

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 286

H. P. 203 House of Representatives, January 20, 1971
Referred to the Committee on Public Utilities. Sent up for concurrence
and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Donaghy of Lubec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Entering the State of Maine into The Interstate Mining Compact.

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

Sec. 1. R. S., T. 10, c. 453, additional. Title 10 of the Revised Statutes
is amended by adding a new chapter 453, to read as follows:

CHAPTER 453

THE INTERSTATE MINING COMPACT

ARTICLE I. FINDINGS AND PURPOSES

§ 2231. Findings and purposes—

1. Findings. The party states find that:

A. Mining and the contributions thereof to the economy and well-being
of every state are of basic significance.

B. The effects of mining on the availability of land, water and other re-
sources for other uses present special problems which properly can be
approached only with due consideration for the rights and interests of
those engaged in mining, those using or proposing to use these resources
for other purposes, and the public.

C. Measures for the reduction of the adverse effects of mining on land,
water and other resources may be costly and the devising of means to
deal with them are of both public and private concern.

D. Such variables as soil structure and composition, physiography, cli-
matic conditions and the needs of the public make impracticable the appli-

cation to all mining areas of a single standard for the conservation, adaptation or restoration of mined land, or the development of mineral and other natural resources; but justifiable requirements of law and practice relating to the effects of mining on land, water and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.

E. The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles and with due regard for local conditions.

2. Purposes. The purposes of this compact are to:

A. Advance the protection and restoration of land, water and other resources affected by mining.

B. Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water and air attributable to mining.

C. Encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.

D. Assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration or protection of such land and other resources.

E. Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II. DEFINITIONS

§ 2232. Definitions

As used in this compact, the term:

1. Mining. "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores and other solid matter from its original location; and the preparation, washing, cleaning or other treatment of minerals, ores or other solid matter so as to make them suitable for commercial, industrial or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on site farming or construction.

2. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a Territory or Possession of the United States.

ARTICLE III. STATE PROGRAMS**§ 2233. State programs—**

1. Agreement to establish standards and enact laws. Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

A. The protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.

B. The conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational or aesthetic value and utility of land and water.

C. The institution and maintenance of suitable programs for adaptation, restoration and rehabilitation of mined lands.

D. The prevention, abatement and control of water, air and soil pollution resulting from mining, present, past and future.

ARTICLE IV. POWERS**§ 2234. Powers—**

1. Commission powers. In addition to any other powers conferred upon the Interstate Mining Commission, established by Article V, such commission shall have power to:

A. Study mining operations, processes and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes and techniques on land, soil, water, air, plant and animal life, recreation and patterns of community or regional development or change.

B. Study the conservation, adaptation, improvement and restoration of land and related resources affected by mining.

C. Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.

D. Gather and disseminate information relating to any of the matters within the purview of this compact.

E. Cooperate with the Federal Government and any public or private entities having interests in any subject coming within the purview of this compact.

F. Consult, upon the request of a party state and within resources available therefor, with the officials of such state in respect to any problem within the purview of this compact.

G. Study and make recommendations with respect to any practice, process, technique or course of action that may improve the efficiency of mining or the economic yield from mining operations.

H. Study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE V. THE COMMISSION

§ 2235. The commission—

1. **Membership.** There is created an agency of the party states to be known as the "Interstate Mining Commission," hereinafter called "the commission." The commission shall be composed of one commissioner from each party state who shall be the Governor thereof. Pursuant to the laws of his party state, each Governor shall have the assistance of an advisory body, including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate, in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the commission. In any instance where a Governor is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, he shall designate an alternate, from among the members of the advisory body required by this subsection, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the Governor to the commission in such manner as its bylaws may provide.

2. **Votes.** The commissioners shall be entitled to one vote each on the commission. No action of the commission making a recommendation pursuant to section 2234, subsection 1, paragraphs C, G and H or requesting, accepting or disposing of funds, services or other property pursuant to this subsection, subsections 7 and 8, or section 2237 shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor thereof. All other action shall be by a majority of those present and voting: Providing that action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold and convey real and personal property and any interest therein.

3. **Seal.** The commission shall have a seal.

4. **Officers.** The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission. The execu-

tive director, the treasurer and such other personnel as the commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the commission.

5. Personnel. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director with the approval of the commission, shall appoint, remove or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

6. Retirement coverage. The commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

7. Utilization of services. The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

8. Acceptance of aid. The commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this subsection or services borrowed pursuant to subsection 7 shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

9. Bylaws. The commissioner shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

10. Annual report. The commission annually shall make to the Governor, Legislature and advisory body required by subsection 1 of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been made by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE VI.**ADVISORY, TECHNICAL AND REGIONAL COMMITTEES****§ 2236. Advisory, technical and regional committees—**

The commission shall establish such advisory, technical and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the commission.

ARTICLE VII. FINANCE**§ 2237. Finance—**

The commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the Legislature.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows:

One-half in equal shares; and the remainder in proportion to the value of minerals, ores and other solid matter mined. In determining such values, the commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets or estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores and other solid matter mined.

