

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

**'An Act Concerning the Sustainable Use
of and Planning for Water Resources'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'**Sec. 1. 5 MRSA §3331, sub-§8** is enacted to read:

8. Water Resources Planning Committee. The council shall convene the Water Resources Planning Committee, referred to in this subsection as "the committee."

A. The committee's membership must include, at a minimum:

(1) Personnel from:

(a) The Department of Conservation, Maine Geological Survey;

(b) The Department of Agriculture, Food and Rural Resources;

(c) The Department of Environmental Protection;

(d) The Maine Land Use Regulation Commission;

(e) The drinking water program of the Department of Health and Human Services; and

(f) The Executive Department, State Planning Office; and

(2) Members of the public with expertise in:

(a) Agriculture;

(b) Public water utilities;

(c) Water bottling and the sale of bottled water;

(d) The use of water by private domestic well owners;

(e) The environment and conservation; and

(f) The use of water by commercial entities.

B. The committee shall meet at least quarterly and report annually to the council, beginning in August 2008. The committee shall plan for the sustainable use of water resources focusing on the following three phases.

(1) In the first phase, the committee shall focus on:

(a) Collecting and reviewing information regarding water withdrawal activities;

(b) Coordinating state water resources information; and

(c) Identifying watersheds at risk by refining the watersheds-at-risk analysis previously performed by the Maine Geological Survey, including:

(i) Conducting appropriate water resource investigations in watersheds at risk;

(ii) Considering projected increased water use by population, agricultural irrigation, commercial users, industrial users and other users in refining the watersheds-at-risk analysis;

(iii) Considering seasonal use in refining the watersheds-at-risk analysis;

(iv) Considering potential effects of climate change when refining the watersheds-at-risk analysis;

(v) Considering the effects of anticipated future water quality classification changes on the availability of water for withdrawal when refining the watersheds-at-risk analysis;

(vi) In establishing priorities for such investigations, seeking input from the user community, from towns dealing with multimunicipal aquifers and from towns with significant local aquifers; and

(vii) Developing guidelines for consistency in investigations.

(2) In the 2nd phase, the committee shall focus on convening planning groups in watersheds at risk or regions encompassing multiple watersheds at risk to develop water use management plans for water withdrawals. Based on the needs of the individual watershed or region, planning group participants must be drawn from:

(a) Personnel from:

(i) The Department of Conservation, Maine Geological Survey;

(ii) The Department of Agriculture, Food and Rural Resources;

(iii) The Department of Environmental Protection;

(iv) The Maine Land Use Regulation Commission;

(v) The drinking water program of the Department of Health and Human Services;

(vi) The Executive Department, State Planning Office; and

(vii) The Department of Inland Fisheries and Wildlife; and

(b) Members of the public with expertise in:

(i) Agriculture;

(ii) Public water utilities;

(iii) Water bottling and the sale of bottled water;

(iv) The environment and conservation;

(v) Aquaculture;

(vi) Business and commerce;

(vii) Industrial water use; and

(viii) Municipal government.

(3) In the 3rd phase, if oversubscription of water use remains after the analysis conducted in the 2nd phase, the committee shall recommend a process to resolve issues.

C. The committee shall conduct annual reviews of state policy with regard to:

(1) Conservation of water resources;

(2) The development of regional sources and solutions to water use issues;

(3) Incentives for stewardship of water resources; and

(4) Impacts of surface water quality improvements on water withdrawal opportunities.

D. The committee shall provide guidance to municipalities and develop and disseminate educational materials on water resources and the regulatory regime.

Sec. 2. 12 MRSA §5017 is enacted to read:

§ 5017. Disclosure of interest

An applicant or permit holder who directly or indirectly retains an environmental professional for the purpose of providing information to the department shall disclose to the department if the environmental professional has either a direct or an indirect financial interest in the applicant or permit holder or in the property or activity that is the subject of the permit.

Sec. 3. 22 MRSA §2660, as enacted by PL 1987, c. 531, §1, is repealed.

Sec. 4. 22 MRSA §2660-A, sub-§2, as amended by PL 1989, c. 502, Pt. B, §22, is further amended to read:

2. Exceptions. The prohibition in this section does not apply to:

A. Any water utility as defined in Title 35-A;

B. Water transported for use in well drilling, construction activities, concrete mixing, swimming pool filling, servicing portable toilets, firefighting, hospital operations, aquaculture, agricultural applications or civil emergencies;

C. Water distilled as a by-product of a manufacturing process; and

D. Water transported from a water source that, before July 1, 1987, was used to supply water for bottling and sale; and which that is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product; and

E. Water withdrawn pursuant to a permit issued by the Department of Environmental Protection or the Maine Land Use Regulation Commission.

Sec. 5. 22 MRSA §2660-A, sub-§3, ¶A, as enacted by PL 2003, c. 121, §1, is amended to read:

A. Transport of the water will not constitute a threat to public health, safety or welfare; and

Sec. 6. 22 MRSA §2660-A, sub-§3, ¶B, as enacted by PL 2003, c. 121, §1, is repealed.

Sec. 7. 22 MRSA §2660-A, sub-§3, ¶C, as enacted by PL 2003, c. 121, §1, is repealed.

Sec. 8. 38 MRSA §343-F, as enacted by PL 1993, c. 355, §5, is amended by adding at the end a new paragraph to read:

An applicant or permit holder who directly or indirectly retains an environmental professional for the purpose of providing information to the department shall disclose to the department if the environmental professional has a direct or indirect financial interest in the applicant, the permit holder or the property or activity that is the subject of the permit.

Sec. 9. 38 MRSA §352, sub-§5-A, as amended by PL 1999, c. 731, Pt. Z, §1, is further amended to read:

5-A. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.

TABLE I
MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		

SP0610, LD 1743, item 2, 123rd Maine State Legislature
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A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20
TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
344, sub-§7, Permit by rule	\$50	\$0
413, Waste discharge licenses	See section 353-B	
480-E, Natural resources protection		
A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource	140	50
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60
C. Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource	.015/sq. ft. alteration	.005/sq. ft. alteration
<u>C-1. Significant groundwater well</u>	<u>4,577</u>	<u>1,961</u>
<u>C-2. Activity within a community public water supply primary protection area.</u>	<u>183</u>	<u>64</u>
D. Any alteration of a coastal sand dune	3,500	1,500
E. Condition compliance	84 0	
F. Minor modification	184	0
485-A, Site location of development		
A. Residential subdivisions		
1. Affordable housing	50/lot	50/lot
2. On public water and sewers	175/lot	175/lot
3. All Other	250/lot	250/lot
B. Industrial parks	460/lot	460/lot
C. Mining	1,500	1,000
D. Structures	4,000	2,000
E. Other	1,000	1,000
543, Oily waste discharge	40	160
560, Vessels at anchorage	125	100
587, Ambient air quality or emissions standards variances	5,050	50
590, Air emissions licenses	See section 353-A	
633, Hydropower projects		
A. New or expanded generating capacity	450/MW	50/MW

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B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	150	150
33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing		
A. Initial consultation	1,000	0
B. Second consultation	1,000	0
C. Application		
1. Storage	1,000	0
2. Generating	300/MW	50/MW
1304, Waste management		
A. Septage disposal		
1. Site designation	50	25
B. Land application of sludges and residuals program approval		
1. Industrial sludge	400	400
2. Municipal sludge	300	275
3. Bioash	300	275
4. Wood ash	300	75
5. Food waste	300	75
6. Other residuals	300	175
C. Landfill		
1. Closing plans for secure landfills	1,500	1,500
2. Closing plans for attenuation landfills	500	500
3. Post-closure report	175	175
4. Preliminary information reports	175	175
5. License transfers	500	175
6. Special waste disposal		
a. One-time disposal of quantities of 6 cubic yards or less	50	50
b. One-time disposal of quantities greater than 6 cubic yards	100	100
c. Program approval for routine disposal of a special waste	300	300
7. Minor revision for secure landfills	600	100
8. Minor revision for attenuation landfills	100	100
9. Public benefit determination	175	175
D. Incineration facility		
2. License transfer	175	175
E. License transfer other than for landfills and incinerators	100	100

F. Minor revision for septage facilities and solid waste facilities other than landfills	100	100
G. Permit by rule for one-time activities	100	100

**TABLE II
 WASTE MANAGEMENT FEES - ANNUAL LICENSE
 MAXIMUM FEES IN DOLLARS**

TITLE 38 SECTION	PROCESSING FEE	ANNUAL LICENSE FEE
1304, Waste management		
A. Septage disposal		
1. Landspreading	\$550	\$250
2. Storage	50	75
B. Residuals compost facility		
1. Type I	150	150
3. Type II and Type III less than 3,500 cubic yards	700	500
5. Type II and Type III 3,500 cubic yards or greater	1,400	850
C. Land application of sludges and residuals		
1. Sites with program approval		
a. Industrial sludge	150	250
b. Municipal sludge	75	200
c. Bioash	75	200
d. Wood ash	50	125
e. Food waste	50	125
f. Other residuals	50	125
2. Sites without program approval		
a. Industrial sludge	300	550
b. Municipal sludge	150	250
c. Bioash	150	250
d. Wood ash	75	200
e. Food waste	75	200
f. Other	75	200
1310-N, Solid waste facility siting		
A. Landfill		
1. Existing, nonsecure municipal solid waste landfills accepting waste from fewer than 15,000 people	3,500	1,000
2. Existing, nonsecure municipal solid waste landfills accepting waste from more than 15,000 people	3,500	3,500

3. New or expanded for secure landfill	5,000	8,500
5. Nonsecure wood waste or demolition debris landfills, or both, if less than or equal to 6 acres	700	750
B. Incineration facilities		
1. New or expanded for the acceptance of municipal or special wastes, or both	3,500	5,000
2. Municipally owned and operated solid waste incinerators with licensed capacity of 10 tons per day or less	3,500	1,000
C. Transfer station and storage facility	750	175
D. Tire storage facility	400	450
F. Processing facility other than municipal solid waste composting	700	700
G. Beneficial use activities other than agronomic utilization		
3. Fuel substitution	700	500
4. Beneficial use without risk assessment	700	200
5. Beneficial use with risk assessment	1,400	500
H. Permit by rule for ongoing activities	100	100

In subsection 5-A wherever section, subsection or paragraph symbols are, spell them out to read "section," "subsection" or "paragraph"

Sec. 10. 38 MRSA §480-B, sub-§9-A is enacted to read:

9-A. Significant groundwater well. "Significant groundwater well" is defined as follows.

A. "Significant groundwater well" means any well, wellfield, excavation or other structure, device or method used to obtain groundwater that is:

(1) Withdrawing at least 75,000 gallons during any week or at least 50,000 gallons on any day and is located at a distance of 500 feet or less from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook; or

(2) Withdrawing at least 216,000 gallons during any week or at least 144,000 gallons on any day and is located at a distance of more than 500 feet from a coastal or freshwater wetland, great pond, significant vernal pool habitat, water supply well not owned or controlled by the applicant or river, stream or brook.

Withdrawals of water for firefighting are not applied toward these thresholds.

B. "Significant groundwater well" does not include:

(1) A public water system as defined in Title 22, section 2601, subsection 8 other than a public water system used solely to bottle water for sale;

(2) Individual home domestic supply;

(3) Agricultural use or storage;

(4) A development or part of a development requiring a permit pursuant to article 6, article 7 or article 8-A; or

(5) A structure or development requiring a permit from the Maine Land Use Regulation Commission.

Sec. 11. 38 MRSA §480-C, sub-§4 is enacted to read:

4. Significant groundwater well. A person may not perform or cause to be performed the establishment or operation of a significant groundwater well without first obtaining a permit from the department.

Sec. 12. 38 MRSA §480-D, sub-§10 is enacted to read:

10. Significant groundwater well. If the proposed activity includes a significant groundwater well, the applicant must demonstrate that the activity will not have an undue unreasonable effect on waters of the State, as defined in 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 subsection, the department shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

Sec. 13. Transition. If a person who requires a permit for establishment or operation of a significant groundwater well from the Department of Environmental Protection pursuant to the Maine Revised Statutes, Title 38, section 480-C is authorized to transport water pursuant to Title 22, section 2660-A on the effective date of this Act and applies for a permit for establishment or operation of the significant groundwater well prior to expiration of the water transport authorization, the person may continue to withdraw water until final agency action on the permit application.

Sec. 14. Rulemaking public information meetings. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall amend their rules to require that a public information meeting be held prior to submission of an application for a significant groundwater well. The public information meeting must meet the requirements for public information meetings contained in the Department of Environmental Protection's rule concerning the processing of applications and other administrative matters. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. 15. Rulemaking independent monitoring; fees. The Department of Environmental Protection and the Maine Land Use Regulation Commission shall periodically contract with independent environmental professionals to provide a technical review and assessment of monitoring information submitted to the Department of Environmental Protection or the Maine Land Use Regulation Commission related to significant groundwater wells, and each shall through rulemaking develop a fee structure to provide funding for the contracts. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.'

SUMMARY

The amendment replaces the bill. The amendment requires the Land and Water Resources Council to convene the Water Resources Planning Committee and describes requirements related to membership, meetings and reporting. It details a list of areas on which to focus effort. It also requires the committee to conduct an annual review of state policy in regard to certain topics, provide guidance to municipalities and develop and disseminate educational materials.

It requires an applicant for or a holder of a permit from the Department of Environmental Protection or the Department of Conservation who retains an environmental professional for the purpose of providing information to either agency to disclose if the environmental professional has a financial interest in the applicant, in the permit holder or in the property or activity that is the subject of the permit.

It adds to the list of exceptions in the bulk water transport laws so that water withdrawn pursuant to a permit issued by the Department of Environmental Protection or the Maine Land Use Regulation Commission does not require transport authorization pursuant to the bulk water transport laws.

It repeals the legislative findings section of the bulk water transport laws.

It repeals 2 standards in the bulk water transport laws.

It amends the fee provisions of the Department of Environmental Protection to provide processing and licensing fee ceilings for a permit for a significant groundwater well and a permit for an activity within a community public water supply primary protection area.

It makes the following changes to the natural resources protection laws:

1. It adds a definition of "significant groundwater well";
2. It amends the prohibition provisions to provide that a person may not establish or operate a significant groundwater well without first obtaining a permit from the Department of Environmental Protection; and

3. It adds an additional standard applicable to significant groundwater wells.

It provides transition language for persons who are required to obtain a permit for a significant groundwater well but already are authorized to transport bulk water pursuant to the bulk water transport laws on the effective date of this Act.

It requires the Department of Environmental Protection and the Maine Land Use Regulation Commission to amend their rules to require that a public information meeting be held prior to submission of an application for a significant groundwater well. The public information meeting must be in conformance with requirements for public information meetings contained in the Department of Environmental Protection's rules concerning the processing of applications and other administrative matters. These rules are routine technical rules.

It requires the Department of Environmental Protection and the Maine Land Use Regulation Commission to periodically contract with independent environmental professionals to provide a technical review and assessment of monitoring information. It also requires each department to undertake rulemaking to develop a fee structure to provide funding for those contracts.

FISCAL NOTE REQUIRED
(See attached)