

MAINE STATE LEGISLATURE

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Minority
MARINE RESOURCES

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

COMMITTEE AMENDMENT "B" 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 Enhance the Management of Shellfish Areas'

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:

Sec. 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>		

Sec. 2. 12 MRSA §6038 is enacted to read:

COMMITTEE AMENDMENT

1 **§6038. Shellfish Advisory Council**

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

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

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

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

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

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

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

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

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

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

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

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

38 The council is responsible for bringing forward to the commissioner matters of concern to
39 the shellfish industry and for assisting the commissioner with the dissemination of
40 information to members of the shellfish industry.

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

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

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

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

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

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

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

28 **Sec. 5. Shellfish Advisory Council; first order of business.** The Shellfish
29 Advisory Council, established in the Maine Revised Statutes, Title 5, section 12004-I,
30 subsection 57-G, upon appointment of members by the Commissioner of Marine
31 Resources shall work with the Department of Marine Resources regarding
32 recommendations in the November 28, 2007 review of the Department of Marine
33 Resources' shellfish sanitation program conducted pursuant to Resolve 2007, chapter 82
34 and may make recommendations to the joint standing committee of the Legislature
35 having jurisdiction over marine resources matters regarding pilot projects involving
36 private laboratories for water quality sampling and testing.

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

39 **SUMMARY**

40 This amendment is the minority report and replaces the bill. It establishes the
41 Shellfish Advisory Council to advise the Commissioner of Marine Resources and the

COMMITTEE AMENDMENT “*B*” to H.P. 1422, L.D. 2038

1 joint standing committee of the Legislature having jurisdiction over marine resources
2 matters on matters of interest to Maine’s shellfish industry, including how best to
3 maintain the quality of coastal waters and to expedite the opening of closed shellfish flats.

4 It provides that upon appointment of its members the Shellfish Advisory Council
5 shall work with the Department of Marine Resources regarding recommendations in the
6 November 28, 2007 review of the Department of Marine Resources’ shellfish sanitation
7 program and may make recommendations to the joint standing committee of the
8 Legislature having jurisdiction over marine resources matters regarding pilot projects
9 involving private laboratories for water quality sampling and testing.

10 It adds an emergency preamble and emergency clause to the bill.

11 **FISCAL NOTE REQUIRED**
12 **(See attached)**



123rd MAINE LEGISLATURE

LD 2038

LR 3030(03)

An Act To Facilitate the Timely Reopening of Closed Clam Flats

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

Committee: Marine Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs and expenses to the Department of Marine Resources associated with reviewing and evaluating, in conjunction with the Shellfish Advisory Council, the recommendations of the November 28, 2007 review of the Department's Shellfish Sanitation Program conducted pursuant to Resolve 2007, chapter 82, as well as considering pilot projects involving private labs for water quality sampling and testing, are minor and can be absorbed within existing budgeted resources. Any potential costs associated with implementation of such recommendations would need to be considered in future legislation.