

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY
AUGUSTA, MAINE



124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1134

H.P. 778

House of Representatives, March 23, 2009

**An Act Regarding the Maximum Fee for Processing an
Environmental License Application**

(EMERGENCY)

Reported by Representative DUCHESNE of Hudson for the Joint Standing Committee on Natural Resources pursuant to Public Law 2007, chapter 655, section 20.

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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,** current law specifying a cap on special fees associated with an application
4 before the Department of Environmental Protection provides for a significantly reduced
5 maximum fee as of September 1, 2009; and

6 **Whereas,** the reduced special fees are not adequate to allow for appropriate
7 processing of applications that because of their size, uniqueness, complexity or other
8 relevant factors are likely to have significantly higher costs; and

9 **Whereas,** it is therefore necessary to promptly adjust these fees; and

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

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

15 **Sec. 1. 38 MRSA §352, sub-§3,** as amended by PL 2007, c. 661, Pt. B, §9, is
16 further amended to read:

17 **3. Maximum fee.** The commissioner shall set the actual fees and shall publish a
18 schedule of all fees by November 1st of each year. If the commissioner determines that a
19 particular application, by virtue of its size, uniqueness, complexity or other relevant
20 factors, is likely to require significantly more costs than those listed on Table I, the
21 commissioner may designate that application as subject to special fees. ~~Through August~~
22 ~~31, 2009, a special fee may not exceed \$250,000. Beginning September 1, 2009, a special~~
23 ~~fee may not exceed \$75,000.~~ Such a designation must be made at, or prior to, the time
24 the application is accepted as complete and may not be based solely on the likelihood of
25 extensive public controversy. The maximum fee for processing an application may not
26 exceed \$250,000. All department staff who have worked on the review of the
27 application, including, but not limited to, preapplication consultations, shall submit
28 quarterly reports to the commissioner detailing the time spent on the application and all
29 expenses attributable to the application, including the costs of any appeals filed by the
30 applicant and, after taking into consideration the interest of fairness and equity, any other
31 appeals if the commissioner finds it in the public interest to do so. The costs associated
32 with assistance to the board on an appeal before the board may be separately charged.
33 The processing fee for that application must be the actual cost to the department. The
34 applicant must be billed quarterly and all fees paid prior to receipt of the permit. Nothing
35 in this section limits the commissioner's authority to enter into an agreement with an
36 applicant for payment of costs in excess of the maximum special fee established in this
37 subsection.

38 **Emergency clause.** In view of the emergency cited in the preamble, this
39 legislation takes effect September 1, 2009.

SUMMARY

1
2 This bill implements the recommendations of the Department of Environmental
3 Protection in its report to the Legislature pursuant to Public Law 2007, chapter 655. The
4 bill provides that fees associated with an application processed by the Department of
5 Environmental Protection may not exceed \$250,000.