

MAINE STATE LEGISLATURE

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Date: 06-11-07

(Filing No. S-273)

NATURAL RESOURCES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

123RD LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 610, L.D. 1743, Bill, "An Act To Create the Freshwater Resource Board"

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

'An Act Concerning the Sustainable Use of and Planning for Water Resources'

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

Sec. 1. 5 MRSA §3331, sub-§8 is enacted to read:

8. Water Resources Planning Committee. The council shall convene the Water Resources Planning Committee, referred to in this subsection as "the committee."

A. The committee's membership must include, at a minimum:

(1) Personnel from:

(a) The Department of Conservation, Maine Geological Survey;

(b) The Department of Agriculture, Food and Rural Resources;

(c) The Department of Environmental Protection;

(d) The Maine Land Use Regulation Commission;

(e) The drinking water program of the Department of Health and Human Services; and

(f) The Executive Department, State Planning Office; and

(2) Members of the public with expertise in:

(a) Agriculture;

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- 1 **(b) Public water utilities;**
- 2 **(c) Water bottling and the sale of bottled water;**
- 3 **(d) The use of water by private domestic well owners;**
- 4 **(e) The environment and conservation; and**
- 5 **(f) The use of water by commercial entities.**

6 **B. The committee shall meet at least quarterly and report annually to the council,**
7 **beginning in August 2008. The committee shall plan for the sustainable use of water**
8 **resources focusing on the following three phases.**

9 **(1) In the first phase, the committee shall focus on:**

- 10 **(a) Collecting and reviewing information regarding water withdrawal**
11 **activities;**
- 12 **(b) Coordinating state water resources information; and**
- 13 **(c) Identifying watersheds at risk by refining the watersheds-at-risk analysis**
14 **previously performed by the Maine Geological Survey, including:**
 - 15 **(i) Conducting appropriate water resource investigations in watersheds**
16 **at risk;**
 - 17 **(ii) Considering projected increased water use by population,**
18 **agricultural irrigation, commercial users, industrial users and other users**
19 **in refining the watersheds-at-risk analysis;**
 - 20 **(iii) Considering seasonal use in refining the watersheds-at-risk analysis;**
 - 21 **(iv) Considering potential effects of climate change when refining the**
22 **watersheds-at-risk analysis;**
 - 23 **(v) Considering the effects of anticipated future water quality**
24 **classification changes on the availability of water for withdrawal when**
25 **refining the watersheds-at risk-analysis;**
 - 26 **(vi) In establishing priorities for such investigations, seeking input from**
27 **the user community, from towns dealing with multimunicipal aquifers**
28 **and from towns with significant local aquifers; and**
 - 29 **(vii) Developing guidelines for consistency in investigations.**

30 **(2) In the 2nd phase, the committee shall focus on convening planning groups in**
31 **watersheds at risk or regions encompassing multiple watersheds at risk to**
32 **develop water use management plans for water withdrawals. Based on the needs**
33 **of the individual watershed or region, planning group participants must be drawn**
34 **from:**

35 **(a) Personnel from:**

- 36 **(i) The Department of Conservation, Maine Geological Survey;**

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- 1 (ii) The Department of Agriculture, Food and Rural Resources;
- 2 (iii) The Department of Environmental Protection;
- 3 (iv) The Maine Land Use Regulation Commission;
- 4 (v) The drinking water program of the Department of Health and Human
- 5 Services;
- 6 (vi) The Executive Department, State Planning Office; and
- 7 (vii) The Department of Inland Fisheries and Wildlife; and

8 **(b) Members of the public with expertise in:**

- 9 (i) Agriculture;
- 10 (ii) Public water utilities;
- 11 (iii) Water bottling and the sale of bottled water;
- 12 (iv) The environment and conservation;
- 13 (v) Aquaculture;
- 14 (vi) Business and commerce;
- 15 (vii) Industrial water use; and
- 16 (viii) Municipal government.

17 (3) In the 3rd phase, if oversubscription of water use remains after the analysis
18 conducted in the 2nd phase, the committee shall recommend a process to resolve
19 issues.

