

MAINE STATE LEGISLATURE

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**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
NATURAL RESOURCES**

JUNE 1996

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Sen. Richard P. Ruhlin*

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**ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Not signed by Governor within 10 days</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

Enacted law summary

Public Law 1995, chapter 630 creates a formal process through which the owner of a dam that is not federally-licensed may seek a new owner for the dam. The owner must notify and consult with municipalities, tribal governments, abutting property owners and the state departments of conservation, inland fisheries and wildlife and emergency management. The purpose of the consultation is to attempt to locate a new owner for the dam from among persons and agencies with an interest in maintaining the dam. If a state agency (Conservation, Inland Fisheries & Wildlife or Emergency Management) finds that the public interest warrants state assumption of the dam, the agency must assume ownership. The public interest would be determined by weighing factors such as the cost of maintaining the dam, the benefit of maintaining the dam and the benefit of releasing water from the dam.

If a new owner is not found, the law requires the Department of Environmental Protection to issue an order requiring the current owner to release water from the dam. This water release order would relieve the dam owner of any obligation to maintain a water level to meet the needs of persons other than the owner.

The new law also specifies that the Maine Tort Claims Act includes protection from liability for tort claims due to the construction, ownership, maintenance or use of dams. Finally, the law allows the Department of Environmental Protection to set water levels for dams not yet determined to be under the jurisdiction of the Federal Energy Regulatory Commission.

LD 819

An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone

PUBLIC 542

Sponsors(s)
BUNKER

Committee Report
OTP-AM

Amendments Adopted
H-685
S-436

LD 819, which was carried over from the 1st Regular Session, proposed to require the Board of Environmental Protection to adopt rules under the shoreland zoning law providing for individualized, written notification to a landowner whose property is being considered for placement in a resource protection zone.

Committee Amendment "B" (H-685) replaced the bill. It proposed to require a municipality to send notice by first-class mail to a landowner whose property is being considered for placement in a resource protection zone. Notice would be sent at least 14 days before the municipal planning board first discusses placing the property in the resource protection zone. If the Board of Environmental Protection adopted an ordinance for a municipality, the municipality would provide the names and addresses of landowners to the board, and the board would provide notice to landowners. The board would send notice at least 30 days before the close of the public comment period before adoption by the board.

The amendment proposed to require the municipality and the board to file written certificates indicating the names and addresses of persons they notified, and made the list prima facie evidence that notice was sent. A landowner who challenged the validity of an ordinance or map on the grounds that the municipality or the board failed to provide the required notice would be required to prove that notice was not sent, that the person did not otherwise have knowledge of the ordinance or map and that the person was materially prejudiced by that lack of knowledge.

Senate Amendment "A" to Committee Amendment "B" (S-436) proposed to clarify the obligation of a municipality to notify landowners by specifying that notice must be given at least 14 days before the planning board votes to send the ordinance or map to a public hearing. The amendment also proposed to clarify that the notice provision applies only to the initial placement in the zone, not to subsequent planning board actions that do not affect the inclusion of the property in the resource protection zone.

Enacted law summary

Public Law 1995, chapter 542 requires the governmental entity adopting a shoreland zoning ordinance (a municipality, or the Board of Environmental Protection) to provide individual notice to property owners whose property is being considered for placement in a resource protection zone. When a municipality is adopting the ordinance or map, the municipality must provide notice at least 14 days before the planning board votes to send the ordinance or map to a public hearing. When the board is adopting the ordinance, notice must be sent at least 30 days before the close of the public comment period prior to formal board consideration. Notice must be sent by first-class mail, and written certificates serve as evidence that the notice was sent as required.

LD 1014 **Resolve, Directing the Commissioner of Environmental Protection to Propose a Plan to Reorganize the Department of Environmental Protection ONTP**

<u>Sponsors(s)</u> GOULD	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1014 proposed to require the Commissioner of Environmental Protection to prepare a proposal to restructure the department along functional lines, resulting in a technical services division, a licensing division and an enforcement division.

LD 1042 **An Act to Amend the Surface Water Ambient Toxics Monitoring Program ONTP**

<u>Sponsors(s)</u> ETNIER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1042 proposed to increase the fee collected on oil terminal licensees and oil transporters in order to fund a portion of the Ambient Surface Water Toxics Monitoring program. The monitoring program currently receives only partial funding from the General Fund. The bill also proposed to modify the date for reporting on the monitoring program to the Natural Resources Committee from January 1st of each year to February 15th.

During the 1st Regular Session of the 117th Legislature, the committee adopted an amendment proposing to strike the oil fee increase and to provide full funding for the program through an additional General Fund appropriation. The amendment retained the portion of the bill that moved the reporting deadline.

The bill was carried over by the Appropriations Committee at the end of the 1st Regular Session and rereferred to the Natural Resources Committee at the beginning of the 2nd Regular Session. Instead of voting to approve LD 1042, the committee worked to support the governor's proposal that additional funding for the program be included in the supplemental budget. The supplemental