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Legislative Document

No. 1254

H.P. 854

House of Representatives, April 7, 2015

An Act To Implement and Fund an Integrated Beach Management Program

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative FOLEY of Wells.
Cosponsored by Senator COLLINS of York and
Representatives: BLUME of York, BUCKLAND of Farmington, HYMANSON of York,
RYKERSON of Kittery, VACHON of Scarborough.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§24-G** is enacted to read:

3 **24-G.**

4 Environment: Beach Advisory Not Authorized 38 MRSA §480-TT
5 Natural Resources Group

6 **Sec. 2. 36 MRSA c. 722** is enacted to read:

7 **CHAPTER 722**

8 **BEACH MANAGEMENT FEE**

9 **§4911. Fee imposed**

10 A fee is imposed on the rental in this State, between May 1st and October 31st, of
11 living quarters in any hotel, rooming house or tourist or trailer camp in the amount of \$1
12 per day. This fee is to be collected and administered in accordance with section 1754-B.
13 For the purposes of this chapter, "hotel," "rooming house," "tourist camp" and "trailer
14 camp" have the same meanings as in section 1752.

15 **§4912. Administration**

16 The fee imposed by this chapter is administered as provided in chapter 7 and Part 3,
17 with the fee imposed pursuant to this chapter to be considered as imposed under Part 3.

18 The revenue derived from the fee imposed by this chapter must be deposited in the
19 Beach Management Fund established under Title 38, section 480-VV, which must
20 reimburse the General Fund for the administrative costs of the fee as certified by the
21 Bureau of Revenue Services.

22 **§4913. Effective date**

23 This chapter is effective for sales of taxable services made in this State on and after
24 October 1, 2015.

25 **Sec. 3. 38 MRSA c. 3, sub-c. 1, art. 5-B** is enacted to read:

26 **ARTICLE 5-B**

27 **BEACH MANAGEMENT PROGRAM**

28 **§480-SS. Definitions**

29 As used in this article, unless the context otherwise indicates, the following terms
30 have the following meanings.

1 **1. Beach.** "Beach" means the zone of unconsolidated sand or gravel that extends
2 landward from the mean low water line to the seaward toe of a dune. "Beach" includes
3 the beach face and berm.

4 **2. Beach nourishment.** "Beach nourishment" means the artificial addition of sand,
5 gravel or other similar natural material to a beach or subtidal area adjacent to a beach.

6 **3. Dune restoration.** "Dune restoration" means restoration of a natural or artificially
7 constructed dune through the addition of sand and planting of native dune vegetation.

8 **§480-TT. Beach Advisory Group**

9 The Beach Advisory Group, referred to in this section as "the advisory group," as
10 established in Title 5, section 12004-I, subsection 24-G, is created to advise the
11 department on matters pertaining to the management, preservation and restoration of
12 beaches in the State.

13 **1. Membership.** The advisory group consists of 9 members as follows:

14 A. The commissioner or the commissioner's designee, who serves as the chair of the
15 advisory group;

16 B. The Commissioner of Agriculture, Conservation and Forestry or the
17 commissioner's designee;

18 C. The Commissioner of Inland Fisheries and Wildlife or the commissioner's
19 designee;

20 D. The Commissioner of Marine Resources or the commissioner's designee; and

21 E. The following members of the public, appointed by the Governor:

22 (1) One representative of a statewide wildlife and wildlife habitat conservation
23 group;

24 (2) One representative of a regional planning and development commission;

25 (3) One representative of a coastal property owners association;

26 (4) One representative of a municipal government whose boundaries include at
27 least one beach; and

28 (5) One member of the public with demonstrated expertise and interest in the
29 management, preservation and restoration of beaches.

30 **2. Terms.** Members appointed by the Governor serve 4-year terms. Members serve
31 until their successors are appointed. A vacancy must be filled for the remainder of an
32 unexpired term.

33 **3. Meetings.** The advisory group shall meet twice each year but may hold additional
34 meetings as determined necessary by the chair.

35 **4. Staff.** The department shall provide staff support to the advisory group.

