

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 467

H. P. 359

House of Representatives, January 28, 1971

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Whitson of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT Relating to the Conduct of Hearings Required by the State's
Environmental Laws.**

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

Whereas, the Environmental Improvement Commission is required and empowered to hold public hearings pursuant to numerous provisions of the law, specifically sections 365, 414, 451, 451 (1), 451 (2) (A), 451 (2) (B), 484, 546, 584, 585, 587, 590, 592 and 1101 (2) of Title 38 of the Revised Statutes; and

Whereas, in order to hold such hearings the commission is presently required to have a quorum of those commission members present; and

Whereas, the attendance at such hearings imposes a considerable hardship and financial burden on the members of the commission, since they only serve on a part-time basis; and

Whereas, the number of frequency of hearings have increased as the regulatory powers of the commission have been expanded by the Legislature; and

Whereas, the efficiency and capability of the commission to schedule and hold hearings is decreasing rapidly, to the detriment of all concerned; and

Whereas, it is a common practice of federal and state agencies to have hearings held by a hearing examiner and the transcript and exhibits established by such hearings communicated to such agency members which procedure is preferable to that presently existing; and

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

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

R. S., T. 38, § 361, amended. The 4th paragraph of section 361 of Title 38 of the Revised Statutes, as amended, is further amended by adding at the end the following new sentence:

Whenever the commission is required or empowered to conduct a hearing pursuant to any provision of law, such hearings may be held and conducted by an employee, representative or member of the commission as the commission may determine, any other provisions of law to the contrary notwithstanding.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The intent of this bill is reflected in the emergency preamble.