

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1500

H.P. 1027

House of Representatives, April 11, 1991

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.
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 Representative LORD of Waterboro.

Cosponsored by Representative COLES of Harpswell, Senator TITCOMB of Cumberland
and Senator LUDWIG of Aroostook.

STATE OF MAINE

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

**An Act to Amend Certain Laws Governing Hazardous Waste, Septage
and Solid Waste Management to Include a Land Acquisition and
Eminent Domain Provision for the Remediation of Hazardous
Substances and to Provide for the Reimbursement of Expenditures Made
for the Acquisition of Property.**



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

2
4 Sec. 1. 38 MRSA §1364, sub-§7 is enacted to read:

6 7. Acquisition of property; authority. The department may
8 acquire, by purchase, lease, condemnation, donation or otherwise,
10 any real property or any interest in real property that the board
12 in its discretion determines, by 2/3 majority vote, is necessary
14 to conduct remedial actions in response to a discharge of
16 hazardous substances, including, but not limited to:

18 A. Actions to prevent further discharge and to mitigate or
20 terminate the threat of a discharge of hazardous substances;

22 B. Actions to clean up soils and ground water and remove
24 hazardous substances from an uncontrolled site; and

26 C. Replacement of water supplies contaminated or threatened
28 by a discharge of hazardous substances.

30 The department may exercise the right of eminent domain in the
32 manner described in Title 35-A, chapter 65, to take and hold real
34 property for any of the purposes described in this subsection.
36 The department may transfer or convey to any person real property
38 or any interest in real property once acquired.

40 Sec. 2. 38 MRSA §1367, first ¶, as enacted by PL 1983, c. 569,
42 §1, is amended to read:

44 Each responsible party is jointly and severally liable for
46 all costs incurred by the State for the abatement, clean-up
48 cleanup or mitigation of the threats or hazards posed or
50 potentially posed by an uncontrolled site, including, without
 limitation, all costs of acquiring property, and for damages for
 injury to, destruction of or loss of natural resources of the
 State resulting from hazardous substances at the site or from the
 acts or omissions of a responsible party with respect to those
 hazardous substances. The commissioner shall demand reimbursement
 of costs and payment of damages to be recovered under this
 section and payment shall must be made promptly by the
 responsible party or parties upon whom the demand is made. If
 ~~payment is not received by the State within 30 days of the~~
 demand, the Requests for reimbursement to the Uncontrolled Sites
 Fund, if not paid within 30 days of demand, may be turned over to
 the Attorney General for collection or may be submitted to a
 collection agency or agent or an attorney retained by the
 department with the approval of the Attorney General pursuant to
 Title 5, section 191. The Attorney General or an attorney
 retained by the department may file suit in the Superior Court
 and, in addition to relief provided by other law, may seek
 punitive damages. Notwithstanding the time limits stated in this

2 paragraph, neither a demand nor other recovery efforts against
one responsible party may relieve any other responsible party of
4 liability.

6 **STATEMENT OF FACT**

8 This bill allows the Department of Environmental Protection
to acquire property needed to abate, clean up, mitigate or
10 conduct remedial actions, including the replacement of water
supplies as a result of threats or hazards posed or potentially
12 posed by hazardous substance contamination. This bill also
clarifies that expenditures made for such activities are subject
14 to reimbursement actions and that such actions may be taken by
the Attorney General, a collection agency or agent or an attorney
16 retained by the department.