

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1644

H.P. 1179

House of Representatives, April 25, 2019

An Act To Clarify Conflict of Interest Requirements for the Board of Environmental Protection

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Environment and Natural Resources suggested and ordered
printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ZEIGLER of Montville.

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

2 **Sec. 1. 38 MRSA §341-C, sub-§2**, as amended by PL 2011, c. 304, Pt. H, §3, is
3 further amended to read:

4 **2. Qualifications and requirements.** Members of the board must be chosen to
5 represent the broadest possible public interest and experience that can be brought to bear
6 on the administration and implementation of this Title and all other laws the board is
7 charged with administering. At least 3 members must have technical or scientific
8 backgrounds in environmental issues and no more than 4 members may be residents of
9 the same congressional district. The boundaries of the congressional districts are defined
10 in Title 21-A, chapter 15. A county commissioner, county employee, municipal official
11 or municipal employee is not considered to hold an incompatible office for purposes of
12 simultaneous service on the board. If a county or municipality is a participant in an
13 adjudicatory proceeding before the board, a commissioner, official or employee from that
14 county or municipality may not participate in that proceeding.

15 **Sec. 2. 38 MRSA §341-C, sub-§8**, as amended by PL 2011, c. 357, §3, is
16 repealed and the following enacted in its place:

17 **8. Federal standards.** In accordance with federal standards, board member
18 participation is limited by this subsection. For the purposes of this subsection, "a
19 significant portion of income" means 10% or more of gross personal income for a
20 calendar year, except that it means 50% or more if the recipient is over 60 years of age
21 and is receiving that portion under retirement, pension or similar arrangement.

22 A. A board member may not participate in the review of or act on an application for
23 a National Pollutant Discharge Elimination System permit or the modification,
24 renewal or appeal of a permit under Section 402 of the Federal Water Pollution
25 Control Act, 33 United States Code, Section 1342 if the board member receives, or
26 during the previous 2 years has received, a significant portion of income directly or
27 indirectly from license or permit holders or applicants for a license or permit under
28 the National Pollutant Discharge Elimination System. Board members whose
29 participation is restricted under this paragraph shall recuse themselves and may not
30 participate in any National Pollutant Discharge Elimination System matter as long as
31 the restriction applies. The recusal must be from all National Pollutant Discharge
32 Elimination System permitting, enforcement, establishment of waste load allocations
33 and total maximum daily loads and establishment and implementation of water
34 quality standards but not other Federal Water Pollution Control Act matters such as
35 water quality certification. The restriction imposed by this paragraph may not be
36 interpreted to be more restrictive than federal law or the regulations of the United
37 States Environmental Protection Agency.

38 B. A board member may not participate in the review of or act on any permitting
39 decision or enforcement order under the federal Clean Air Act, 42 United States
40 Code, Section 7401, et seq. if the board member receives or derives a significant
41 portion of that board member's income from persons subject to permits or
42 enforcement orders under the federal Clean Air Act. Board members whose
43 participation is restricted under this paragraph shall recuse themselves from all