20 **C. The committee shall conduct annual reviews of state policy with regard to:**

- 21 (1) Conservation of water resources;
- 22 (2) The development of regional sources and solutions to water use issues;
- 23 (3) Incentives for stewardship of water resources; and
- 24 (4) Impacts of surface water quality improvements on water withdrawal
- 25 opportunities.

26 **D. The committee shall provide guidance to municipalities and develop and**
27 **disseminate educational materials on water resources and the regulatory regime.**

28 **Sec. 2. 12 MRSA §5017 is enacted to read:**

29 **§5017. Disclosure of interest**

30 An applicant or permit holder who directly or indirectly retains an environmental
31 professional for the purpose of providing information to the department shall disclose to
32 the department if the environmental professional has either a direct or an indirect

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1 financial interest in the applicant or permit holder or in the property or activity that is the
2 subject of the permit.

3 **Sec. 3. 22 MRSA §2660**, as enacted by PL 1987, c. 531, §1, is repealed.

4 **Sec. 4. 22 MRSA §2660-A, sub-§2**, as amended by PL 1989, c. 502, Pt. B, §22,
5 is further amended to read:

6 **2. Exceptions.** The prohibition in this section does not apply to:

7 A. Any water utility as defined in Title 35-A;

8 B. Water transported for use in well drilling, construction activities, concrete
9 mixing, swimming pool filling, servicing portable toilets, firefighting, hospital
10 operations, aquaculture, agricultural applications or civil emergencies;

11 C. Water distilled as a by-product of a manufacturing process; ~~and~~

12 D. Water transported from a water source that, before July 1, 1987, was used to
13 supply water for bottling and sale; and ~~which that~~ that is used exclusively for bottling and
14 is sold in its pure form or as a carbonated or flavored beverage product; ~~and~~

15 E. Water withdrawn pursuant to a permit issued by the Department of Environmental
16 Protection or the Maine Land Use Regulation Commission.

17 **Sec. 5. 22 MRSA §2660-A, sub-§3, ¶A**, as enacted by PL 2003, c. 121, §1, is
18 amended to read:

19 A. Transport of the water will not constitute a threat to public health, safety or
20 welfare; ~~and~~

21 **Sec. 6. 22 MRSA §2660-A, sub-§3, ¶B**, as enacted by PL 2003, c. 121, §1, is
22 repealed.

23 **Sec. 7. 22 MRSA §2660-A, sub-§3, ¶C**, as enacted by PL 2003, c. 121, §1, is
24 repealed.

25 **Sec. 8. 38 MRSA §343-F**, as enacted by PL 1993, c. 355, §5, is amended by
26 adding at the end a new paragraph to read:

27 An applicant or permit holder who directly or indirectly retains an environmental
28 professional for the purpose of providing information to the department shall disclose to
29 the department if the environmental professional has a direct or indirect financial interest
30 in the applicant, the permit holder or the property or activity that is the subject of the
31 permit.

32 **Sec. 9. 38 MRSA §352, sub-§5-A**, as amended by PL 1999, c. 731, Pt. Z, §1, is
33 further amended to read:

34 **5-A. Accounting system.** In order to determine the extent to which the functions set
35 out in this section are necessary for the licensing process or are being performed in an
36 efficient and expeditious manner, the commissioner shall require that all employees of the
37 department involved in any aspect of these functions keep accurate and regular daily time
38 records. These records must describe the matters worked on, services performed and the
39 amount of time devoted to those matters and services, as well as amounts of money

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1 expended in performing those functions. Records must be kept for a sufficient duration
2 of time as determined by the commissioner to establish to the commissioner's satisfaction
3 that the fees are appropriate.

