

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

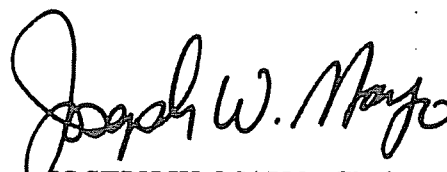
No. 1884

H.P. 1385

House of Representatives, February 15, 1994

An Act to Ensure Proper Funding of the Department of Environmental Protection.

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.


JOSEPH W. MAYO, Clerk

Presented by Representative MARSH of West Gardiner.

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

2 **Sec. 1. 38 MRSA §342, sub-§16** is enacted to read:

4 **16. Receipt of funds.** Through the Department of
6 Administrative and Financial Services, the commissioner may
8 establish accounts as necessary for the administration of funds
10 held temporarily by the department and restricted to specific
12 purposes by court order or otherwise, such as escrow funds, funds
14 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.

16 **Sec. 2. 38 MRSA §352, sub-§2, ¶A**, as amended by PL 1991, c.
18 384, §1 and affected by §16, is further amended to read:

20 A. Except for those fees assessed under section sections
22 353-A and 353-B, processing fees must be assessed for costs
24 incurred in determining the acceptability of an application
to determine whether it meets statutory and regulatory criteria.

26 **Sec. 3. 38 MRSA §352, sub-§2, ¶C**, as amended by PL 1991, c.
384, §2 and affected by §16, is further amended to read:

28 C. Except for those fees assessed under section sections
30 353-A and 353-B, licensing fees must be assessed for direct
32 costs incurred in monitoring, inspecting and sampling to
ensure proper compliance by a licensee.

34 **Sec. 4. 38 MRSA §352, sub-§2, ¶F** is enacted to read:

36 F. Waste discharge license fees assessed under section
38 353-B for those facilities licensed under section 413 must
40 be used to support activities for water quality control
operations, including licensing, compliance evaluation,
monitoring, data acquisition, data management and
administration.

42 **Sec. 5. 38 MRSA §352, sub-§5-A**, as amended by PL 1993, c. 356,
44 §3 and c. 378, §2, is further amended to read:

46 **5-A. Accounting system.** In order to determine the extent
48 to which the functions set out in this section are necessary for
the licensing process or are being performed in an efficient and
expeditious manner, the commissioner shall require that all
50 employees of the department involved in any aspect of these
functions keep accurate and regular daily time records. These

records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate. ~~This subsection is repealed July 1, 1995.~~

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20
TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
344, sub-§7, Permit by rule	\$50	\$0
362-A. Experiments	175	175
413, Waste discharge license licenses	<u>See section 353-B</u>	
A.--Residential	225	75
B.--Commercial		
1.--Flow-of-less-than 2,000-gallens-per-day	2,400	640
2.--Flow-of-2,000-to 20,000-gallens-per day-inclusive	2,400	2,000
3.--Flow-of-greater than-20,000-gallens per-day	2,400	4,800
C.--Industrial-minor (based-upon-EPA-list of-major-and-minor source-discharges)		

2	1.--Discharges-of	1,500	480
4	cooling-water,		
	sanitary-wastewater		
	or-treated-storm-water		
	only		
6	2.--All-others	1,500	6,000
8	D.--Industrial-major		
	(based-upon-EPA-list-of		
	major-source-discharges)		
10	1.--Discharge-of	4,800	3,000
12	cooling-water-or		
	sanitary-wastewater		
	only		
14	2.--All-others	4,800	8,800
16	E.--Publicly-owned		
	treatment-works		
18	1.--Flow-of-less	100	400
20	than-or-equal-to		
	50,000-gallons-per		
	day-and-no-significant		
	industrial-component		
22	2.--Flow-of-greater	100	1,400
24	than-50,000-gallons		
	per-day,-but-less		
	than-0.5-million		
26	gallons-per-day-and		
	no-significant		
28	industrial-component		
30	3.--Flow-of-at-least	100	3,600
32	0.5-million-gallons		
	per-day,-but-less		
34	than-5-million		
	gallons-per-day-and		
	no-significant		
	industrial-component		
36	4.--Flow-of-at-least	300	5,400
38	5-million-gallons-per		
	day-or-a-significant		
	industrial-component		
40	F.--Special-discharges		
42	1.--Aquatic-pesticides	130	75
	2.--Dredge-spoils	130	75
	418,-Log-storage	55	25
44	451,-Mixing-zones	1,200	2,200
46	451-A,-Time-schedule	25	25
	variances		
48	480-E, Natural resources		
	protection		
	A.--Great-ponds	75	50

2	B.--Alteration of rivers, streams or brooks	150	50
4	C.--Freshwater wetlands	100	50
6	D.--Coastal wetlands and sand dunes	3,500	1,500
8	A. <u>Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource</u>	150	50
12	B. <u>Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource</u>	240	60
16	C. <u>Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource</u>	.02/sq. ft. <u>alteration</u>	.005/sq. ft. <u>alteration</u>
22	D. <u>Any alteration of a coastal sand dune</u>	3,500	1,500
24	E. <u>Condition compliance</u>	100	0
26	F. <u>Minor modification</u>	200	0
28	G. <u>Transfer</u>	100	0
30	485-A, <u>Site location of development</u>		
32	A.--Affordable housing subdivisions	50/lot	50/lot
34	A-1.--Other subdivisions with public water and sewers	175/lot	175/lot
36	A-2.--Other subdivisions	250/lot	250/lot
38	B.--Structures	4,000	2,000
40	C.--Mining	1,500	1,000
42	D.--Other	1,000	1,000
44	A. <u>Residential subdivisions</u>		
46	1. <u>Affordable housing</u>	150/lot	50/lot
48	2. <u>On public water or sewer</u>	350/lot	175/lot
50	3. <u>All others</u>	500/lot	250/lot
	B. <u>Industrial parks</u>	500/lot	500/lot
	C. <u>Mining, except metallic mineral mining. The owner or operator of a licensed mining operation, excluding metallic mineral mining, must pay an annual fee of \$740 by March 1st of each year, beginning the year following the calendar</u>	4,000	2,000

	<u>year the license is issued</u>		
2	D. All other developments	6,000	2,000
	E. Condition compliance	100	0
4	F. Minor modification	200	0
	G. Transfer	100	0
6	543, Oily waste discharge	40	160
	560, Vessels at anchorage	125	100
8	587, Ambient air quality or emissions standards	5,050	50
10	variances		
	590, Air emissions licenses		See section 353-A
12	633, Hydropower projects		
	A. New or expanded	450/MW	50/MW
14	generating capacity		
	B. Maintenance and	150	50
16	repair or other		
	structural alterations		
18	not involving an		
	increase in generating		
20	capacity		
	1101,--Sanitary-districts	150	50
22			
	33 United States Code,		
24	Chapter 26, Water Quality		
	Certifications, in conjunction		
26	with applications for		
	hydropower project licensing		
28	or relicensing		
	A. Initial consultation	1,000	0
30	B. Second consultation	1,000	0
	C. Application		
32	1. Storage	1,000	0
	2. Generating	300/MW	50/MW
34	1304, Waste management		
	A. Septage disposal		
36	1. Site designation	50	25
	B. Land application of		
38	sludges and residuals		
	program approval		
40	1. Industrial sludge	400	400
	2. Municipal sludge	300	275
42	3. Bioash	300	275
	4. Wood ash	300	75
44	5. Food waste	300	75
	6. Other residuals	300	175
46	C. Landfill		
	1. Closing plans for	1,500	1,500
48	nonmunicipal landfills		
	2. Closing plans for	500	500
50	municipal landfills		

2	3. Variance requests for attenuation land- fills	175	175
4	4. Preliminary information reports	175	175
6	5. License transfers	500	175
8	6. Special waste disposal		
10	a. One-time disposal of	50	50
12	quantities of		
14	6 cubic yards or less		
16	b. One-time disposal of	100	100
18	quantities greater than 6 cubic yards		
20	c. Program approval for routine disposal of a special waste	300	300
22	D. Incineration facility		
24	1. Fuel substitution activities	1,575	1,500
26	2. License transfer	175	175
28	E. License transfer other than for landfills and incinerators	100	100

TABLE II

WASTE MANAGEMENT FEES - ANNUAL LICENSE
MAXIMUM FEES IN DOLLARS

TITLE 38 SECTION	PROCESSING FEE	ANNUAL LICENSE FEE
1304, Waste management		
A. Septage disposal		
1. Landspreading	\$150	\$250
2. Storage	50	75
B. Sludge compost facility		
1. Type I	150	150
2. Type IA	150	150
3. Type II	175	500
4. Type III	175	750
5. Municipal solid waste	175	850

