

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 837, L.D. 1160, Bill, "An Act to Amend Certain Laws Administered by the Department of Environmental Protection, Bureau of Land and Water Quality"

Amend the bill in section 1 in subsection 2-A in the 2nd line (page 1, line 7 in L.D.) by striking out the following: "subchapter chapter" and inserting in its place the following 'subchapter'

Further amend the bill in section 3 in the 3rd line from the end (page 2, line 14 in L.D.) by striking out the following: "25% 50" and inserting in its place the following: '25%'

Further amend the bill in section 4 by striking out all of paragraph C (page 2, lines 22 to 24 in L.D.) and inserting in its place the following:

'C. The commissioner shall pay 25% of the costs of a project that results in the removal of a seasonal residential overboard discharge, except that the commissioner shall pay 50% of the costs of that project if the Commissioner of Marine Resources certifies that the project is likely to result in the opening of a shellfish harvesting area that is closed under Title 12, section 6172.'

Further amend the bill by inserting after section 4 the following:

'Sec. 5. 38 MRS A §439-A, sub-§2, as amended by PL 1993, c. 383, §1 and affected by §42, is further amended to read:

COMMITTEE AMENDMENT

2 **2. Jurisdiction.** Notwithstanding the scope of shoreland
3 areas as identified in section 435, the jurisdiction of municipal
4 shoreland zoning and land use control ordinances adopted under
5 this article may include any structure built on, over or abutting
6 a dock, wharf, pier or other structure extending or located below
7 the normal high-water line ~~of a water body~~ or within a wetland.
8 Accordingly, municipalities may enact ordinances affecting
9 structures that extend or are located over the water or are
10 placed on lands lying between high and low waterlines or within
11 wetlands.

12 **Sec. 6. 38 MRSA §439-A, sub-§4-A, ¶¶B and C,** as enacted by PL
13 1997, c. 748, §3, are amended to read:

14 B. Expansion of any portion of a structure within 25 feet
15 of the normal high-water line ~~of a water body~~ or upland edge
16 of a wetland is prohibited, even if the expansion will not
17 increase nonconformity with the water setback requirement.
18 Expansion of an accessory structure that is located closer
19 to the normal high-water line ~~of a water body~~ or upland edge
20 of a wetland than the principal structure is prohibited,
21 even if the expansion will not increase nonconformity with
22 the water setback requirement.
23

24 C. Legally existing nonconforming principal and accessory
25 structures that do not meet the water setback requirements
26 may be expanded or altered as follows, as long as other
27 applicable standards of land use adopted by the municipality
28 are met and the expansion is not prohibited by paragraph A
29 or B.
30

31 (1) For structures located less than 75 feet from the
32 normal high-water line ~~of a water body~~ or upland edge
33 of a wetland, the maximum combined total floor area for
34 all structures is 1,000 square feet, and the maximum
35 height of any structure is 20 feet or the height of the
36 existing structure, whichever is greater.
37

38 (2) For structures located less than 100 feet from the
39 normal high-water line of a great pond classified as
40 GPA or a river flowing to a great pond classified as
41 GPA, the maximum combined total floor area for all
42 structures is 1,500 square feet, and the maximum height
43 of any structure is 25 feet or the height of the
44 existing structure, whichever is greater, except that
45 any portion of those structures located less than 75
46 feet from the normal high-water line or upland edge of
47 a wetland must meet the floor area and height limits in
48 subparagraph (1).
49
50

2 Existing principal and accessory structures that exceed the
3 floor area or height limits under this paragraph may not be
4 expanded, except as provided in paragraph E.

6 For the purposes of this paragraph, a basement is not
7 counted toward floor area.'

8
9 Further amend the bill in section 5 by striking out the
10 first 2 lines (page 2, lines 26 and 27 in L.D.) and inserting in
11 their place the following:

12
13 'Sec. 5. 38 MRSA §439-A, sub-§4-A, ¶E, as enacted by PL 1997,
14 c. 748, §3, is amended by amending subparagraphs (1) and (2) to
15 read:

16
17 (1) The principal structure is set back at least 50
18 feet from the normal high-water line ~~of a water body~~ or
19 upland edge of a wetland;'

20
21 Further amend the bill by inserting after section 5 the
22 following:

23
24 'Sec. 6. 38 MRSA §465, sub-§1, ¶C, as enacted by PL 1985, c.
25 698, §15, is amended to read:

26
27 C. There shall may be no direct discharge of pollutants to
28 Class AA waters, except storm water discharges that are in
29 compliance with state and local requirements.

30
31 Sec. 7. 38 MRSA §465-A, sub-§1, ¶C, as affected by PL 1989, c.
32 890, Pt. A, §40 and amended by Pt. B, §65, is further amended to
33 read:

34
35 C. There may be no new direct discharge of pollutants into
36 Class GPA waters. Aquatic pesticide treatments or chemical
37 treatments for the purpose of restoring water quality
38 approved by the department and storm water discharges that
39 are in compliance with state and local requirements are
40 exempt from the no discharge provision. Discharges into
41 these waters licensed prior to January 1, 1986, are allowed
42 to continue only until practical alternatives exist. No
43 materials may be placed on or removed from the shores or
44 banks of a Class GPA water body in such a manner that
45 materials may fall or be washed into the water or that
46 contaminated drainage therefrom may flow or leach into those
47 waters, except as permitted pursuant to section 480-C. No
48 change of land use in the watershed of a Class GPA water
49 body may, by itself or in combination with other activities,
50 cause water quality degradation that would impair the

characteristics and designated uses of downstream GPA waters or cause an increase in the trophic state of those GPA waters.