4

TABLE I

5

MAXIMUM FEES IN DOLLARS

6

TITLE 36

PROCESSING

CERTIFICATION

7

SECTION

FEE

FEE

8

656, sub-§1, ¶E, Pollution Control

9

Facilities

10

A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities

\$250

\$20

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B. Air pollution control and §1760, sub-§30, air pollution control facilities

250

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19

TITLE 38

PROCESSING

LICENSE

20

SECTION

FEE

FEE

21

344, sub-§7, Permit by rule

\$50

\$0

23

413, Waste discharge licenses

See section 353-B

24

480-E, Natural resources protection

25

A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource

140

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B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource

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C. Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource

.015/sq. ft. alteration

.005/sq. ft. alteration

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COMMITTEE AMENDMENT "A" to S.P. 610, L.D. 1743

1	<u>C-1. Significant groundwater well</u>	<u>4,577</u>	<u>1,961</u>
2	<u>C-2. Activity within a community</u>	<u>183</u>	<u>64</u>
3	<u>public water supply primary</u>		
4	<u>protection area.</u>		
5	D. Any alteration of a coastal sand	3,500	1,500
6	dune		
7	E. Condition compliance	84	0
8	F. Minor modification	184	0
9	485-A, Site location of development		
10	A. Residential subdivisions		
11	1. Affordable housing	50/lot	50/lot
12	2. On public water and sewers	175/lot	175/lot
13	3. All Other	250/lot	250/lot
14	B. Industrial parks	460/lot	460/lot
15	C. Mining	1,500	1,000
16	D. Structures	4,000	2,000
17	E. Other	1,000	1,000
18	543, Oily waste discharge	40	160
19	560, Vessels at anchorage	125	100
20	587, Ambient air quality or emissions	5,050	50
21	standards variances		
22	590, Air emissions licenses	See section 353-A	
23	633, Hydropower projects		
24	A. New or expanded generating	450/MW	50/MW
25	capacity		
26	B. Maintenance and repair or	150	150
27	other structural alterations not		
28	involving an increase in generating		
29	capacity		
30	33 United States Code, Chapter 26,		
31	Water Quality Certifications, in		
32	conjunction with applications for		
33	hydropower project licensing or		
34	relicensing		
35	A. Initial consultation	1,000	0
36	B. Second consultation	1,000	0
37	C. Application		
38	1. Storage	1,000	0
39	2. Generating	300/MW	50/MW
40	1304, Waste management		
41	A. Septage disposal		
42	1. Site designation	50	25

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1	B. Land application of sludges and		
2	residuals program approval		
3	1. Industrial sludge	400	400
4	2. Municipal sludge	300	275
5	3. Bioash	300	275
6	4. Wood ash	300	75
7	5. Food waste	300	75
8	6. Other residuals	300	175
9	C. Landfill		
10	1. Closing plans for secure	1,500	1,500
11	landfills		
12	2. Closing plans for	500	500
13	attenuation landfills		
14	3. Post-closure report	175	175
15	4. Preliminary information	175	175
16	reports		
17	5. License transfers	500	175
18	6. Special waste disposal		
19	a. One-time disposal of	50	50
20	quantities of 6 cubic yards		
21	or less		
22	b. One-time disposal of	100	100
23	quantities greater than 6		
24	cubic yards		
25	c. Program approval for	300	300
26	routine disposal of a		
27	special waste		
28	7. Minor revision for secure	600	100
29	landfills		
30	8. Minor revision for	100	100
31	attenuation landfills		
32	9. Public benefit determination	175	175
33	D. Incineration facility		
34	2. License transfer	175	175
35	E. License transfer other than for	100	100
36	landfills and incinerators		
37	F. Minor revision for septage	100	100
38	facilities and solid waste facilities		
39	other than landfills		
40	G. Permit by rule for one-time	100	100
41	activities		

42

TABLE II

COMMITTEE AMENDMENT

RWS

COMMITTEE AMENDMENT "A" to S.P. 610, L.D. 1743

TITLE 38 SECTION	PROCESSING FEE	ANNUAL LICENSE FEE
1304, Waste management		
A. Septage disposal		
1. Landspreading	\$550	\$250
2. Storage	50	75
B. Residuals compost facility		
1. Type I	150	150
3. Type II and Type III less than 3,500 cubic yards	700	500
5. Type II and Type III 3,500 cubic yards or greater	1,400	850
C. Land application of sludges and residuals		
1. Sites with program approval		
a. Industrial sludge	150	250
b. Municipal sludge	75	200
c. Bioash	75	200
d. Wood ash	50	125
e. Food waste	50	125
f. Other residuals	50	125
2. Sites without program approval		
a. Industrial sludge	300	550
b. Municipal sludge	150	250
c. Bioash	150	250
d. Wood ash	75	200
e. Food waste	75	200
f. Other	75	200
1310-N, Solid waste facility siting		
A. Landfill		
1. Existing, nonsecure municipal solid waste landfills accepting waste from fewer than 15,000 people	3,500	1,000
2. Existing, nonsecure municipal solid waste landfills accepting waste from more than 15,000 people	3,500	3,500

