

# 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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**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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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.

8. Adds a preference for regional efforts when allocating the State Planning Office's waste management financial and technical assistance resources; and changes the maximum recycling grant local match requirement from 25% to 50%;
9. Clarifies the nature of marketing assistance and removes the requirement that the State Planning Office assist industries with reusing industrial and commercial wastes;
10. Removes the requirement that the State Planning Office assist the Department of Administrative and Financial Services with state agency recycling efforts and with assessing state agency waste reduction and recycling activities;
11. Eliminates the State Planning Office's mandatory role in providing business assistance with office paper recycling and instead authorize the office to provide such assistance;
12. Eliminates the requirement that the State Planning Office conduct a program of public education;
13. Makes the State Planning Office's participation in regional or national initiatives voluntary rather than mandatory; and
14. Eliminates the granting of exemptions from the prohibition against nonremovable rechargeable batteries.

**LD 1853**

**An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws**

PUBLIC 704

Sponsors(s)

Committee Report

Amendments Adopted

OTP-AM MAJ  
ONTP MIN

H-876

LD 1853 is one of three pieces of legislation resulting from a study of the site location of development laws by the Land and Water Resources Council. This bill proposed to amend the municipal subdivision laws by requiring municipalities to prepare an estimate of the additional cost of municipal and state services caused by a proposed subdivision development. The estimate would be based on guidelines prepared by the State Planning Office.

This bill proposed to amend the state site location of development laws to:

1. Raise the threshold for requiring a site law permit for subdivisions from 5 lots on 20 acres to 15 lots on 30 acres;
2. Raise the threshold for requiring a site law permit for structures and subdivisions in “municipalities with capacity”. Structures up to 7 acres and subdivisions up to 100 acres located in such municipalities would not need a state site law permit;
3. Define “municipality with capacity” as:
  - A. Any municipality with subdivision regulations, site plan review regulations, a process for case-by-case review of structures, a planning board or other review authority, and resources to administer and enforce its ordinances; and
  - B. Beginning in 2003, any municipality with 2,500 or more residents;

4. Add to site law jurisdiction any development that generates 100 or more passenger car equivalents (PCE's) at peak hour;
5. Raise the threshold for review of transmission lines from 100 kilovolts to 120 kilovolts;
6. Change the traffic standard for projects subject to the site law to: provide that a project that triggers site law jurisdiction only because of traffic impacts need only meet the traffic standard; eliminate review of traffic impacts for projects that fall under site law jurisdiction for non-traffic reasons but that generate fewer than 100 PCE's at peak hour. The bill also proposed to require the Department of Transportation to use a flexible system for reviewing traffic impacts under the site law, including performance standards for developments that generate 100 to 200 PCE's at peak hour;
7. Require DOT to take over regulation of traffic impacts beginning June 30, 1999, unless the Legislature adopts an alternative regulatory system and to require DOT to report to the Legislature by February 1, 1999 on possible alternatives to DOT assumption of traffic regulation;
8. Allow the Department of Environmental Protection to give an advance ruling on whether a project would meet the traffic requirements;
9. Amend the standards under the site law for soil type and erosion; and
10. Repeal the exemption for certain residential subdivisions and for storage facilities.

The bill proposed to require studies regarding groundwater quality and quantity. It would direct the Land and Water Resources Council to form a committee to develop recommendations concerning legislation required to address the storage, use and handling of petroleum products, hazardous materials and certain other substances with the potential to contaminate groundwater. It would also direct the DEP to work with interested parties to develop a program to minimize the potential for unreasonable adverse impacts on the availability of groundwater to support existing uses and present recommendations concerning any statutory requirements to the Land and Water Resources Council.

The bill also proposed to make the following changes regarding erosion and sedimentation control and storm water management:

1. Establish standards for controlling erosion and sedimentation from any project that involves filling, displacing or exposing soil; the bill proposed to prohibit a person from allowing eroded material from leaving the project site or entering a protected natural resource, and to require a person to install and maintain stabilization and erosion control measures; and
2. Establish a new permit requirement to regulate storm water runoff created by certain types of projects. The DEP would adopt stormwater quantity and quality standards for projects subject to the law, which would include projects that create more than 5 acres of disturbed area, 1/2 acre of impervious area in the watershed of a waterbody at risk from development or 1 acre of impervious area in other areas. The department would be required to list watersheds of bodies of water most at risk.

**Committee Amendment "A" (H-876)** proposed to make the following changes to the bill.

1. Strike out provisions requiring municipalities to calculate and report the public costs of subdivision development;

2. Amend the storm water standard under the site location of development laws to provide that metallic mineral mining activities are subject to the storm water standard in all parts of the State, not just in the organized areas, and to clarify that certain projects needing a site law permit must comply with applicable storm water standards even if they are exempt from the new storm water permitting law;
3. Add a section requiring the Department of Environmental Protection to develop by rule a process for granting a planning permit under the site law to allow for prepermitting of projects;
4. Strike out the section of the bill that would have exempted some pipelines from the law requiring analysis of alternative location and character;
5. Strike the provision exempting farm ponds over 10 acres, since that provision has been included in other legislation (See LD 1858);
6. Amend language stating when a municipality may request that the Department of Environmental Protection review projects in a municipality with capacity to review those projects. This amendment would clarify that the municipality or an adjacent municipality may request that the Department of Environmental Protection review a project when there are regional environmental impacts. In such cases, the department reviews the project only for the regional environmental impacts and the municipality would review for all other issues under the site law;
7. Require the Commissioner of Environmental Protection to use model local ordinances that review issues addressed by the site law in determining whether a municipality has adequate site plan review ordinances for purposes of determining municipal capacity;
8. Require the department to publish a list of municipalities with capacity by January 1, 1997 and deem certain municipalities to have capacity if the list is not published in time;
9. Specify that certain modifications of subdivisions permitted under the site law are not required to obtain Department of Environmental Protection approval;
10. Move the reporting date for the groundwater study groups to report back to the Legislature from January 10, 1997 to January 10, 1998;
11. Change the erosion and sedimentation control standards to require that a person take measures to prevent unreasonable erosion, rather than requiring a person to prevent any eroded material from leaving the project site or entering a protected natural resource and to exempt the standard forest management activities regulated by Maine Land Use Regulation Commission standards;
13. Limit the content and geographic applicability of storm water quality rules. Quality rules would apply only in the direct watersheds of bodies of water most at risk from new development and in sensitive or threatened regions and watersheds. The Department of Environmental Protection would be required to determine which watersheds and regions fall within these categories through rulemaking, which is classified as major substantive rulemaking. Until the regions of applicability are defined, storm water quality standards would not apply;

