

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: (Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1250, L.D. 1744, Bill, “An Act To Protect Maine Lakes”

Amend the bill by striking out everything after the title and before the summary and inserting the following:

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

Whereas, Maine's lakes are a critical and essential component of Maine's natural environment, wildlife and human life; and

Whereas, Maine's lakes generate in excess of \$3,400,000,000 in revenue each year, provide employment for 52,000 people and underpin our increasingly important tourism economy; and

Whereas, water quality in Maine's lakes, considered to have some of the highest water quality in the nation, has declined by as much as 20% since 1995 due to the introduction of phosphorus and other pollutants carried by eroded soils and storm water runoff from camp roads, driveways and lawns and from failing septic systems; and

Whereas, in many communities waterfront properties generate 60% to 70% of the tax base and any decline in water quality will cause property values to drop by 15% to 20% and will shift the tax burden to nonwaterfront homeowners; and

Whereas, scientific studies demonstrate that programs such as the LakeSmart program, which is a voluntary education and reward program for lakefront property owners who maintain their property in ways that protect lake water quality and property values, that keep phosphorus and other pollutants out of lakes are among the most cost-effective ways to protect lakes; and

Whereas, scientific analysis of the data gathered through the efforts of volunteers throughout the State who participate in the Maine Volunteer Lake Monitoring Program is critical to the understanding of the current water quality of our lakes; and

COMMITTEE AMENDMENT

1 **Whereas**, the high-quality environmental training programs developed and offered
2 by the Maine Joint Environmental Training Coordinating Committee are critical to
3 ensuring that the best practices and techniques for water pollution control and water
4 quality protection are implemented by environmental professionals throughout the State;
5 and

6 **Whereas**, this legislation must take effect before the expiration of the 90-day period
7 in order to provide funding in fiscal year 2013-14 for the LakeSmart program, the Maine
8 Joint Environmental Training Coordinating Committee and the management and analysis
9 of data collected by the Maine Volunteer Lake Monitoring Program; and

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

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

15 **Sec. 1. 38 MRSA §410-L, first ¶**, as enacted by PL 1997, c. 643, Pt. YY, §1, is
16 amended to read:

17 The Lakes Assessment and Protection Program is established within the department
18 to monitor and protect the health and integrity of the State's lakes through activities
19 identified in section 410-M.

20 **Sec. 2. 38 MRSA §410-M**, as amended by PL 2011, c. 655, Pt. EE, §22 and
21 affected by §30, is repealed and the following enacted in its place:

22 **§410-M. Lakes assessment and protection**

23 In implementing the Lakes Assessment and Protection Program, the commissioner
24 shall ensure that the department:

25 **1. Education. Develops:**

26 A. Educational materials that inform the public about the health and functions of
27 lakes in the State; the value of lakes to the residents, communities and economy of
28 the State and wildlife in the State; the sources of risk posed to the health and integrity
29 of lakes; and actions that individuals can take to help preserve the health and water
30 quality of lakes. The department shall make the educational materials readily
31 available on its publicly accessible website and through other outreach resources; and

32 B. Educational materials designed for classroom instruction relating to the health and
33 integrity of lakes in the State. To the extent possible, the department shall serve as a
34 resource to schools and teachers. The department shall make the educational
35 materials readily available to schools;

36 **2. Monitoring lakes and conducting research.** Monitors lakes and conducts
37 research relating to the ecology and health of lakes, the vulnerability of and risks to lakes,
38 the relationship between lake water quality and development, the design and effectiveness
39 of best management practices and the effectiveness of efforts to protect lakes. The
40 department shall integrate the use of water quality monitors, academic institutions and
41 other lake monitoring resources in monitoring pursuant to this subsection. The

1 department shall make data collected pursuant to this subsection and the department's
2 analysis of the data regularly available on its publicly accessible website and through
3 other outreach resources. The department shall include the data and analysis in the report
4 submitted to the Legislature pursuant to section 464, subsection 3, paragraph A;

5 **3. Compliance monitoring and enforcement.** Promotes and monitors compliance
6 with and enforcement of the natural resources protection laws, the mandatory shoreland
7 zoning laws, the storm water management laws, the erosion and sedimentation control
8 laws and other state and local laws providing standards for the protection of lakes;

9 **4. Water quality and habitat protection, restoration and maintenance.** Directs
10 and assists with activities that protect, restore and maintain lake water quality and the
11 quality of habitat in lakes and on land surrounding lakes that affect the health and
12 integrity of lakes. The department shall develop partnerships pursuant to subsection 5 to
13 assist with these activities; and

14 **5. Partnerships.** Develops partnerships with lake associations, municipalities,
15 businesses, academic institutions, water quality monitors and other interested individuals
16 to increase public understanding about risks posed to the health and integrity of lakes and
17 actions that can be taken to reduce those risks and sustain lake water quality, including
18 informing lakeshore property owners of the value of using best management practices for
19 the application of turf pesticides and fertilizers and for reducing nutrient runoff. To the
20 extent possible, the department shall provide technical and financial assistance to partners
21 pursuant to this subsection. A partnership developed pursuant to this subsection may
22 assist the department in water quality and habitat protection, restoration and maintenance
23 activities pursuant to subsection 4.

24 **Sec. 3. 38 MRSA §418-B** is enacted to read:

25 **§418-B. Prohibition on application of fertilizers near great ponds**

26 **1. Prohibition.** Notwithstanding any other provision of law, a person may not apply
27 a fertilizer within 50 feet of the normal high-water line of a great pond. As used in this
28 section, "fertilizer" has the same meaning as in section 419, subsection 1, paragraph A-3.

