

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2547

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H.P. 1814

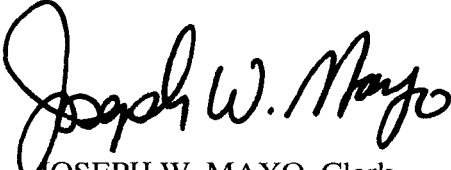
House of Representatives, February 7, 2000

**An Act to Implement the Recommendations of the Task Force to Study  
the Operation of and Support for the Board of Environmental Protection.**

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Reported by Representative MARTIN for the Joint Standing Committee on Natural Resources pursuant to Resolve 1999, chapter 85, section 9.

Reference to the Joint Standing Committee on Natural Resources suggested and printing ordered under Joint Rule 218.

  
JOSEPH W. MAYO, Clerk

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

4 **Sec. 1. 2 MRSA §6, sub-§5**, as amended by PL 1995, c. 462, Pt. A, §1 and c. 502, Pt. E, §32, is further amended to read:

6 **5. Range 86.** The salaries of the following state officials and employees are within salary range 86:

8 Director of Labor Standards;

10 Deputy Chief of the State Police;

12 State Archivist;

14 Director of Natural Resources Information and Mapping Center;

16 Executive Director, Maine Land Use Regulation Commission;

18 Chair, Maine Unemployment Insurance Commission;

20 Child Welfare Services Ombudsman; and

22 Director of the Maine Drug Enforcement Agency; and

24 Executive Director, Board of Environmental Protection.

26 **Sec. 2. 38 MRSA §341-C, sub-§7**, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

30 **7. Conflict of interest.** Members are governed by the conflict of interest provisions of Title 5, section 18. If a member believes that a conflict of interest may require that member's abstention in a proceeding, unless the member in question objects, the question of the conflict of interest must be submitted to a nonbinding advisory vote of the members present, excluding the member in question.

38 **Sec. 3. 38 MRSA §341-D, sub-§1-B**, as enacted by PL 1995, c. 347, §3, is amended to read:

40 **1-B. Rulemaking.** Subject to the Maine Administrative Procedure Act, the board shall adopt, amend or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering. The board shall also adopt, amend and repeal rules as necessary for the conduct of its business.

48 The department shall identify in its regulatory agenda, when feasible, a proposed rule or provision of a proposed rule that is

2 anticipated to be more stringent than the federal standard, if an  
applicable federal standard exists.

4 During the consideration of any proposed rule by the board, when  
feasible, and using information available to it, the department  
6 shall identify provisions of the proposed rule that the  
department believes would impose a regulatory burden more  
8 stringent than the burden imposed by the federal standard, if  
such a federal standard exists, and shall explain in a separate  
10 section of the basis statement the justification for the  
difference between the agency rule and the federal standard.

12 Notwithstanding Title 5, chapter 375, subchapter II, the board  
14 shall accept and consider additional public comment on a proposed  
16 rule following the close of the formal rule-making comment period  
18 at a meeting that is not a public hearing only if the additional  
20 public comment is directly related to comments received during  
the formal rule-making comment period or is in response to  
changes to the proposed rule. Public notice of the meeting must  
state that the board will accept additional public comment on the  
proposed rule at that meeting.

22 This subsection takes effect January 1, 1998.

24 **Sec. 4. 38 MRSA §341-F, sub-§§1 and 2,** as enacted by PL 1989,  
26 c. 890, Pt. A, §13 and affect by §40, are amended to read:

28 **1. Staff.** Staff of the board must be hired by the chair  
with the consent of the board. The executive director shall  
30 direct the daily operations administrative and operational  
functions of the board staff. The chair, after consultation with  
32 the board, shall prescribe the duties of the executive director.

34 **2. Unclassified employees.** ~~Professional---staff~~ The  
executive director of the board ~~are~~ is unclassified and may be  
36 removed, ~~only for cause,~~ by the ~~chair with consent~~ majority vote  
of the board.

38 **Sec. 5. Appropriation.** The following funds are appropriated  
40 from the General Fund to carry out the purposes of this Act.

42 **2000-01**

44 **ENVIRONMENTAL PROTECTION,**  
46 **DEPARTMENT OF**

48 **Administration - Environmental**  
**Protection**

2	Positions - Legislative Count	(1.000)
	Personal Services	\$90,287
	All Other	<u>5,400</u>

4

6 Provides for the transfer of one Deputy  
 Commissioner, Department of Environmental  
 8 Protection position from the Board of  
 Environmental Protection Fund, Other Special  
 Revenue.

10

12 **DEPARTMENT OF ENVIRONMENTAL  
 PROTECTION  
 TOTAL**

\$95,687

14

16 **Sec. 6. Allocation.** The following funds are allocated from  
 Other Special Revenue funds to carry out the purposes of this Act.

18

**2000-01**

20 **ENVIRONMENTAL PROTECTION,  
 DEPARTMENT OF**

22

24 **Board of Environmental  
 Protection Fund**

26	Positions - Legislative Count	(-1.000)
	Personal Services	(\$90,287)
28	All Other	<u>( 5,400)</u>

30

TOTAL (\$95,687)

32

34 Provides for the deallocation of funds  
 through the transfer of one Deputy  
 Commissioner, Department of Environmental  
 36 Protection position to the Administration -  
 Environmental Protection program, General  
 38 Fund.

40 **Board of Environmental  
 Protection Fund**

42

44	Positions - Legislative Count	(1.000)
	Personal Services	\$59,348
	All Other	10,300
46	Capital Expenditures	<u>3,000</u>

48

TOTAL \$72,648

50

Allocates funds for one Executive Director

2 of the Board of Environmental Protection  
position and general operating funds.

4 **DEPARTMENT OF ENVIRONMENTAL**  
6 **PROTECTION**  
**TOTAL**

\_\_\_\_\_  
(\$23,039)

8

### SUMMARY

10

12 This bill implements the recommendations of the Task Force  
to Study the Operation of and Support for the Board of  
14 Environmental Protection. The bill allocates funds for an  
Executive Director of the Board of Environmental Protection  
16 position and sets the salary level of the executive director  
within salary range 86, which is the range of the Executive  
18 Director of the Maine Land Use Regulation Commission's salary.  
The bill also specifies that the executive director directs the  
20 daily administrative and operational functions of the board and  
may be removed by majority vote of the board.

22

The bill amends the conflict of interest provision as it  
24 applies to the board to require the board to provide a nonbinding  
advisory opinion as to whether a member has a conflict of  
26 interest that may require abstention from a proceeding, unless  
the member in question objects to the vote.

28

The bill amends the rule-making procedures as they apply to  
30 the board to require the board to accept and consider additional  
public comment on a proposed rule following the close of the  
32 formal rule-making comment period provided that the additional  
public comment is directly related to comments received during  
34 the formal rule-making comment period or is in response to  
changes to the proposed rule.

36

The bill also provides for the transfer of funding for the  
38 Deputy Commissioner of the Department of Environmental Protection  
position from the Board of Environmental Protection Fund to the  
General Fund.