

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 702

H. P. 566

House of Representatives, February 19, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. McBreairty of Perham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Allow the Board of Environmental Protection to Grant
Variances to Statutory Time Schedules.

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

38 MRSA, § 451-A, as enacted by PL 1973, c. 423, § 8, is repealed and the following enacted in place thereof:

§ 451-A. Time schedule variances

1. Power to grant variances. The Board of Environmental Protection may grant a variance from any statutory water pollution abatement time schedule to any municipality or quasi-municipal entity, hereinafter called the "municipality," upon application by it. The board may grant a variance only upon a finding that:

A. Federal funds for the construction of municipal waste water treatment facilities are not available for the project; and

B. The municipality has demonstrated that it has completed preliminary plans acceptable to the Department of Environmental Protection for the treatment of municipal wastes and for construction of that portion of the municipal sewage system intended to be served by the planned municipal treatment plant when that plant first begins operations; and

C. Beginning on October 1, 1976, the municipality will collect from each discharger into its sewage system and each discharger not connected to the sewage system which has signed an approved agreement with the municipality pursuant to subsection 2, an annual fee sufficient to equal the prospective annual capital amortization and operating costs of the waste treat-

ment plant and the sewage system for which preliminary plans have been completed and approved pursuant to paragraph B; provided, however, that in lieu of such annual fees paid by dischargers, other than industrial dischargers, the municipality may apportion an appropriate amount from general revenues to cover that share of fees to be paid by nonindustrial dischargers. The funds collected or apportioned pursuant to this paragraph and interest collected thereon shall be invested pursuant to Title 30, chapter 241, and shall be placed in an escrow account by the municipality to be used as needed by the municipality in planning and constructing its sewage system and waste treatment facility.

Variations shall be issued for a term certain, not to exceed 3 years, and may be renewed, except that no variance shall run longer than March 1, 1979 nor beyond the time specified for completion of the municipal waste treatment facility. Upon notice of the availability of federal funds, the municipality shall present to the Department of Environmental Protection for approval an implementation schedule for designing, constructing and placing the waste collection and treatment facilities in operation.

Variations may be conditioned upon terms relating to appropriate interim measures to be taken by the municipality to maintain or improve water quality.

2. Exemptions. Any person, other than a municipality, maintaining a discharge subject to the requirements of sections 413, 414 and 414-A shall be exempt from the requirements of section 414-A, subsection 1, paragraph D, Effluent Limitations and Best Practicable Treatment, if, within 90 days of the effective date of this Act, or on the commencement of a licensed discharge, which ever occurs later, such discharger presents to the Department of Environmental Protection and receives approval of an agreement with the municipality to connect to the existing or planned municipal sewage system as soon as it is available. The department shall approve such an agreement exempting the discharge from the requirements of section 414-A, subsection 1, paragraph D, only where the department determines that:

A. In the case of a new discharge, that such new discharge will not cause serious water quality problems, including but not limited to downgrading the receiving waters so as to make them unsuitable for currently existing uses. For the purposes of this section, a "new discharge" is a discharge which commences or a discharge which changes characteristics or increases licensed volume by more than 10% on or after the effective date of this Act;

B. The agreement with the municipality fully binds the individual requesting this exemption to connect to the municipal system as soon as it is available and to pay the fees specified in subsection 1, paragraph C; and

C. The sewer into which the discharge is connected or is proposed to be connected will be serviced by the proposed sewage treatment plant immediately upon completion of construction and commencement of operation of such treatment plant.

3. Failure to comply with agreement. Failure to comply with any of the terms of an agreement approved pursuant to subsection 2 shall immediately render such agreement null and void and discharges included in such an agreement shall immediately cease or shall only discharge in accordance with the standards of best practicable treatment specified in section 414-A, subsection 1, paragraph D, and all other requirements of sections 414 and 414-A.

4. Pretreatment systems. Where a discharger otherwise exempted from constructing treatment facilities pursuant to this section will be required to pretreat effluents before discharge into the municipal system pursuant to any requirement of state or federal law, such pretreatment system shall be installed not later than October 1, 1976.

5. Fees. Municipalities and quasi-municipal entities shall assess and collect the fees to be charged pursuant to this section in accordance with the provisions of chapter 11, and Title 30, chapters 235 and 237, as if the planned sewage system and waste treatment facility were funded and under construction or constructed and in operation.

STATEMENT OF FACT

This Act authorizes the Board of Environmental Protection to grant variances from statutory time schedules to municipalities and quasi-municipalities. The authority is continued intact in this Act.

The existing statute does not authorize the Board of Environmental Protection to extend a variance to persons, industries or other entities not connected to the municipal system prior to October 3, 1973, although these entities have indicated that they wish to be included in the municipal-type system when it is constructed. This Act would allow the Board of Environmental Protection to include potential users of the municipal-type system in any variance provided the potential users and the owners of the municipal-type system meet the requirements specified in this Act.

The key requirements are:

- (1) A binding agreement is entered into by all parties;
- (2) Potential industrial and commercial users of the municipal-type system have been operating all pretreatment systems prior to October 1, 1976;
- (3) The owners of the municipal type systems are charging an appropriate fee of users and potential users beginning October 1, 1976; and
- (4) The municipal-type system qualifies for a variance.

Entities qualifying for a variance are also exempted from the effluent limitations and best practicable treatment requirements of section 414-A, subsection 1, paragraph D.