

MAINE STATE LEGISLATURE

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DATE: 4-4-00

(Filing No. H-1040)

MAJORITY
NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1672, L.D. 2339, Bill, "An Act to Provide Assistance in the Cleanup of the Plymouth Waste Oil Site"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in order to provide financial assistance in a timely fashion through a loan program to persons obligated to pay for the feasibility study at the Plymouth waste oil site, the program must be established as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 10 MRSA §963-A, sub-§42-E is enacted to read:

42-E. Plymouth waste oil site remedial study. "Plymouth waste oil site remedial study" means a remedial investigation and feasibility study undertaken in accordance with 40 Code of Federal Regulations, Section 300.430 with respect to the Portland-Bangor Waste Oil Services Site in Plymouth designated by the United States Environmental Protection Agency as a National Priorities List site.

COMMITTEE AMENDMENT

1095

2 **Sec. 2. 10 MRSA §1023-L**, as corrected by RR 1999, c. 1, §§12
and 13, is amended to read:

4

§1023-L. Waste Oil Clean-up Fund

6

8 **1. Fund established.** The Waste Oil Clean-up Fund,
referred to in this section as the "fund," is established under
the jurisdiction and control of the authority.

10

12 **2. Sources of money.** The following money must be paid into
the fund:

14 A. All money appropriated for inclusion in the fund or
appropriated to the authority for use in providing financial
16 assistance to responsible parties as defined in section
963-A, subsection 47-A, subject to any restrictions
18 applicable to the appropriation;

20 B. Subject to any pledge, contract or other obligation, all
interest, dividends or other pecuniary gains from investment
22 of money of the fund;

24 C. Subject to any pledge, contract or other obligation any
money the authority receives in repayment of advances from
26 the fund;

28 D. Money transferred from the available balance in the
Underground Oil Storage Replacement Fund, subject to the
30 limitations of section 1024-A;

32 E. Money transferred from the available balance in the
Maine Rainy Day Fund pursuant to Title 5, section 1513,
34 subsection 1-P; and

36 F. Any other money available to the authority and directed
by the authority to be paid into the fund.

38

40 **3. Eligibility to participate in loan program.** The
authority may use money in the fund to carry out any power of the
42 authority under this section ~~or, under section 1023-M,~~ under
section 1026-R or under section 1026-S, including, but not
44 limited to, the pledge or transfer and deposit of money in the
fund as security for and the application of money in the fund in
46 payment of principal, interest and other amounts due on insured
loans. Money in the fund may be used for direct loans or
48 deferred loans for all or part of the waste oil disposal site
clean-up project when the authority determines that:

2 A. The applicant is determined to be a responsible party
with respect to the waste oil disposal site and the
4 applicant is domiciled or has a principal place of business
in the State;

6 B. If the applicant is not a unit of local government, the
applicant demonstrates financial need for the assistance;

8 C. There is a reasonable likelihood that the applicant will
10 be able to repay the loan; and

12 D. An agreement has been reached with an entity that has
assumed liability for total response costs at the Wells
14 waste oil disposal site and the applicant is a participant
in that agreement.

16 The authority, pursuant to Title 5, chapter 375, subchapter II,
18 shall adopt rules for determining eligibility, feasibility,
terms, conditions, security and fees for the loans, including
20 deferred loans. The authority may not issue deferred loans for
eligible parties who have received payments under subsection 8.
22 The authority shall adopt rules that provide for a simplified
loan application process for loan requests of under \$2000. Rules
24 adopted pursuant to this subsection are routine technical rules
as defined in Title 5, chapter 375, subchapter II-A. The
26 authority may charge an interest rate as low as 0% or up to a
maximum rate equal to the prime rate of interest as published in
28 The Wall Street Journal, depending on the financial ability of
the applicant to pay as determined by the authority. The maximum
30 the authority may loan, or issue as a deferred loan, to any one
borrower, including related entities as determined by the
32 authority, is \$50,000. Money in the fund not needed currently to
meet the obligations of the authority as provided in this section
34 or section 1023-M may be invested as permitted by law. Any costs
incurred by the authority in administering this fund may be taken
36 from interest from all sources of the fund.

38 **4. Accounts within fund.** The authority may divide the fund
into separate accounts as it determines necessary or convenient
40 for carrying out this section or section 1023-M, including, but
not limited to, accounts reserved for direct loan funds for waste
42 oil cleanup.

44 **5. Payments on loans from fund; proceeds from mortgage or
security interests.** All proceeds of loans and proceeds from
46 mortgage or security interests from the fund must be applied by
the authority to the Underground Oil Storage Replacement Fund.