The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article V, section 2235, subsection 8 of this compact: Provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Article V, section 2235, subsection 8, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited

yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII.

ENTRY INTO FORCE AND WITHDRAWAL

§ 2238. Entry into force and withdrawal—

This compact shall enter into force when enacted into law by any 4 or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX.

EFFECT ON OTHER LAWS

§ 2239. Effect on other laws—

Nothing in this compact shall be construed to limit, repeal or supersede any other law of any party state.

ARTICLE X.

CONSTRUCTION AND SEVERABILITY

§ 2240. Construction and severability—

This compact shall be liberally construed so as to effectuate the purposes thereof. This compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

**ARTICLE XI.
ADVISORY BODY**

§ 2241. Advisory body

The "Mining Council," hereinafter called "the council," is hereby established in the office of the Governor. The council shall be the advisory body referred to in Article V, section 2235, subsection 1 of the Interstate Mining Compact. No member of the council shall receive any compensation on account of his service thereon, but any such member shall be entitled to reimbursement for expenses actually incurred by him in connection with his service as the Governor's alternate on the Interstate Mining Commission or in attending meetings of the council.

The council shall be composed of not to exceed 6 members: At least one of whom shall be representative of mining industries; at least 3 of whom shall be public members appointed by the Governor with a demonstrated and continuing interest in conservation matters; and at least 2 of whom shall be the heads of state departments or agencies administering programs related to the interests of the Interstate Mining Commission.

**ARTICLE XII.
COUNCIL MEMBERSHIP**

§ 2242. Council membership

The Mining Council membership shall be composed of the director and members of the Maine Mining Commission under the same terms and conditions as provided in section 2203.

**ARTICLE XIII.
RETIREMENT COVERAGE**

§ 2243. Retirement coverage

The State Retirement System and the appropriate state agency or agencies administering programs of benefits for state employees may enter into agreements with the Interstate Mining Commission for participation in the retirement system and other benefit programs for state employees administered by such agency or agencies. Any agreement pursuant to this section shall provide, as nearly as may be, for rights, contributions, obligations and benefits comparable to those accorded employees of this State participating in or benefiting from the program or programs involved.

**ARTICLE XIV.
BYLAWS FILED**

§ 2244. Bylaws filed—

In accordance with Article V, section 2235, subsection 9 of the compact, the commission shall file copies of its bylaws and any amendments thereto with the Secretary of State.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Maine Mining Commission the sum of \$10,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1971-72	1972-73
MAINE MINING COMMISSION		
All Other	\$5,000	\$5,000

STATEMENT OF FACT

The mining industry is one of the most basic and important in the nation. Our manufacturing activities, transportation systems and the comfort of our homes depend on the products of mining. Yet, it is also true that generations of mining operations have had their effect on the surface of our land and on the condition of other resources. There is an urgent need to find improved means of turning mined lands to their most useful functions and to find ways of reducing the undesirable effects of mining operations on other property and resources. The necessary programs should be undertaken with due regard for the interests of all land and other resource users, including homeowners, mining and other industries, recreationists, conservationists and the general public.

Governmental action to assist mining industries in their efforts to become more efficient in their methods, thereby increasing yields at lower costs, also is in the public interest. Such activities can and should go hand in hand with programs aimed at improving the usefulness of the surface of mined land.

Individual states have the power to establish and maintain programs of land and other resource development, restoration and regulation appropriate to cope with the surface effects of mining. The Interstate Mining Compact would not shift responsibility for such programs. On the other hand, states acting singly and without reference to actions in other jurisdictions labor under serious handicaps in mounting desirable programs. While physiographic, climatic and regional differences in density of population and varying availability of recreational facilities make the application of rigid, single standards inappropriate, fundamental equity would be served by making it possible for individual states to construct their programs in such a way that those mining operations which actually are similarly situated be afforded similar types of assistance and be subject to comparable regulatory patterns. There is much that an interstate agency like the Interstate Mining Commission established by this compact could do to develop and pool experience in dealing with mining problems.

The Interstate Mining Compact could do much to overcome the limitations just outlined. The Interstate Compact to Conserve Oil and Gas, in successful operation for 30 years and now participated in by virtually every oil and gas producing jurisdiction of the United States, suggests some of the accomplishments that might attend an interstate effort in the field of the mining of

solid substances. "The form statute for the conservation of oil and gas," and the many other suggestions of the Interstate Oil Compact Commission, have brought an increasing degree of comparability into state programs affecting the production of oil and natural gas. Also, that commission serves as a forum for the exchange of useful information in its field of interest. While the focus of an Interstate Mining Compact as here envisaged would be somewhat different from that of the Oil and Gas Compact, and while its format bears only slight resemblance to the Oil and Gas Compact, its basic approach is the same. By adopting the compact, states would obligate themselves to undertake and maintain certain types of programs. In addition, an interstate body with roots in each of the party states and an ability to facilitate the sharing of knowledge would be placed in operation.