

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1590

H.P. 1126

House of Representatives, April 26, 2005

**An Act To Allow the Maine Land Use Regulation Commission To
Assess a Processing Fee for Certain Projects**

(EMERGENCY)

Reported by Representative PIOTTI of Unity for the Joint Standing Committee on
Agriculture, Conservation and Forestry pursuant to Joint Order 2005, H.P. 925.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4
6 **Whereas,** certain projects that come before the Maine Land
Use Regulation Commission require inordinate resources for
appropriate review; and

8
10 **Whereas,** the complexity, size and uniqueness of these
projects can significantly affect the ability of the Maine Land
Use Regulation Commission and its staff to process more routine
12 applications; and

14 **Whereas,** the expedient processing of all applications is
important to people proposing projects within the jurisdiction of
16 the Maine Land Use Regulation Commission; and

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

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

26 **Sec. 1. 12 MRSA §685-B, sub-§2, ¶B,** as amended by PL 1995, c.
487, §1, is further amended to read:

28
30 B. The fee prescribed by the commission rules, that fee to
be a minimum of \$50 but no greater than 1/4 of 1% of the
32 total development costs, except that the fee for subdivision
applications is \$300 per lot. Zoning petitions submitted by
34 other than a state or federal agency range from \$50 to \$500
depending on size and complexity. The fees apply to all
36 amendments except for minor changes to building permits. A
~~fee may not be assessed for a petition that seeks to change~~
~~an area's designation under section 685-A from a management~~
~~district to a development district~~ In addition to the fee
38 paid in accordance with this paragraph, the director of the
40 Maine Land Use Regulation Commission may assess a processing
fee on applications for extraordinary projects in accordance
42 with section 685-F;

44 **Sec. 2. 12 MRSA §685-F** is enacted to read:

46 **§685-F. Extraordinary projects**

48 **1. Designation as extraordinary project.** The director of
the Maine Land Use Regulation Commission, referred to in this
50 section as "the director," may designate a proposed project

2 requiring review and approval under this chapter as an
3 extraordinary project when the director determines that, because
4 of the project's size, uniqueness or complexity, review of the
5 project application is likely to:

6 A. Significantly impair the capacity of the commission's
7 staff and cooperating state agencies to review other
8 applications in a timely manner; or

10 B. Require the commission to incur costs that exceed the
11 funding provided in accordance with section 685-D.

12 A project is considered to significantly impair the capacity of
13 the commission's staff if review of that project is likely to
14 occupy the equivalent of at least one person working full-time on
15 that project for a minimum of 4 months. Designation as an
16 extraordinary project must be made at or prior to the time the
17 application is accepted as complete. The director shall notify
18 the applicant in writing upon making the designation.

20 2. Processing fee. The processing fee for a project
21 designated as extraordinary is the sum of the actual costs
22 associated with review of that project application. These costs
23 include, but are not limited to, costs of personnel, supplies,
24 administration, travel, specialized computer software, services
25 needed for review of that project and contracting for legal and
26 consulting services. The director shall provide the applicant
27 with an estimate of the processing fee for a project with a
28 breakdown of anticipated costs. The applicant must pay 1/2 of the
29 estimated processing fee prior to the beginning of the project
30 review. The applicant must be billed quarterly for the remainder
31 of the fee. The director shall deposit all processing fees in a
32 dedicated account from which expenses attributable to the
33 application review are paid. The commission shall withhold a
34 decision on the project until the entire processing fee is paid.
35 The director shall return all unspent funds to the applicant
36 within 120 days of the commission's decision on the application.

38 3. Accounting system. The director shall require that all
39 staff involved in any aspect of an application review for a
40 project designated as an extraordinary project keep accurate and
41 regular daily time records. These records must describe the
42 matters worked on, services performed and amount of time devoted
43 to those matters and services as well as amounts of money
44 expended in performing those functions. The director shall keep
45 records of all expenses incurred in reviewing a project,
46 including staff time records and billing statements for
47 contracted services.

2 4. Review by commission. In accordance with section 685-B,
3 subsection 1-B, an applicant has the right to review by the
4 commission of a decision to designate a project as an
5 extraordinary project or of a processing fee established under
6 subsection 2.

7 **Sec. 3. Appropriations and allocations.** The following
8 appropriations and allocations are made.

10 **CONSERVATION, DEPARTMENT OF**

12 **Land Use Regulation Commission 02336**

14 Initiative: Provides initial allocations for the purpose of
15 authorizing expenditures for the administration of extraordinary
16 projects.

18 OTHER SPECIAL REVENUE FUNDS	2004-05	2005-06	2006-07
19 Personal Services	\$500	\$500	\$500
20 All Other	\$500	\$500	\$500
22 OTHER SPECIAL REVENUE			
23 FUNDS TOTAL	\$1,000	\$1,000	\$1,000

24 **Sec. 4. Application.** This Act applies to applications
25 accepted for review by the Maine Land Use Regulation Commission
26 after March 15, 2005.

27 **Emergency clause.** In view of the emergency cited in the
28 preamble, this Act takes effect when approved.

32 **SUMMARY**

34 This bill is the unanimous committee report of the Joint
35 Standing Committee on Agriculture, Conservation and Forestry. It
36 allows the director of the Maine Land Use Regulation Commission
37 to assess a processing fee for certain projects based on the cost
38 of reviewing those projects. Processing fees are to be deposited
39 in a dedicated account.

42 **FISCAL NOTE REQUIRED**
43 **(See attached)**



122nd MAINE LEGISLATURE

LD (Not Known)

LR 2294(01)

An Act to Allow the Maine Land Use Regulation Commission to Assess a Processing Fee for Certain Projects

Fiscal Note for Original Bill

Sponsor: Rep. Piotti of Unity

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

	2004-05	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Appropriations/Allocations					
Other Special Revenue Funds	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000

Fiscal Detail and Notes

Authorizing the Director of the Maine Land Use Regulation Commission to assess certain processing fees will increase Other Special Revenue Funds revenue collected by the commission; the amounts will depend on the amount of the fees that are assessed and can not be determined at this time. The bill also includes an initial Other Special Revenue Funds allocation in the amount of \$1,000 in each of fiscal years 2004-05, 2005-06 and 2006-07 to provide the necessary spending authority for the commission to administer certain projects.