

# MAINE STATE LEGISLATURE

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L.D. 1563

DATE: 6/23/95

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MAJORITY  
NATURAL RESOURCES

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1119, L.D. 1563, Bill, "An Act to Address a Shortfall in the Maine Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities"

Amend the bill by striking out the title and substituting the following:

'An Act to Address a Shortfall in the Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities'

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 38 MRSA §551, first ¶, as amended by PL 1989, c. 500, §1, is further amended to read:

The Maine Coastal and Inland Surface Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund shall ~~be~~ is limited to \$6,000,000, the sum of which ~~shall include~~ includes all funds credited under this section ~~and any funds loaned to the Ground Water Oil Clean-up Fund established pursuant to subchapter II-B.~~ The Department of Environmental Protection shall collect fees in accordance with subsection 4. To this fund ~~shall be~~ are credited all license fees, penalties, reimbursements and other fees and charges

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related to this subchapter, and to this fund shall be are charged any and all expenses of the department related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, restoration of water supplies and ~~3rd-party 3rd-party~~ damages covered by this subchapter.

**Sec. 3. 38 MRSA §551, 2nd ¶**, as amended by PL 1985, c. 496, Pt. A, §13, is further amended to read:

Money in the fund, not needed currently to meet the obligations of the department in the exercise of its responsibilities under this subchapter ~~and not on loan to the Ground Water Oil Clean-up Fund~~ shall must be deposited with the Treasurer of State to the credit of the fund, and may be invested in such manner as is provided for by statute. Interest received on that investment shall must be credited to the Maine Coastal and Inland Surface Oil Clean-up Fund.

**Sec. 4. 38 MRSA §551, sub-§5, ¶A**, as amended by PL 1991, c. 817, §17, is further amended to read:

A. Administrative expenses, personnel expenses and equipment costs of the commissioner related to the enforcement of this subchapter ~~and any loans to the Ground Water Oil Clean-up Fund made pursuant to section 569-A or 569-B;~~

Further amend the bill in section 6 in the first paragraph in the 4th line (page 3, line 32 in L.D.) by striking out the following: "\$15,000,000" and inserting in its place the following: '\$15,000,000 \$12,500,000'

Further amend the bill in section 6 in the 2nd paragraph in the first line (page 3, line 44 in L.D.) by striking out the following: "The commissioner may authorize the borrowing" and inserting in its place the following: '~~The commissioner may authorize the borrowing~~ Borrowing'

Further amend the bill in section 6 in the 2nd paragraph in the 3rd and 4th lines (page 3, lines 46 and 47 in L.D.) by striking out the following: "to carry out the provisions of subchapters II-A and II-B" and inserting in its place the following: '~~to carry out the provisions of subchapters II-A and II-B~~ is not permitted after June 30, 1995'

Further amend the bill in section 6 in the 2nd paragraph in the 5th line (page 3, line 48 in L.D.) by striking out the following: "pursuant to this section" and inserting in its place the following: '~~pursuant to this section~~ prior to June 30, 1995

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2 by the Ground Water Oil Clean-up Fund from the Maine Coastal and  
3 Inland Surface Oil Clean-up Fund'

4 Further amend the bill by inserting after section 6 the  
5 following:

6 'Sec. 7. 38 MRSA §569-A, first ¶, as enacted by PL 1991, c.  
7 817, §26, is amended to read:

10 The Ground Water Oil Clean-up Fund is established to be used  
11 by the department as a nonlapsing, revolving fund for carrying  
12 out the purposes of this subchapter. The balance in the fund is  
13 limited to ~~\$15,000,000~~ \$12,500,000. To this fund are credited  
14 all registration fees, fees for late payment or failure to  
15 register, penalties, transfer fees, reimbursements, assessments  
16 and other fees and charges related to this subchapter. To this  
17 fund are charged any and all expenses of the department related  
18 to this subchapter, including administrative expenses, payment of  
19 3rd-party damages covered by this subchapter, costs of removal of  
20 discharges of oil and costs of cleanup of discharges, including,  
21 but not limited to, restoration of water supplies and any  
22 obligations of the State pursuant to Title 10, section 1024,  
23 subsection 1. The fund may be used only for the purposes  
24 specified in this subchapter and may not be diverted for any  
25 other use by the department, the Governor or the Legislature.  
26 Any person who proposes to enact or amend a law to allow use of  
27 the fund for a purpose not specified in this subchapter must  
28 submit the proposal to the Legislative Council and to the joint  
29 standing committee of the Legislature having jurisdiction over  
30 natural resource matters at least 30 days prior to any vote or  
31 public hearing on the proposal. An appropriation or allocation  
32 of the fund for use other than that specified in this subchapter  
33 is not authorized unless the required submittals have been made  
34 in a timely manner and the Legislature has approved the proposal  
35 by a 2/3 vote of each body.

36 Sec. 8. 38 MRSA §569-A, sub-§5, ¶D, as amended by PL 1993, c.  
37 553, §5 and affected by §8, is further amended to read:

40 D. When the fund balance reaches ~~\$15,000,000~~ \$12,500,000,  
41 the collection of fees under paragraph A abates. When the  
42 commissioner projects that the fund balance will reach  
43 ~~\$15,000,000~~ \$12,500,000, the commissioner must provide a  
44 15-day advance notice of the abatement to persons assessed  
45 the fee under paragraph A. The ~~\$15,000,000~~ \$12,500,000 fund  
46 limit may be exceeded to accept transfer fees assessed or  
47 received after the 15-day notice has been issued. When the  
48 fund balance is reduced to ~~\$12,500,000~~ \$10,000,000, the fees  
assessed under paragraph A are reimposed. The commissioner

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shall provide a 15-day advance notice of the reimposition of those fees.'

