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L.D. 635

DATE: 3/28/06

(Filing No. H-908)

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UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 468, L.D. 635, Bill, "An Act To Amend the Maine Sanitary District Enabling Act"

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

'An Act Relating to Community Sanitary Districts'

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

'Sec. 1. 30-A MRSA §5403, sub-§§12 and 13, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are further amended to read:

12. Loans and grants. Accept from any authorized agency of the Federal Government or the State loans or grants for the planning, construction or acquisition of any revenue-producing municipal facility or part of a revenue-producing municipal facility; enter into agreements with that agency concerning any such loans or grants; and receive and accept aid and contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants and contributions may be made; and

13. General powers. Do all acts and things necessary or

COMMITTEE AMENDMENT

convenient to carry out the powers expressly granted in this chapter; and

Sec. 2. 30-A MRSA §5403, sub-§14 is enacted to read:

14. Community septic systems. As a means of facilitating compact growth patterns, including cluster developments, construct, maintain and operate a sewer system that is composed of one or more subsurface wastewater collection, treatment and disposal systems. The municipality may construct such a sewer system in anticipation of the establishment of a community sanitary district under Title 38, chapter 11-A, to which the municipality will transfer the system pursuant to Title 38, section 1232. For purposes of this subsection, "cluster development" has the same meaning as in section 4301, subsection 1-A.

Sec. 3. 38 MRSA §1101-A is enacted to read:

§1101-A. Fees

The commissioner may establish reasonable application fees for processing applications for the formation of districts under this chapter or chapter 11-A. The commissioner shall place these fees into a nonlapsing dedicated revenue account, and funds from the account may be used by the department or the board only to pay costs associated with processing applications for the formation of districts under this chapter or chapter 11-A.

Sec. 4. 38 MRSA c. 11-A is enacted to read:

CHAPTER 11-A

COMMUNITY SANITARY DISTRICTS

§1231. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Cluster development. "Cluster development" has the same meaning as in Title 30-A, section 4301, subsection 1-A.

2. Community sanitary district. "Community sanitary district" or "district" means a district formed under this chapter to manage one or more subsurface wastewater collection, treatment and disposal systems to accommodate residential development as a means of facilitating compact growth patterns, including cluster developments.

2 **§1232. Formation; expansion**

4 A community sanitary district is formed in the same manner
6 as a sanitary district under chapter 11, except that the board
8 may not approve an application pursuant to section 1101,
10 subsection 3 unless the board finds that:

12 1. Facilitate compact growth. Creation of the district
14 will facilitate cluster developments or other compact growth
16 patterns;

18 2. Adequate and efficient. The district will provide for
20 the creation of an adequate and efficient means of collecting,
22 conveying, pumping, treating and disposing of domestic sewage
24 within the proposed district; and

26 3. Feasibility and public interest. Creation and
28 maintenance of a wastewater collection, treatment and disposal
30 system by the district will be administratively feasible and
32 promote the public health, safety and welfare.

34 The boundaries of a community sanitary district may be
36 expanded in accordance with section 1162.

38 **§1233. Municipal system; transfer of assets to district**

40 A municipality that, pursuant to Title 30-A, section 5403,
42 subsection 14 or any other authority, including home rule
44 authority, has constructed a sewer system that is composed of one
46 or more subsurface wastewater collection, treatment and disposal
48 systems shall, after the establishment of a district pursuant to
50 this section to serve the area where that sewer system is
located, sell, transfer and convey to the district by appropriate
instruments, and the district shall acquire, all properties,
assets, rights and privileges identified by the municipality as
related to that sewer system in consideration of the assumption
by the district of any outstanding debts, obligations and
liabilities identified by the municipality as related to that
sewer system, including, without limitation, any outstanding
notes or bonds identified by the municipality as related to that
sewer system that are due on or after the date of the transfer of
the sewer system. If any debts, obligations, notes or bonds
identified by the municipality are not assumable, the district is
obligated for their repayment. The municipality shall identify
to the board in the application submitted pursuant to section
1101 all properties, assets, rights, privileges, debts,
obligations and liabilities related to the sewer system that are
required to be transferred to or assumed by the district under
this section.

2 The municipality and the district by mutual agreement may
4 arrange for the transfer of any other assets or liabilities that
6 the municipality and the district determine necessary or
 appropriate to allow the district efficiently and effectively to
 carry out its purposes under this chapter.

8 **§1234. Powers**

10 Except as provided in this section, a community sanitary
12 district has the powers, privileges and duties and is subject to
14 the requirements and restrictions of a sanitary district under
 chapter 11.

16 1. Powers. A community sanitary district may, within the
18 district, construct, operate and maintain one or more subsurface
20 wastewater disposal systems in accordance with rules adopted
22 pursuant to Title 22, section 42, subsection 3 and applicable
 municipal ordinances. A district may contract for necessary and
 appropriate services, including, but not limited to, pumping and
 disposal services, and do any or all other things necessary or
 incidental to accomplish the purposes of the district.

24 2. Limited purposes. A community sanitary district may
26 exercise powers granted under this chapter only for the limited
28 purpose of providing subsurface wastewater collection, treatment
 and disposal services to accommodate residential development.

30 A. A community sanitary district may not provide services
 to nonresidential users.

32 B. The provisions of section 1160 apply only to residential
 buildings.

34 3. Certain powers not available. The following provisions
36 relating to sanitary districts do not apply to a district formed
 under this chapter:

38 A. Section 1103, relating to transfer of municipal property
40 and assets;

42 B. Section 1151, relating to certain sanitary district
 powers;

44 C. Section 1151-A, relating to certain enforcement powers;

46 D. Sections 1152, 1152-A, 1153 and 1154, relating to powers
48 of eminent domain; and

50 E. Section 1157, relating to certain contracting powers.'

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SUMMARY

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6 This amendment replaces the bill. This amendment authorizes
8 the creation of community sanitary districts to manage one or
10 more subsurface wastewater collection, treatment and disposal
12 systems to accommodate residential development. These districts
14 are established in the same manner as sanitary districts, except
that the Board of Environmental Protection must make certain
findings before approving the creation of a community sanitary
district. A community sanitary district has many of the powers
and duties of a sanitary district, with certain modifications to
achieve the limited purposes of a community sanitary district.

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18 This amendment also provides that if a municipality has
20 constructed a sewer system composed of one or more subsurface
22 wastewater collection, treatment and disposal systems, it must,
24 after the establishment of a district to serve the area where
26 that sewer system is located, sell to the district by appropriate
instruments all properties, assets, rights and privileges
28 identified by the municipality as related to that sewer system in
consideration of the assumption by the district of any
outstanding debts, obligations and liabilities identified by the
municipality as related to that sewer system. The municipality
and the district are authorized to arrange for the transfer of
any other assets or liabilities that the municipality and the
district determine necessary or appropriate to allow the district
efficiently and effectively to carry out its purposes under this
chapter. The amendment specifically authorizes a municipality to
30 construct such a system in anticipation of the creation of a
32 district, to which the municipality will then transfer the
system. This allows a system to be established prior to any
34 occupancy of a cluster or other compact development and then,
when a suitable number of residences have become occupied, allows
36 a district to be established to run the system.

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/27/06 *MAC*

122nd MAINE LEGISLATURE

LD 635

LR 1078(02)

An Act To Amend the Maine Sanitary District Enabling Act

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund