

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 141, L.D. 182)
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1435

H.P. 1060 House of Representatives, May 6, 1987
Reported by Representative DEXTER from the Committee on
Energy and Natural Resources and printed under Joint Rule 2.
EDWIN H. PERT, Clerk
Original bill sponsored by Speaker MARTIN of Eagle Lake.
Cosponsored by Representatives RIDLEY of Shapleigh, MICHAUD of
East Millinocket and LORD of Waterboro.

STATE OF MAINE

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

1 AN ACT to Assure Geographical Balance on the
2 Board of Environmental Protection and
3 to Implement Staggered Board Terms.
4

5 Emergency preamble. Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, 6 members of the Board of Environmental
9 Protection will be replaced in 1987 due to resigna-
10 tions or the expiration of their terms; and

11 Whereas, the effect of such substantial change is
12 detrimental to the continuity of environmental policy
13 over the long term; and

1 Whereas, it is the intent of the Legislature to
2 establish a system of staggered terms for the board
3 similar to that employed on other policy-making
4 boards in order to avoid this problem; and

5 Whereas, in the judgment of the Legislature,
6 these facts create an emergency within the meaning of
7 the Constitution of Maine and require the following
8 legislation as immediately necessary for the preser-
9 vation of the public peace, health and safety; now,
10 therefore,

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

13 Sec. 1. 38 MRSA §361, first ¶, as amended by PL
14 1985, c. 746, §17, is further amended to read:

15 The Board of Environmental Protection, as estab-
16 lished by Title 5, section 12004, subsection 5, and
17 in this subchapter called the "board," shall consist
18 of 10 members appointed by the Governor, subject to
19 review by the joint standing committee of the Legis-
20 lature having jurisdiction over energy and natural
21 resources and to confirmation by the Legislature.
22 Members of the board shall be chosen to represent the
23 broadest possible interest and experience which can
24 be brought to bear in the implementation of this Ti-
25 tle and all other laws which the board is charged
26 with the duty of administering. At least 4 members
27 shall be residents of the First Congressional Dis-
28 trict and at least 4 members shall be residents of
29 the Second Congressional District. The boundaries of
30 the congressional districts are defined in Title
31 21-A, chapter 15. The members shall be appointed for
32 a term of 4 years staggered 4-year terms, except that
33 a vacancy shall be filled for the unexpired portion
34 of the term. No member may serve more than 2 consecu-
35 tive 4-year terms. The Governor shall appoint one
36 member to serve as chairman. Any member who has not
37 been renominated by the Governor within 90 days of
38 the expiration of his term shall not continue to
39 serve on the board unless the Governor notifies the
40 Legislature, in writing and within 90 days of the ex-
41 piration of that member's term, of his finding that
42 extension of that member's term is required to ensure

1 fair consideration of specific major applications
2 pending before the board. That member's term shall
3 terminate upon final board decisions on the specific
4 applications identified in the Governor's communica-
5 tion.

6 **Sec. 2. Transition.** In order to accomplish the
7 Legislature's intent to establish staggered terms for
8 the members of the Board of Environmental Protection,
9 the following provisions shall apply to the terms of
10 members renominated in 1987 and to those persons nom-
11 inated to replace members whose terms expire in 1987.
12 One of these nominations shall be for an initial term
13 of 2 years, one shall be for an initial term of 3
14 years and one shall be for a term of 4 years. The
15 term of any member who has served more than 2 consec-
16 utive 4-year terms shall expire at the end of his
17 current term.

18 **Emergency clause.** In view of the emergency cited
19 in the preamble, this Act shall take effect when ap-
20 proved.

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STATEMENT OF FACT

2 The purpose of this new draft is to establish a
3 geographical distribution requirement for the Board
4 of Environmental Protection. Four members of the
5 board will be drawn from the First Congressional Dis-
6 trict and 4 from the Second Congressional District.
7 The remaining 2 members may come from either congres-
8 sional district. Board members' terms are limited to
9 2 consecutive 4-year terms. In addition, the new
10 draft establishes the principal of staggered terms
11 for board members to ensure that, in the future,
12 board turn-over will be more even. This is standard
13 practice for other policy-making boards including,
14 for example, the Maine Land Use Regulation Commis-
15 sion. A transition provision provides for special
16 initial terms to be employed for the 3 board posi-
17 tions expected to be filled during the remainder of
18 1987. Any members nominated to fill unexpected va-
19 cancies on the board shall serve only for the remain-
20 der of the unexpired term. Three positions have al-
21 ready been filled in 1987 for full 4-year terms.
22 This will result in the terms of 3 members' expiring
23 in 1989, 3 members in 1990 and 4 members in 1991. It
24 is the intent of the Legislature that the special
25 short terms used to shift the board onto a staggered
26 replacement pattern not count in the consecutive
27 terms limitation established by the original bill.

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