

MAINE STATE LEGISLATURE

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(EMERGENCY)
New Draft of: H. P. 359, L. D. 467

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1555

H. P. 1246

House of Representatives, April 1, 1971

Reported by Mr. MacLeod from Committee on Natural Resources and printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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 and 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 estab-

lished 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 the 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. Section 361 of Title 38 of the Revised Statutes, as amended, is further amended by adding at the end a new paragraph to read as follows:

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 the commission, or by any member of the commission or by any qualified employee or representative of the commission, as the commission may determine. If the hearing is conducted by a single commissioner or qualified employee or representative, such commissioner, employee or representative shall report his findings of fact and conclusions to the commission together with a transcript of the hearing and all exhibits. Such findings of fact and conclusions shall become a part of the record. The commission shall not be bound by such findings or conclusions when acting upon such record, but shall take such action, issue such orders and make such decisions as if it had held and conducted the hearing itself.

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