

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1549

H. P. 1364

House of Representatives, April 16, 1981

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24

Out of Order, referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Huber of Falmouth.

Cosponsor: Representative Hall of Sangerville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Establish an Environmental Licensing Fund in Order to Expedite the Processing of Applications Filed with the Department of Environmental Protection.**

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

38 MRSA § 344, sub-§ 7 is enacted to read:

7. Fees for reviewing applications. Any person who applies for a license, permit or certification in accordance with sections 413, 414, 418, 451, 483, 543, 560, 587 and 590, which application is for a major project, as defined in this subsection, shall pay the appropriate fee. An application for a license, permit or certification shall not be considered complete and shall not be processed until the correct fee is received. All fees shall be deposited in the Environmental Licensing Account.

**Fee Schedule**

New or initial major project	\$15,000
Expansion of a major project in excess of 10% of the original approved design	5,000

“Major project” means any facility which emits pollutants as defined in 40 Code

of Federal Regulations, Section 52.21(b)(23) or which emits to an area in which an ambient standard violation has been measured; any waste water facility defined in 40 Code of Federal Regulations, Part 122.3; or any mining activity or industrial development which occupies land or water areas in excess of 20 acres.

A facility which may require more than one of the fees set out in this subsection shall pay a fee calculated by adding the specific fees enumerated, but the application fee for any one facility at any one site shall not exceed 2 times the maximum applicable single fee. There shall be no fee required for renewal applications or for an application to allow a change of ownership or operator.

Moneys received as application fees shall be deposited with the Treasurer of State and placed in a nonlapsing revolving account known as the Environmental Licensing Fund. The Treasurer of State may invest these moneys as provided by statute.

Applicants who have paid a fee shall be entitled to a public hearing, within 45 days of filing a completed application, and a final board decision within 180 days of the initial hearing date. The applicant may appeal any decision of the staff or commissioner to the board. The commissioner, at the request of the applicant, may waive the time limits of this paragraph and substitute time limits in excess of these statutory limits, provided that the applicant and the commissioner can agree upon the extended time periods.

The Commissioner of Environmental Protection, with the approval of the Governor, may utilize the Environmental Licensing Fund for the following purposes and no other: Hearing costs for the type of projects that require payment of a fee; costs of consultants retained to provide analysis of applications or gather data for the type of projects that require payment of a fee; salaries and expenses for retaining staff persons, on a project basis, for the purpose of analyzing applications or gathering data for the type of projects that require payment of a fee; and reasonable expenses of the board and staff for out-of-state travel related to the evaluation of a specific application of the type required to pay a fee.

#### STATEMENT OF FACT

The bill identifies classes of projects that pose nonroutine risks to the public health, safety and welfare. Proper evaluation of these risks require more than normal effort and unusual expense. These extraordinary costs cannot be budgeted for in the normal budgetary process. This bill requires persons who cause the State to exceed routine costs to bear the burden of these expenses. This will enable progress to be made on a specific project while not interfering with the department's ability to process the usual workload.

The nonroutine risks projects are complex and sophisticated proposals, often involving significant planning costs as well as very substantial capital costs. Some of the well-known projects that fall into this category are coal conversions and

mining operations. The ability to evaluate the material associated with these projects in a prompt and well informed manner will meet the needs of an applicant for timely decisions as well as protecting the health, welfare and safety of the people of our State.