

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# ONE HUNDRED AND FOURTH LEGISLATURE

---

---

Legislative Document

No. 1084

S. P. 322

In Senate, February 27, 1969

Referred to Committee on Natural Resources. Sent down for concurrence and 1,000 ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Reed of Sagadahoc.

---

---

## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

---

### AN ACT Relating to the Water and Air Environmental Improvement Commission.

---

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

Sec. 1. R. S., T. 38, § 361, amended. The first 2 paragraphs of section 361 of Title 38 of the Revised Statutes, as amended, are further amended to read as follows:

The Water and Air Environmental Improvement Commission, as heretofore established and hereinafter in this subchapter called the "commission," shall consist of ~~the Commissioner of Health and Welfare who shall serve during his term of office and~~ 5 members appointed by the Governor with the advice and consent of the Council 2 of whom shall represent manufacturing interests of the State, 2 of whom shall be representatives of municipalities, 2 of whom shall represent the public generally, 2 of whom shall represent the conservation interests in the State and 2 other members knowledgeable in matters relating to air pollution. The membership of the commission shall reflect the conservation, manufacturing, municipal and public interests of the State. The members appointed by the Governor shall be appointed for a term of 3 years and until their successors are appointed and duly qualified.

The members appointed by the Governor shall receive ~~\$10~~ \$50 per day for their services at meetings or hearings, not to exceed \$1,000 in each calendar year, and all members shall receive necessary traveling expenses for attending any meeting of the commission or for any other travel in connection with the official business of the commission and under the specific authority

of the commission, which traveling expenses shall be paid out of the General Fund.

**Sec. 2. R. S., T. 38, § 361, amended.** The last sentence of the 3rd paragraph of section 361 of Title 38 of the Revised Statutes is amended to read as follows:

**Five Three** members of the commission shall constitute a quorum.

**Sec. 3. R. S., T. 38, § 361, amended.** Section 361 of Title 38 of the Revised Statutes, as amended, is further amended by adding after the 4th paragraph, a new paragraph, as follows:

**The commission may employ a director, and fix his salary with the approval of the Governor and Council. Such director shall serve at the pleasure of the commission, and shall carry out such administrative duties as the commission may prescribe.**

**Sec. 4. Intent.** The present members of the Water and Air Environmental Improvement Commission shall continue in office until the expiration of their respective terms, or until their office becomes vacant by reason of death, resignation, removal or otherwise, whichever first occurs.

**Sec. 5. R. S., T. 38, § 411, sub-§ 1, amended.** The 2nd sentence of subsection 1 of section 411 of Title 38 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 538 of the public laws of 1967, is amended to read as follows:

State grant-in-aid participation **under this subsection** shall be limited to grants for waste treatment facilities, interceptor systems and outfalls.

**Sec. 6. R. S., T. 38, § 411, sub-§ 1, amended.** The 3rd paragraph of subsection 1 of section 411 of Title 38 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 538 of the public laws of 1967, is amended to read as follows:

All proceeds of the sale of bonds for the **planning**, construction and equipment of pollution abatement facilities to be expended under the direction and supervision of the Water and Air Environmental Improvement Commission shall be segregated, apportioned and expended as provided by the Legislature, **provided that when the Legislature is not in session, the Governor and Council may authorize the commission to advance planning funds authorized by subsections 2 and 3, not in excess of \$50,000 to any one municipality or quasi-municipal corporation.**

**Sec. 7. R. S., T. 38, § 411, sub-§ 2, amended.** The first sentence of subsection 2 of section 411 of Title 38 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 538 of the public laws of 1967, is amended to read as follows:

Notwithstanding and in addition to ~~subsection~~ **subsections 1 and 3, but subject to the limitation of the last clause of subsection 3**, the commission may make payments allocated by the Legislature for municipal or quasi-municipal

pollution abatement construction programs which have received federal approval, or for planning such programs, in anticipation of reimbursement from federal programs of said amounts; in which event the commission is further authorized to make additional payments not in excess of 30% of the expense of said programs or the planning thereof.

