

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1887

S.P. 686

May 2, 2007

**An Act To Provide Additional Financing for Costs Associated with  
the Remediation of a Waste Oil Site in Plymouth**

(AFTER DEADLINE)

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.  
Cosponsored by Representative TARDY of Newport and Senator: SMITH of Piscataquis,  
Representative: KOFFMAN of Bar Harbor.

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

3       **Whereas,** Portland-Bangor Waste Oil Services, a now defunct Maine corporation,  
4 operated a waste oil handling facility in Plymouth; and

5       **Whereas,** this site is contaminated and must be cleaned up expeditiously to protect  
6 the public health, safety and welfare; and

7       **Whereas,** investigation and cleanup of the site will be expensive; and

8       **Whereas,** under state and federal law, any entity that sent waste oil or other  
9 contaminants to the site is a "responsible party" and, as such, is jointly and severally  
10 liable for the cost of investigation and cleanup; and

11       **Whereas,** this liability may pose an extraordinary financial hardship to small  
12 businesses, municipalities and others who sent waste oil to the site; and

13       **Whereas,** some waste oil handled at the site was collected from households as a  
14 public service and it is in the public interest to ensure the continued financial viability of  
15 the service station owners and other small business owners who provided this service;  
16 and

17       **Whereas,** responsible parties at the Plymouth site have been asked to reimburse the  
18 United States Environmental Protection Agency for expenses incurred at that site; and

19       **Whereas,** legislation concerning the Plymouth Waste Oil Loan Program was  
20 enacted in 1999, 2001, 2003 and 2004 and now further amendment is required to  
21 authorize loans to eligible parties to pay for the implementation of the clean-up remedy  
22 that is scheduled to commence in 2007-08; and

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

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

28       **Sec. 1. 10 MRSA §1023-M, sub-§2,** as amended by PL 2003, c. 537, §28 and  
29 affected by §53, is further amended to read:

30       **2. Eligibility to participate in loan program.** The authority may use money in the  
31 fund to carry out any power of the authority under this section or under section 1026-A,  
32 subsection 1, paragraph A, subparagraph (1), division (e), including, but not limited to,  
33 the pledge or transfer and deposit of money in the fund as security for and the application  
34 of money in the fund in payment of principal, interest and other amounts due on insured  
35 loans. Money in the fund may be used for direct loans or deferred loans for all or part of  
36 the costs of the Plymouth waste oil site remedial study, past cost settlement,  
37 implementation of institutional controls selected by the United States Environmental

1 Protection Agency to prevent use of contaminated groundwater by nearby residents,  
2 oversight costs of the United States and the State, remedial action costs and time-critical  
3 removal action costs when the authority determines that:

4 A-1. The applicant has been identified by the United States Environmental  
5 Protection Agency as a potentially responsible party with respect to the waste oil  
6 disposal site and the applicant is alleged by the United States Environmental  
7 Protection Agency to have generated waste oil from an address or location within the  
8 State;

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

11 B-1. The applicant has signed the West Site/Hows Corner RI/FS Group Agreement;

12 B-2. The applicant has entered into a consent decree with the United States and the  
13 State regarding past cost settlement at the Plymouth waste oil disposal site and the  
14 applicant is a participant in that consent decree or the applicant has entered into an  
15 inability-to-pay settlement with the United States Environmental Protection Agency;

16 B-3. The applicant has signed the Remedial Action Consent Decree for the West  
17 Site/Hows Corner Superfund Site in Plymouth, Maine;

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

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

20 Money in the fund may not be used for attorney's fees associated with costs of the  
21 Plymouth waste oil site remedial study, past cost settlement, implementation of  
22 institutional controls ~~or~~, time-critical removal action or remedial action or a de minimis  
23 settlement, except that money in the fund may be used for attorney's fees incurred for the  
24 preparation of restrictive covenants, including deed and title research, for the properties  
25 within the area identified by the United States Environmental Protection Agency as the  
26 institutional control zone in order to implement the institutional controls selected by the  
27 United States Environmental Protection Agency.

28 A past cost settlement share may not be paid from the fund to a person if the United  
29 States Environmental Protection Agency has waived payment of the share based on the  
30 person's financial capacity. The authority may condition payments related to the  
31 Plymouth waste oil disposal site on receipt of an ability-to-pay determination from the  
32 agency.

33 The authority, pursuant to Title 5, chapter 375, subchapter 2, shall adopt rules for  
34 determining eligibility, feasibility, terms, conditions, security and fees for the loans,  
35 including deferred loans. The authority shall adopt rules that provide for a simplified  
36 loan application process for loan requests of under \$2,000. Rules adopted pursuant to this  
37 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
38 The authority shall charge an interest rate of 0% on all loans. Loan repayment must be  
39 deferred until the United States Environmental Protection Agency determines that  
40 construction of the final remedy is complete. If the total amount of the loan requests  
41 exceeds funds available under section 1023-L, the authority shall prorate the amount of  
42 the loan available to each applicant by the ratio of the funds available to the total loans  
43 requested.