2	C. Land application of sludges and residuals		
4	1. Sites with program approval		
	a. Industrial sludge	150	250
6	b. Municipal sludge	75	200
	c. Bioash	75	200
8	d. Wood ash	50	125
	e. Food waste	50	125
10	f. Other residuals	50	125
12	2. Sites without program approval		
	a. Industrial sludge	300	550
14	b. Municipal sludge	150	250
	c. Bioash	150	250
16	d. Wood ash	75	200
	e. Food waste	75	200
18	f. Other	75	200
20	1310-N, Solid waste facility siting		
	A. Landfill		
22	1. New or expanded for	3,500	1,000
24	the acceptance of		
	municipal waste from		
26	fewer than 15,000		
	people		
28	2. New or expanded for	3,500	3,500
	the acceptance of		
30	municipal waste from		
	more than 15,000		
32	people		
34	3. New or expanded for	5,000	8,500
	the acceptance of		
	special waste		
36	4. Wood waste or	1,000	1,700
	demolition debris		
38	landfills, or both, if		
	greater than 6 acres		
40	5. Wood waste or	175	750
	demolition debris		
42	landfills, or both, if		
	less than or equal to		
44	6 acres		
46	B. Incineration facility-	3,500	5,000
	New or expanded for the		
	acceptance of municipal or		
	special wastes, or both		
48	C. Transfer station	750	175
	and storage facility		

2	D. Tire disposal or storage facility, or both	400	450
4	E. Recycling facility	350	200
6	F. Processing facility other than municipal solid waste composting	700	700
8	G. Other utilization activities		
10	1. Special waste	175	350
	2. Other	75	350

12 **Sec. 6. 38 MRSA §352, sub-§5-B**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §12 and as amended by PL 1993, c. 410, Pt. G, §1 and affected by §2, is repealed.

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

18 **2. Processing fee.** Except for annual air emission fees pursuant to section 353-A and annual waste discharge fees pursuant to section 353-B, 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 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.

38 **Sec. 8. 38 MRSA §353, sub-§5**, as amended by PL 1991, c. 384, §7 and affected by §16, is further amended to read:

40 **5. Renewals or amendments.** As set forth in ~~section~~ sections 353-A and 353-B, except for renewals or amendments issued under ~~section~~ sections 413 and 590, the processing fee for renewals or amendments is equal to direct costs up to 1/2 the processing fee for initial applications. The license fee for renewals is identical to the initial license fee. The license fee for amendments may not exceed the initial license fee.

48 **Sec. 9. 38 MRSA §353-B** is enacted to read:

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§353-B. Annual waste discharge license fees

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1. Fees assessed. The department shall establish a schedule of annual fees to be paid by holders of waste discharge licenses. Fees must be based on a progressive schedule reflecting the characteristics, size and nature of discharges grouped into categories of similar sources of wastewater. Where annual fees would not be appropriate for certain types of licenses, the department may establish flat fees for the terms of those licenses. For each type or category of waste discharge license, the following are the maximum fees that may be charged.

<u>TITLE 36</u> <u>SECTION</u>	<u>FLAT</u> <u>LICENSE</u> <u>FEE</u>	<u>ANNUAL</u> <u>LICENSE</u> <u>FEE</u>	<u>PROCESSING</u> <u>FEE FOR NEW</u> <u>APPLICATION</u>
<u>656, Property or sales tax exemption for water pollution facilities with capacity of at least 4,000 gallons per day</u>	<u>\$270</u>		
<u>TITLE 38</u> <u>SECTION</u>	<u>FLAT</u> <u>LICENSE</u> <u>FEE</u>	<u>ANNUAL</u> <u>LICENSE</u> <u>FEE</u>	<u>PROCESSING</u> <u>FEE FOR NEW</u> <u>APPLICATION</u>
<u>362-A, Experimental discharge permits</u>	<u>\$175</u>		
<u>413, Domestic waste from residential sources</u>		<u>\$40</u>	<u>\$100</u>
<u>413, Domestic waste from commercial or industrial sources</u>		<u>1,200</u>	<u>200</u>
<u>413, Oil/water separator</u>		<u>300</u>	<u>200</u>
<u>413, Filter backwash from water treatment plant, no chemical additives</u>		<u>600</u>	<u>200</u>
<u>413, Filter backwash from water treatment plant, with chemical additives</u>		<u>900</u>	<u>400</u>
<u>413, Incidental nonprocess wastes from commercial or industrial sources, excluding sanitary waste</u>		<u>700</u>	<u>300</u>
<u>413, Industrial minor (based on EPA list of major and minor source discharges) process wastes from food processing facilities</u>		<u>3,200</u>	<u>300</u>
<u>413, Industrial minor (based on EPA list of major and minor source discharges) process wastes from all sources except food processing facilities</u>		<u>8,000</u>	<u>1,000</u>

