

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**

**July 29, 2005**

**SECOND REGULAR SESSION**

**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND SPECIAL SESSION**

**NON-EMERGENCY LAWS IS**

**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**

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**AUGUST 23, 2006**

**PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**

**Lewiston, Maine**

**2006**

## CHAPTER 592

## H.P. 1465 - L.D. 2071

## An Act To Increase Wetland Protection

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

**Sec. 1. 38 MRSA §480-X, sub-§2**, as amended by PL 2003, c. 554, §1, is further amended to read:

**2. Three-tiered review process; tiers defined.** Except as provided in subsection 1, an application for a permit to undertake activities altering freshwater wetlands must be reviewed in accordance with the following.

A. A Tier 1 review process applies to any activity that involves a freshwater wetland alteration up to 15,000 square feet and does not involve the alteration of freshwater wetlands listed in subsection 4.

B. A Tier 2 review process applies to any activity that involves a freshwater wetland alteration of 15,000 square feet up to one acre and does not involve the alteration of freshwater wetlands listed in subsection 4 or 5.

C. A Tier 3 review process applies to any activity that involves a freshwater wetland alteration of one acre or more or an alteration of a freshwater wetland listed in subsection 4 or 5.

If the project as a whole requires Tier 2 or Tier 3 review, then any activity that is part of the overall project and involves a regulated freshwater wetland alteration also requires the same higher level of review, unless otherwise authorized by the department.

In determining the amount of freshwater wetland to be altered, all components of a project, including all phases of a multiphased project, are treated together as constituting one single and complete project. Activity authorized or legally conducted prior to the effective date of this section is not included.

The standards of section 480-D do not apply to projects that qualify for Tier 1 review, except that habitat standards under section 480-D, subsection 3 and water quality standards under section 480-D, subsection 5 apply to those projects. Projects that meet the eligibility requirements for Tier 1 review and that satisfy the permitting requirements set forth in subsection 3 and 6, as applicable, are presumed not to have significant environmental impact.

**Sec. 2. 38 MRSA §480-X, sub-§6, ¶B**, as amended by PL 1999, c. 243, §13, is further amended to read:

B. Work may not occur until ~~30~~ 45 days after the department receives a complete application, unless written approval is issued sooner by the department. The department shall notify the applicant in writing no later than ~~30~~ 45 days after the department receives a complete application if the applicable requirements of this section have not been met or if the review period may be extended pursuant to section 344-B, subsection 4. If the department has not notified the applicant within the ~~30-day~~ 45-day review period, a permit is deemed to be granted.

**Sec. 3. 38 MRSA §480-Z, 4th ¶**, as enacted by PL 1997, c. 101, §1 and affected by §2, is amended to read:

A project undertaken pursuant to this section must be approved by the department. The department shall base its approval of a compensation project on the wetland management priorities identified by the department for the watershed or biophysical region in which the project is located. The department may not approve a compensation project until the applicant has complied with all other applicable provisions of this article and all applicable rules adopted by the department pursuant to this article. For purposes of this section, "biophysical region" means a region with shared characteristics of climate, geology, soils and natural vegetation.

**Sec. 4. 38 MRSA §480-Z, sub-§3, ¶A**, as amended by PL 2003, c. 245, §8, is further amended to read:

A. The program may include the following:

- (1) Identification of wetland management priorities on a watershed or biophysical region basis;
- (2) Identification of the types of wetland losses eligible for compensation under this subsection;
- (3) Standards for compensation fee projects;
- (4) Calculation of compensation fees based on the functions and values of the affected wetlands and the cost of compensation, taking into account the potential higher cost of compensation when a project is implemented at a later date; and
- (5) Methods to evaluate the long-term effectiveness of compensation fee projects

implemented under this subsection in meeting the wetland management priorities identified pursuant to subparagraph (1).

**Sec. 5. Rules regarding wetland compensation.** The Department of Environmental Protection shall amend the rules regarding wetland compensation to require wetland compensation for 15,000 square feet or more of impact to freshwater wetlands. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

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## CHAPTER 593

### H.P. 989 - L.D. 1425

#### An Act To Support the Efficient Implementation of Maine's Learning Results

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

**Sec. 1. 20-A MRSA §6202-A, sub-§1,** as enacted by PL 2001, c. 454, §30, is amended to read:

**1. Technical assistance.** ~~During the 2001-2002 and 2002-2003 school years, the~~ The department shall provide technical assistance to school administrative units in ~~developing local assessment systems and setting standards for local assessment systems using student achievement data to inform teaching and learning. By the end of the 2003-2004 school year, the superintendent of each school administrative unit shall certify to the commissioner that the local assessment system meets these standards. The department shall establish quality standards for the statewide assessment program and the local assessment systems.~~

**Sec. 2. 20-A MRSA §6202-A, sub-§2-A** is enacted to read:

**2-A. Moratorium.** Notwithstanding subsection 2, a moratorium is imposed for the 2006-2007 school year for activities associated with assessments designed to certify student achievement. Assessments used for informing teaching and learning are exempt from this moratorium. This subsection is repealed June 30, 2007.

**Sec. 3. Moratorium; intent.** The moratorium established pursuant to the Maine Revised Statutes, Title 20-A, section 6202-A, subsection 2-A, is intended to suspend those activities associated with local assessment system activities designed to certify student achievement. This moratorium does not

suspend or revise other statutory requirements for implementation of the system of learning results, including the implementation timeline that was established for the awarding of a high school diploma that is aligned with the system of learning results pursuant to Public Law 2005, chapter 446.

**Sec. 4. Commissioner of Education to convene committees.** During the moratorium established pursuant to the Maine Revised Statutes, Title 20-A, section 6202-A, subsection 2-A, the Commissioner of Education shall convene:

1. A representative committee to design a growth model using the revised Maine education assessment for grades 3 to 8, thereby redefining the statewide assessment program as defined in the Maine Revised Statutes, Title 20-A, section 6202; and

2. A representative committee to:

A. Design a course of study and common state assessments for language arts and mathematics for high school students;

B. Provide recommendations for the remaining content areas; and

C. Design a pilot program to provide models for the determination of student achievement that merits the attainment of a learning results endorsement diploma, evaluated through a facilitated process.

**Sec. 5. Professional development funds; technical assistance.** For fiscal year 2006-07, the Commissioner of Education may expend and disburse up to \$1,000,000 of the \$2,000,000 appropriated by the Legislature to carry out the purposes of Public Law 1995, chapter 649, sections 6 and 7 to provide targeted professional development or technical assistance to increase the capacity of school administrative units to:

1. Develop data systems that:

A. Integrate assessments and assessment data into curriculum and instruction;

B. Design, validate, score and interpret assessments; and

C. Develop standards-based reporting systems;

2. Understand and implement Department of Education requirements;

3. Communicate standards-based assessment programs to stakeholders; and

4. Provide models of established, successful and balanced local assessment systems from school administrative units.