48 **6. Lapse to Groundwater Oil Clean-up Fund upon cleanup of
50 waste oil disposal site.** Within 30 days after the Department of

Environmental Protection notifies the authority that the waste oil disposal site has been remediated and the total response costs have been paid and that the Plymouth waste oil site remedial study has been completed and the costs of that study paid, the authority shall transfer all amounts remaining in the fund to the Groundwater Oil Clean-up Fund.

7. Direct payment program. The direct payment program is managed as follows.

A. The authority shall pay to each person, eligible under this subsection, \$2,000 upon presentation by the person to the authority of a canceled check or other evidence determined sufficient by the authority to demonstrate payment of the person's share of total response costs at the waste oil disposal site, unless the authority determines that the payment made by the person at that site was in an amount less than \$2,000, in which case the authority shall pay to that person an amount equal to the amount that person paid in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

B. Any person eligible under this subsection who presents an invoice for that person's share of total response costs at the site, but who has not yet paid the invoice, receives a negotiable instrument from the authority made payable jointly to that person and any entity identified by the Department of Environmental Protection as assuming liability for total response costs at the site. The negotiable instrument must be in the amount of \$2,000, unless the authority determines that the payment to be made by the person at the site will be in an amount less than \$2,000, in which case the authority shall pay to the person an amount equal to the amount the person is to pay in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

C. After the payments authorized in paragraphs A and B have been made, additional payments must be made from the available balance from funds transferred from the Maine Rainy Day Fund to all persons who received funds under paragraphs A and B who have paid their settlement share of total response costs, and whose total liability at the site exceeds the amount the persons received under paragraph A or B. Distributions under this paragraph are proportionate to the amount each person paid as the person's share of total response costs at the site. Payments made pursuant to this subsection may not exceed the person's settlement share of total response costs attributable to eligible persons as

2 defined in this subsection multiplied by the total orphan
3 share percentage at the waste oil disposal site. The
4 authority may not issue deferred loans for eligible persons
5 who have received payments pursuant to this subsection.
6 This distribution must occur on April 1, 2000. Any
7 remaining funds in the fund must be transferred to the
8 Groundwater Oil Clean-up Fund.

9
10 For purposes of this subsection, "person" means any natural
11 person domiciled in this State; a corporation or partnership in
12 the State; the State; any agency, authority, department,
13 commission, municipality, quasi-municipal corporation,
14 special-purpose district or other instrumentality of the State; a
15 political subdivision of the State, including but not limited to
16 those defined in Title 14, chapter 741 and Title 30-A, chapter
17 225; any other entity identified as a responsible party at the
18 waste oil disposal site whose waste oil is identified as
19 delivered to the waste oil disposal site and picked up from an
20 address or location within the State in the records compiled by
21 the Department of Environmental Protection or the United States
22 Environmental Protection Agency or their agents, provided that
23 neither the Federal Government nor any of its agencies,
24 authorities, departments, boards, commissions or
25 instrumentalities are eligible to have any share of their
26 obligation for response costs paid by the fund.

27
28 **8. Determinations regarding eligibility.** The authority
29 shall establish a registry of all persons who qualify under
30 subsection 7 to have a portion of their share of total response
31 costs paid pursuant to this section. The authority shall adopt
32 rules relating to eligibility, including the calculation of an
33 eligible person's proportionate share, procedures to ensure that
34 money paid pursuant to this section is used to settle an eligible
35 person's liabilities related to the waste oil disposal site and
36 repayment of any amounts in excess of that person's share. Rules
37 adopted pursuant to this subsection are routine technical rules
38 as defined in Title 5, chapter 375, subchapter II-A.

39
40 **Sec. 3. 10 MRSA §1023-M is enacted to read:**

41 **§1023-M. Plymouth Waste Oil Feasibility Loan Program.**

42
43 **1. Use of fund established.** Money in the Waste Oil Clean-up
44 Fund created under section 1023-L may be used by the authority to
45 carry out the purposes of this section. As used in this section,
46 the term "fund" refers to the Waste Oil Clean-up Fund.

47
48 **2. Eligibility to participate in loan program.** The
49 authority may use money in the fund to carry out any power of the
50 authority under this section or under section 1026-S, including,

2 but not limited to, the pledge or transfer and deposit of money
3 in the fund as security for and the application of money in the
4 fund in payment of principal, interest and other amounts due on
5 insured loans. Money in the fund may be used for direct loans or
6 deferred loans for all or part of the costs of the Plymouth waste
7 oil site remedial study when the authority determines that:

8 A. The applicant has joined a group of persons potentially
9 responsible for remedial costs associated with the
10 Portland-Bangor Waste Oil Services Site in Plymouth
11 designated by the United States Environmental Protection
12 Agency as a National Priorities List site and has, as a
13 member of that group, become obligated under an agreement
14 with an entity conducting the remedial study to pay a
15 portion of the cost of the remedial study;