**Sec. 8. R. S., T. 38, § 411, sub-§ 3, additional.** Section 411 of Title 38 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 538 of the public laws of 1967, is amended by adding a new subsection 3, to read as follows:

3. **Grants by State for planning.** The commission is authorized to pay an amount not in excess of 30% of the expense of a municipality or quasi-municipal corporation incurred by it in planning a pollution abatement construction program. Such amount may be in addition to any amounts previously paid by the commission pursuant to section 412, but shall not be paid until the governing body of the municipality or the quasi-municipal corporation duly votes to proceed with a pollution abatement construction program.

**Sec. 9. R. S., T. 38, § 413, amended.** Section 413 of Title 38 of the Revised Statutes is amended by adding at the end, a new paragraph to read as follows:

Any change in character or increase in volume of an existing discharge, whether licensed under this section or section 414, shall be deemed a new source of pollution for purposes of this section. In the event that licensee under this section shall transfer the ownership of the manufacturing processing or industrial plant which is the source of the discharge mentioned in the last sentence of the previous paragraph of this section, the license granted by this section shall upon such transfer be extinguished and the new owner shall seek license under section 414.

**Sec. 10. R. S., T. 38, § 414, repealed and replaced.** Section 414 of Title 38 of the Revised Statutes is repealed and the following enacted in place thereof:

**§ 414. Applications for licenses**

1. **Classified waters.** Applications for licenses shall be submitted to the commission in such form and containing such information as the commission may by regulation require, and shall be signed by the applicant.

The commission may reject applications which are not in accord with applicable law and regulations. In such event, written notice of such rejection shall be given to the applicant within 30 days of receipt of the application, and such notice shall be accompanied by a statement indicating the information deemed necessary by the commission in order for the application to conform to applicable law and regulation. Within 30 days of such notice and statement, or within such other time as the commission may allow, the applicant shall file the required information, otherwise the application shall be deemed withdrawn. Nothing in this section shall be construed to require an applicant to disclose any secret formulae, processes or methods used in any manufacturing operation carried on by him or under his direction.

Applications found to be in order by the commission shall be dealt with as hereinafter provided.

A. Discharge of less than 1,000 gallons per day of domestic sanitary sewage. In the event that the applicant proposes to discharge less than 1,000 gallons of domestic sanitary sewage per day, the commission may:

(1) If it determines as a result of its own investigation that such discharge, either of itself or in combination with existing discharges to the waterway, will not lower the classification of any receiving body of water or tidal waters, issue such license to the applicant upon payment of the sum of \$50; or

(2) Hold a public hearing upon the application in the manner hereinafter provided.

B. Other discharges. In the event that the applicant proposes to discharge other than less than 1,000 gallons of domestic sanitary sewage per day, the commission shall set a time and place for hearing on the application, which hearing shall be held within 45 days of receipt by the commission of the application, and shall give notice of the hearing to the applicant by certified mail, return receipt requested, and by publication in a newspaper circulated in the area of the proposed discharge and in a newspaper having state-wide circulation and distribution in the said area once a week for 3 successive weeks, the last publication being at least 3 days prior to the date of hearing. The hearing shall be held by not less than 3 members of the commission, and evidence taken and received shall have the same effect as though taken and received by the full commission and shall authorize action by the full commission as though by it taken and received.

If after hearing, the commission shall determine that such discharge, either of itself or in combination with existing discharges to the waterway, will not lower the classification of any receiving body of water or tidal waters, it shall issue such license to the applicant upon payment of the sum of \$50.

