

MAINE STATE LEGISLATURE

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DATE: 5-31-01

L.D. 1810
(Filing No. H-658)

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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION**

18
20 COMMITTEE AMENDMENT "A" to H.P. 1353, L.D. 1810, Bill, "An
22 Act to Implement the Recommendations of the Committee to Study
Access to Private and Public Lands in Maine"

24 Amend the bill by striking out all of sections 2 and 3 and
inserting in their place the following:

26 'Sec. 2. 5 MRSA §6207, sub-§3, as amended by PL 1993, c. 728,
§10, is further amended to read:

28
30 3. **Priorities.** Whenever possible, the Land for Maine's
32 Future Fund and the Public Access to Maine Waters Fund must be
34 used for land acquisition projects when matching funds are
36 available from cooperating entities, provided that the proposed
38 acquisition meets all other criteria set forth in this chapter.
For acquisitions funded by the Land for Maine's Future Fund, the
board shall give priority to projects that conserve lands with
multiple outstanding resource or recreation values or a single
exceptional value, provide geographic representation and build
upon or connect existing holdings.

40 When acquiring land or interest in land, the board shall examine
42 public vehicular access rights to the land and, whenever possible
44 and appropriate, acquire guaranteed public vehicular access as
part of the acquisition.

46 Sec. 3. 12 MRSA §1812, first ¶, as enacted by PL 1997, c. 678,
§13, is amended to read:

COMMITTEE AMENDMENT

2 With the consent of the Governor and the commissioner, the
3 director may acquire on behalf of the State land or any interests
4 in land within this State, with or without improvements, by
5 purchase, gift or eminent domain for purposes of holding and
6 managing the same as parks or historic sites. When acquiring
7 land or interest in land, the director shall examine options for
8 obtaining public vehicular access rights to the land. If an
9 acquisition is made that does not include guaranteed public
10 vehicular access, the director shall describe the acquisition in
11 the report required under section 1817 and the justification for
12 that acquisition. The right of eminent domain may not be
13 exercised to take any area or areas for any one park that singly
14 or collectively exceed 200 acres, nor may it be exercised to take
15 any developed or undeveloped mill site or water power privilege
16 in whole or in part or any land used or useful in connection
17 therewith or any land being used for an industrial enterprise.'

18 Further amend the bill in section 5 by striking out all of
19 subsection 1 and inserting in its place the following:
20

21 **'1. Authority to acquire lands.** The bureau with the
22 consent of the Governor and the commissioner may acquire lands or
23 interests in lands on behalf of the State to be managed as
24 nonreserved public lands. When acquiring land or interest in
25 land, the bureau shall examine options for obtaining public
26 vehicular access rights to the land. If an acquisition is made
27 that does not include guaranteed public vehicular access, the
28 bureau shall describe the acquisition in its annual report
29 submitted pursuant to section 1839 and the justification for that
30 acquisition. The bureau shall deliver to the State Archives
31 within a reasonable period of time after their creation or
32 acquisition the originals of all deeds, planbooks and surveyors'
33 field and chainage notes, and any other materials the
34 preservation of which it considers necessary, relating to the
35 ownership, location and management of nonreserved public lands
36 described in this subchapter.'

37 Further amend the bill in section 6 by striking out all of
38 subsection 1 and inserting in its place the following:
39

40 **'1. Authority to acquire lands.** With the consent of the
41 Governor and the commissioner, the bureau may acquire lands or
42 interests in lands on behalf of the State to be managed as public
43 reserved lands. When acquiring land or interest in land, the
44 bureau shall examine options for obtaining public vehicular
45 access rights to the land. If an acquisition is made that does
46 not include guaranteed public vehicular access, the bureau shall
47 describe the acquisition in its annual report submitted pursuant
48 to section 1853 and the justification for that acquisition. The
49 bureau shall deliver to the State Archives within a reasonable
50

2 period of time after their creation or acquisition the originals
3 of all deeds, planbooks and surveyors' field and chainage notes,
4 and any other materials the preservation of which it considers
5 necessary, relating to the ownership, location and management of
6 public reserved lands described in this subchapter.'

8 Further amend the bill in section 8 by striking out all of
9 paragraph A and inserting in its place the following:

10 'A. The commissioner may acquire in the name of the State,
11 by gift, bequest or otherwise, real and personal property
12 for the location, construction and convenient operation of a
13 wildlife management area or public access sites to inland or
14 coastal waters. When acquiring land or interest in land,
15 the commissioner shall examine options for obtaining public
16 vehicular access rights to the land. If an acquisition is
17 made that does not include guaranteed public vehicular
18 access, the commissioner shall describe the acquisition in
19 the annual report submitted pursuant to section 7034,
20 subsection 11 and the justification for that acquisition.'

22 Further amend the bill in section 11 by striking out all of
23 the indented paragraph and inserting in its place the following:

24
25 'When an owner applies for a variance to allow an excavation
26 to be reclaimed as a pond of at least 10 acres but less than 30
27 acres in size, the department may require public access as a
28 condition for granting the variance. When an owner applies for a
29 variance to allow an excavation to be reclaimed as a pond of 30
30 acres or greater in size, the department may grant the variance
31 only if the owner demonstrates that public access to the pond is
32 ensured. The requirement for public access may be met by
33 existing public rights or by granting an easement or other right
34 including a right to travel a reasonable distance by foot to a
35 designated area of the shoreline.'

38 SUMMARY

40 This amendment removes the prohibitions on certain
41 acquisitions and directs the Land for Maine's Future Board, the
42 Department of Conservation, Bureau of Public Lands and the
43 Department of Inland Fisheries and Wildlife to consider public
44 vehicular access to land proposed for acquisition and provide
45 justification for acquisitions that do not include guaranteed
46 public vehicular access.

48 It also provides that when an owner applies for a variance
49 to allow an excavation to be reclaimed as a pond of at least 10
50 acres but less than 30 acres in size, the Department of

COMMITTEE AMENDMENT "A" to H.P. 1353, L.D. 1810

2 Environmental Protection may require public access as a condition
for granting the variance. When an owner applies for such a
4 variance for a pond of 30 acres or greater in size, the
department may grant the variance only if the owner demonstrates
that public access to the pond is ensured.