

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Natural Resources*

August 2005

Members:

*Sen. Scott W. Cowger, Chair
Sen. John L. Martin
Sen. Lois A. Snowe-Mello*

*Rep. Theodore S. Koffman, Chair
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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. 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 considered by the committees. It is organized 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

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:

- CARRIED OVER Bill Carried Over to Second Regular Session
CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Natural Resources

LD 1506

An Act To Update the Laws Governing Borrow Pits and Quarries

PUBLIC 158

<u>Sponsor(s)</u> NASS R KOFFMAN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-155
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LD 1506 proposed to amend the laws administered by the Department of Environmental Protection governing borrow pits and quarries. The "borrow pit law" regulates excavations for borrow, clay, topsoil or silt. The bill proposed to:

1. Add additional standards for quarries and excavations for borrow, clay, topsoil or silt under the site law. The standards would require a spill prevention, control and countermeasures plan and address dust control.
2. Clarify that reclamation of the land affected by mining may include development of the site for residential, commercial, recreational or industrial use pursuant to the borrow pit law and the quarry law.
3. Provide that comments submitted in relation to a notification under the borrow pit law and the quarry law may be submitted directly to the department.
4. Amend the standards in the laws governing borrow pits and quarries regarding roads, rights-of-way and natural buffer strips to provide that a natural buffer at least 50 feet wide must be maintained between the working edge of an excavation and any public right-of-way that does not contain a road. It also would provide that when a variance is allowed from the public road standard, it may not result in a natural buffer strip of less than 50 feet between the working edge of the excavation and any road or right-of-way, whichever is farther from the excavation. The buffer along a public road other than a scenic highway may be reduced if there is a public entity or entities with authority to grant permission and the applicant receives permission in writing from each authority.
5. Provide that any written permission to reduce a buffer from a property line in the laws governing borrow pits and quarries must remain in effect until mining ceases and must be recorded in the registry of deeds.
6. Amend the erosion and sedimentation standard in the laws governing borrow pits and quarries to provide that areas that are not naturally internally drained must meet the standards of the laws governing erosion and sedimentation control in the Maine Revised Statutes, Title 38, section 420-C.
7. Repeal and replace the existing surface water protection and storm water standards in the laws governing borrow pits and quarries. The new provision would clarify when the storm water standards of Title 38, section 420-D must be met in regard to externally drained areas. It also proposed to indicate that a waste discharge must meet standards and obtain authorization pursuant to Title 38, section 413 if required.
8. Add a numeric standard for fugitive dust emissions to the laws governing borrow pits and quarries.
9. Authorize the department to grant a release from requirements of the borrow pit law after reclamation of the affected area. The department would be required to inspect the site before the release, and the release would terminate if any further excavation was proposed on the parcel for borrow, clay, topsoil or silt.
10. Provide that all excavations below the seasonal high water table require a variance from the department by removing limiting language under the quarry law.

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11. Change, in the quarry law, the range for a preblast survey from 2000 feet to 1/2 mile, consistent with federal requirements.
12. Authorize the department to grant a release from requirements of the quarry law after reclamation of the affected area. The department would be required to inspect the site before the release, and the release would terminate if any further excavation was proposed on the parcel.

Committee Amendment "A" (S-155) proposed to clarify: that a buffer strip at least 50 feet wide must be maintained between the working edge of an excavation and any public right-of-way that does not contain a road; that areas for access roads that are not naturally internally drained must meet the erosion and sedimentation control standards; and that certain areas that are not naturally internally drained must meet the standards in the storm water management law. It also proposed to change the annual fees in the borrow pit and quarry laws.

Enacted law summary

Public Law 2005, chapter 158 amends the laws administered by the Department of Environmental Protection governing borrow pits and quarries. The "borrow pit law" regulates excavations for borrow, clay, topsoil or silt.

1. It adds additional standards for quarries and excavations for borrow, clay, topsoil or silt under the site law. The standards require a spill prevention, control and countermeasures plan and address dust control.
2. It clarifies that reclamation of the land affected by mining may include development of the site for residential, commercial, recreational or industrial use pursuant to the borrow pit law and the quarry law.
3. It provides that comments submitted in relation to a notification under the borrow pit law and the quarry law may be submitted directly to the department.
4. It amends the standards in the laws governing borrow pits and quarries regarding roads, rights-of-way and natural buffer strips to provide that a natural buffer at least 50 feet wide must be maintained between the working edge of an excavation and any public right-of-way that does not contain a road. It also provides that when a variance is allowed from the public road standard, it may not result in a natural buffer strip of less than 50 feet between the working edge of the excavation and any road or right-of-way, whichever is farther from the excavation. The buffer along a public road other than a scenic highway may be reduced if there is a public entity or entities with authority to grant permission and the applicant receives permission in writing from each authority.
5. It provides that any written permission to reduce a buffer from a property line in the laws governing borrow pits and quarries must remain in effect until mining ceases and must be recorded in the registry of deeds.
6. It amends the erosion and sedimentation standard in the laws governing borrow pits and quarries to provide that areas for access roads that are not naturally internally drained must meet the standards of the laws governing erosion and sedimentation control in the Maine Revised Statutes, Title 38, section 420-C.
7. It repeals and replaces the existing surface water protection and storm water standards in the laws governing borrow pits and quarries. The new provision clarifies when the storm water standards of Title 38, section 420-D must be met in regard to externally drained areas. It also indicates that a waste discharge must meet standards and obtain authorization pursuant to Title 38, section 413 if required.

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8. It adds a numeric standard for fugitive dust emissions to the laws governing borrow pits and quarries.
9. It authorizes the department to grant a release from requirements of the borrow pit law and the quarry law after reclamation of the affected area. The department would be required to inspect the site before the release, and the release would terminate if any further excavation was proposed on the parcel.
10. It provides that all excavations below the seasonal high water table require a variance from the department under the quarry law.
11. It changes in the quarry law the range for a preblast survey from 2000 feet to 1/2 mile from the blast site.
12. It changes the annual fees in the borrow pit and quarry laws.

LD 1533 **An Act To Prevent Algae Blooms in Gulf Island Pond** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINEAU	ONTP MAJ	
NUTTING J	OTP MIN	

LD 1533 proposed to require ongoing monitoring of certain water quality conditions at the hydropower project at Gulf Island Pond. It also proposed to require forecasting of water conditions and, if required based upon the forecasting, implementation of changes to the operating regimen of the hydropower project at Gulf Island Dam. This bill also proposed to provide that the wastewater discharge licensees would pay for the appropriate monitoring and modeling system in order to implement this legislation.

LD 1535 **An Act Making Improvements to the Laws Regarding Local Land Use Ordinances** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KOFFMAN		
BROMLEY		

LD 1535 proposes to broaden and update the findings and purposes sections of planning and land use control law to explicitly recognize that planning and land use regulation is a shared responsibility of State Government and local government. The bill proposes to make changes in definitions of relevant terms and it proposes to rewrite the laws on rate of growth ordinances and clarifies when rate of growth ordinances are allowed. LD 1535 was carried over by H. P. 1203 to any special or regular session of the 122nd Legislature.

LD 1558 **An Act Concerning Storm Water Management** **PUBLIC 219**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER	OTP-AM	S-184