36 **5. Duties.** The advisory group may make recommendations to the department on:

- 1 A. Priority classifications of specific beaches based on:
2 (1) Geologic characteristics, including suitability for beach nourishment or dune
3 restoration;
4 (2) Habitat value, including where such habitat is threatened;
5 (3) Availability for purchase by the State, including potential post-purchase
6 management strategies; and
7 (4) Any other information that will assist the department in determining the
8 priority classification of beaches in the State;
9 B. Economic evaluations regarding the importance of beaches to the State's economy
10 and environment;
11 C. Funding estimates and recommendations for specific beach nourishment,
12 preservation or restoration projects;
13 D. Methods of funding tourism infrastructure priorities related to beaches;
14 E. Potential additional funding sources to implement and support the programs and
15 directives outlined in this article; and
16 F. Any additional information or recommendations relating to the management,
17 preservation and restoration of the State's beaches the advisory group determines
18 relevant to the department's administration of this article.

19 **6. Report.** By January 15, 2016 and annually thereafter, the advisory group shall
20 report to the joint standing committee of the Legislature having jurisdiction over natural
21 resources matters on the condition of the State's beaches, including specific
22 recommendations for legislative or regulatory changes as necessary to support beach
23 management, preservation and restoration activities. The joint standing committee of the
24 Legislature having jurisdiction over natural resources matters may report out a bill related
25 to the report.

26 **§480-UU. Priority list for beach management activities**

27 The department shall develop and maintain a priority list ranking all beaches in the
28 State based on suitability for beach nourishment, dune restoration, land acquisition or
29 other enhancement techniques using the criteria established in this section.

30 **1. Classification.** The department shall designate each beach in the State as high,
31 medium or low priority for beach nourishment, dune restoration, land acquisition or other
32 enhancement techniques based upon an analysis of the criteria in subsection 2.

33 **2. Criteria.** The department shall determine the priority ranking of each beach in the
34 State as required by subsection 1 based on an analysis of its geologic characteristics,
35 including suitability for beach nourishment or dune restoration activities; habitat value,
36 including where such habitat is threatened or has potential for enhancement; availability
37 for purchase by the State, including potential post-purchase management strategies; and
38 any other information relevant to the determination of the priority classification of a
39 beach.

1 **3. Consultation.** The department shall develop the priority list pursuant to this
2 section in consultation with the Department of Agriculture, Conservation and Forestry,
3 Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey
4 and Maine Coastal Program; the Department of Inland Fisheries and Wildlife; the
5 Department of Marine Resources; and the Beach Advisory Group under section 480-TT.

6 **§480-VV. Beach Management Fund**

7 The Beach Management Fund, referred to in this section as "the fund," is created
8 within the department as a nonlapsing dedicated fund for carrying out the purposes of this
9 article. Funds deposited in the fund may be disbursed only for purposes specified in this
10 section and for reimbursement of administrative costs as specified in Title 36, section
11 4912. Any funds appropriated or allocated to the fund must be deposited in the fund, and
12 the fund may accept grants, bequests, gifts or contributions from any person.

13 **1. Technical assistance and information.** The department may disburse funds from
14 the fund to develop coordinated programs for technical assistance to municipalities and
15 homeowners and to make available information to municipalities and homeowners
16 relating to beach management, including guidance on the creation of local or municipal
17 beach management plans.

18 **2. Municipal projects.** The department may disburse funds from the fund to
19 municipalities to provide assistance in the development and implementation of local
20 beach management, preservation and restoration projects. Disbursements from the fund
21 to municipalities must be consistent with the priority list established under section
22 480-UU. The department may not disburse funds from the fund to a municipality unless
23 the municipality has in place a written beach management plan, approved by the
24 commissioner, that accounts for the protection and preservation of any species designated
25 as endangered or threatened pursuant to Title 12, section 12803 whose habitat is located
26 wholly or partly within the beach area. The department may not disburse funds from the
27 fund to a municipality unless the municipality demonstrates that any privately owned
28 portion of the beach included in the proposed project has in place all easements necessary
29 to provide public access to that beach.

30 **3. Administrative costs.** The department may use the fund to reimburse the
31 department for administrative costs associated with the implementation and maintenance
32 of the programs and directives contained in this article.

33 **Sec. 4. Maine Coastal Program; report.** By January 15, 2016, the Department
34 of Agriculture, Conservation and Forestry, Division of Geology, Natural Areas and
35 Coastal Resources, Maine Coastal Program shall submit to the Department of
36 Environmental Protection a report containing a draft priority ranking for specific beach
37 management projects in the State. The report must also document one or more focal
38 beach areas with willing sellers and recommendations for funding sources to support
39 acquisition of the area by the State as part of a beach management strategy. The report
40 must be developed in consultation with the Beach Advisory Group under the Maine
41 Revised Statutes, Title 38, section 480-TT. The Maine Coastal Program shall provide a
42 copy of the report to the joint standing committee of the Legislature having jurisdiction
43 over natural resources matters.

