

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 5-7-03

(Filing No. H-283)

NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 777, L.D. 1059, Bill, "An Act Regarding Water Storage Reservoirs"

Amend the bill by striking out the title and substituting the following:

'Resolve, Directing the Department of Environmental Protection To Recognize the Distinction between Water Storage Reservoirs and Natural Lakes'

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

Whereas, the Maine Revised Statutes, Title 38, section 464, subsection 5 requires the Department of Environmental Protection, Board of Environmental Protection to adopt rules necessary to implement the water quality classification system; and

Whereas, the rules must include sampling and analytical methods, protocols and procedures for satisfying the water quality criteria, including evaluation of the impact of any discharge on the resident biological community; and

Whereas, Title 38, section 464, subsection 9 provides that certain hydropower projects that do not attain the habitat and aquatic life criteria of Title 38, section 465-A must, at a minimum, satisfy the Class C aquatic life criteria contained in Title 38, section 465, subsection 4, paragraph C; and

Whereas, the Class C aquatic life criteria contained in Title 38, section 465, subsection 4, paragraph C allow some changes to aquatic life as long as the receiving waters are of

COMMITTEE AMENDMENT

R. 018

2 sufficient quality to support all species of fish indigenous to
the receiving waters and maintain the structure and function of
4 the resident biological community; and

6 **Whereas,** the fact that water storage reservoirs are not
natural lakes should be recognized when implementing water
8 quality classifications; and

10 **Whereas,** many water storage reservoirs were authorized by
legislative charter for the purpose of storing and releasing
12 water for in-stream purposes and downstream uses; now, therefore,
be it

14 **Sec. 1. Water storage reservoirs; rules. Resolved:** That the
Department of Environmental Protection, Board of Environmental
16 Protection shall adopt rules under the Maine Revised Statutes,
Title 38, section 464, subsection 5 relating to protocols and
18 procedures for evaluation of the resident biological community in
water storage reservoirs. In adopting the rules, the Board of
20 Environmental Protection shall recognize that water storage
reservoirs are artificial and are not natural water bodies, and
22 the rules must ensure that the existing uses of water storage
reservoirs are maintained and protected. In issuing licenses,
24 permits and certifications prior to final adoption of the rules,
the Department of Environmental Protection shall recognize that
26 water storage reservoirs are artificial and are not natural water
bodies and shall ensure that the existing uses of water storage
28 reservoirs are maintained and protected. The goal of the rules
and any license, permit or certification must be to require that
30 the structure and function of the resident biological community
that must be maintained in a water storage reservoir is the
32 structure and function that would be expected to exist in a water
storage reservoir with a drawdown of similar magnitude. As used
34 in this resolve, "water storage reservoir" means an impoundment
associated with a hydropower project, as defined by Title 38,
36 section 632, that was in existence prior to November 28, 1975,
was not primarily lacustrine in its natural state, is classified
38 under Title 38, section 465-A and is managed to store and release
water on an annual cycle to benefit downstream hydropower
40 generation.'

42 **SUMMARY**

44 This amendment replaces the bill with a resolve. The
46 amendment requires the Department of Environmental Protection,
Board of Environmental Protection, when adopting rules relating
48 to protocols and procedures for evaluation of the resident
biological community in water storage reservoirs, to recognize
50 that water storage reservoirs are artificial and are not natural

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 777, L.D. 1059

2 water bodies and to recognize and protect existing uses. The
3 amendment also requires the Department of Environmental
4 Protection, when issuing licenses, permits and certifications
5 prior to final adoption of the rules, to recognize that water
6 storage reservoirs are artificial and are not natural water
7 bodies and to ensure that the existing uses of water storage
8 reservoirs are maintained and protected. The amendment provides
9 that the goal of the rules or any license, permit or
10 certification must be that the structure and function of the
11 resident biological community that must be maintained in a water
12 storage reservoir is the structure and function that would be
13 expected to exist in a water storage reservoir with a drawdown of
14 similar magnitude. The amendment also defines "water storage
15 reservoir."

16

FISCAL NOTE REQUIRED
(See attached)

18

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 1059

**Resolve, Directing the Department of Environmental Protection to
Recognize the Distinction Between Water Storage Reservoirs and
Natural Lakes**

LR 1717(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund