



# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1914

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H.P. 1275

House of Representatives, May 6, 2025

### **An Act to Address Housing Density Requirements in Sole Source Aquifer Island and Peninsular Communities**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STOVER of Boothbay.  
Cosponsored by Representatives: EATON of Deer Isle, GEIGER of Rockland, HEPLER of  
Woolwich, MATLACK of St. George, MITCHELL of Cumberland, STROUT of Harrington,  
Senators: GROHOSKI of Hancock, RENY of Lincoln.

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

2       **Sec. 1. 30-A MRSA §4364, sub-§10** is enacted to read:

3       **10. Application.** For a sole source aquifer municipality, the applicability of this  
4 section is governed by section 4364-D. For the purposes of this subsection, "sole source  
5 aquifer municipality" has the same meaning as in section 4364-D, subsection 1, paragraph  
6 C.

7       **Sec. 2. 30-A MRSA §4364-A, sub-§11** is enacted to read:

8       **11. Application.** For a sole source aquifer municipality, the applicability of this  
9 section is governed by section 4364-D. For the purposes of this subsection, "sole source  
10 aquifer municipality" has the same meaning as in section 4364-D, subsection 1, paragraph  
11 C.

12       **Sec. 3. 30-A MRSA §4364-B, sub-§14** is enacted to read:

13       **14. Application.** For a sole source aquifer municipality, the applicability of this  
14 section is governed by section 4364-D. For the purposes of this subsection, "sole source  
15 aquifer municipality" has the same meaning as in section 4364-D, subsection 1, paragraph  
16 C.

17       **Sec. 4. 30-A MRSA §4364-C, sub-§4** is enacted to read:

18       **4. Application.** For a sole source aquifer municipality, the applicability of this section  
19 is governed by section 4364-D. For the purposes of this subsection, "sole source aquifer  
20 municipality" has the same meaning as in section 4364-D, subsection 1, paragraph C.

21       **Sec. 5. 30-A MRSA §4364-D** is enacted to read:

22       **§4364-D. Housing density exemption for certain island and peninsular municipalities**

23       **1. Definitions.** For the purposes of this section, unless the context otherwise indicates,  
24 the following terms have the following meanings.

25       A. "Hydrogeology" means the science of the occurrence, distribution and movement  
26 of groundwater.

27       B. "Sole source aquifer" means an aquifer designated by the United States  
28 Environmental Protection Agency pursuant to 42 United States Code, Section  
29 300h-3(e) as the sole or principal drinking water source for an area that if contaminated  
30 would create a significant hazard to public health.

31       C. "Sole source aquifer municipality" means a municipality that is located wholly or  
32 partially on an island or peninsula and relies on a primary drinking water supply  
33 derived from a sole source aquifer.

34       **2. Exemption from increased housing density requirements pending geological**  
35 **evaluation.** Notwithstanding any provision to the contrary in sections 4364 to 4364-C, a  
36 sole source aquifer municipality is not required to allow increased housing density in an  
37 area within the municipality unless a licensed geologist determines that the groundwater  
38 and septic capacity of the municipality can support an increase in housing density. A sole  
39 source aquifer municipality shall pursue the geological evaluation described in subsection  
40 3 consistent with the time frames established in rules adopted by the Department of  
41 Economic and Community Development pursuant to subsection 7.

1       **3. Evaluation of groundwater and septic capacity.** A sole source aquifer  
2       municipality shall contract with a qualified geologist who is licensed in this State and has  
3       expertise and experience in the field of hydrogeology to determine whether the  
4       groundwater and septic capacity within the municipality or a particular area within the  
5       municipality can support an increase in housing density. The evaluation process must  
6       include an analysis of the following:

7       A. The specific soils and geology of the area being considered for an increase in  
8       housing density;

9       B. The capacity of existing groundwater resources to support additional density  
10      without adversely impacting drinking water supplies;

11      C. The ability of septic systems to function safely and effectively, accounting for  
12      existing and planned future development; and

13      D. The proximity to salt water and potential impacts on groundwater and septic system  
14      performance.

15      After completing the analysis as required pursuant to this subsection, the geologist  
16      performing the evaluation shall complete a report that includes the geologist's  
17      recommendations and findings, including whether the evidence shows that the groundwater  
18      and septic capacity in the area evaluated can support an increase in housing density.

19      **4. Municipal action following evaluation report.** This subsection governs the effect  
20      of the evaluation report under subsection 3 on the obligations of the sole source aquifer  
21      municipality with respect to the requirements of sections 4364 to 4364-C.

22      A. If the evaluation report demonstrates that the municipality or a particular area within  
23      the municipality can support increased housing density, the sole source aquifer  
24      municipality shall develop or amend its comprehensive plan and zoning ordinances to  
25      allow increased density as required under sections 4364 to 4364-C, but only to the  
26      extent the area can support the increase consistent with the findings of the evaluation  
27      report.

28      B. If the evaluation report demonstrates that the municipality or a particular area within  
29      the municipality cannot support increased housing density, the municipality remains  
30      exempt from the requirements of sections 4364 to 4364-C for the area determined to  
31      be unable to support increased density.

32      **5. Implementation date.** Notwithstanding sections 4364 to 4364-C, for a sole source  
33      aquifer municipality required to comply with sections 4364 to 4364-C as provided in  
34      subsection 4, paragraph A, wherever the term "implementation date" appears in sections  
35      4364 to 4364-C, the applicable date is the date the evaluation report completed pursuant to  
36      subsection 3 is received by the municipality.

37      **6. Reporting requirements.** A sole source aquifer municipality shall submit an  
38      annual report to the Department of Economic and Community Development detailing the  
39      municipality's progress toward completing the evaluation required under this section and  
40      any actions taken by the municipality to address housing density.

41      **7. Rule-making authority.** The Department of Environmental Protection and the  
42      Department of Economic and Community Development shall adopt rules pursuant to this  
43      subsection as follows.

A. The Department of Economic and Community Development shall adopt rules to implement this section, including but not limited to:

(1) Rules establishing a time frame in which sole source aquifer municipalities must obtain an evaluation pursuant to subsection 3; and

(2) Other rules establishing guidance for municipal compliance with this section.

B. The Department of Environmental Protection shall adopt rules limited to:

(1) Rules establishing criteria by which sole source aquifer municipalities may select a licensed geologist to perform the evaluation required under subsection 3;  
and

(2) Other rules as necessary to facilitate the performance of the evaluation pursuant to subsection 3.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## SUMMARY

This bill establishes an exemption from the Maine Revised Statutes, Title 30-A, sections 4364 to 4364-C for municipalities that are located wholly or partially on an island or peninsula and rely on a primary drinking water supply derived from a sole source aquifer. The bill provides that such a municipality is exempt from these provisions until a licensed geologist has analyzed the groundwater and septic capacity within the municipality or a particular area within the municipality and determined that it can support an increase in housing density. If the licensed geologist determines in the geologist's evaluation report that the area can support an increase in housing, the municipality is required to comply with the provisions of Title 30-A, sections 4364 to 4364-C, to the extent that the licensed geologist determines the area can support the increase. If the geologist's evaluation report indicates the area cannot support an increase in housing density, the municipality is exempt from Title 30-A, sections 4364 to 4364-C.

The Department of Economic and Community Development and the Department of Environmental Protection are directed to adopt rules to implement this legislation. The Department of Environmental Protection has rule-making authority limited to establishing criteria by which municipalities may select a licensed geologist and other rules necessary to perform the geological evaluation required under this legislation.