MAINE STATE LEGISLATURE

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1	(New Draft of H.P. 1278, L.D. 1695)
2 3	FIRST REGULAR SESSION
4 5	ONE HUNDRED AND ELEVENTH LEGISLATURE
6 7	Legislative Document No. 1762
8 9 10 11	H.P. 1327 House of Representatives, June 14, 1983 Reported by the Majority from the Committee on Energy and Natural Resources and printed under Joint Rule 2. Original bill presented by Representative Michael of Auburn. Cosponsored by Senator Kany of Kennebec. EDWIN H. PERT, Clerk
12	STATE OF MAINE
14 15 16 17	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-THREE
18 19 20	AN ACT to Establish the Maine Environmental Protection Fund.
21 22	Be it enacted by the People of the State of Maine as follows:
23 24	Sec. 1. 38 MRSA c. 2, sub-c. II is enacted to read:
25	SUBCHAPTER II
26	MAINE ENVIRONMENTAL PROTECTION FUND
27	§351. Maine Environmental Protection Fund
28 29 30 31 32	The Maine Environmental Protection Fund, referred to in this subchapter as the fund, is established as a nonlapsing fund to supplement licensing programs administered by the Department of Environmental Protection. All fees established under this subchapter

- 1 shall be credited to the fund, and administrative
 2 expenses directly related to licensing programs shall
 3 be charged to the fund.
 - Money in the fund not currently needed to meet the obligations of the department in the exercise of its responsibilities under its licensing programs shall be deposited with the Treasurer of State to the credit of the fund and may be invested in as provided by statute. Interest on these investments shall be credited to the fund.
 - Money in the fund may only be expended in accordance with allocations approved by the Legislature. This allocation shall be based on estimates of the actual costs necessary for the department to administer licensing and permitting programs.

§352. Fees

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- 17 Fees established. The department establish procedures to charge applicants for actual 18 direct costs incurred in reviewing license and permit 19 20 applications. For the purposes of this subchapter, 21 direct costs include personnel costs, travel, supplies, legal and computer services and all other 22 23 costs specifically accountable to a particular li-24 cense or permit application.
- 25 <u>2. Fee categories. Fees shall be assessed for</u> 26 the following.
- 27 A. Filing fees shall be assessed for direct 28 costs incurred in determining the acceptability 29 of an application for processing.
- 30 B. Processing fees shall be assessed for direct
 31 costs incurred in processing an application to
 32 determine whether it meets statutory and regula33 tory criteria.
- 34 C. Licensing fees shall be assessed for direct
 35 costs incurred in monitoring, inspecting and
 36 sampling to assure proper compliance by a licen37 see.
- 38 3. Maximum fee. In no case may fees exceed the maximum established in Table I.

1	4. Accounting system. In order to determine the
2	extent to which the aforementioned functions are
3	necessary for the licensing process, or are being
4	performed in an efficient and expeditious manner, the
5	board shall require that all employees of the depart-
6	ment involved in any aspect of these functions shall
7	keep accurate and regular daily time records describ-
8	ing the matters worked on, services performed and
9	amount of time devoted thereto, as well as amounts of
10	money expended in performing these functions.

11 TABLE I

12	MIJMIXAM	FEES	TN	DOLLARS

13 14	Title 12 SECTION	FILING FEE	PROCESSING FEE	LICENSE FEE
15	4807-C, Minimum lot size	\$ 3.00	\$ 25.00	\$ 25.00
16 17	Title 38 SECTION	FILING FEE	PROCESSING FEE	LICENSE FEE
18 19 20 21	362-A, Experiments 393, Great ponds 413, Waste discharge license	\$ 10.00 2.50	\$ 30.00 65.00	\$ 160.00 50.00
22 23 24 25 26	A. Residential B. Commercial C. Industrial, minor (based upon	$\frac{5.00}{10.00}$ $\frac{25.00}{2}$	$\frac{15.00}{30.00}$ 450.00	10.00 160.00 1,985.00
27 28 29 30 31 32 33 34	EPA list of major and minor source dischargers) D. Industrial, major (based upon EPA list of	35.00	1,130.00	2,170.00
35 36 37 38 39 40	major and minor source dischargers) E. Publicly owned treatment works	17.00	80.00	1,785.00

