

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884, Bill, "An Act to Ensure Proper Funding of the Department of Environmental Protection"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 38 MRSa §342, sub-§16 is enacted to read:

16. Receipt of funds. Through the Department of Administrative and Financial Services, the commissioner may establish accounts as necessary for the administration of funds held temporarily by the department and restricted to specific purposes by court order or otherwise, such as escrow funds, funds from court decrees and intervenor fees. The State Budget Officer may provide for allotment of the funds as requested. Funds received must be deposited with the Treasurer of State to the credit of the appropriate account and be invested, as provided by law, with interest credited to the account.

Sec. 2. 38 MRSa §352, sub-§2, ¶F is enacted to read:

F. Waste discharge license fees assessed under section 352 for facilities licensed under section 413 must be used to support activities for water quality control operations, including licensing, compliance evaluation, monitoring, data acquisition, data management and administration.

Sec. 3. 38 MRSa §352, sub-§5-A, as amended by PL 1993, c. 378, §2, is further amended by amending the first paragraph to read:

CONFERENCE AMENDMENT

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884

<u>(10-year term)</u>		
2	1. Flow of less than	
	2,000 gallons per day	2,400 640
4		<u>4,800</u> <u>1,280</u>
6	2. Flow of 2,000 to	
	20,000 gallons per	
	day inclusive	2,400 2,000
8		<u>4,800</u> <u>4,000</u>
10	3. Flow of greater	
	than 20,000 gallons	
	per day	2,400 4,800
12		<u>4,800</u> <u>9,600</u>
14	C. Industrial minor	
	(based upon EPA list	
	of major and minor	
16	source discharges)	
	1. Discharges of	1,500 480
18	cooling water,	
	sanitary wastewater	
20	or treated storm water	
	only	
22	2. All others	1,500 6,000
24	D. Industrial major	
	(based upon EPA list of	
	major source discharges)	
26	1. Discharge of	4,800 3,000
	cooling water or	
28	sanitary wastewater	
	only	
30	2. All others	4,800 8,800
32	E. Publicly owned	
	treatment works	
	1. Flow of less	100 400
34	than or equal to	
	50,000 gallons per	
36	day and no significant	
	industrial component	
38	2. Flow of greater	100 1,400
	than 50,000 gallons	
40	per day, but less	
	than 0.5 million	
42	gallons per day and	
	no significant	
44	industrial component	
	3. Flow of at least	100 3,600
46	0.5 million gallons	
	per day, but less	
48	than 5 million	
	gallons per day and	
50	no significant	

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884

2	industrial component		
	4. Flow of at least	300	5,400
4	5 million gallons per		
	day or a significant		
	industrial component		
6	F. Special discharges		
	1. Aquatic pesticides	130	75
8	2. Dredge spoils	130	75
	418, Log storage	55	25
10	451, Mixing zones	1,200	2,200
	451-A, Time schedule	25	25
12	variances		
	480-E, Natural resources		
14	protection		
	A. Great ponds	75	50
16	B. Alteration of rivers,	150	50
	streams or brooks		
18	C. Freshwater wetlands	100	50
	D. Coastal wetlands	3,500	1,500
20	and sand dunes		
	A. Any alteration of a	140	50
22	protected natural resource,		
	except coastal wetlands and		
24	coastal sand dunes, causing		
	less than 20,000 square feet		
26	of alteration of the resource		
	B. Any alteration of a	240	60
28	coastal wetland causing less		
	than 20,000 square feet of		
30	alteration of the resource		
	C. Any alteration of a	.015/sq. ft.	.005/sq. ft.
32	protected natural resource,	alteration	alteration
	except coastal sand dunes,		
34	causing 20,000 square feet		
	or more of alteration of the		
36	resource		
	D. Any alteration of a	3,500	1,500
38	coastal sand dune		
	E. Condition compliance	84	0
40	F. Minor modification	184	0
	485-A, Site location of development		
42	A. Affordable housing	50/lot	50/lot
	subdivisions		
44	A-1. Other subdivisions	175/lot	175/lot
	with public water and		
46	sewers		
	A-2. Other subdivisions	250/lot	250/lot
48	B. Structures	4,000	2,000
	C. Mining	1,500	1,000
50	D. Other	1,000	1,000