2	<u>413, Industrial major (based on EPA list of major and minor source discharges) process wastes</u>	<u>20,000</u>	<u>2,000</u>
4	<u>413, Industrial minor (based on EPA list of major and minor source discharges) or commercial noncontact cooling water</u>	<u>2,000</u>	<u>500</u>
6			
8	<u>413, Industrial major (based on EPA list of major and minor source discharges) noncontact cooling water</u>	<u>10,000</u>	<u>1,000</u>
10			
12	<u>413, Publicly owned treatment facilities</u>	<u>4,000</u>	<u>100</u>
14	<u>413, Publicly owned treatment facilities with more than 50% of wasteload from industrial sources</u>	<u>7,000</u>	<u>500</u>
16			
18	<u>413, CSO discharges in municipal sewer system</u>	<u>25% of fee for normal flow</u>	<u>300</u>
20			
22	<u>413, Aquatic pesticides</u>	<u>500</u>	
24	<u>413, Fish rearing facilities, publicly owned</u>	<u>400</u>	<u>100</u>
26	<u>413, Fish rearing facilities, privately owned</u>	<u>2,000</u>	<u>300</u>
28	<u>418, Log storage</u>	<u>55</u>	
30	<u>451, Mixing zone</u>	<u>1,000</u>	<u>1,000</u>
	<u>1101, Formation of sanitary district</u>	<u>200</u>	

32 **2. Schedule.** An annual fee for a waste discharge license existing on the effective date of this subsection is due on the anniversary of the expiration date for that license. For an application after the effective date of this subsection, the effective date of the license, when issued, becomes the anniversary date and the first annual fee is due and payable upon issuance of that license.

40 **3. Transition for existing licenses.** When dischargers have made timely and complete application for license renewal during the 2 years prior to the effective date of this section, fees paid with those applications must be credited toward annual fees due in the future. For the purposes of this section, applications may not be filed more than 90 days prior to license expiration.

48 **4. Renewals and amendments.** Fees in addition to annual fees may not be charged for the renewal or amendment of a license for the same or smaller quantities of pollutants. If amendments

2 for increased quantities or new pollutants are made to a license,
3 an amount not to exceed 1/2 the current annual fee must be
4 charged.

6 5. Applications. Applications for discharge licenses must
7 be accompanied by a processing fee.

8 6. Nonpayment of fees. Failure to pay the annual fee
9 within 30 days of the anniversary date of a license is sufficient
10 grounds for revocation of the license under section 341-D.

12 7. Multiple point sources. When a license authorizes more
13 than one related discharge point for an activity or area, the
14 full rate for the appropriate category must be charged for the
15 most significant discharge point. A fee of not more than 1/2 the
16 normal fee for each category of discharge must be charged for
17 other discharge points. The annual fee for a municipal sewerage
18 system having combined sewer overflow points may not be more than
19 25% of the annual fee charged for the normal flow in that
20 system. This amount is in addition to the maximum fee charged
21 for the treatment facility for that municipality. For any
22 discharge point, the department may require at its discretion
23 that a separate discharge license be obtained when the location,
24 water quality, nature of pollutants, volume or other
25 circumstances warrant.

26 8. Use of fees. Waste discharge license fees assessed
27 under this section must be used only to support water quality
28 programs, including licensing, compliance evaluation, enforcement
29 monitoring, data acquisition, data management and administration
30 for discharges licensed under section 413.

32 **Sec. 10. Allocation.** The following funds are allocated from
33 the Federal Expenditure Fund for the fiscal year ending June 30,
34 1995 to carry out the purposes of this Act.

36 1994-95

38 **ENVIRONMENTAL PROTECTION,**
39 **DEPARTMENT OF**

41 **Water Quality Control**

44	Positions	(-5.5)
45	Personal Services	(\$187,297)
46	All Other	(3,839)
47		<hr/>
48	TOTAL	(\$191,136)

50 Provides for the transfer of 3 part-time
51 Conservation Aide positions, one Assistant

2 Environmental Engineer position, one
 3 Environmental Specialist II position, 2
 4 Environmental Specialist III positions and
 5 one Environmental Specialist IV position
 6 from the Federal 106 Water Quality Control
 7 Program to the Maine Environmental
 8 Protection Fund and the transfer of 2
 9 1/2-time Biologist I positions from the
 10 Maine Environmental Protection Fund to the
 11 Federal 106 Water Quality Control Program.

12 **Water Quality Control**

14	Positions	(-1.5)
	Personal Services	(\$28,137)
16	All Other	(594)
18	TOTAL	<u>(\$28,731)</u>

20 Provides for the transfer of one full-time
 21 Conservation Aide position and one part-time
 22 Conservation Aide position from the Federal
 23 604(b) Water Quality Program to the Maine
 24 Environmental Protection Fund.

26 **DEPARTMENT OF ENVIRONMENTAL
 PROTECTION**

28 **TOTAL** (\$219,867)

30 **Sec. 11. Allocation.** The following funds are allocated from
 31 Other Special Revenue for the fiscal year ending June 30, 1995 to
 32 carry out the purposes of this Act.

34 **1994-95**

36 **ENVIRONMENTAL PROTECTION,
 DEPARTMENT OF**

38 **Air Quality Control**

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

48 Provides for the consolidation of this
 49 account with the air activity within the
 50 Maine Environmental Protection Fund.

2	Maine Environmental Protection Fund	
4	Positions	(21.0)
	Personal Services	\$766,480
6	All Other	252,972
	Capital Expenditures	380,511
8		
	TOTAL	<u>\$1,399,963</u>
10		
12	Provides for the consolidation of air licensing fees expenditure authority.	

14	Maine Environmental Protection Fund	
16	Positions	(8.0)
	Personal Services	\$253,785
18	All Other	5,392
20		
	TOTAL	<u>\$259,177</u>
22		
24	Provides for the transfer of one full-time and 4 part-time Conservation Aide positions, 2 Assistant Environmental Engineer positions, one Environmental Specialist II position, 2 Environmental Specialist III positions and one Environmental Specialist 28 IV position to the fund and for the transfer of 2 1/2-time Biologist I positions to 30 federal funds.	

32	Bureau of Hazardous Materials and Solid Waste Control	
34	Positions	(-1.0)
36	Personal Services	(\$38,351)
	All Other	(959)
38		
	TOTAL	<u>(\$39,310)</u>
40		
42	Provides for the transfer of one Assistant Environmental Engineer position to the Maine Environmental Protection Fund.	
44		

46	DEPARTMENT OF ENVIRONMENTAL PROTECTION	
	TOTAL	<u>\$219,867</u>

48 Sec. 12. Effective date. This Act takes effect July 1, 1994.

2

4

STATEMENT OF FACT

6 From time to time, the Department of Environmental
7 Protection receives funds from consent decrees, court decrees,
8 intervenor fees and other sources intended to be used for
9 restrictive purposes. Because of the special restrictions on the
10 use of the funds and the department's fiduciary role, it is
11 important that these funds be segregated from other accounts and
12 be available in a timely manner to implement the actions required.

14 This bill alters the fees charged in certain license
15 categories so that the fees cover the costs of processing the
16 licensing activities. The bill increases the fees in order to
17 maintain current licensing capabilities. No additional positions
18 are being proposed.

20 The allocations in the bill consolidate air licensing fees
21 into the Maine Environmental Protection Fund, eliminating extra
22 financial management needed to manage 2 separate air licensing
23 fee accounts and subaccounts and ensuring the optimal ability to
24 manage cash flow for the activities within the Maine
25 Environmental Protection Fund. Public Law 1993, chapter 412
26 established a separate dedicated account for a portion of air
27 licensing fees received, contrary to the intent of the original
28 bill; this bill provides that the fees be deposited within one
29 account. Consistent with existing law, annual air emissions fees
30 must be used solely for air pollution control activities. The
31 allocations also provide for the fee and position changes
32 resulting from the changes in the bill.

34

36

38 This document has not yet been reviewed to determine the
39 need for cross-reference, stylistic and other technical
40 amendments to conform existing law to current drafting standards.