1	418,	Log storage	10.00	<u>45.00</u>	5.00
2	421,	Solid waste dis-	12.00	1,375.00	100.0C
3		posal areas			
4	<u>451,</u>	Mixing zones	<u>35.00</u>	1,130.00	<u>2,170.00</u>
5	451-A,	Time schedule	<u>5.00</u>	<u>10.00</u>	<u>5.00</u>
6		variances			
7	<u>451-B,</u>	Industrial vari-	<u>500.00</u>	2,000.00	1,500.00
8		ances			
9	<u>471,</u>	Coastal wetlands	<u>3.50</u>	<u>115.00</u>	100.00
10		and sand dunes			
11	<u>482,</u>	Site location			
12		A. Subdivi-	<u>25.00</u>	25.00/1	<u>lot 25.00</u>
13		sions			
14		B. Structures	<u>25.00</u>	1,000.00	<u>500.00</u>
15		C. Mining	25.00	750.00	500.00
16		D. Other	25.00	750.00	500.00
17	<u>543,</u>	Oily waste dis-	10.00	30.00	160.00
18		charge			
19	<u>560,</u>	Vessels at	10.00	115.00	100.00
20		anchorage			
21	<u>587,</u>	Ambient air	<u>50.00</u>	5,000.00	<u>50.00</u>
22		quality or emis-		•	
23		sions standards			
24		variances			
25	590,	Air emissions			
26		licenses			
27		A. greater	<u>50.00</u>	10,000.00	<u>1,200.00</u>
28		than or equal to			
29		1,000 tons/year			
30		of any criteria			
31		air pollutant			
32		B. greater	50.00	5,000.00	400.00
33		than or equal to			
34		100 tons/year			
35		but less than			
36		1,000 tons/year			
37		of any criteria			
38		air pollutant			100.00
39		C. less than	50.00	1,000.00	100.00
40		100 tons/year of			
41		any criteria air			
42		pollutant	50.00	050.00	050 00
43	<u>603,</u>	Low sulfur fuel	<u>50.00</u>	<u>250.00</u>	250.00
44	1101	exemptions	F0 00	100.00	F0 00
45	1101,	Sanitary dis-	<u>50.00</u>	100.00	50.00
46	1004	tricts			
47	1304,	Waste facilities			

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1	A. Septage and	12.00	500.00	500.00
2	sludge			
3	B. Transfer	12.00	500.00	500.00
4	stations			
5	C. Landfills	75.00	1,500.00	1,500.00
6	D. Other	75.00	1,500.00	1,500.00

§353. Payment of fees

- 1. Filing fee. A filing fee shall be paid at the time of filing the application and is nonrefundable. The department may not process applications not accompanied by a filing fee.
- 2. Processing fee. A processing fee shall be paid within 10 days of the time the applicant is notified that the application has been accepted for processing by the commissioner and is not refundable, even if the applicant withdraws the application once processing has begun. The department shall refund the processing fee if the application is denied by the board.
 - 3. License fee. A license fee shall be paid prior to the issuance of any license or permit. If a license fee is paid prior to board action on the application, the department shall refund the license fee if the board denies the application.
 - 4. Duplicate fees. The department shall not assess applicants for direct costs associated with filing, processing of licensing if those costs were previously assessed as the result of the filing, processing or licensing of separate but related applications.
- 5. Renewals or amendments. The filing fee for renewals or amendments shall be the same as the filing fee for an initial application. The processing fee for renewals or amendments shall be equal to direct costs up to 1/2 the processing fee for initial applications. The license fee for renewals or amendments shall be identical to the initial license fee.
 - 6. Application deemed incomplete. An incomplete application which has been returned to the applicant shall be subject to the following conditions.

- A. If the completed application is resubmitted to the department within 30 days of the date the application was returned to the applicant, no additional fee is required.
 - B. If the completed application is resubmitted to the department within 60 days of the date the application was returned to the applicant, 1/2 the amount of the filing fee is required. If the additional fee does not accompany the resubmitted application, the application shall be deemed incomplete.
 - C. If the completed application is resubmitted to the department after 60 days of the date the application was returned to the applicant, the original filing fee amount shall accompany the application. The resubmitted application shall be considered a new application not a refiled application.
- 7. Time of payment. The applicant may choose to pay the total of the filing, processing and license fees at the time of filing the application.

§354. Federal programs

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- If the board is required by federal law to issue any certificate, permit or license, it shall establish a fee schedule identical to that which exists for the state program which is most like the federal program. If there are no similar state programs, the board shall adopt the appropriate fee schedule based upon identified costs including liason costs.
- 30 Sec. 2. 38 MRSA §361, 9th ¶, as enacted by PL 31 1973, c. 712, §5, is repealed.
- 32 Sec. 3. 38 MRSA §490, sub-§6, as enacted by PL 33 1979, c. 466, §14, is amended to read:
- 34 6. <u>Fees.</u> All fees collected by and other funds 35 received by the board pursuant to this **ehapter** 36 <u>section</u> shall be placed in a reclamation fund to 37 carry out the purposes of this chapter. This fund 38 shall not lapse.

Sec. 4. Evaluation of fees. The Department of Environmental Protection shall report to the Legislature, by February 1, 1984, on methods established by the department to account for resources expended in license and permit review and costs incurred to date in that review. Based on an analysis of this information, the Legislature shall enact any necessary changes to this Act.

FISCAL NOTE

Based upon fiscal years 1981 and 1982 data, it is estimated that \$400,000 would be deposited in the Maine Environmental Protection Fund on an annual basis and that the General Fund would be reduced by approximately \$55,000 each fiscal year.

STATEMENT OF FACT

This new draft authorizes the Department of Environmental Protection to charge applicants for actual direct costs incurred in reviewing license and permit applications. There are no fixed license fees, but the bill establishes limits on fees the department may assess.

To develop actual direct review costs, and to assure that the review is expeditious and efficient, the department is required to establish an accounting system to keep track of staff time and resources expended in license review. The department will report next session on the methods established for this accounting, and the costs incurred to date for license and permit review. Based on an analysis of this information, the Legislature may reconsider the mechanics, maximum fees and other aspects of the Act.

Fees assessed for license and permit review will be deposited in the newly created Maine Environmental Protection Fund. All expenditures from this fund must be allocated by the Legislature. It is the intent of the Legislature that no moneys be allocated from the fund for at least one year.