2. Unclassified waters. In the interim between the first day of September, 1959 and the classification by the Legislature of any surface waters or tidal flats or sections thereof, it shall be unlawful for any person, corporation, municipality or other legal entity to dispose of any sewage, industrial or other waste into any unclassified surface waters or tidal flats, without first obtaining a license from the commission. No license from the commission shall be required of any municipality, sewer district or other quasi-municipal corporation, in existence prior to September 1, 1959 for any discharge as the same existed on that date at its then point of discharge, such license being hereby granted. The commission shall not withhold a license if it shall find that such sewage or waste will not lower the quality of the unclassified waters below the classification which the commission expects to recommend in accordance with section 365. The form of application, commission action thereon, and license fee shall be as provided in subsection 1.

3. General. Any license to so discharge granted by the commission may contain such terms and conditions with respect to the discharge as in the

commission's determination will best achieve the standards set forth in sections 363 and 364.

If, on the record of any hearing on an application for license, the commission shall find that a violation of one or more conditions of such license will result in a substantial and immediate violation of the classification of any body of water or tidal waters, the commission may, as a prerequisite to the issuance of such license, require the applicant to give bond to the commission, in such sum, subject to this section, and with such sureties as the commission may require, conditioned upon the faithful adherence by the applicant to such condition or conditions in such license.

The amount of any bond required by the commission of any licensee under this section shall not exceed that amount which the commission shall find, upon the record of the hearing on such licensee's application for license, necessary to restore any body of water to its appropriate classification in the event of breach by such licensee of the conditions of his license.

A licensee whom the commission has, pursuant to this section, required to post a bond may, at any time after 90 days from the issuance of his license, petition the commission to reduce the amount of his said bond or to relieve him from liability thereunder. Within 30 days after receipt of such petition, the commission shall conduct a hearing thereon and shall notify the petitioner of the time and place of such hearing at least 10 days prior thereto. At such hearing the petitioner may appear in person or through attorney and present such evidence, including evidence of the completion or of proposed or ongoing construction of waste treatment facilities, as he believes entitle him to the relief prayed for. The staff of the commission may likewise appear and present evidence touching the issues raised by the petition. After hearing the commission shall make findings of fact and issue such order as the public interest and the equities of the case may require.

A full and complete record shall be kept of all hearings held under this section by the commission and all testimony shall be taken by a stenographer.

The commission may make rules and regulations relating to the conduct of hearings held under this section.

Sec. 11. R. S., T. 38, § 451, sub-§ 1, amended. Subsection 1 of section 451 of Title 38 of the Revised Statutes, as repealed and replaced by section 11 of chapter 475 of the public laws of 1967, is amended by inserting before the 3rd paragraph from the end, a new paragraph, as follows:

However, a reclassification adopted on or after January 1, 1967 shall not be deemed to exempt any municipality, sewer district, person, firm, corporation or other legal entity from complying with the standards of the last previous classifications, and enforcement action may be maintained under this section for noncompliance therewith.

Sec. 12. R. S., T. 38, § 451, sub-§ 1, amended. The 2nd and 3rd paragraphs from the end of subsection 1 of section 451 of Title 38 of the Revised

Statutes, as repealed and replaced by section 11 of chapter 475 of the public laws of 1967, are amended to read as follows:

After notice to and a hearing with the affected parties, the commission ~~shall~~ **may** issue to any municipality, sewer district, person, firm, corporation or other legal entity, special orders directing such operating results as are necessary to achieve any of the interim goals set out in the above timetable.

Notwithstanding the foregoing timetable, if the commission shall determine that any municipality, sewer district, person, firm, corporation or other legal entity can reasonably complete any or all of the foregoing steps at an earlier date or dates than herein provided, the commission, after notice and hearing, ~~may~~ **shall** order completion of any such steps according to an accelerated schedule.

**Sec. 13. R. S., T. 38, § 451, sub-§ 2, amended.** Subsection 2 of section 451 of Title 38 of the Revised Statutes, as repealed and replaced by section 1 of chapter 528 of the public laws of 1967, is amended by adding at the end the following paragraph:

**The presiding member of the commission is empowered to administer oaths and affirmations to witnesses testifying at such hearings.**