

Office of Policy and Legal Analysis

Date: April 21, 2021
To: Joint Standing Committee on Environment and Natural Resources
From: Dan Tartakoff, Legislative Analyst
Re: LD 946, Resolve, To Authorize Maine as the Nonfederal Sponsor with the United States Army Corps of Engineers for the Shore Damage Mitigation Project in Saco (Copeland)

Summary of bill

This bill requires the Governor to take all steps necessary for the State to be the nonfederal sponsor with the United States Army Corps of Engineers (“ACOE”) for the shore damage mitigation project for the Saco River and Camp Ellis Beach in Saco.

List of legislators/entities that submitted written testimony and/or spoke at the hearing

Proponents – Representative Copeland, City of Saco, SOS Saco Bay.

Opponents – Department of Agriculture, Conservation and Forestry.

Neither for nor against – none.

Additional background – history of issues/project

From testimony provided, the erosion and shore damage issues here primarily involve the area of Saco Bay surrounding the mouth of the Saco River, although the effects from these issues have been experienced more broadly within other neighboring communities on the bay. There are multiple entities with jurisdiction here, including the federal government due to a federal navigational channel out the mouth of the Saco River with a federal anchorage and harbor, the State and the City of Saco (“the City”).

In 1867, the ACOE constructed a stone jetty on the north side of the mouth of the Saco River. Since that time, due primarily to the jetty’s alteration of wave action, current patterns and sand deposits, the area has experienced significant erosion and other shoreline damage. To date, 38 houses and 2 streets in the City have been lost due to erosion and the city spends upwards of \$350,000 per year to address these issues. The City, the State and the ACOE have engaged in multiple discussions and studies over the years to evaluate methods of addressing these issues.

Pursuant to Section 111 of the federal River and Harbor Act of 1968, the ACOE has undertaken a mitigation project to address these issues and in 2007, Congress authorized a maximum federal expenditure of \$26.9 million for the project. At present, it appears that the parties agree on proceeding with so-called “alternative 6” of the project plan as developed in a July 2017 report, which would provide for the construction of a 750-foot stone spur jetty largely perpendicular to the existing federal jetty and extending north toward Camp Ellis Beach as well as associated beach nourishment activities.

The sticking point seems to be that the ACOE is requiring the designation of a non-federal sponsor in order for the project to proceed. Although the \$26.9 million has been authorized for the project,

the non-federal sponsor would be required assume responsibility for any project cost overages. According to the DACF, those overages could include both overages during the actual project construction period as well as any costs into the future associated with the project, such as multiple cycles of beach nourishment, which could reach tens of millions of dollars over the next 50 years.

Notes, issues and proposed amendments

1. *Proposed amendment* – subsequent to the hearing, the sponsor submitted a proposed amendment to address concerns raised at the hearing. That amendment directs the Governor to assist and support the City in the proposed project as its nonfederal sponsor.
2. *DACF opposition* – while supportive of the proposed project alternative 6, DACF is opposed to the State being directed to enter into a project partnership agreement with the ACOE as the nonfederal sponsor for the project as (1) the State has yet to see the details of that agreement and (2) the State does not support an agreement that it sees as relieving the ACOE of any future responsibility or involvement with this issue, which it argues is unprecedented.
3. *Nonfederal sponsor* – although the resolve directs the State to assume project responsibility as the nonfederal sponsor, it was noted in a number of testimonies that the State is not the only entity that could become the non-federal sponsor. Although concern was expressed about the ability of the City to assume financial responsibility for the project as its nonfederal sponsor, per the proposed amendment, it is apparently willing to take on that role.

Fiscal information

Not yet available from OFPR.