1 **Sec. 5. Maine Geological Survey; report.** By January 15, 2016, the
2 Department of Agriculture, Conservation and Forestry, Division of Geology, Natural
3 Areas and Coastal Resources, Maine Geological Survey shall submit to the Department
4 of Environmental Protection a report recommending a high, medium or low priority,
5 consistent with the Maine Revised Statutes, Title 38, section 480-UU, for each beach in
6 the State based upon its geologic characteristics and suitability for beach nourishment or
7 dune restoration, as those terms are defined under Title 38, section 480-SS, or other
8 physical management techniques. The report must identify 4 to 6 beaches or beach
9 segments in need of management and most suitable for beach nourishment, dune
10 restoration or other physical management techniques. The Maine Geological Survey
11 shall provide a copy of the report to the joint standing committee of the Legislature
12 having jurisdiction over natural resources matters.

13 **Sec. 6. Department of Inland Fisheries and Wildlife; report.** By January
14 15, 2016, the Department of Inland Fisheries and Wildlife shall submit to the Department
15 of Environmental Protection a report recommending a high, medium or low priority,
16 consistent with the Maine Revised Statutes, Title 38, section 480-UU, for each beach in
17 the State based upon its habitat value, including those beaches in need of additional
18 habitat protection or having the potential for habitat enhancement through the
19 implementation of habitat management strategies. The Department of Environmental
20 Protection shall provide a copy of the report to the joint standing committee of the
21 Legislature having jurisdiction over natural resources matters.

22 **Sec. 7. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 38,
23 section 480-TT, subsection 2, in making the original appointments of the public members
24 of the Beach Advisory Group, the Governor shall designate the first appointment for a
25 one-year term, the 2nd appointment for a 2-year term, the 3rd appointment for a 3-year
26 term and any other appointments for 4-year terms.

27 SUMMARY

28 This bill implements and provides a funding mechanism for an integrated coastal
29 beach management program. It imposes a \$1 per day fee, effective October 1, 2015, on
30 the rental, between May 1st and October 31st, of living quarters in any hotel, rooming
31 house or tourist or trailer camp, to be deposited into the Beach Management Fund
32 established by the bill. This bill also establishes the Beach Advisory Group, chaired by
33 the Commissioner of Environmental Protection and composed of 8 additional members
34 from state agencies and the public, which meets at least twice per year and advises the
35 Department of Environmental Protection on matters related to the management,
36 preservation and restoration of beaches in the State. The advisory group must also
37 deliver an annual report to the joint standing committee of the Legislature having
38 jurisdiction over natural resources matters, and the committee may report out a bill
39 related to the report. This bill directs and provides criteria for the department to develop
40 and maintain a priority list ranking all beaches within the State based on suitability for
41 beach nourishment, dune restoration, land acquisition or other enhancement techniques.
42 This bill stipulates that resources in the Beach Management Fund may be used to develop
43 coordinated programs for technical assistance to municipalities and homeowners; to

1 provide assistance in the development and implementation of local beach management,
2 preservation and restoration projects; and to reimburse the department for administrative
3 costs. Disbursements from the fund must be consistent with the priority list developed by
4 the department. This bill directs the Department of Agriculture, Conservation and
5 Forestry, Division of Geology, Natural Areas and Coastal Resources, Maine Coastal
6 Program to submit to the Department of Environmental Protection, by January 15, 2016,
7 a report containing a draft priority ranking for specific beach management projects in the
8 State, highlighting one or more focal beach areas with willing sellers for potential
9 acquisition by the State. This bill directs the Department of Agriculture, Conservation
10 and Forestry, Division of Geology, Natural Areas and Coastal Resources, Maine
11 Geological Survey to submit to the Department of Environmental Protection, by January
12 15, 2016, a report recommending priority rankings for each Maine beach based upon its
13 geologic characteristics and suitability for beach nourishment, dune restoration or other
14 physical management techniques, and identifying 4 to 6 beaches in need of management
15 and most suitable for these techniques. This bill directs the Department of Inland
16 Fisheries and Wildlife to submit to the Department of Environmental Protection, by
17 January 15, 2016, a report recommending priority rankings for each Maine beach based
18 upon its habitat value.