1 of 8

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884

2	<u>A. Residential subdivisions</u>		
	<u>1. Affordable housing</u>	<u>134/lot</u>	<u>50/lot</u>
4	<u>2. On public water or sewer</u>	<u>320/lot</u>	<u>175/lot</u>
	<u>3. All others</u>	<u>460/lot</u>	<u>250/lot</u>
6	<u>B. Industrial parks</u>	<u>460/lot</u>	<u>460/lot</u>
8	<u>C. Mining, except metallic mineral mining. The owner or operator of a licensed mining operation, excluding metallic mineral mining, must pay an annual fee of \$620 by March 1st of each year, beginning the year following the calendar year the license is issued</u>	<u>3,600</u>	<u>1,800</u>
16	<u>D. All other developments</u>	<u>5,600</u>	<u>2,000</u>
	<u>E. Condition compliance</u>	<u>100</u>	<u>0</u>
18	<u>F. Minor modification</u>	<u>184</u>	<u>0</u>
	<u>G. Transfer</u>	<u>100</u>	<u>0</u>
20	543, Oily waste discharge	40	160
	560, Vessels at anchorage	125	100
22	587, Ambient air quality or emissions standards variances	5,050	50
24	590, Air emissions licenses	See section 353-A	
26	633, Hydropower projects		
	A. New or expanded generating capacity	450/MW	50/MW
28	B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	150	50
30	1101, Sanitary districts	150	50
36	33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing		
38	A. Initial consultation	1,000	0
40	B. Second consultation	1,000	0
42	C. Application		
	1. Storage	1,000	0
44	2. Generating	300/MW	50/MW
46	1304, Waste management		
48	A. Septage disposal		
50	1. Site designation	50	25

CONFERENCE AMENDMENT

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884

2	B. Land application of sludges and residuals program approval		
4	1. Industrial sludge	400	400
	2. Municipal sludge	300	275
6	3. Bioash	300	275
	4. Wood ash	300	75
8	5. Food waste	300	75
	6. Other residuals	300	175
10	C. Landfill		
	1. Closing plans for nonmunicipal landfills	1,500	1,500
12	2. Closing plans for municipal landfills	500	500
14	3. Variance requests for attenuation land- fills	175	175
16	4. Preliminary information reports	175	175
18	5. License transfers	500	175
20	6. Special waste disposal		
22	a. One-time disposal of quantities of 6 cubic yards or less	50	50
24	b. One-time disposal of quantities greater than 6 cubic yards	100	100
26	c. Program approval for routine disposal of a special waste	300	300
28	D. Incineration facility		
30	1. Fuel substitution activities	1,575	1,500
32	2. License transfer	175	175
34	E. License transfer other than for landfills and incinerators	100	100

44 **Sec. 5. 38 MRSA §352, sub-§5-B**, as amended by PL 1993, c. 356,
§4; c. 370, §2; c. 378, §3; c. 410, Pt. G, §1; c. 632, §2 and
46 affected by c. 410, Pt. G, §2, is repealed.

48 **Sec. 6. 38 MRSA §352, sub-§6**, as amended by PL 1989, c. 890,
Pt. B, §12, is further amended to read:

6. **Reporting requirements.** The commissioner shall report, before February 1st of each year, to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the effects of the license fee increases on department efficiency and license and permit processing time. That report must include a summary for the previous fiscal year of revenues and expenses by activity within the Maine Environmental Protection Fund.

