

MAINE STATE LEGISLATURE

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Date: 3/11/8

Majority
MARINE RESOURCES

(Filing No. H- 741)

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

COMMITTEE AMENDMENT "A" to H.P. 1422, L.D. 2038, Bill, "An Act To Facilitate the Timely Reopening of Closed Clam Flats"

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

'An Act To Establish the Shellfish Advisory Council and To Improve the Process of Reopening Clam Flats'

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 establishment of a shellfish advisory council is paramount for the proper management of Maine's shellfish resources to ensure the safe consumption of shellfish and the health of the shellfish industry; 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:

PART A

Sec. A-1. 5 MRSA §12004-I, sub-§57-G is enacted to read:

57-G.

<u>Marine</u>	<u>Shellfish</u>	<u>Expenses Only</u>	<u>12 MRSA §6038</u>
<u>Resources</u>	<u>Advisory Council</u>		

COMMITTEE AMENDMENT

1 **Sec. A-2. 12 MRSA §6038** is enacted to read:

2 **§6038. Shellfish Advisory Council**

3 **1. Appointment; composition.** The Shellfish Advisory Council, referred to in this
4 section as "the council" and established by Title 5, section 12004-I, subsection 57-G,
5 consists of 13 members who are appointed by the commissioner as follows:

6 A. Four members who are commercial shellfish license holders, at least 3 of whom
7 must be primarily soft-shell clam harvesters. In making the appointments under this
8 paragraph, the commissioner shall consider up to 6 recommendations from
9 associations representing the interests of persons who harvest shellfish commercially;

10 B. Two members who are shellfish aquaculture lease holders. In making the
11 appointments under this paragraph, the commissioner shall consider up to 3
12 recommendations from associations representing the interests of persons who raise
13 shellfish under aquaculture leases;

14 C. One member who represents the interests of municipalities with wastewater
15 treatment systems;

16 D. Two members who are licensed wholesale seafood dealers who have been issued
17 a shellfish sanitation certificate pursuant to section 6856, subsection 1. In making the
18 appointments under this paragraph, the commissioner shall consider up to 3
19 recommendations from associations representing the interests of persons who buy
20 and sell shellfish;

21 E. One public member with knowledge of and interest in coastal water quality;

22 F. Two members who are municipal shellfish wardens. In making the appointments
23 under this paragraph, the commissioner shall solicit and consider up to 3
24 recommendations for these 2 appointments from associations representing the
25 interests of persons who protect and help manage municipal shellfish resources; and

26 G. One member who has been issued a shellfish depuration certificate under section
27 6856, subsection 3.

28 The commissioner shall make appointments so that the composition of the council
29 reflects a geographic distribution along the coast of the State.

30 **2. Purpose.** The council shall make recommendations to the commissioner and the
31 joint standing committee of the Legislature having jurisdiction over marine resources
32 matters concerning:

33 A. How best to utilize state agencies, municipal governments, the shellfish industry
34 and citizen groups to make improvements to and maintain the quality of the State's
35 coastal waters and to expedite the opening of closed shellfish flats; and

36 B. Matters of interest to the State's shellfish industry, including, but not limited to,
37 shellfish resource management, public health protection and the activities and
38 recommendations of a multistate organization that promotes shellfish sanitation.

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1 The council is responsible for bringing forward to the commissioner matters of concern to
2 the shellfish industry and for assisting the commissioner with the dissemination of
3 information to members of the shellfish industry.

4 **3. Term.** The term of a member appointed to the council is 3 years, except that a
5 vacancy during an unexpired term must be filled in the same manner as for the original
6 member for the unexpired portion of the member's term. A member may not serve more
7 than 2 consecutive terms.

8 **4. Officers.** The officers of the council are the chair, vice-chair and secretary. The
9 term of the officers is one year. The council shall elect a member of the council for each
10 officer position at the first regular meeting of each year.

11 **5. Meeting.** The council shall meet at least once a year. It may also meet at other
12 times at the call of the chair or the commissioner. In advance of a meeting of a multistate
13 organization that promotes shellfish sanitation, the council shall meet to discuss matters
14 of interest to the shellfish industry, the department and the multistate organization and to
15 make recommendations as necessary.

16 **6. Compensation.** Council members are entitled to expenses according to Title 5,
17 chapter 379, which are paid from the Shellfish Fund established in section 6651.

18 **Sec. A-3. 12 MRSA §6651, sub-§2,** as amended by PL 1987, c. 328, §2, is
19 further amended to read:

20 **2. Uses of fund.** The commissioner may expend the money in the Shellfish Fund for
21 management, enforcement, restoration, development and conservation of shellfish and
22 mussels in the intertidal zone or coastal waters and for the costs associated with the
23 Shellfish Advisory Council established by Title 5, section 12004-I, subsection 57-G.