Sec. 8. 38 MRSA §465-B, sub-§1, ¶C, as enacted by PL 1985, c. 698, §15, is amended to read:

C. There shall ~~may~~ be no direct discharge of pollutants to Class SA waters, except storm water discharges that are in compliance with state and local requirements.'

Further amend the bill in section 7 in subsection 4 in the last line (page 3, line 14 in L.D.) by inserting after the following: "344-B" the following: 'with the consent of the applicant'

Further amend the bill in section 8 in paragraph B in the 8th line (page 3, line 26 in L.D.) by inserting after the following: "344-B" the following: ', subsection 4'

Further amend the bill in section 9 in paragraph B in the 8th line (page 3, line 40 in L.D.) by inserting after the following: "344-B" the following: ', subsection 4'

Further amend the bill in section 11 in subsection 5 in the last line (page 4, line 9 in L.D.) by inserting after the following: "344-B" the following: 'with the consent of the applicant'

Further amend the bill by striking out all of section 12 and inserting in its place the following:

'Sec. 12. 38 MRSA §489-A, sub-§1, as amended by PL 1997, c. 393, Pt. A, §46, is further amended to read:

1. Kinds of projects. The following kinds of projects may be reviewed by registered municipalities pursuant to this section:

A. Subdivisions as described in section 482, subsection 5 of more than 20 acres but less than 100 acres; ~~or~~

G. A project generating 100 to 200 passenger car equivalents at peak hour; ~~or~~

H. Structures as described in section 482, subsection 6 in excess of 3 acres but less than 7 acres.'

Further amend the bill in section 13 in subsection 1-A in the 2nd and 3rd lines (page 4, lines 18 and 19 in L.D.) by striking out the following: "1 1-B" and inserting in its place the following: '1'

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2 Further amend the bill in section 13 in subsection 1-A in
paragraph A in the last line (page 4, line 23 in L.D.) by
4 striking out the following: "1 1-B" and inserting in its place
the following: '1'

6
8 Further amend the bill in section 13 in subsection 1-A in
the last paragraph in the 2nd line from the end (page 4, line 35
in L.D.) by striking out the following: "1 1-B" and inserting in
10 its place the following: '1'

12 Further amend the bill by striking out all of section 14.

14 Further amend the bill by inserting after section 16 the
following:

16 'Sec. 17. PL 1997, c. 748, §5, last ¶ is amended to read:

18
20 The joint standing committee of the Legislature having
jurisdiction over natural resources matters may report out
22 legislation to the ~~First-Regular-Session-of-the~~ 119th Legislature
regarding buffer strips along water resources and substandard
24 subsurface disposal systems.'

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

28
30 Further amend the bill by inserting at the end before the
summary the following:

32 'FISCAL NOTE

34 Increasing the cap on certain special license and permit
application fees may result in increased dedicated revenues
36 collected by the Department of Environmental Protection and may
also result in increased Other Special Revenue funds
38 expenditures. The amounts can not be determined at this time.

40 The Department of Environmental Protection will realize some
minor savings from certain changes in the department's authority
42 to adjust fees for inflation and from a reduction in the number
of required hearings pertaining to water level determinations.

44
46 The Department of Environmental Protection will incur some
minor additional costs to conduct additional tasks during certain
site assessments. These costs can be absorbed within the
48 department's existing budgeted resources.'

2 **SUMMARY**

4 This amendment makes the following changes to the bill.

6 It strikes an unnecessary cross-reference change.

8 It maintains the increases in the state share of certain
10 pollution abatement construction projects serving seasonal
12 dwellings, but strikes the increase for seasonal dwellings whose
14 owners have an annual income above \$20,000.

16 It limits the increase in the state share of overboard
18 discharge replacement projects that result in the removal of a
20 seasonal residential overboard discharge to projects that the
22 Commissioner of Marine Resources certifies as likely to result in
24 the opening of a shellfish harvesting area.

26 It strikes an inconsistent term from several places in the
28 mandatory shoreland zoning laws.

30 It provides an exception to the existing prohibition on
32 direct discharges of pollutants to Class AA, Class GPA and Class
34 SA waters for storm water discharges in compliance with state and
36 local requirements.

38 It amends the language authorizing an extension of the
40 review period for cranberry cultivation permits and agricultural
42 irrigation pond permits to authorize an extension only with the
44 consent of the applicant.

46 It amends the language authorizing an extension of the
review period for freshwater wetland permits to authorize an
extension if a project requires more than one permit from the
Department of Environmental Protection.

It further clarifies provisions governing the municipal
review of developments under the site location of development
laws.

It extends the authority of the Joint Standing Committee on
Natural Resources to report out legislation regarding buffer
strips and substandard subsurface disposal systems to the Second
Regular Session of the 119th Legislature.

It also adds a fiscal note to the bill.