

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1690

H.P. 1218

House of Representatives, May 24, 1989

Reported by Representative ROLDE for the Joint Standing Committee on Audit and Program Review pursuant to the Maine Revised Statutes, Title 3, chapter 23.

Reference to the Joint Standing Committee on Audit and Program Review suggested and printing ordered under Joint Rule 18.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

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

An Act Relating to Periodic Justification of Programs of State
Government under the Maine Sunset Laws.

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
3 as emergencies; and

5 Whereas, the 90-day period may not terminate until after the
beginning of the next fiscal year; and

7 Whereas, certain obligations and expenses incident to the
9 operation of the Bureau of Labor Standards will become due and
payable on or immediately after July 1, 1989; and

11 Whereas, the changes in government operations made by this
13 Act are consistent with certain other proposed changes to
government operations which may take effect prior to the
15 expiration of the 90-day period; and

17 Whereas, in the judgment of the Legislature, these facts
19 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
21 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

25 **Sec. 1. 26 MRSA §176**, as amended by PL 1977, c. 694, §§448
and 448-A, is further amended to read:

27 **§176. Deputy and authorized inspectors to be examined**

29 The examination for deputy inspectors and authorized
31 inspectors shall be given by the Chief Inspector of Boilers, or
by at least 2 examiners to be appointed by said the chief
33 inspector. ~~The person to be examined must pay an examination fee~~
~~of \$10.~~ An examination fee for authorized inspectors shall be
35 set by the board, but shall not exceed \$100. Such The
examination must be written or ~~part~~ partly written and ~~part~~
37 partly oral, recorded in writing, and must be confined to
questions the answers to which will aid in determining the
39 fitness and competency of the applicant for the intended service
and must be of uniform grade throughout the State. The chief
41 inspector shall certify to the director the names of applicants
who have successfully passed the examination. ~~In--case~~ If an
43 applicant for an inspector's certificate of authority fails to
pass this examination, ~~he~~ the applicant may appeal to the Board
45 of Boiler Rules for a 2nd subsequent examination, which shall be
given by said the board, or, by examiners other than those by
47 whom the first examination was given and these examiners shall be
appointed ~~forthwith~~ immediately to give said-2nd the subsequent
49 examination. ~~Upon~~ Based on the result of this subsequent
examination ~~on--appeal~~, the board shall determine whether the
51 applicant be is qualified to be issued an inspector's
certificate. The record of an applicant's examination, whether

1 original or on appeal, shall be accessible to ~~him~~ the applicant
and to ~~his~~ the applicant's employer.

3
4 The fee for issuing a certificate of authority as authorized
5 inspector shall be \$10 set by the board, but shall not exceed \$50
6 per year when such the certificate is granted under section 247,
7 to a person who holds a certificate as an inspector of steam
8 boilers for a state that has a standard of examination equal to
9 that of this State or a certificate from the National Board of
10 Boiler and Pressure Vessel Inspectors, and whose examination has
11 been waived in accordance with section 247. The certificate
12 shall be valid for a 3-year period beginning with the date of
13 issuance.

14 The director may file a complaint with the Administrative
15 Court to revoke a certificate of authority pursuant to Title 4,
16 section 1151, for incompetence or untrustworthiness of the holder
17 thereof or for willful falsification of any matter or statement
18 contained in ~~his~~ the person's application or in a report of any
19 inspection. If a certificate is lost or destroyed, a new
20 certificate shall be issued in its place without another
21 examination. A person, who has failed to pass the examination or
22 whose certificate of authority has been revoked, shall be
23 entitled to apply for a new examination and certificate after 90
24 days from such failure or revocation.

25
26 **Sec. 2. 26 MRSA §178, sub-§9,** as amended by PL 1981, c. 90,
27 §2, is further amended to read:

28
29 **9. Fees.** The fees charged for examination and for licenses
30 issued pursuant to this section shall be ~~as follows~~ set by the
31 board, but shall not exceed the following:

32
33 A. License and license renewal fee for stationary steam
34 engineers ~~\$15~~ \$100;

35
36 B. License and license renewal fee for boiler operators ~~\$10~~
37 \$100;

38
39 C. ~~The board may charge a~~ A late fee of up to \$10 not to
40 exceed \$75 on all renewals for which it the board receives a
41 renewal application up to 2 years after the expiration of
42 the license under such rules as the board may adopt; and

43
44 D. Examination fee for engineers and operators ~~shall be \$5~~
45 \$50.

46
47 **Sec. 3. 26 MRSA §244,** as repealed and replaced by PL 1977, c.
48 694, §452, is amended to read:

49
50 **§244. Inspection required; certificates issued**

1 Each boiler used or proposed for use within this State,
2 except boilers exempt under section 142, shall be thoroughly
3 inspected by the chief inspector or one of the deputy inspectors
4 or authorized inspectors, as to its design, construction,
5 installation, condition and operation. The Board of Boiler Rules
6 shall promulgate rules pursuant to Title 5, ~~section 8051 et seq.~~
7 chapter 375, subchapter II, specifying the method and frequency
8 of inspection. Whenever any boiler is inspected as specified by
9 the Board of Boiler Rules and is found to be suitable and to
10 conform to the rules of the Board of Boiler Rules, the chief
11 inspector shall issue to the owner or user of that boiler, upon
12 payment of a fee of \$5 to the bureau, an inspection certificate
13 for each boiler. The fee shall be set by the board and shall not
14 exceed \$100. Inspection certificates shall specify the maximum
15 pressure that the boiler inspected is allowed to carry. The
16 inspection certificate shall be valid for not more than 14 months
17 from its date and shall be posted under glass in the engine or
18 boiler room containing the boiler or an engine operated by it,
19 or, in the case of a portable boiler, in the office of the plant
20 where it is temporarily located ~~for the time being~~.

21 In accordance with the provisions of Title 5, chapter 375,
22 the chief inspector or any deputy inspector may at any time
23 suspend an inspection certificate when, in his the inspector's
24 opinion, the boiler for which it was issued may not continue to
25 be operated without menace to the public safety. An authorized
26 ~~inspector~~ inspector shall have corresponding powers with respect
27 to inspection certificates for boilers insured by the company
28 employing him the inspector. This suspension shall continue
29 pending decision on the board's application with the
30 Administrative Court for a temporary suspension pursuant to Title
31 4, section 1153.

32 **Sec. 4. 26 MRSA §245, first ¶,** as amended by PL 1971, c. 620,
33 **§13,** is further amended to read:

34 The owner or user of each boiler, required by this
35 subchapter to be inspected by the chief inspector or a deputy
36 inspector, shall pay the inspector upon inspection a fee, or
37 fees, to be determined, ~~except for miniature boilers, as follows:~~
38 ~~For the certificate inspection of a boiler of steel construction,~~
39 ~~which shall be an internal and external inspection while such~~
40 ~~boiler is not under pressure and for the certificate inspection~~
41 ~~of a boiler of cast iron construction, which shall be an~~
42 ~~inspection of all normally accessible external surfaces while~~
43 ~~such boiler is full of water and not in service, when any such a~~
44 ~~boiler has a grate area of not more than 10 square feet or~~
45 ~~equivalent, the fee shall be \$12, and if the grate area of any~~
46 ~~such boiler exceeds 10 square feet or equivalent, the fee shall~~
47 ~~be \$12 plus 10¢ for every square foot of grate area, or~~
48 ~~equivalent, in excess of 10 square feet or equivalent. In cases~~
49 ~~of specially designed boilers of steel construction, except~~
50

1 miniature boilers, wherein no grate area exists, the board is
2 authorized to set the fee for the certificate inspection of such
3 boilers, on the basis of the maximum boiler horsepower that can
4 be generated by such boilers. For the certificate inspection of a
5 miniature boiler, which shall be an internal and external
6 inspection while such boiler is not under pressure, the fee shall
7 be \$5. For the external inspection of a boiler under this
8 subchapter, while under pressure or in service, the fee shall be
9 \$4. For a hydrostatic test of any boiler, except miniature
10 boilers, a fee of \$10 shall be charged in addition to the
11 inspection fees provided for in this section by the board. Not
12 more than \$25 \$500 shall be collected for the inspection of any
13 one boiler made in any one year exclusive of the fee for
14 hydrostatic test, unless additional inspections are required by
15 the owners or users of the boiler or unless the boiler has been
16 inspected and an inspection certificate has been refused,
17 withheld or withdrawn, or unless an additional inspection is
18 required because of the change of location of a stationary
19 boiler. The nature and size of miniature boilers to be inspected
20 shall be determined by the Board of Boiler Rules. The inspector
21 shall give receipts for all fees collected and shall pay all sums
22 so received to the chief boiler inspector, who shall pay the same
23 to the director, who shall turn same over to and those fees shall
24 be deposited with the Treasurer of State to be credited to the
25 General Fund.