16 B. The applicant has signed the Administrative Order by
17 Consent pursuant to United States Environmental Protection
18 Agency Docket No. CERCLA 1-2000-0004;

19 C. The applicant is not a state or federal agency; and

20 D. There is a reasonable likelihood that the applicant will
21 be able to repay the loan.

22 The authority, pursuant to Title 5, chapter 375, subchapter II,
23 shall adopt rules for determining eligibility, feasibility,
24 terms, conditions, security and fees for the loans, including
25 deferred loans. The authority shall adopt rules that provide for
26 a simplified loan application process for loan requests of under
27 \$2000. Rules adopted pursuant to this subsection are routine
28 technical rules as defined in Title 5, chapter 375, subchapter
29 II-A. The authority shall charge an interest rate of 0% on all
30 loans. The maximum the authority may loan, or issue as a
31 deferred loan, to any one borrower, including related entities as
32 determined by the authority, is \$100,000.

33 **Sec. 4. 10 MRSA §1026-S is enacted to read:**

34 **§1026-S. Mortgage loans for Plymouth waste oil site remedial study**

35 1. Insurance. In addition to its other powers under this
36 chapter, subject to the limitations of this subchapter except
37 sections 1026-B to 1026-D, the authority may insure up to 100% of
38 mortgage payments with respect to mortgage loans for the Plymouth
39 waste oil site remedial study when the authority determines that:

40 A. The applicant meets the qualifications for a loan under
41 section 1023-M; and

2 B. The applicant demonstrates a reasonable likelihood that
3 it will not be able to obtain a loan for the project on
4 reasonable terms without insurance pursuant to this section.

6 2. Limitation on mortgage insurance. The authority may not
7 at any time have, in the aggregate amount of principal and
8 interest outstanding, mortgage insurance obligations pursuant to
9 this section exceeding \$1,000,000.

10 3. Mortgage eligibility. Pursuant to Title 5, chapter 375,
11 subchapter II, the authority shall adopt rules for determining
12 eligibility, project feasibility, terms, conditions and security
13 for insured mortgage loans under this section. The authority may
14 accept less than adequate collateral when necessary to ensure the
15 Plymouth waste oil site remedial study is completed. Rules
16 adopted pursuant to this subsection are routine technical rules
17 as defined in Title 5, chapter 375, subchapter II-A.

18 **Sec. 5. PL 1999, c. 505, Pt. A, §15 is amended to read:**

20 **Sec. A-15. Transfer of funds to the Waste Oil Clean-up Fund.**
21 On the effective date of this Act, \$4,000,000 is transferred from
22 the Underground Oil Storage Replacement Fund to the Wells Waste
23 Oil Clean-up Fund. Funds transferred under this Act may only be
24 used for the loan program programs pursuant to the Maine Revised
25 Statutes, Title 10, ~~section~~ sections 1023-L and 1023-M.

28 **Sec. 8. Report; authority to report legislation.** By January 1,
29 2001, the Department of Environmental Protection shall report to
30 the joint standing committee of the Legislature having
31 jurisdiction over natural resources matters with regard to the
32 Portland-Bangor Waste Oil Services Site in Plymouth on the
33 following: the results of the remedial investigation and
34 feasibility study; whether any settlement has been reached with
35 regard to remediation of the site; the total amount of the
36 responsible party remedial costs under any settlement agreement;
37 the total number of parties to any settlement agreement; and the
38 amount of the orphan share of the remedial costs.

40 The joint standing committee of the Legislature having
41 jurisdiction over natural resources matters may report out a bill
42 to the First Regular Session of the 120th Legislature concerning
43 the Plymouth waste oil site.

44 **Emergency clause.** In view of the emergency cited in the
45 preamble, this Act takes effect when approved.'

48 Further amend the bill by inserting at the end before the
summary the following:

2

FISCAL NOTE

4

The Finance Authority of Maine will incur some minor additional costs to adopt rules and administer the Waste Oil Clean-up Fund. These costs can be absorbed within the authority's existing budgeted resources.

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10

The Department of Environmental Protection will incur some minor additional costs to submit a required report to the Legislature. These costs can be absorbed within the department's existing budgeted resources.'

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SUMMARY

18

This amendment is the majority report of the Joint Standing Committee on Natural Resources. It replaces the bill. The amendment:

20

22

1. Creates a loan program for persons who have obligated themselves to pay for the remedial investigation and feasibility study at the Plymouth waste oil site. The program provides interest-free loans and may include deferred loans; and

24

26

2. Adds an emergency preamble and emergency clause and a fiscal note to the bill.

28