

MAINE STATE LEGISLATURE

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MINORITY
NATURAL RESOURCES

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

COMMITTEE AMENDMENT "B" 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'

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

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

'Sec. 7. 38 MRSA §569-A, 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. The balance in the fund is
limited to ~~\$15,000,000~~ \$12,500,000. To this fund are credited
all registration fees, fees for late payment or failure to
register, penalties, transfer fees, reimbursements, assessments
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, including,
but not limited to, restoration of water supplies and any
obligations of the State pursuant to Title 10, section 1024,
subsection 1. The fund may be used only for the purposes
specified in this subchapter and may not be diverted for any
other use by the department, the Governor or the Legislature.
Any person who proposes to enact or amend a law to allow use of
the fund for a purpose not specified in this subchapter shall
submit the proposal to the Legislative Council and to the joint
standing committee of the Legislature having jurisdiction over
natural resource matters at least 30 days prior to any vote or
public hearing on the proposal. An appropriation or allocation
of the fund for use other than that specified in this subchapter
is not authorized unless the required submittals have been made
in a timely manner and the Legislature has approved the proposal
by a 2/3 vote of each body.

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

D. When the fund balance reaches ~~\$15,000,000~~ \$12,500,000,
the collection of fees under paragraph A abates. When the
commissioner projects that the fund balance will reach
~~\$15,000,000~~ \$12,500,000, the commissioner must provide a
15-day advance notice of the abatement to persons assessed
the fee under paragraph A. The ~~\$15,000,000~~ \$12,500,000 fund
limit may be exceeded to accept transfer fees assessed or
received after the 15-day notice has been issued. When the
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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2 shall provide a 15-day advance notice of the reimposition of
those fees.'

4 Further amend the bill by striking out all of section 7.

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

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

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

22 Further amend the bill by striking out all of section 10.

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

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

30 The Ground Water Oil Clean-up Fund is established to be used
32 by the department as a nonlapsing, revolving fund for carrying
out the purposes of this subchapter. To this fund are credited
34 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
36 any and all expenses of the department related to this
subchapter, including administrative expenses, payment of
38 3rd-party damages covered by this subchapter, costs of removal of
discharges of oil and costs of cleanup of discharges from
40 aboveground and underground storage facilities, including, but
not limited to, restoration of water supplies and any obligations
42 of the State pursuant to Title 10, section 1024, subsection 1.

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

46 Further amend the bill by striking out all of section 12.

48
50 Further amend the bill in section 14 in subsection 2 in the
2nd line (page 7, line 38 in L.D.) by striking out the

following: ~~"commissioner--with--the--cooperation--of--the"~~ and inserting in its place the following: 'commissioner with the cooperation of the'

Further amend the bill in section 14 in subsection 2 in the 3rd line (page 7, line 39 in L.D.) by striking out the following: "with the cooperation of the commissioner"

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

This bill reduces the maximum size of the Ground Water Oil Clean-up Fund from \$15,000,000 to \$12,500,000. Given that recent monthly expenditures from the fund have significantly

2 exceeded monthly revenues, thereby lowering the fund balance to
an amount much lower than \$12,500,000, the decrease in the fund's
4 maximum allowable balance is not likely to have a significant
effect within the next several years.

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

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

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

20
22 **STATEMENT OF FACT**

24 This amendment is the minority report.

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

32 The amendment strikes language allowing the Fund Insurance
34 Review Board to raise fees and provides for staggered terms for
members of the Fund Insurance Review Board.

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

44 The amendment also adds a fiscal note to the bill.