Sec. 7. 38 MRSA §353, sub-§2, as amended by PL 1993, c. 410, Pt. G, §3, is further amended to read:

2. **Processing fee.** Except for annual air emission fees pursuant to section 353-A, a processing fee must be paid at the time of filing the application. Failure to pay the processing fee at the time of filing the application results in the application being returned to the applicant. One-half the processing fee assessed in section 352, subsection 5-B 5-A for licenses issued for a 10-year term must be paid at the time of filing the application. The remaining 1/2 of the processing fee for licenses issued for a 10-year term must be paid 5 years after issuance of the license. The commissioner may not refund the processing fee if the application is denied by the board or the commissioner. If the application is withdrawn by the applicant within 30 days of the start of processing, the processing fee must be refunded, except in the case of nonferrous metal mining applications. If an application for nonferrous metal mining is withdrawn by the applicant within 30 days of the date of filing, 1/2 of the application fee must be refunded.

Sec. 8. Transfer of funds in fiscal year 1994-95. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1585, the Commissioner of Environmental Protection shall transfer \$184,000 from the Ground Water Oil Clean-up Fund to the Maine Environmental Protection Fund program during fiscal year 1994-95.

Sec. 9. Transfer of funds in fiscal year 1995-96. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1585, the Commissioner of Environmental Protection shall transfer \$184,000 from the Maine Environmental Protection Fund program to the Ground Water Oil Clean-up Fund during fiscal year 1995-96.

Sec. 10. General Fund request. The Commissioner of Environmental Protection shall submit a General Fund request for fiscal year 1995-96 for an amount of \$184,000 to be placed in the Maine Environmental Protection Fund program to ensure funding for 3 water quality positions and operating expenses. The commissioner shall make recommendations to the joint standing committee of the Legislature having jurisdiction over energy and

natural resource matters by February 1, 1995 regarding changes of fees and positions to ensure the appropriate continuance of the water quality and land quality licensing programs.

Sec. 11. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

1994-95

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Water Quality Control

Positions	(-5.5)
Personal Services	(\$187,297)
All Other	(3,839)
TOTAL	(\$191,136)

Provides for the deallocation of funds for the transfer from the Federal 106 Water Quality Control Program of 3 part-time Conservation Aide positions, one Environmental Specialist III position, one Assistant Environmental Engineer position and one Environmental Specialist IV position to the Maine Environmental Protection Fund program and one Environmental Specialist II position and one Environmental Specialist III position to the General Fund as provided in other legislation; and the transfer of 2 part-time Biologist I positions from the Maine Environmental Protection Fund program to the Federal 106 Water Quality Control Program.

Water Quality Control

Positions	(-1.5)
Personal Services	(\$29,721)
All Other	(594)
TOTAL	(\$30,315)

Provides for the deallocation of funds for the transfer of one Conservation Aide position and one part-time Conservation Aide position from the Federal 604(b) Water

Quality Program to the Maine Environmental Protection Fund program.

Oil and Hazardous Materials Control

Positions	(1.0)
Personal Services	\$31,810
All Other	563
TOTAL	<u>\$32,373</u>

Provides for the allocation of funds for the transfer of one former Oil and Hazardous Materials Specialist I position, upgraded to an Environmental Specialist II position, from the Maine Environmental Protection Fund program to the Federal Defense Facilities Clean-up Program.

DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL

(\$189,078)

Sec. 12. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Air Quality Control

Positions	(-21.0)
Personal Services	(\$766,480)
All Other	(252,972)
Capital Expenditures	(380,511)
TOTAL	<u>(\$1,399,963)</u>

Provides for the deallocation of funds for the consolidation of this dedicated fund program with the air activity function within the Maine Environmental Protection Fund program.

Maine Environmental Protection Fund

Positions	(21.0)
Personal Services	\$766,480

COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884

2	All Other	252,972
	Capital Expenditures	380,511
4	TOTAL	<u>\$1,399,963</u>

6 Provides for the allocation of funds for the
7 consolidation of air licensing fees
8 expenditure authority.

10 **Maine Environmental Protection Fund**

12 Personal Services (\$54,900)

14 Provides for the deallocation of funds for
15 the transfer of one Conservation Aide
16 position, 4 part-time Conservation Aide
17 positions, one Assistant Environmental
18 Engineer position, one Environmental
19 Specialist III position and one
20 Environmental Specialist IV position to the
21 Maine Environmental Protection Fund program
22 from federal funds; the transfer of 2
23 Environmental Specialist II positions and 2
24 Environmental Specialist III positions from
25 the Maine Environmental Protection Fund to
26 the General Fund as provided in other
27 legislation; and the transfer of 2 part-time
28 Biologist I positions and one former Oil and
29 Hazardous Materials Specialist I position,
30 downgraded to an Environmental Specialist II
31 position, from the Maine Environmental
32 Protection Fund program to federal funds.

34 **DEPARTMENT OF ENVIRONMENTAL
35 PROTECTION**

36 **TOTAL** (\$54,900)

38 **Sec. 13. Effective date; retroactivity.** Section 4 of this Act
39 takes effect on July 1, 1995, except that those changes in
40 section 4 of this Act pertaining to fees for residential and
41 commercial waste discharge licenses issued under the Maine
42 Revised Statutes, Title 38, section 413 take effect retroactively
43 beginning July 1, 1993.'

44
45 Further amend the bill by inserting at the end before the
46 statement of fact the following:

48 **FISCAL NOTE**

50 **1994-95**

APPROPRIATIONS/ALLOCATIONS

Other Funds (\$243,978)

This bill includes various allocations and deallocations from the Maine Environmental Protection Fund program, the Bureau of Air Quality Control and the Bureau of Oil and Hazardous Materials Control for fiscal year 1994-95 to transfer funding responsibilities and realign program activities. The overall result is a \$189,078 net deallocation of federal funds and a \$54,900 net deallocation of dedicated revenue. A total of 6 positions that are eliminated in this bill are reestablished as General Fund positions at a total cost of \$300,000 for fiscal year 1994-95 in the committee amendment to the supplemental budget bill (L.D. 1761).

This bill transfers \$184,000 in dedicated funds during fiscal year 1994-95 from the Ground Water Oil Clean-up Fund within the Department of Environmental Protection to the Maine Environmental Protection Fund program within the same department. The Ground Water Oil Clean-up Fund has adequate financial resources for this funding transfer on a one-time basis. This bill also transfers \$184,000 in dedicated funds during fiscal year 1995-96 from the Maine Environmental Protection Fund program back to the Ground Water Oil Clean-up Fund. As a result of certain fee increases that take effect on July 1, 1995, the Maine Environmental Protection Fund program will have adequate revenues to accomplish this funding transfer. However, the Maine Environmental Protection Fund program will require a one-time General Fund appropriation of approximately \$184,000 in fiscal year 1995-96 to support 3 water quality positions and general operating expenses.

STATEMENT OF FACT

This is the unanimous report of a joint committee of conference. The amendment replaces the bill.

The amendment strikes those provisions of the bill that increase waste discharge license fees. The amendment transfers \$184,000 from the Ground Water Oil Clean-up Fund at the Department of Environmental Protection to the Maine Environmental Protection Fund for the purpose of supporting 3 positions for fiscal year 1994-95. Prior to the end of fiscal year 1995-96, the Commissioner of Environmental Protection is required to reimburse the Ground Water Oil Clean-up Fund the full \$184,000 using funds from the Maine Environmental Protection Fund. Money

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COMMITTEE OF CONFERENCE AMENDMENT "A" to H.P. 1385, L.D. 1884

2 to repay the Ground Water Oil Clean-up Fund will be derived from
increases in natural resource protection and site location of
4 development license fees that will take effect on July 1, 1995.

6 The amendment also retains those provisions of the bill that
combine air licensing fees into the Maine Environmental
8 Protection Fund and allow the Commissioner of Environmental
Protection to create a separate account for holding escrow funds
and other special purpose funds.

10 The amendment also corrects a technical conflict created by
12 the enactment of conflicting public laws during the First Regular
Session of the 116th Legislature. That conflict pertained to
14 fees and licensing terms for residential and commercial
overboard discharge licenses. Changes necessary to correct that
16 conflict are made retroactive to July 1, 1993, the date the
Legislature intended those changes to take effect.

18 The amendment adds new allocation sections and a new fiscal
20 note.