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1	3. New or expanded for secure	5,000	8,500
2	landfill		
3	5. Nonsecure wood waste or	700	750
4	demolition debris landfills, or		
5	both, if less than or equal to 6		
6	acres		
7	B. Incineration facilities		
8	1. New or expanded for the	3,500	5,000
9	acceptance of municipal or		
10	special wastes, or both		
11	2. Municipally owned and	3,500	1,000
12	operated solid waste		
13	incinerators with licensed		
14	capacity of 10 tons per day or		
15	less		
16	C. Transfer station and storage	750	175
17	facility		
18	D. Tire storage facility	400	450
19	F. Processing facility other than	700	700
20	municipal solid waste composting		
21	G. Beneficial use activities other		
22	than agronomic utilization		
23	3. Fuel substitution	700	500
24	4. Beneficial use without risk	700	200
25	assessment		
26	5. Beneficial use with risk	1,400	500
27	assessment		
28	H. Permit by rule for ongoing	100	100
29	activities		

30 **Sec. 10. 38 MRSA §480-B, sub-§9-A** is enacted to read:

31 **9-A. Significant groundwater well.** "Significant groundwater well" is defined as
32 follows.

33 **A. "Significant groundwater well" means any well, wellfield, excavation or other**
34 **structure, device or method used to obtain groundwater that is:**

35 **(1) Withdrawing at least 75,000 gallons during any week or at least 50,000**
36 **gallons on any day and is located at a distance of 500 feet or less from a coastal**
37 **or freshwater wetland, great pond, significant vernal pool habitat, water supply**
38 **well not owned or controlled by the applicant or river, stream or brook; or**

39 **(2) Withdrawing at least 216,000 gallons during any week or at least 144,000**
40 **gallons on any day and is located at a distance of more than 500 feet from a**
41 **coastal or freshwater wetland, great pond, significant vernal pool habitat, water**
42 **supply well not owned or controlled by the applicant or river, stream or brook.**

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1 Withdrawals of water for firefighting are not applied toward these thresholds.

2 B. "Significant groundwater well" does not include:

3 (1) A public water system as defined in Title 22, section 2601, subsection 8 other
4 than a public water system used solely to bottle water for sale;

5 (2) Individual home domestic supply;

6 (3) Agricultural use or storage;

7 (4) A development or part of a development requiring a permit pursuant to
8 article 6, article 7 or article 8-A; or

9 (5) A structure or development requiring a permit from the Maine Land Use
10 Regulation Commission.

11 **Sec. 11. 38 MRSA §480-C, sub-§4** is enacted to read:

12 **4. Significant groundwater well.** A person may not perform or cause to be
13 performed the establishment or operation of a significant groundwater well without first
14 obtaining a permit from the department.

15 **Sec. 12. 38 MRSA §480-D, sub-§10** is enacted to read:

16 **10. Significant groundwater well.** If the proposed activity includes a significant
17 groundwater well, the applicant must demonstrate that the activity will not have an undue
18 unreasonable effect on waters of the State, as defined in section 361-A, subsection 7,
19 water-related natural resources and existing uses, including, but not limited to, public or
20 private wells within the anticipated zone of contribution to the withdrawal. In making
21 findings under this subsection, the department shall consider both the direct effects of the
22 proposed withdrawal and its effects in combination with existing water withdrawals.

23 **Sec. 13. Transition.** If a person who requires a permit for establishment or
24 operation of a significant groundwater well from the Department of Environmental
25 Protection pursuant to the Maine Revised Statutes, Title 38, section 480-C is authorized
26 to transport water pursuant to Title 22, section 2660-A on the effective date of this Act
27 and applies for a permit for establishment or operation of the significant groundwater
28 well prior to expiration of the water transport authorization, the person may continue to
29 withdraw water until final agency action on the permit application.

