

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2400

H.P. 1715

House of Representatives, March 4, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Taxation suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative MAYO of Thomaston.

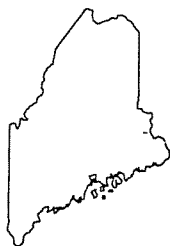
Cosponsored by Senator HOLLOWAY of Lincoln and Representative COLES of Harpswell.

STATE OF MAINE

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

An Act Concerning Site Protection at Former Mining Operations.

(AFTER DEADLINE)



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

2
4 Sec. 1. 5 MRSA §453, as repealed by PL 1991, c. 622, Pt. S,
§2, is reenacted to read:

6 §453. Board of trustees

8 The Mining Excise Tax Trust Fund Board of Trustees,
10 established by section 12004-G, subsection 33-A, shall be subject
to the following provisions.

12 1. Membership. The board shall consist of 5 members, at
14 least one of whom shall be a resident of the unorganized
territory.

16 2. Appointment of members. The board's members shall be
18 appointed by the Governor and shall be subject to review by the
joint standing committee of the Legislature having jurisdiction
20 over taxation and to confirmation by the Legislature. The board
members may be removed for cause.

22 3. Terms. Of the initial appointees: One shall serve a
24 term of one year; one shall serve a term of 2 years; one shall
serve a term of 3 years; one shall serve a term of 4 years; and
26 one shall serve a term of 5 years. Upon expiration of these
terms, members shall be appointed to serve for 5 years. Members
28 may be reappointed.

30 Sec. 2. 5 MRSA §12004-G, sub-§33-A, as repealed by PL 1991, c.
622, Pt. S, §8, is reenacted to read:

32 33-A. Board of Not 5 MRSA
Taxation Trustees, Authorized §453
34 Mining Excise
36 Tax Trust Fund

38 Sec. 3. 36 MRSA §2861, sub-§§2 and 4, as enacted by PL 1981, c.
711, §10, are amended to read:

40 2. Treasurer's duties. The Treasurer of State shall
42 reimburse each municipality 50% 100% of the property tax revenue
loss suffered by that municipality during the previous calendar
44 year as a result of the exemptions established by this chapter.

46 4. Payment. The Treasurer of State shall use the excise
tax revenues to pay to each municipality 50% 100% of the actual
tax revenue loss as determined by subsection 3, paragraph E. The

2 Treasurer of State shall set aside an amount from these revenues
sufficient to meet this obligation. He The Treasurer of State
4 shall pay the 50% 100% due to the municipality by February 1st of
the year following the year in which property tax revenue was
6 lost by the municipality.

8 **Sec. 4. 36 MRSA §2861, sub-§6** is enacted to read:

10 **6. Corrective action.** The Treasurer of State, following
the payment of excise tax revenues to municipalities pursuant to
12 subsection 4, shall annually set aside 25% of the remaining
revenues to be deposited in the Mining Corrective Action Fund.
14 Money in this fund is available to municipalities to fund
corrective action as defined by rule by the Department of
16 Environmental Protection and the Maine Land Use Regulation
Commission in relation to metallic mineral exploration.

18 **Sec. 5. 36 MRSA §2862, first ¶,** as enacted by PL 1981, c. 711,
§10, is amended to read:

20 Excise tax revenues remaining after municipal reimbursement
22 and payments into the Mining Corrective Action Fund under section
2861 shall must be used as follows.

24 **Sec. 6. 36 MRSA §2863, sub-§3,** as enacted by PL 1981, c. 711,
26 §10, is repealed.

28 **Sec. 7. 36 MRSA §2866** is enacted to read:

30 **§2866. Mining Corrective Action Fund**

32 **1. Creation of fund.** The Mining Corrective Action Fund,
referred to in this section as the "fund," is established as a
34 nonlapsing fund administered by the Mining Excise Tax Trust Fund
Board of Trustees, referred to in this section as the "board."
36 The board shall oversee and authorize expenditures from the fund.

38 **2. Investment.** The Treasurer of State shall invest the
money in the fund as authorized by Title 5, section 138.

40 **3. Protection of municipalities.** The fund may be used for
42 corrective actions for mining operations located only in
municipalities. The board may require any person, firm or
44 corporation undertaking any mining activities in a municipality
in this State to provide, to the satisfaction of the board:
46 adequate financial resources to protect the municipality from any

2 emergency; catastrophe; threat to the health, welfare or safety
3 of the general public; or threat to the environment arising from
4 the mining operations in the municipality. The board may require
5 insurance, a reserve fund or any other financial mechanism to
6 implement this subsection. If the board requires the mining
7 company to establish a reserve fund, any interest earned on that
8 fund must be transferred to the fund following termination of
9 mining operations.

10 4. Uses of fund. Money from the fund may be used only to
11 fund corrective action as defined in the mining rules adopted by
12 the Department of Environmental Protection and the Maine Land Use
13 Regulation Commission. Corrective action includes, but is not
14 limited to, remedial action related to:

15 A. Contaminated ground water;

17 B. Disposition of mining wastes;

19 C. Reclamation defects on or surrounding the site; and

21 D. Pollution control at the site.

23 5. Restrictions and liability. Money from the fund may be
24 used only for corrective action necessary to address problems
25 that occur at the site following termination of mining operations
26 and closure of the mine. Corrective action necessary during the
27 operation of a mine must be funded by the mining company. The
28 existence of this fund does not relieve a mining company of any
29 liability or responsibility arising from a corrective action
30 following termination of its mining operation in a municipality
31 or an unorganized territory.

33 6. Disposition of fund. When corrective action is
34 necessary in accordance with this section, the board shall
35 provide funds for remedial activities at the site on a pro rata
36 basis to ensure that funds are available for any necessary
37 corrective action at other sites. This determination is based on
38 the amount of excise tax revenues generated at each site.

39 7. Depletion of fund. Following termination of mining
40 operations, the mining company and, in the case of a mining
41 company that is a subsidiary of a corporation, the parent company
42 remain liable for any corrective action determined necessary by
43 the board. If the contributions of the mining company to the
44 fund are insufficient to fund corrective action, the mining
45 company or its successor, if the company has been sold, remains
46 liable for the cost of corrective action.

2 liable for the costs of corrective action. If the mining company
3 ceases to exist, the parent company, if any, is liable for any
4 necessary corrective action.

6
8 **STATEMENT OF FACT**

10 As a result of the interest and exploratory activities of
11 mining companies in at least 2 sections of the State, it is
12 necessary to update the State's laws governing mining
13 operations. This bill requires that municipalities be reimbursed
14 for 100% of property tax losses as a result of the imposition of
15 the mining excise tax in lieu of the property tax. Current law
16 requires that only 50% of the property tax loss be reimbursed.
17 This bill creates the Mining Corrective Action Fund, funded by a
18 25% share of the mining excise tax revenues. This fund is used
19 to address any catastrophes and to fund any remedial action
20 related to the contamination of ground waters, disposition of
21 mine wastes, pollution control and similar issues that arise
22 following termination of mining activities. This bill also
23 removes the cap on the Mining Impact Assistance Fund that
24 municipalities rely upon when mining activities create additional
25 burdens that were not taken into account, such as road
26 deterioration and similar problems.