27 **Sec. 5. 26 MRSA §474, 2nd ¶**, as enacted by PL 1985, c. 310, is
28 amended to read:

29
30 Any person who is or will be aggrieved by the application of
31 any law, code or rule relating to the installation or alteration
32 of elevators or tramways may file a petition for a variance with
33 the board, whether or not compliance with that provision is
34 required at the time of filing or at a future date when that
35 provision becomes effective. The filing fee for a petition for a
36 variance is \$50 shall be set by the board and shall not exceed
37 \$100. The board shall hold a hearing pursuant to Title 5,
38 chapter 375, subchapter IV. The board shall grant a variance if,
39 owing to conditions especially affecting the particular building
40 or installation involved, the enforcement of any law, code or
41 rule relating to elevators or tramways, would do manifest
42 injustice or cause substantial hardship, financial or otherwise,
43 to the petitioner or any occupant of the petitioner's building or
44 would be unreasonable under the circumstances or condition of the
45 property, provided that desirable relief may be granted without
46 substantial detriment to the public good and without nullifying
47 or substantially derogating from the intent or purpose of that
48 law, code or rule. In exercising its powers under this section,
49 the board may impose limitations both of time and of use and a
50 continuation of the use permitted may be conditioned upon
51 compliance with rules made and amended from time to time. The

1 Board shall immediately send a copy of its decision by registered
mail to all interested parties.

3 Sec. 6. 26 MRSA §479, sub-§5, ¶C is enacted to read:

5 C. The fee for a tramway inspector license shall be set by
7 the board and shall not exceed \$150 for a 3-year period.

9 Sec. 7. 26 MRSA §486, as enacted by PL 1977, c. 543, §4, is
amended to read:

11 **§486. Examination; applications; fees**

13 The examination for elevator mechanics shall be given by the
15 supervising inspector and one member of the Electricians
Electricians' Examining Board or by 2 or more examiners, one of
17 whom shall be a member of the Electricians Electricians'
Examining Board to be appointed by the supervising inspector. The
19 ~~person-to-be-examined shall pay an examination fee of \$10.~~ The
21 examination fee shall be set by the board and shall not exceed
\$100. Such The examination shall be written in whole or in part,
23 and shall be confined to questions, the answers to which will
determine the fitness and competency of the applicant for the
intended service.

25 ~~In-case~~ If an applicant for a mechanic's license fails to
27 pass ~~his~~ the examination, he the applicant may request a 2nd
examination within 90 days of notification of ~~his~~ the applicant's
29 failure to pass and ~~such~~ the 2nd examination shall be given
without further fee. Any additional examinations shall be given
31 only upon the payment of the examination fee as provided in this
section.

33 The record and examination papers of the applicant shall be
35 accessible to ~~him~~ the applicant and ~~his~~ the applicant's employer
and shall be kept on file in the office of the supervising
37 inspector for a period of not less than 2 years.

39 Applications for examination and license shall be made on
forms furnished by the bureau.

41 All elevator mechanics' licenses shall expire on the 3rd
43 anniversary date of the original issue and may be renewed
thereafter for periods of ~~one-year~~ 3 years without further
45 examination, provided a renewal fee in the an amount of ~~\$10~~ set
by the board not to exceed \$100 is paid and provided that during
47 that period he the licensee has worked as an elevator mechanic.

49 Sec. 8. 26 MRSA §490-A, first ¶, as enacted by PL 1977, c. 543,
§4, is amended to read:

51 Each elevator or tramway proposed to be used within this
53 State shall be thoroughly inspected by either the supervising

1 inspector, a state inspector or a licensed inspector, and if
2 found to conform to the rules of the board, ~~upon payment of the~~
3 ~~inspection fee where required and a certificate fee of \$5 per~~
4 ~~year by the owner or user of such elevator or tramway,~~ the board
5 shall issue to such the owner or user an inspection certificate.
6 Fees for inspection and certification of elevators and tramways
7 shall be set by the board pursuant to section 490-E, and shall be
8 paid by the owner or user of the elevator or tramway. The
9 certificate shall specify the maximum load to which such the
10 conveyance shall be subjected, the date of its issuance and the
11 date of its expiration. Such ~~elevator~~ Elevator certificates
12 shall be posted in the elevator and the tramway certificate at a
13 conspicuous place in the machine area.

