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SPEAKING IN SUPPORT OF L.D. 2187

AN ACT TO UPDATE CERTAIN WATER QUALITY STANDARDS
AND TO RECLASSIFY CERTAIN WATERS OF THE STATE

SPONSORED BY SENATOR TEPLER

BEFORE THE JOINT STANDING COMMITTEE
ON
ENVIRONMENT AND NATURAL RESOURCES

DATE OF HEARING:

February 25, 2026

Senator Tepler, Representative Doudera, and members of the Committee, I am Brian Kavanah, Director of the Bureau of Water Quality at the Department of Environmental Protection. I am speaking in support of L.D. 2187. In the interest of time, and noting that much of my testimony was discussed at the ENR briefing on this issue on January 21st, I will not be reading all of my testimony.

This bill is the final state-based step in the Triennial Review process. The Triennial Review, required by the Clean Water Act and Maine law (38 M.R.S. §464.3.B.), is a comprehensive periodic review, and potential revision, of Maine's water quality standards. The most recent previous Triennial Review bill was heard by this committee in February of 2022.

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This current process was started by the Department in March 2024 with a request to any member of the public to submit proposals for potential changes to Maine's water quality standards. That was followed by an extensive public process that involved review of those proposals by Department staff and the Board of Environmental Protection (Board). The process included an assessment of the proposals received by Department staff, development of draft recommendations by staff, a public comment period and public informational meeting on the staff draft recommendations, and revised staff draft recommendations that were presented to the Board of Environmental Protection.

The Board conducted a public hearing and comment period, a deliberative session, and finally a vote that resulted in the Board's recommendations to the Legislature in a formal report entitled, *Board of Environmental Protection Recommendations to the Legislature for Certain Changes to Water Quality Classifications and Related Standards 2025 Triennial Review*, and in this bill L.D. 2187. I'll also note that the Board included a report cover letter that summarizes the Board's final vote and thoughts on some of the water body classification proposals that received much public interest and testimony, but that ultimately were not recommended by the Board. These were the lower Androscoggin River, the Presumpscot River, and Chandler Bay.

The final step in the Triennial Review process is that the Environmental Protection Agency must give final approval to any changes to water quality standards made by the Maine Legislature.

Maine's water quality standards describe what designated uses, such as recreation in or on the water, or fishing, are appropriate for certain waterbody classifications, and which criteria and antidegradation measures are in place to protect those uses. There are a variety of criteria that may be numeric or narrative. Examples of numeric criteria include dissolved oxygen, pH, phosphorus, and bacteria. Examples of narrative criteria include characterization of habitat and aquatic life.

L.D. 2187 has 13 Sections. I'll briefly summarize the sections with the intent that this summary can serve as a guide to the structure of the bill. You should also note that the Board's report has detailed information regarding the water quality revisions proposed in the bill.

As a high-level overview of the bill structure:

- Sections 1 - 8 deal with changes, additions, or clarifications to water quality criteria.
- Sections 9, 10, and 12 deal with upgrades to water body classifications.
- Sections 11 and 13 are essentially non substantive edits that clarify names and locations for certain water bodies.

Water Quality Criteria

I'll briefly summarize specific water quality criteria proposals by the type of proposal and the section it is found in. The same type of proposal may be found in various sections by water class.

Sections 1, 2, and 5 provide clarification of the Department's existing interpretation of the narrative criteria for aquatic life of Classes AA, A, and GPA respectively. **These sections also include addition of related language that clarifies the Department's existing interpretation of an allowance for the state's historic management of game fish, which includes some non-native but well-established species.**

Sections 2 – 5 add pH range of 6.5 to 9.0 as criteria for freshwater Classes A, B, C, and GPA respectively to be consistent with EPA recommendations. This is in addition to, and consistent with, the existing statutory pH standard that applies to the issuance of a waste discharge license to fresh waters.

Sections 6 and 8 add pH range of 7.0 to 8.5 as criteria for marine Classes SB and SC respectively to be consistent with EPA recommendations. This is in addition to, and consistent with, the existing statutory pH standard that applies to the issuance of a waste discharge license to marine waters.

Section 3 modifies the existing dissolved oxygen criteria for Class B. This change is based on recommendations from interested parties and Department staff. The Department and external partners have found that Maine's existing DO standard for Class B waters of 7.0 ppm or a saturation of 75% is not always met even in natural reference streams and rivers. **The strict 7.0 ppm criterion has led to challenges for the Department, the regulated community, and other stakeholders when**

evaluating water quality and permit limit attainment, particularly when continuous data sets are available. The proposed revisions would clarify the Department's application of DO criteria for Class B waters and provide an accommodation for brief expected excursions below the current instantaneous standard by integrating a daily average for both the concentration and percent saturation criteria components and by allowing for excursions below 7.0 ppm as long as concentrations don't drop below 6.0 ppm at any time. This revised criterion is still appropriately protective of coldwater fish and other aquatic life and supported by EPA's 1986 Criteria.

Sections 2, 3, and 4 clarify language for the existing dissolved oxygen criteria for Class A, Class B, and Class C waters to be consistent with the Department's longstanding interpretation of the existing language for concentration and percent saturation based on similar requests from interested parties.

Section 7 clarifies language for existing designated uses in Class SC waters to be consistent with language used in other classifications.

Water Body Classifications

Regarding upgrades to water body classifications, Sections 9 and 12 each upgrade one water body from Class A to Class AA.

Section 10 upgrades one water body from Class A to Class AA, and upgrades three waters from Class B to Class A.

These six upgrades were recommended by Department staff generally due to the high-quality habitat for endangered Atlantic salmon, good water quality, and largely undeveloped nature of the watershed.

In summary, all the criteria changes and classification upgrades included in this bill were recommended by the Board to the Legislature. As I noted previously, the Board also provided additional information in the Board's report cover letter that summarizes the Board's final vote and thoughts on some of the water body classification proposals that received much public interest and

testimony, but that ultimately were not recommended by the Board. These were the lower Androscoggin River, the Presumpscot River, and Chandler Bay. I expect you may hear testimony on some, or all of these, issues today.

In closing, L.D. 2187, is the result of an extensive public process. It contains a variety of recommendations from the Board that would update Maine's water quality standards to make them more consistent with the Clean Water Act and provide clarity, and to reclassify certain water bodies consistent with the latest data and highest use of these waters.

I would be happy to answer any questions now or at the work session.

Thank you.