29 **2. Exceptions.** Subsection 1 does not apply to:

30 A. A fertilizer application for the purpose of agriculture. Nothing in this paragraph
31 relieves a person applying a fertilizer for the purpose of agriculture from the
32 obligation to comply with all applicable requirements for a nutrient management plan
33 in accordance with Title 7, chapter 747. As used in this section "agriculture" has the
34 same meaning as in section 436-A, subsection 1-B; or

35 B. A fertilizer application for the purpose of establishing or restoring vegetation to
36 stop, slow or remediate shoreline erosion or damage pursuant to a recommendation
37 from a soil sample test conducted by the University of Maine Cooperative Extension
38 Service or other individual determined by the department to be qualified to conduct
39 an appropriate soil sample test and make such a recommendation. The department
40 may adopt rules setting forth the necessary criteria for an individual to be qualified
41 under this paragraph. Rules adopted pursuant to this paragraph are routine technical
42 rules as defined in Title 5, chapter 375, subchapter 2-A.

1 **Sec. 4. 38 MRSA §464, sub-§3, ¶A**, as affected by PL 1989, c. 890, Pt. A, §40
 2 and amended by Pt. B, §55, is further amended to read:

3 A. The commissioner shall submit to the first regular session of each Legislature a
 4 report on the quality of the State's waters ~~which~~ that describes existing water quality,
 5 identifies waters that are not attaining their classification and states what measures
 6 are necessary for the attainment of the standards of their classification. The report
 7 must include the data and analysis collected and evaluated pursuant to section 410-M,
 8 subsection 2.

9 **Sec. 5. Appropriations and allocations.** The following appropriations and
 10 allocations are made.

11 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

12 **Administration - Environmental Protection 0251**

13 Initiative: Provides an allocation in fiscal year 2014-15 for a desktop computer, network
 14 access and desktop support for one half-time Environmental Specialist III position.

15	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
16	All Other	\$0	\$675
17			
18	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$675</u>

19 **Administration - Environmental Protection 0251**

20 Initiative: Provides an appropriation in fiscal year 2014-15 for network access, a desktop
 21 computer, desktop support, file services and e-mail for one new half-time Environmental
 22 Specialist III position.

23	GENERAL FUND	2013-14	2014-15
24	All Other	\$0	\$887
25			
26	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$887</u>

27 **Land and Water Quality 0248**

28 Initiative: Provides a one-time appropriation in fiscal year 2013-14 of \$40,000 for the
 29 purpose of supporting the Maine Lakes Society in its implementation of the LakeSmart
 30 program, \$20,000 for the purpose of managing and analyzing the data gathered by the
 31 Maine Volunteer Lake Monitoring Program and \$10,000 for the purpose of supporting
 32 the Maine Joint Environmental Training Coordinating Committee in its development and
 33 implementation of water pollution control, water quality protection and other
 34 environmental training programs.

1	GENERAL FUND	2013-14	2014-15
2	All Other	\$70,000	\$0
3			
4	GENERAL FUND TOTAL	<u>\$70,000</u>	<u>\$0</u>

5 **Land and Water Quality 0248**

6 Initiative: Provides an appropriation for one half-time Environmental Specialist III
 7 position and related support costs. The position will implement a publicly accessible
 8 website with data on lake health, monitor lakes, conduct research on lake ecology and
 9 develop partnerships with certain entities to increase public awareness about risks to lake
 10 health and solutions to sustain water quality.

11	GENERAL FUND	2013-14	2014-15
12	POSITIONS - LEGISLATIVE COUNT	0.000	0.500
13	Personal Services	\$0	\$36,337
14	All Other	\$0	\$1,695
15			
16	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$38,032</u>

17 **Land and Water Quality 0248**

18 Initiative: Provides a one-time General Fund appropriation of \$7,500 for rulemaking
 19 related to the new fertilizer ban within 50 feet of the normal high-water line of a great
 20 pond.

21	GENERAL FUND	2013-14	2014-15
22	All Other	\$0	\$7,500
23			
24	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$7,500</u>

25	ENVIRONMENTAL PROTECTION,		
26	DEPARTMENT OF		
27	DEPARTMENT TOTALS	2013-14	2014-15
28			
29	GENERAL FUND	\$70,000	\$46,419
30	OTHER SPECIAL REVENUE FUNDS	\$0	\$675
31			
32	DEPARTMENT TOTAL - ALL FUNDS	<u>\$70,000</u>	<u>\$47,094</u>

33 **Emergency clause.** In view of the emergency cited in the preamble, this
 34 legislation takes effect when approved.'

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Environment and Natural Resources, replaces the bill and adds an emergency preamble and an emergency clause. It amends the laws governing the Lakes Assessment and Protection Program. It creates a prohibition on the application of fertilizers within 50 feet of the normal high-water line of a great pond, with exceptions for persons involved in agriculture or applying fertilizer to establish or restore vegetation to stop, slow or remediate shoreline erosion or damage. It makes a one-time appropriation in fiscal year 2013-14 of \$70,000 to the Department of Environmental Protection to provide \$40,000 to the Maine Lakes Society in its implementation of the LakeSmart program, \$20,000 for the purpose of managing and analyzing the data gathered by the Maine Volunteer Lake Monitoring Program and \$10,000 to the Maine Joint Environmental Training Coordinating Committee in its development and implementation of water pollution control, water quality protection and other environmental training programs.

FISCAL NOTE REQUIRED

(See attached)