15 **Sec. 9. 26 MRSA §490-D**, as amended by PL 1981, c. 564, §6, is
16 further amended to read:

17 **§490-D. Installation of new elevators and tramways; fees**

19 Detailed plans or specifications of each new or altered
20 elevator or tramway shall be submitted to and approved by the
21 supervising inspector before the construction of the same may be
22 started. Fees for examination of such the plans or specifications
23 shall be \$2 ~~\$5~~ per thousand of the valuation of the elevator or
24 tramway as covered by the blueprints. The minimum fee shall not
25 be less than \$10 ~~\$35~~ and the maximum fee shall not be more than
26 \$35 ~~\$100~~. All fees and sums received shall be deposited with the
27 Treasurer of State to be credited to the General Fund.

29 **Sec. 10. 26 MRSA §490-E**, as amended by PL 1981, c. 564, §7,
30 is further amended to read:

33 **§490-E. Inspection fees**

35 The initial inspection of elevators shall be made by the
36 supervising inspector or a state inspector and the fee for such
37 the initial inspection of each new or altered elevator shall be
38 \$35 set by the board, not to exceed \$100, plus expenses.

39 The initial inspection of tramways shall be made by the
40 supervising inspector, a state inspector or a licensed inspector
41 and the fee for such the initial inspection of each new or
42 altered tramway shall be \$35 set by the board, not to exceed
43 \$100, plus expenses.

45 The fee for each required inspection of elevators shall be
46 \$30, ~~plus \$1~~ set by the board, not to exceed \$100, plus \$10 for
47 each landing.

49 The annual fee for the required inspections of tramways,
50 ~~when conducted by a state inspector, shall be: Gondola, \$200,~~
51 ~~plus \$10 for each 500 feet of length, sheave to sheave; chair~~

1 lift,--\$175,--plus--\$10--for--each--500--feet--of--length,--sheave--to
2 sheave,--T-bar,--J-bar--or--platter,--\$150,--plus--\$10--for--each--500--feet
3 of--length,--sheave--to--sheave,--and--pony--or--rope--tow,--\$50,--plus--\$10
4 for--each--500--feet--of--length,--sheave--to--sheave set by the board.

5
6 The certificate fee shall be set by the board, not to exceed
7 \$100.

8
9 The--annual--fee--for--the--required--inspections--of--tramways,
10 when--conducted--by--a--licensed--tramway--inspector,--shall--be
11 Gendola,--\$200,--chair--lift,--\$175,--T-bar,--J-bar--or--platter,--\$150,
12 and--pony--or--rope--tow,--\$50.

13
14 When a tramway inspection has been made by a licensed
15 tramway inspector, the inspector shall submit the inspection fee
16 to the board along with his an inspection report.

17
18 All fees and sums received shall be deposited with the
19 Treasurer of State to be credited to the General Fund.

20
21 **Sec. 11. Appropriation.** The following funds are appropriated
22 from the General Fund to carry out the purposes of this Act.

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	1989-90	1990-91
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Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

FISCAL NOTE

This bill increases General Fund revenues by \$175,000 in fiscal year 1989-90, \$175,000 in fiscal year 1990-91 and annually thereafter. Therefore, the net effect of this bill is an increase to the General Fund of \$72,140 in fiscal year 1989-90 and \$135,000 in fiscal year 1990-91 for a total General Fund increase of \$207,140 for the biennium. Additional General Fund revenues will continue to be generated in future years.

1

STATEMENT OF FACT

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This bill transfers fee-setting authority, within the limits of the law, to the Board of Boiler Rules and the Board of Elevator and Tramway Safety for regulated activities in the boards' respective jurisdictions. The bill also amends obsolete language.

7

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11

The bill also uses a portion of the increased revenues generated by the fee increases to allow the computerization of the Bureau of Labor Standards.

13