUES

Other Funds (\$6,000)

Broadening a licensing exemption under the site location of development laws will reduce licensing revenues. The estimated one-time reduction of dedicated revenue collected by the Department of Environmental Protection for the Maine Environmental Protection Fund is \$6,000 in fiscal year 1998-99.

Amending certain definitions of coastal sand dune systems will slightly extend jurisdiction of the Natural Resources Protection Act and will result in insignificant increases of dedicated revenue to the Department of Environmental Protection from permitting fees.

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$86.45 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.'

SUMMARY

This amendment clarifies the definition of subdivision in the site location of development laws to provide that a subdivision is either the division of a parcel of land into 5 or more lots on more than 20 acres or the division of a parcel of land into 15 or more lots on more than 30 acres if all lots are for single-family residential housing, common areas or open space.

The amendment also clarifies that certain structures are exempt from review under the site location of development laws if located wholly within a municipality or municipalities meeting

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the criteria for capacity. The amendment also provides that,
when a municipality is delegated authority to substitute its
review of certain types of development for review under the site
location of development laws and the Department of Environmental
Protection determines that the municipality meets the criteria
for capacity, the municipality's delegated authority must be
suspended for the type of development that is exempt from review
under the capacity standard.

The amendment also adds a fiscal note to the bill.