30 **Sec. 14. Rulemaking public information meetings.** The Department of
31 Environmental Protection and the Maine Land Use Regulation Commission shall amend
32 their rules to require that a public information meeting be held prior to submission of an
33 application for a significant groundwater well. The public information meeting must
34 meet the requirements for public information meetings contained in the Department of
35 Environmental Protection's rule concerning the processing of applications and other
36 administrative matters. Rules adopted pursuant to this section are routine technical rules
37 as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

38 **Sec. 15. Rulemaking independent monitoring; fees.** The Department of
39 Environmental Protection and the Maine Land Use Regulation Commission shall
40 periodically contract with independent environmental professionals to provide a technical

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1 review and assessment of monitoring information submitted to the Department of
2 Environmental Protection or the Maine Land Use Regulation Commission related to
3 significant groundwater wells, and each shall through rulemaking develop a fee structure
4 to provide funding for the contracts. Rules adopted pursuant to this section are routine
5 technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter
6 2-A.'

7 **SUMMARY**

8 The amendment replaces the bill. The amendment requires the Land and Water
9 Resources Council to convene the Water Resources Planning Committee and describes
10 requirements related to membership, meetings and reporting. It details a list of areas on
11 which to focus effort. It also requires the committee to conduct an annual review of state
12 policy in regard to certain topics, provide guidance to municipalities and develop and
13 disseminate educational materials.

14 It requires an applicant for or a holder of a permit from the Department of
15 Environmental Protection or the Department of Conservation who retains an
16 environmental professional for the purpose of providing information to either agency to
17 disclose if the environmental professional has a financial interest in the applicant, in the
18 permit holder or in the property or activity that is the subject of the permit.

19 It adds to the list of exceptions in the bulk water transport laws so that water
20 withdrawn pursuant to a permit issued by the Department of Environmental Protection or
21 the Maine Land Use Regulation Commission does not require transport authorization
22 pursuant to the bulk water transport laws.

23 It repeals the legislative findings section of the bulk water transport laws.

24 It repeals 2 standards in the bulk water transport laws.

25 It amends the fee provisions of the Department of Environmental Protection to
26 provide processing and licensing fee ceilings for a permit for a significant groundwater
27 well and a permit for an activity within a community public water supply primary
28 protection area.

29 It makes the following changes to the natural resources protection laws:

30 1. It adds a definition of "significant groundwater well";

31 2. It amends the prohibition provisions to provide that a person may not establish or
32 operate a significant groundwater well without first obtaining a permit from the
33 Department of Environmental Protection; and

34 3. It adds an additional standard applicable to significant groundwater wells.

35 It provides transition language for persons who are required to obtain a permit for a
36 significant groundwater well but already are authorized to transport bulk water pursuant
37 to the bulk water transport laws on the effective date of this Act.

38 It requires the Department of Environmental Protection and the Maine Land Use
39 Regulation Commission to amend their rules to require that a public information meeting
40 be held prior to submission of an application for a significant groundwater well. The

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1 public information meeting must be in conformance with requirements for public
2 information meetings contained in the Department of Environmental Protection's rules
3 concerning the processing of applications and other administrative matters. These rules
4 are routine technical rules.

5 It requires the Department of Environmental Protection and the Maine Land Use
6 Regulation Commission to periodically contract with independent environmental
7 professionals to provide a technical review and assessment of monitoring information. It
8 also requires each department to undertake rulemaking to develop a fee structure to
9 provide funding for those contracts.

10

FISCAL NOTE REQUIRED

11

(See attached)



123rd MAINE LEGISLATURE

LD 1743

LR 1835(02)

An Act To Create the Freshwater Resource Board

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

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds
Minor revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This legislation amends fee provisions regarding permits for a significant groundwater well. The additional revenue and increased costs are expected to be minor. Also, any additional costs associated with rulemaking can be absorbed by the Department of Environmental Protection utilizing existing budgeted resources.