

MAINE STATE LEGISLATURE

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Date: 3/20/06
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L.D. 1977
(Filing No. H-855)

3 **Natural Resources**

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

5 **STATE OF MAINE**
6 **HOUSE OF REPRESENTATIVES**
7 **122ND LEGISLATURE**
8 **SECOND REGULAR SESSION**

9 COMMITTEE AMENDMENT "A" to H.P. 1385, L.D. 1977, "Resolve, Regarding
10 Legislative Review of Portions of Chapter 355: Coastal Sand Dune Rules, a Major
11 Substantive Rule of the Department of Environmental Protection"

12 Amend the resolve by striking out the title and substituting the following:

13 **'Resolve, Regarding Legislative Review of Portions of Chapter 355: Coastal**
14 **Sand Dune Rules, a Major Substantive Rule of the Department of**
15 **Environmental Protection, Extending the Deadline for the Repeal of the**
16 **Current Coastal Sand Dune Rules and Convening the Beaches Advisory**
17 **Group'**

18 Further amend the resolve by striking out all of section 1 and inserting in its place the
19 following:

20 **'Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 355:
21 Coastal Sand Dune Rules, a provisionally adopted major substantive rule of the
22 Department of Environmental Protection that has been submitted to the Legislature for
23 review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is
24 authorized only if the rule is amended as follows:

- 25 1. Section 5, subsection E is amended by striking subsection E and replacing it with:
26 A. A provision that no new seawall or similar structure may be constructed and that
27 no existing seawall or similar structure may be altered or replaced except as provided
28 in subsection E and as allowed under Chapter 305, Permit By Rule and the Maine
29 Revised Statutes, Title 38, section 480-W;
30 B. A provision that, with a permit from the department, a seawall or similar structure
31 may be replaced with a structure of different dimensions or in a different location that
32 is farther landward if the department determines that the replacement structure would
33 be less damaging to the coastal sand dune system, existing wildlife habitat and
34 adjacent properties than replacing the existing structure with a structure of the same
35 dimensions and in the same location; and

1 C. A notation that the department encourages landowners to consider removing a
2 seawall or similar structure and covering the area with sand and dune vegetation, or
3 replacing the structure in a more landward position to reduce its influence on the
4 beach and sand dune system;

5 2. Section 8, subsection E is amended to:

6 A. Clarify that, if beach nourishment is funded in whole or in part with state funds,
7 the portions of the beach nourished with state funds must be placed either into
8 permanent public ownership or under legally binding agreements, such as but not
9 limited to easements that preclude any development and that allow public access for
10 recreational activities; and

11 B. Clarify that the subsection does not apply to use of dredged material from projects
12 conducted by the Army Corps of Engineers; and

13 3. Section 8, subsection F is amended to provide that owners of property on a beach
14 that will be nourished must agree to enter a legally binding agreement, such as but not
15 limited to an easement, concerning the property that allows for the management of
16 significant wildlife habitat on the beach portion of their property; and be it further

17 **Sec. 2. Beaches Advisory Group. Resolved:** That the Executive Department,
18 State Planning Office, Maine Coastal Program, with the Department of Environmental
19 Protection and the Department of Conservation, Maine Geological Survey, shall convene
20 an interagency advisory group, referred to as "the Beaches Advisory Group" in this
21 section, to oversee Maine's integrated beach management program as detailed in a report
22 dated February 2006 and titled "Protecting Maine's Beaches for the Future: A Proposal to
23 Create an Integrated Beach Management Program."

24 1. **Membership.** The Beaches Advisory Group must include representatives of
25 agencies and groups as determined by the Executive Department, State Planning Office,
26 Maine Coastal Program in consultation with the Department of Environmental Protection
27 and the Department of Conservation, Maine Geological Survey and also must include:

28 A. The Commissioner of Environmental Protection or the commissioner's designee;

29 B. The Commissioner of Conservation or the commissioner's designee;

30 C. The Director of the Maine Geological Survey or the director's designee;

31 D. The Director of the Maine Coastal Program or the director's designee;

32 E. The Executive Director of the Southern Maine Regional Planning Commission or
33 the executive director's designee;

34 F. A representative of a large wildlife conservation organization in the State; and

35 G. A representative of a coastal property owners association in the State.

36 2. **Report; legislation authorized.** Beginning January 1, 2007, the Beaches
37 Advisory Group shall annually submit a report to the joint standing committee of the
38 Legislature having jurisdiction over natural resources matters. In the report, the Beaches
39 Advisory Group shall summarize the discussions of the group and present any
40 recommendations. The joint standing committee of the Legislature having jurisdiction

1 over natural resources matters may report out legislation to any session of the Legislature
2 regarding Maine's beaches.

3 **3. Repeal.** This section is repealed June 30, 2011; and be it further

4 **Sec. 3. Resolve 2003, c. 130, §6 amended. Resolved:** That Resolve 2003, c.
5 130, §6 is amended to read:

6 **Sec. 6. Repeal. Resolved:** That the rules authorized pursuant to section 1 of this
7 resolve are repealed ~~April 1, 2006~~ July 15, 2006.

8 **SUMMARY**

9 This amendment authorizes the final adoption of Chapter 355: Coastal Sand Dune
10 Rules, a provisionally adopted major substantive rule of the Department of
11 Environmental Protection that has been submitted to the Legislature for review pursuant
12 to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, if certain specific
13 changes are made to the rule. The amendment also changes the date that the current
14 coastal sand dune rules are repealed in order to provide the Department of Environmental
15 Protection the necessary time to finally adopt the rules authorized by this resolve. The
16 amendment also directs the Executive Department, State Planning Office, Maine Coastal
17 Program, with the Department of Environmental Protection and the Department of
18 Conservation, Maine Geological Survey, to convene the Beaches Advisory Group.

FISCAL NOTE REQUIRED
(See Attached)



122nd MAINE LEGISLATURE

LD 1977

LR 3108(02)

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

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

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund