



132nd MAINE LEGISLATURE

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Legislative Document

No. 228

H.P. 151

House of Representatives, January 21, 2025

**An Act to Allow Coastal Seawalls to Be Raised by up to 2 Feet in
Order to Accommodate Predicted Sea Level Rise**

(EMERGENCY)

Received by the Clerk of the House on January 16, 2025. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FOLEY of Wells.
Cosponsored by Senator BAILEY of York and
Representatives: BLIER of Buxton, CAMPBELL of Orrington, GRAMLICH of Old Orchard
Beach, MASON of Lisbon, SOBOLESKI of Phillips, Senator: MARTIN of Oxford.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the State in 2023 and 2024 experienced multiple significant storm events
4 causing widespread and devastating floods and damaging public and private infrastructure
5 across the State with particular impact along the coast, which experienced historically high
6 and dangerous tides; and

7 **Whereas,** with an ever-increasing frequency of such storm events and a projected rise
8 in sea levels and the associated risks to persons, property and resources, the citizens of the
9 State must be able to enhance the resilience of public and private infrastructure to the
10 effects of these storms; and

11 **Whereas,** the changes to the Natural Resources Protection Act proposed in this
12 legislation must take effect immediately to facilitate the timely development of certain
13 coastal resiliency projects; and

14 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
15 the meaning of the Constitution of Maine and require the following legislation as
16 immediately necessary for the preservation of the public peace, health and safety; now,
17 therefore,

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

19 **Sec. 1. 38 MRSA §480-E, sub-§19** is enacted to read:

20 **19. Height increase of existing seawall in coastal sand dune system.**
21 Notwithstanding any provision of this article or department rule to the contrary, the
22 department may authorize a one-time increase in the height of a seawall or similar structure
23 in a coastal sand dune system through a permit or permit by rule under this article if:

24 A. The seawall is in existence on January 1, 2025;

25 B. The height of the seawall is increased by no more than 2 feet; and

26 C. The height increase of the seawall otherwise meets all applicable requirements
27 adopted by the department by rule.

28 The department may adopt rules establishing standards for height increases of seawalls in
29 accordance with this subsection.

30 **Sec. 2. 38 MRSA §480-W, sub-§4,** as enacted by PL 2005, c. 548, §2, is amended
31 to read:

32 **4. Replacement after emergency action under permit by rule.** Notwithstanding
33 any other provision of this chapter, the department shall approve a permit by rule to repair
34 or replace a seawall, bulkhead, retaining wall or similar structure that has been destroyed
35 or threatened with a structure that, except as provided in paragraph C, is identical in all
36 dimensions and location as long as a property owner files a completed permit-by-rule
37 notification for the repair or replacement of the structure and the following standards are
38 met:

39 A. During project construction, disturbance of dune vegetation must be avoided and
40 native vegetation must be retained on the lot to the maximum extent possible. Any
41 areas of dune vegetation that are disturbed must be restored as quickly as possible.

1 Dune vegetation includes, but is not limited to, American beach grass, rugosa rose,
2 bayberry, beach pea, beach heather and pitch pine.

3 B. Sand may not be moved seaward of the frontal dune between April 1st and
4 September 1st unless the owner has obtained written approval from the Department of
5 Inland Fisheries and Wildlife.

6 C. The replacement of a seawall may not increase the ~~height~~, length or thickness of
7 the seawall beyond that which legally existed within the 24 months prior to the
8 submission of the permit-by-rule notification but may increase the height of the seawall
9 by no more than 2 feet. The replaced seawall may not be significantly different in
10 construction from the one that previously existed.

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

13 **SUMMARY**

14 This bill amends the Natural Resources Protection Act to authorize the Department of
15 Environmental Protection to approve a permit or permit by rule for a one-time increase in
16 the height of a seawall or similar structure in a coastal sand dune system, as long as the
17 seawall is in existence on January 1, 2025, the height of the seawall is increased by no more
18 than 2 feet and the seawall otherwise meets all applicable requirements adopted by the
19 department by rule. The bill provides a similar allowance for a 2-foot height increase where
20 a seawall has been destroyed or threatened and is replaced after emergency action.