Further amend the bill in section 7 in paragraph E in the 5th line (page 4, line 11 in L.D.) by inserting after the following: "products" the following: ' , except liquid asphalt and #6 fuel oil, '

Further amend the bill by inserting after section 8 the following:

'Sec. 9. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 1993, c. 355, §20, is further amended to read:

A. Administrative expenses, personnel expenses and equipment costs of the department related to the administration and enforcement of this subchapter and any loans to the Maine Coastal and Inland Surface Oil Clean-up Fund made prior to June 30, 1995 pursuant to this section. Except for disbursements for capital costs related to paragraph B or C, administrative expenses, personnel expenses and equipment costs may not exceed \$1,734,000 per fiscal year;'

Further amend the bill by striking out all of section 11 and inserting in its place the following:

'Sec. 11. 38 MRSA §569-B, first ¶, as enacted by PL 1991, c. 817, §26, is amended to read:

The Ground Water Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. To this fund are credited all registration fees, fees for late payment or failure to register, penalties, transfer fees, reimbursements and other fees and charges related to this subchapter. To this fund are charged any and all expenses of the department related to this subchapter, including administrative expenses, payment of 3rd-party damages covered by this subchapter, costs of removal of discharges of oil and costs of cleanup of discharges from aboveground and underground storage facilities, including, but not limited to, restoration of water supplies and any obligations of the State pursuant to Title 10, section 1024, subsection 1.

Sec. 12. 38 MRSA §569-B, 2nd ¶, as enacted by PL 1991, c. 817, §26, is repealed.'

Further amend the bill in section 12 in subsection 4 in the last blocked paragraph in the 4th line (page 7, line 11 in L.D.)

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by inserting after the following: "products" the following: 'except liquid asphalt and #6 fuel oil.'

Further amend the bill by inserting after section 14 the following:

**Sec. 15. Transition.** Notwithstanding the Maine Revised Statutes, Title 38, section 568-B, subsection 1, in order to establish staggered terms for members of the Fund Insurance Review Board, the first series of appointments or reappointments made to the Fund Insurance Review Board after the effective date of this section are made for the following terms. When the terms of current petroleum industry representatives expire in 1996, the persons appointed or reappointed to fill those positions have the following terms: the representative who is a retailer is appointed for a one-year term; the representative who is nominated by the Maine Oil Dealers Association is appointed for a 2-year term; and the representative who is nominated by the Maine Petroleum Association is appointed for a 3-year term. Representatives of those groups appointed after the initial appointments serve for 3-year terms.

When the terms of the current public members expire in 1996, the persons appointed or reappointed to fill those positions have the following terms: one public member is appointed for a one-year term; one public member is appointed for a 2-year term; and one public member is appointed for a 3-year term.

Of the 2 public members added to the board pursuant to this Act, one must be appointed to fill a term that expires October 31, 1997 and one for a term that expires October 31, 1998.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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

**FISCAL NOTE**

Authorizing the Fund Insurance Review Board to adopt rules that would increase fees for the Ground Water Oil Clean-up Fund in certain circumstances could result in increased dedicated revenues to the fund that would not exceed \$3,342,060 per fiscal year. The Department of Environmental Protection estimates that this funding mechanism will adequately correct the fund's current financial status in which monthly expenditures are significantly greater than monthly revenues.

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2 The bill also reduces the maximum size of the Ground Water  
3 Oil Clean-up Fund from \$15,000,000 to \$12,500,000. Given that  
4 recent monthly expenditures from the fund have significantly  
5 exceeded monthly revenues, thereby lowering the fund balance to  
6 an amount much lower than \$12,500,000, the decrease in the fund's  
7 maximum allowable balance is not likely to have a significant  
8 effect within the next several years.

9  
10 If the balance of the Ground Water Oil Clean-up Fund goes  
11 below \$3,000,000, the Finance Authority of Maine will not receive  
12 dedicated revenue from the fund for deposit into that agency's  
13 Underground Oil Storage Replacement Fund.

14 The bill additionally allows the authority to borrow funds  
15 to be used for oil clean-up purposes that will be repaid from  
16 fees allocated to the fund.

17 The Fund Insurance Review Board will incur some minor  
18 additional costs to adopt certain rules, to pay for the costs of  
19 2 additional board members and to pay for the costs of an  
20 independent audit, if necessary. These costs can be absorbed  
21 within the board's existing budgeted resources.'

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26 **STATEMENT OF FACT**

28 This amendment is the majority report.

29 The amendment reduces the cap on the Ground Water Oil  
30 Clean-up Fund from \$15,000,000 to \$12,500,000, prohibits  
31 borrowing between the Maine Coastal and Inland Surface Oil  
32 Clean-up Fund and the Ground Water Oil Clean-up Fund after June  
33 30, 1995 and requires money borrowed prior to that date to be  
34 repaid within 2 years of the borrowing.

35 The amendment exempts liquid asphalt and #6 fuel oil from  
36 the petroleum products subject to fee increases by the Fund  
37 Insurance Review Board and provides for staggered terms for  
38 members of the Fund Insurance Review Board.

39 The amendment also protects money in the Ground Water Oil  
40 Clean-up Fund from being diverted to uses other than those for  
41 which it was collected. Any proposal to use the funds for  
42 another purpose must be presented to the Legislative Council and  
43 the Joint Standing Committee on Natural Resources at least 30  
44 days before any vote or public hearing on the proposal and must  
45 be adopted by a 2/3 vote of the Legislature.

**COMMITTEE AMENDMENT**