

# MAINE STATE LEGISLATURE

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Date: 5/16/07

(Filing No. H-252)

NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 592, L.D. 774, Bill, "An Act To Coordinate the Implementation of the In-stream Flow and Water Level Rules among the Department of Environmental Protection, the Drinking Water Program of the Department of Health and Human Services and the Public Utilities Commission"

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the provisions of this legislation must take effect immediately to provide the statutory basis for major substantive rules authorized to be finally adopted when approved; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §470-H, as enacted by PL 2005, c. 330, §12, is amended to read:

§470-H. In-stream flow and water level requirements; rules

The board shall adopt rules that establish water use standards requirements for maintaining in-stream flows and GPA lake or pond water levels that are protective of aquatic life and other uses and that establish criteria for designating watersheds most at risk from cumulative water use. Standards Requirements adopted under this section must be based on the natural variation of flows and water levels, allowing variances if use will still be protective of water quality within that classification. The board shall incorporate into the rules a mechanism to reconcile, to the extent feasible, the objective of protecting

COMMITTEE AMENDMENT

1 aquatic life and other uses as provided for in this section and the objective of allowing  
2 community water systems to use their existing water supplies to provide water service.  
3 Before the department issues a community water system withdrawal certificate, the  
4 certificate must be reviewed and approved by the drinking water program of the  
5 Department of Health and Human Services, with technical assistance from the Public  
6 Advocate on economic issues, to ensure that conditions contained in the certificate are  
7 economically affordable and technically feasible and will not jeopardize the safety,  
8 dependability or financial viability of the community water system. Except as necessary  
9 to meet the requirements in this section and rules adopted pursuant to this section, a  
10 community water system does not forfeit the rights, powers or responsibilities related to  
11 water use that are contained in its legislative charter or similar authority. Rules adopted  
12 under this section are state water use rules in accordance with the authority reserved to  
13 states under the federal Clean Water Act. A water user that fails to comply with the  
14 requirements of the rules adopted under this section is subject to penalties pursuant to  
15 section 349. For purposes of this section, "community water system" has the same  
16 meaning as in Title 22, section 2660-B, subsection 2. Rules adopted under this section are  
17 major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

18 **Emergency clause.** In view of the emergency cited in the preamble, this  
19 legislation takes effect when approved.'

20 **SUMMARY**

21 This amendment adds an emergency preamble and clause. The amendment clarifies  
22 that the water use rules adopted by the Board of Environmental Protection are water use  
23 requirements adopted in accordance with the authority reserved to states under the  
24 federal Clean Water Act. It directs the board to incorporate into the rules a mechanism to  
25 reconcile the objective of protecting aquatic life and other uses with the objective of  
26 allowing community public water systems to use their existing water supplies to provide  
27 water service. It requires that a community water system withdrawal certificate must be  
28 reviewed and approved by the drinking water program of the Department of Health and  
29 Human Services, with technical assistance from the Public Advocate, before being issued  
30 by the Department of Environmental Protection.

**FISCAL NOTE REQUIRED**  
(See attached)



# 123rd MAINE LEGISLATURE

LD 774

LR 651(02)

**An Act To Coordinate the Implementation of the In-stream Flow and Water Level Rules among the Department of Environmental Protection, the Drinking Water Program of the Department of Health and Human Services and the Public Utilities Commission**

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

**Committee: Natural Resources**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection, the Public Utilities Commission and the Department of Health and Human Services in implementing this bill can be absorbed utilizing existing budget resources.