

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 1591

H. P. 1124

House of Representatives, March 16, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Curran of Bangor.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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AN ACT Relating to the Powers and Duties of the  
Environmental Improvement Commission

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

Sec. 1. R. S., T. 38, § 361, amended. The 2nd paragraph, the 3rd paragraph, as amended by section 2 of chapter 499 of the public laws of 1969, and the 4th paragraph, all of section 361 of Title 38 of the Revised Statutes, are amended to read as follows:

The members appointed by the Governor shall receive ~~\$10~~ \$25 per day for their services at meetings or hearings and all members shall receive necessary traveling expenses for attending any meetings 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.

Meetings of the commission shall be held at such time and place as shall be determined by the commission but not less than 2 meetings per year shall be held. The commission shall organize in October of each year by electing one of its members as chairman but in his absence any other member of the commission shall be elected to act as chairman. The commission shall at the same time elect a secretary who need not be chosen from among the members of the commission. ~~Three~~ Six members of the commission shall constitute a quorum.

The commission may employ, subject to the Personnel Law, and prescribe the powers and duties of such employees and obtain the services of consultants on a contractual basis or otherwise as may be necessary to carry out this subchapter. ~~Technical services shall be performed in so far as practicable by~~

~~personnel of the Department of Health and Welfare and by other state departments, agencies and offices.~~

**Sec. 2. R. S., T. 38, § 361, amended.** Section 361 of Title 38 of the Revised Statutes, as amended, is further amended by inserting after the 4th paragraph, the following new paragraph to read as follows:

**All such employees shall have the powers of constables in all matters civil or criminal relating to any law or regulation which the commission is empowered to enforce or administer.**

**Sec. 3. R. S., T. 38, § 361, amended.** The 6th and 7th paragraphs, as last amended by section 1 of chapter 571 of the public laws of 1969, and the 8th paragraph, all of section 361 of Title 38 of the Revised Statutes, are further amended to read as follows:

~~It shall be the duty of the commission, exercising the police power of the State, to control, abate and prevent the pollution of the natural environment of the State, including, but not limited to, the air, waters and coastal flats and prevent diminution of the highest and best use of the natural environment of the State. The Commission shall make recommendations to each subsequent Legislature with respect to the classification of the waters and coastal flats and sections thereof within the State, based upon reasonable standards of quality and use.~~

The commission shall make recommendations to each Legislature with respect to the control, abatement and prevention of pollution of the air, waters, coastal flats and other aspects of the natural environment within the State for the benefit of the citizens of this State.

The commission shall consult with and advise the authorities of municipalities, persons and businesses having, or about to have, systems of drainage, ~~or sewerage or industrial wastes except purely storm water systems~~, as to the best methods of disposing of the drainage, ~~or sewage, or industrial wastes~~ with reference to the existing and future needs of the municipality, other municipalities, persons or businesses which may be affected thereby. It may consult with and advise with persons or corporations engaged or intending to engage in any manufacturing or other business whose drainage, ~~or sewage or industrial wastes~~ may tend to pollute any waters under the jurisdiction of the commission, as to the best methods of preventing such pollution, and it may conduct experiments to determine the best methods of the purification or disposal of drainage, ~~or sewage and industrial waste~~. Municipalities, ~~and~~ sewer districts, quasi-municipal corporations, firms, persons, state agencies and other legal entities shall submit to said commission for its advice and approval the plans and specifications for any proposed new system of drainage, sewage disposal, ~~or sewage treatment, or industrial waste disposal into any waters of the State except purely storm water systems~~ and any alterations in existing facilities. The commission shall establish and enforce reasonable standards for the operation and maintenance of municipal, industrial and private waste treatment facilities.

**Sec. 4. R. S., T. 38, § 365, amended.** The last paragraph of section 365 of Title 38 of the Revised Statutes is repealed as follows:

~~The commission shall submit as legislative proposals to each Legislature its proposed and recommended classification or reclassification of the various specific surface waters and tidal flats concerning which hearings have been held.~~

**Sec. 5. R. S., T. 38, § 367, amended.** The last paragraph of section 367 of Title 38 of the Revised Statutes, as enacted by section 6-A of chapter 475 of the public laws of 1967, is amended to read as follows:

The commission may, after careful consideration, public hearings and in consultation with other state agencies and, where appropriate, federal and interstate water pollution control agencies, and the municipalities and industries involved, **classify or** raise the classification of any surface waters, or portions thereof, and such **classification or** new classification shall thereafter be the classification applicable to such surface waters, or portions thereof, ~~until 90 days after the date of the adjournment of the next regular session of the Legislature unless such next regular session shall adopt by legislative enactment such new classification unless the Legislature shall at its next regular session adopt by legislative enactment a different classification with respect thereto.~~

**Sec. 6. R. S., T. 38, § 372, amended.** Section 372 of Title 38 of the Revised Statutes is amended to read as follows:

#### § 372. Exceptions

~~Nothing contained in this subchapter shall affect any litigation pending on January 1, 1945 under any other statute nor in any way impair any decrees or orders of court heretofore or hereafter entered in any proceedings so pending, nor shall the granting of any license or authority under this subchapter limit the powers of the State to initiate, prosecute and maintain actions to abate public nuisances to the extent consistent with the public interest, nor shall any license granted under this subchapter constitute a defense to any action at law for damages.~~

**Sec. 7. R. S., T. 38, § 452, amended.** Section 452 of Title 38 of the Revised Statutes is amended to read as follows:

#### § 452. Forms filed; right of entry; furnishing information

~~Persons, firms, corporations, quasi-municipal corporations, municipalities, state agencies and other legal entities~~ **Municipalities** shall file ~~not more than once annually~~ with the commission **such information** relative to ~~the~~ **their** present method of ~~sewage~~ **collection and disposal, composition and volume of all wastes discharged by them into any waters of the State, in such municipality, on forms prepared and supplied by the Commission within 30 days after receipt of such forms in such manner and on such forms as the commission may by regulation prescribe, within 30 days of receipt of such forms.**

~~Any authorized member of employee of the Commission may enter any land or establishment for the purpose of collecting information that may be necessary to the purposes hereof and no owner of such land or establishment shall refuse any reasonable request to admit such member or employee or~~

~~refuse any reasonable request to furnish such information concerning pollution of waters by such establishment.~~

**Sec. 8. Appropriation.** There is appropriated to the Environmental Improvement Commission from the General Fund the sum of \$18,350 to carry out the purposes of this Act. The breakdown shall be as follows:

	1971-72	1972-73
ENVIRONMENTAL IMPROVEMENT COMMISSION		
Personal Services	\$ 7,850	\$ 10,500

#### STATEMENT OF FACT

Section 1 of this bill raises the *per diem* of Environmental Improvement Commission members from \$10 to \$25, increases the quorum to six, gives commission employees the status of law enforcement officers, broadens the commission's advisory and plan-reviewing powers to include private waste disposal systems, and gives the commission subpoena powers identical to those it now possesses in the air pollution statute, but does not possess in water pollution or site location situations.

Sections 4 and 5 provide that commission reclassifications shall be effective until the Legislature adopts different classifications.

Section 6 removes any remaining obstacles to commission jurisdiction over cleanup of the Androscoggin River.

Section 7 institutes a pollution reporting procedure and removes language pertaining to entry on private premises by commission personnel which is unenforceable in view of a 1967 U. S. Supreme Court decision.