14. Clarify the forest management exemption from the stormwater permit and add exemptions for projects subject to certain federal permitting requirements, single-family residence construction or expansion projects, permitted waste facilities, and certain transportation projects subject to storm water standards to be developed by the Department of Environmental Protection and the Department of Transportation or the Maine Turnpike Authority; and
15. Change the effective date to provide that the Act is effective July 1, 1997, except that rulemaking is authorized beginning 90 days after adjournment of the session.

**House Amendment "A" (H-885)**, which was offered but not adopted, would have removed the provision increasing the threshold for review of transmission lines from 100 kilovolts to 120 kilovolts.

### *Enacted law summary*

Public Law 1995, chapter 704 makes the following changes in the state site location of development laws and other laws related to development:

1. Raises the threshold for requiring a site law permit for subdivisions from 5 lots on 20 acres to 15 lots on 30 acres;
2. Raises the threshold for requiring a site law permit for structures and subdivisions in “municipalities with capacity”. Structures up to 7 acres and single-family residential subdivisions up to 100 acres located in such municipalities will not be subject to state site law permit requirements. A person may petition DEP to review regional environmental impacts from any such project;
3. Defines “municipality with capacity” as:
  - A. Any municipality with subdivision regulations, site plan review regulations, a process for case-by-case review of structures, a planning board or other review authority, and resources to administer and enforce its ordinances; and
  - B. Beginning in 2003, any municipality with 2,500 or more residents;
4. Adds to site law jurisdiction any development that generates 100 or more passenger car equivalents at peak hour;
5. Raises the threshold for review of transmission lines from 100 to 120 kilovolts;
6. Changes the traffic standard for projects subject to the site law to provide that: a project that triggers site law jurisdiction only because of traffic impacts is only subject to the traffic standard; eliminate review of traffic impacts for projects that fall under site law jurisdiction for non-traffic reasons but that generate fewer than 100 PCE’s at peak hour. The law requires the Department of Transportation to use a flexible system for reviewing traffic impacts under the site law, including performance standards for developments that generate 100 to 200 passenger car equivalents at peak hour;
7. Requires the Department of Transportation to take over regulation of traffic impacts beginning June 30, 1999, unless the Legislature adopts an alternative regulatory system and requires DOT to report to the Legislature by February 1, 1999 on possible alternatives to DOT assumption of traffic regulation;

8. Allows DEP to issue an advance ruling on whether a proposed project meet the site law's traffic requirements;
9. Adds a section requiring the Department of Environmental Protection to develop by rule a process for granting a planning permit under the site law to allow for prepermitting of projects;
10. Amends the standards under the site law for soil type and erosion;
11. Repeals the exemption for certain residential subdivisions;
12. Directs the Land and Water Resources Council to form a committee to develop recommendations concerning legislation required to address the storage, use and handling of petroleum products, hazardous materials and certain other substances with the potential to contaminate groundwater. The Department of Environmental Protection in concert with others is directed to develop a program to minimize the potential for unreasonable adverse impacts on the availability of groundwater to support existing uses and present recommendations concerning any statutory requirements to the Land and Water Resources Council. Recommendations are due to the Legislature by January 10, 1998;
13. Establishes standards outside the site law for controlling erosion and sedimentation from any project that involves filling, displacing or exposing soil; it requires a person performing the project to take steps to prevent unreasonable erosion beyond the project site or into a protected natural resource, and requires a person to install and maintain erosion control and stabilization measures; and
14. Establishes a new permit requirement to regulate storm water runoff created by certain types of projects. The DEP will adopt stormwater quantity and quality standards for projects subject to the law, which will include projects that create more than 5 acres of disturbed area, 1/2 acre of impervious area in the watershed of a waterbody at risk from development or 1 acre of impervious area in other areas. The department will be required to list watersheds of bodies of water most at risk. Stormwater quality standards will only apply in certain geographic areas, which will also be defined by DEP by rule. All rules relating to stormwater permitting are "major substantive" rules and will be reviewed by the Legislature before becoming effective. Certain types of projects are exempt from this permitting requirement, including: certain forest management activities; single-family residence construction or expansion projects; permitted waste facilities, and certain transportation projects subject to storm water standards to be developed by the Department of Environmental Protection and the Department of Transportation or the Maine Turnpike Authority.

The law takes effect July 1, 1997, except that rulemaking is authorized beginning 90 days after adjournment of the 117th, Second Session (July 4, 1996).

**LD 1854**

**An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries**

**PUBLIC 700**

Sponsors(s)

Committee Report

Amendments Adopted

OTP-AM MAJ  
ONTP MIN

H-872

Current law establishes performance standards for certain medium sized borrow pits (internally drained gravel or sand excavations between 5 and 30 acres), and allows a person to operate such a