

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2416

H.P. 1753

House of Representatives, March 8, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Representative LISNIK of Presque Isle, Representative ANDERSON of Woodland and Senator COLLINS of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Establish Fees for Nonferrous Metal Mining.

(AFTER DEADLINE)

(EMERGENCY)



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

4 Whereas, several enterprises have expressed interest in
6 beginning nonferrous metal mining operations in the State; and

8 Whereas, the existing fee structure for permits from the
Department of Environmental Protection is inadequate to assess
10 properly the environmental impacts of large-scale mining
operations; and

12 Whereas, considerable state resources are expended for
14 review of mining projects in advance of submission of an
application to mine; and

16 Whereas, the Department of Environmental Protection must
18 have sufficient resources to assess the environmental, health and
safety issues related to nonferrous metal mining in the State; and

20 Whereas, the Legislature has determined that nonferrous
22 metal mining, if conducted properly, is an acceptable and
necessary activity which results in benefits to the State and the
24 nation; and

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

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

34 **Sec. 1. 38 MRSA §352, sub-§4-A is enacted to read:**

36 4-A. Maximum fees for nonferrous metal mining.
Notwithstanding the fees for mining established in subsections 4
38 and 5, the maximum fees for nonferrous metal mining are as
follows:

40 A. The processing fee is \$90,000; and

42 B. The annual license fee is \$8,000.

44 **Sec. 2. 38 MRSA §353, sub-§2-A is enacted to read:**

46 2-A. Processing fee for nonferrous metal mining. Two
48 thirds of the processing fee for nonferrous metal mining must be
paid upon submission of a baseline monitoring plan to the
50 department for review and approval. The remainder of the
processing fee must be paid at the time the application is
52 filed. If the application is withdrawn by the applicant within

2 30 days of the date of filing, 1/3 of the total processing fee
3 must be refunded.

4 For the purposes of this section, "baseline monitoring plan"
5 means a monitoring plan that defines the existing site conditions
6 for a specific location and must include, but is not limited to,
7 characterizations of the following subjects: wildlife, surface
8 and ground water quality and quantity, and air quality.

10 **Sec. 3. 38 MRSA §353, sub-§3, as amended by PL 1987, c. 787,**
11 **§11, is further amended to read:**

12 **3. License fee.** A license fee shall must be paid at the
14 time of filing the application. Failure to pay the license fee
15 at the time of filing ~~will result~~ results in the application
16 being returned to the applicant. The department shall refund the
17 license fee if the board or commissioner denies the application
18 or if the application is withdrawn by the applicant.
19 Notwithstanding the provisions of this subsection, the license
20 fee for a subdivision shall must be paid prior to the issuance of
21 the license.

22 The license fees for nonferrous metal mining must be paid
23 annually on the anniversary date of the license for the life of
24 the project, up to and including the period of closure and
25 reclamation.

28 **Sec. 4. 38 MRSA §354-A is enacted to read:**

30 **§354-A. Comprehensive mining regulations**

32 The board shall promulgate, in accordance with the Maine
33 Administrative Procedure Act, comprehensive regulations
34 governing nonferrous metal mining. The regulations must be
35 promulgated by November 1, 1990. In promulgating these rules,
36 the board shall consider the economic and environmental impact of
37 the rules.

38 **Emergency clause.** In view of the emergency cited in the
40 preamble, this Act takes effect when approved.

42 **STATEMENT OF FACT**

44
45 The bill establishes a maximum processing fee of \$90,000 for
46 nonferrous metal mining applications and a maximum annual
47 licensing fee of \$8,000. The nonferrous metal mining
48 applications are distinguished from other mining applications
49 such as those for gravel pits and quarries. Since this category
50 of mining is of a different magnitude and involves far greater
51 environmental impacts, fees are set according to the resources
52 required to provide thorough review of such projects.

2 The bill also provides that the processing fee is paid in 2
parts: 2/3 with the submission of a baseline monitoring proposal
4 and the remaining 1/3 when the application is submitted. This
proposal recognizes that a great deal of resources is expended
6 reviewing mining projects and advising potential applicants well
before actual submission of an application. If the application
8 is withdrawn within 30 days of the date that it is finally
submitted, the fees associated with preapplication review of the
projects are nonrefundable.

10
12 The bill amends the existing description of payment of
licensing fees to note that permitted nonferrous metal mines must
14 pay an annual license fee to a maximum of \$8,000. This fee would
provide resources for the Department of Environment Protection to
16 ensure compliance checks during the mining operation and during
closure and remediation. This is an especially important
18 provision given the environmental problems historically
associated with mining in other states and the fact that the
industry is new to the State. There will be a need to provide
20 technical assistance and such other actions as may be necessary
to ensure adherence to our environmental laws.

22
24 Finally, the bill recognizes the need to complete a
comprehensive set of regulations to cover nonferrous metal mining
26 in a timely manner and designed to meet the unique requirements
of mining.