

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-1999

Legislative Document

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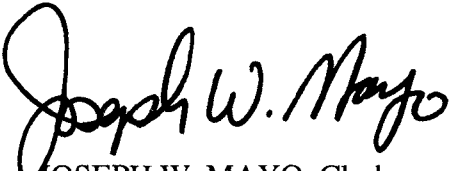
H.P. 1672

House of Representatives, December 30, 1999

An Act to Provide Assistance in the Cleanup of the Plymouth Waste Oil Site.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 29, 1999. Referred to the Committee on Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


JOSEPH W. MAYO, Clerk

Presented by Representative CAMPBELL of Holden.

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

2
4 **Sec. 1. 5 MRSA §1513, sub-§1-P**, as reallocated by RR 1999, c. 1, §2, is amended to read:

6 **1-P. Transfer from Maine Rainy Day Fund; Wells and Plymouth**
8 **Waste Oil Clean-up Fund.** Notwithstanding subsection 2 and
10 section 1585, \$3,100,000 must be transferred by the State
12 Controller from the available balance in the Maine Rainy Day Fund
14 to the Wells and Plymouth Waste Oil Clean-up Fund established in
16 Title 10, section 1023-L no later than September 30, 1999.
18 Additional funds sufficient to cover the orphan share of total
20 response cost at the Plymouth Waste Oil site must be transferred
22 by the state controller from the available balance in the Maine
24 Rainy Day Fund to the Wells and Plymouth Waste Oil Clean-up Fund,
26 established in Title 10, section 1023-L, no later than September
28 30, 2000.

30 **Sec. 2. 10 MRSA §963-A, sub-§49-G**, as enacted by PL 1999, c. 505, Pt. A, §4, is amended to read:

32 **49-G. Total response costs.** "Total response costs" means
34 the total costs that have been or will be paid in association
36 with the Portland-Bangor Waste Oil Services Site sites in Wells
38 or Plymouth. "Total response costs" includes any payments that
40 either have been made or will be made to the Department of
42 Environmental Protection or the United States Environmental
44 Protection Agency or any payments that either have been made or
46 will be made as a total or partial settlement with any entity
48 that assumes that person's liability at that site. "Total
50 response costs" includes costs incurred by the Department of
Environmental Protection, the United States Environmental
Protection Agency or 3rd parties in connection with the
investigatory, removal or remedial activities regarding the
Portland-Bangor Waste Oil Services Site sites in Wells or
Plymouth.

52 **Sec. 3. 10 MRSA §963-A, sub-§51-C**, as enacted by PL 1999, c. 505, Pt. A, §5, is amended to read:

54 **51-C. Waste oil disposal sites.** "Waste oil disposal site
56 sites" means the Portland-Bangor Waste Oil Services Site sites in
58 Wells and Plymouth designated by the Department of Environmental
60 Protection or United States Environmental Protection Agency as an
uncontrolled hazardous substance site sites.

62 **Sec. 4. 10 MRSA §1023-L**, as corrected by RR 1999, c. 1, §12
64 and §13, is amended to read:

66 **§1023-L. Wells and Plymouth Waste Oil Clean-up Fund**

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

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

8
10 A. All money appropriated for inclusion in the fund or
appropriated to the authority for use in providing financial
12 assistance to responsible parties as defined in section
963-A, subsection 47-A, subject to any restrictions
14 applicable to the appropriation;

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

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

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

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

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

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

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

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

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

6 D. An agreement has been reached with an entity that has
8 assumed liability for total response costs at the Wells or
Plymouth waste oil disposal site sites.

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

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

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

40 **6. Lapse to Groundwater Oil Clean-up Fund upon cleanup of**
42 **waste oil disposal sites.** Within 30 days after the Department of
44 Environmental Protection or United States Environmental
Protection Agency notifies the authority that the waste oil
46 disposal ~~site~~ sites have been remediated and the total
48 response costs have been paid, the authority shall transfer all
amounts remaining in the fund to the Groundwater Oil Clean-up
Fund.

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

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

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

30 C. After the payments authorized in paragraphs A and B have
32 been made, additional payments must be made from the
available balance from funds transferred from the Maine
34 Rainy Day Fund to all persons who received funds under
paragraphs A and B who have paid their settlement share of
36 total response costs, and whose total liability at ~~the a~~
site exceeds the amount the persons received under paragraph
38 A or B. Distributions under this paragraph are
proportionate to the amount each person paid as the person's
40 share of total response costs at ~~the a~~ a site. Payments made
pursuant to this subsection may not exceed the person's
42 settlement share of total response costs attributable to
eligible persons as defined in this subsection multiplied by
44 the total orphan share percentage at ~~the a~~ a waste oil
disposal site. The authority may not issue deferred loans
46 for eligible persons who have received payments pursuant to
this subsection. This distribution must occur in relation
48 to the site in Wells, on April 1, 2000 and in relation to
the site in Plymouth by September 1, 2000. Any remaining

2 funds in the fund must be transferred to the Groundwater Oil
Clean-up Fund.

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

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

34 **Sec. 5. 38 MRSA §568-B, sub-§2, ¶E,** as enacted by PL 1999, c.
505, Pt. A, §11, is amended to read:

36 E. To consult with the Finance Authority of Maine at such
38 times as are necessary, but no less than annually, to review
income and disbursements from the Wells and Plymouth Waste
40 Oil Clean-up Fund under Title 10, section 1023-L. The board,
at such times and in such amounts as it determines
42 necessary, and in consultation with the Finance Authority of
Maine, shall direct the transfer of funds from the
44 Underground Oil Storage Replacement Fund to the Groundwater
Oil Clean-up Fund.

46 **Sec. 6. 38 MRSA §570-H, sub-§2,** as amended by PL 1999, c. 505,
48 Pt. A, §14, is further amended to read:

2 **2. Adequacy of fund.** On or before February 15th of each
3 year, the Fund Insurance Review Board, with the cooperation of
4 the commissioner, shall report to the joint standing committee of
5 the Legislature with jurisdiction over natural resources matters
6 on the department's and the board's experience administering the
7 fund, clean-up activities and 3rd-party damage claims. The
8 report must also include an assessment of the adequacy of the
9 fund to cover anticipated expenses and any recommendations for
10 statutory change. The report must also include an assessment of
11 the adequacy of the Underground Oil Storage Replacement Fund and
12 the Wells and Plymouth Waste Oil Clean-up Fund to cover
13 anticipated expenses and any recommendations for statutory
14 change. To carry out its responsibility under this section, the
15 board may order an independent audit of disbursements from the
16 Groundwater Oil Clean-up Fund, the Underground Oil Storage
17 Replacement Fund and the Wells Waste Oil Clean-up Fund.

18
19
SUMMARY

20 This bill amends the Wells Waste Oil Clean-up Fund to extend
21 the same protection to the waste oil site in Plymouth.
22