24 **Sec. A-4. Shellfish Advisory Council; staggered terms.** Notwithstanding the
25 Maine Revised Statutes, Title 12, section 6038, subsection 3, the Commissioner of
26 Marine Resources for the original appointment of members to the Shellfish Advisory
27 Council shall designate the first 3 appointments for one-year terms, the next 4
28 appointments for 2-year terms and any other appointments for 3-year terms. An initial
29 term of one or 2 years may not be considered a full term for purposes of limiting the
30 number of terms for which a member may serve.

31 **PART B**

32 **Sec. B-1. Implementation of recommendations.** The Department of Marine
33 Resources, working with the federal Food and Drug Administration and interested
34 parties, in consultation with the Shellfish Advisory Council under the Maine Revised
35 Statutes, Title 12, section 6038, shall implement in an orderly fashion all
36 recommendations of the review conducted pursuant to Resolve 2007, chapter 82.

37 **Sec. B-2. Water quality test projects.** The Department of Marine Resources
38 shall undertake 2 or more projects within one year of the effective date of this Act under
39 which a municipality contracts with a private laboratory, certified by the department, to
40 conduct water quality tests. The department shall as part of the certification process

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1 request and review the past practices or service record for an entity that seeks to be
2 certified by the department.

3 **Sec. B-3. Report.** On or before February 15, 2009, the Shellfish Advisory Council
4 under the Maine Revised Statutes, Title 12, section 6038 and the Department of Marine
5 Resources shall report to the joint standing committee of the Legislature having
6 jurisdiction over marine resources matters on all the activities the council and the
7 department have undertaken pursuant to this Act, including the results of projects and the
8 progress in implementing all of the recommendations made pursuant to Resolve 2007,
9 chapter 82, section 4. In addition the Shellfish Advisory Council shall report on its
10 overall structure and the appropriateness of the appointment process for the council.

11 **Sec. B-4. Appropriations and allocations.** The following appropriations and
12 allocations are made.

13 **MARINE RESOURCES, DEPARTMENT OF**

14 **Bureau of Resource Management 0027**

15 Initiative: Appropriates funds to implement the recommendations from the November 28,
16 2007 review of the Department of Marine Resources' shellfish sanitation program
17 conducted pursuant to Resolve 2007, chapter 82 and to undertake 2 or more projects
18 where a municipality contracts with a private lab to conduct water quality testing.

19	GENERAL FUND	2007-08	2008-09
20	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
21	Personal Services	\$0	\$73,009
22			
23	GENERAL FUND TOTAL	\$0	\$73,009

24 **Division of Administrative Services 0258**

25 Initiative: Appropriates funds to implement the recommendations from the November 28,
26 2007 review of the Department of Marine Resources' shellfish sanitation program
27 conducted pursuant to Resolve 2007, chapter 82 and to undertake 2 or more projects
28 where a municipality contracts with a private lab to conduct water quality testing.

29	GENERAL FUND	2007-08	2008-09
30	All Other	\$0	\$7,662
31			
32	GENERAL FUND TOTAL	\$0	\$7,662

33 **MARINE RESOURCES, DEPARTMENT OF**

34 **DEPARTMENT TOTALS** **2007-08** **2008-09**

35

1	GENERAL FUND	\$0	\$80,671
2			
3	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$80,671

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

6 **SUMMARY**

7 This amendment is the majority report and replaces the bill.

8 1. It establishes the Shellfish Advisory Council to advise the Commissioner of
9 Marine Resources and the joint standing committee of the Legislature having jurisdiction
10 over marine resources matters on matters of interest to Maine's shellfish industry,
11 including how best to maintain the quality of coastal waters and to expedite the opening
12 of closed shellfish flats.

13 2. It directs the Department of Marine Resources, working with the federal Food and
14 Drug Administration, interested parties and the Shellfish Advisory Council, to implement
15 the recommendations made pursuant to Resolve 2007, chapter 82.

16 3. It directs the Department of Marine Resources to undertake within one year 2 or
17 more projects in which a municipality contracts with a private laboratory certified by the
18 department to conduct water quality testing.

19 4. It directs the Department of Marine Resources and the Shellfish Advisory Council
20 to report to the joint standing committee of the Legislature having jurisdiction over
21 marine resources matters by February 15, 2009 on activities undertaken pursuant to the
22 directives in this amendment.

23 5. It adds an appropriations and allocations section and an emergency preamble and
24 emergency clause to the bill.

25 **FISCAL NOTE REQUIRED**
26 **(See attached)**



123rd MAINE LEGISLATURE

LD 2038

LR 3030(02)

An Act To Facilitate the Timely Reopening of Closed Clam Flats

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

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	\$80,671	\$206,619	\$210,831
Appropriations/Allocations				
General Fund	\$0	\$80,671	\$206,619	\$210,831

Fiscal Detail and Notes

The bill includes a General Fund appropriation of \$80,671 to the Department of Marine Resources in fiscal year 2008-09 to implement the recommendations from the November 28, 2007 review of the Department's Shellfish Sanitation Program conducted pursuant to Resolve 2007, chapter 82, and to undertake two or more projects where a municipality contracts with a private lab, certified by the Department, to conduct water quality testing. Costs and expenses associated with the Shellfish Advisory Council are minor and can be absorbed within existing resources.