

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1849

DATE: 3-25-04

(Filing No. H-805)

NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1375, L.D. 1849, "Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection"

Amend the resolve in section 1 in the last line (page 1, line 27 in L.D.) by striking out the following: "authorized." and inserting in its place the following: 'authorized only if Chapter 355 is amended in that section relating to new construction in frontal dunes and designated as section 6, paragraph B, subparagraph (1) to provide that elevators, in addition to ramps, that are required for compliance with the requirements of the federal Americans with Disabilities Act are exempt from the requirement that a new structure or addition to an existing structure may not be constructed on or seaward of a frontal dune. The rule must also be amended to provide that elevators or ramps serving buildings required to comply with the federal Americans with Disabilities Act must be designed and constructed so as to minimize intrusion on the frontal dune, including locating the structures to the rear of buildings or within areas of a lot already developed, such as a parking area. The Department of Environmental Protection is not required to hold hearings or conduct other formal proceedings prior to finally adopting this rule in accordance with this resolve; and be it further'

Further amend the resolve by inserting after section 1 the following:

COMMITTEE AMENDMENT

R.O.S.

COMMITTEE AMENDMENT "A" to H.P. 1375, L.D. 1849

2 **Sec. 2. Sand dune stakeholder meeting. Resolved:** That the
3 Commissioner of Environmental Protection and the Commissioner of
4 Conservation shall convene a meeting of sand dune stakeholders by
5 May 15, 2004 to consider the following issues:

6 1. A comprehensive statewide beach nourishment policy that
7 establishes priority areas and evaluates public and private
8 funding sources, implementation timeframes and public access
9 easements;

10 2. Wildlife and wildlife habitat management in the sand
11 dune system;

12 3. A program for voluntary acquisition of storm-damaged
13 properties or properties for dune enhancement or public access;

14 4. Improved state coastal hazard mitigation plans to direct
15 federal spending;

16 5. Improved and increased public and private voluntary
17 hazard mitigation programs;

18 6. Reconstruction of buildings in the frontal dune and
19 v-zone;

20 7. Removal of the existing prohibition of the use of
21 outdated v-zone maps; and

22 8. Regulatory incentives to encourage construction or
23 reconstruction outside of the frontal dune; and be it further

24 **Sec. 3. Statewide beach nourishment policy. Resolved:** That by
25 January 17, 2005, the Department of Environmental Protection
26 shall report to the joint standing committee of the Legislature
27 having jurisdiction over natural resources matters on the
28 progress of the sand dune stakeholder meetings and shall submit
29 draft revised sand dune rules and a statewide beach nourishment
30 policy; and be it further

31 **Sec. 4. Recommendations. Resolved:** That by January 16, 2006,
32 the Department of Environmental Protection shall submit to the
33 joint standing committee of the Legislature having jurisdiction
34 over natural resources matters recommendations on a state
35 acquisition program, wildlife habitat management initiatives and
36 removal of the existing prohibition of the use of outdated v-zone
37 maps; and be it further

38 **Sec. 5. Revised sand dune rules. Resolved:** That by January 16,
39 2006, the Department of Environmental Protection shall
40 provisionally adopt and submit to the Legislature revised

2 sand dune rules. Rules adopted pursuant to this section are
major substantive rules as defined in the Maine Revised Statutes,
4 Title 5, chapter 375, subchapter 2-A; and be it further

6 **Sec. 6. Repeal. Resolved:** That the rules authorized pursuant
to section 1 of this resolve are repealed April 1, 2006.'

8
10 **SUMMARY**

12 This amendment authorizes the adoption of Chapter 355: Sand
Dune Rules until April 1, 2006 only if Chapter 355 is amended to
14 provide that elevators that are required for compliance with the
requirements of the federal Americans with Disabilities Act are
16 exempt from the requirement that a new structure or addition to
an existing structure may not be constructed on or seaward of a
18 frontal dune. The rules must also be amended to provide that
elevators or ramps serving buildings required to comply with the
20 federal Americans with Disabilities Act must be designed and
constructed so as to minimize intrusion on the frontal dune. The
22 Department of Environmental Protection is not required to hold
hearings or conduct other formal proceedings prior to finally
24 adopting this rule in accordance with this resolve. It directs
the Commissioner of Environmental Protection and the Commissioner
26 of Conservation to convene a meeting of stakeholders by May 15,
2004. It directs the Department of Environmental Protection to
28 report to the joint standing committee of the Legislature having
jurisdiction over natural resources matters on the progress of
30 the sand dune stakeholder meetings and to submit draft revised
sand dune rules and a statewide beach nourishment policy by
32 January 17, 2005. It directs the Department of Environmental
Protection to submit by January 16, 2006 to the joint standing
34 committee of the Legislature having jurisdiction over natural
resources matters recommendations on a state acquisition program,
36 wildlife habitat management initiatives and removal of the
existing prohibition of the use of outdated v-zone maps. It also
38 directs the Department of Environmental Protection to
provisionally adopt and submit to the Legislature revised sand
dune rules by January 16, 2006.

FISCAL NOTE REQUIRED
(See attached)

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



LD 1849

**Resolve, Regarding Legislative Review of Chapter 355: Sand Dune
Rules, a Major Substantive Rule of the Department of Environmental
Protection**

LR 2754(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs associated with implementing this legislation can be absorbed by the Department of Environmental Protection and The Department of Conservation utilizing existing budgeted resources.