

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTIETH LEGISLATURE

SECOND SPECIAL SESSION
September 29, 2021

SECOND REGULAR SESSION
January 5, 2022 to May 9, 2022

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 29, 2021

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 8, 2022

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

Augusta, Maine
2022

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

Effective April 12, 2022.

CHAPTER 589

H.P. 1399 - L.D. 1889

An Act To Amend the Whistleblowers' Protection Act To Ensure Coverage in Unionized Workplaces

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

Sec. 1. 26 MRSA §837, as enacted by PL 1983, c. 452 and reallocated by c. 583, §15, is repealed.

See title page for effective date.

CHAPTER 590

H.P. 1465 - L.D. 1970

An Act To Implement Agency Recommendations Relating to Sea Level Rise and Climate Resilience Provided Pursuant to Resolve 2021, Chapter 67

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

PART A

Sec. A-1. 12 MRSA §685-B, sub-§1-A, ¶A, as amended by PL 2001, c. 402, §4, is repealed and the following enacted in its place:

A. A permit is not required for the repair and maintenance of an existing road culvert or for the replacement of an existing road culvert, including ancillary culverting activities such as excavation and filling, as long as:

- (1) Erosion control measures are taken to prevent sedimentation of the water;
- (2) The road culvert does not block passage for fish in flowing water; and
- (3) For replacements of existing road culverts crossing flowing water:
 - (a) The replacement culvert is designed, installed and maintained to match the natural grade of the channel bed of the water to avoid drops or perching; and
 - (b) As site conditions allow, culverts that are not open bottomed are embedded in the channel bed of the water a minimum

of one foot or at least 25% of the culvert or other structure's diameter, whichever is greater, except that a culvert does not have to be embedded more than 2 feet.

For purposes of this paragraph, "repair and maintenance" includes, but is not limited to, the riprapping of side slopes or culvert ends; removing debris and blockages within the culvert structure and at its inlet and outlet; and installing or replacing culvert ends if less than 50% of the culvert structure is being replaced;

Sec. A-2. 12 MRSA §685-B, sub-§4, ¶C, as amended by PL 2011, c. 682, §19, is repealed and the following enacted in its place:

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely to be affected by the proposal.

(1) In making a determination under this paragraph regarding whether an applicant has made adequate provision for fitting the proposal harmoniously into the existing natural environment, the commission may consider the effect of at least 1.5 feet of sea level rise by 2050 and 4 feet of relative sea level rise by 2100 as specified by the commission by rule adopted pursuant to section 685-A, subsection 3.

(2) In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this subparagraph, the commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

(3) In making a determination under this paragraph regarding a community-based offshore wind energy project, the commission shall consider the project's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3452.

(4) In making a determination under this paragraph regarding a wind energy development, as defined in Title 35-A, section 3451, subsection 11, that is not a grid-scale wind energy development, that has a generating capacity of 100 kilowatts or greater and that is proposed