

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

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PUBLIC LAWS

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in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.

4. Accounts within fund. The authority may divide the fund into such separate accounts as it determines are necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds or grants for underground oil storage facility removal and direct loan funds or grants for tank removal.

5. Revolving fund. The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section and section 1026-F.

Sec. 4. 10 MRSA §1024, sub-§1, as amended by PL 1987, c. 846, §6, is further amended to read:

1. Request for funds. If at any time the money in the Mortgage Insurance Fund and the money in the Loan Insurance Reserve Fund, exclusive of the money pledged or assigned as security for specific obligations of the authority, is insufficient to meet expenses and obligations of the authority, as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. The Governor shall transfer sufficient money to the Mortgage Insurance Fund or Loan Insurance Reserve Fund, as directed by the authority, from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2. If at any time the money in the Underground Oil Storage ~~Facility~~ Replacement Fund, exclusive of any amounts reserved by law ~~or rule~~ for direct loans pursuant to section 1023-D, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section 1026-F, as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Underground Oil Storage ~~Facility~~ Replacement Fund from the Ground Water Oil Clean-up Fund or the proceeds of bonds of the State issued pursuant to subsection 2. If at any time the money in the Overboard Discharge Replacement Fund, exclusive of any amounts reserved by law or rule for direct loans pursuant to section 1023-E, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section 1026-G, as these expenses and obligations are projected by the authority to become due and payable, the authority shall request, in writing, the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Overboard Discharge Replacement Fund from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2.

Sec. 5. 10 MRSA §1025, first ¶, as amended by PL 1987, c. 846, §8, is further amended to read:

When, in the opinion of the authority, the action is necessary to safeguard the Mortgage Insurance Fund, Loan Insurance Reserve Fund, Underground Oil Storage ~~Facility~~

Replacement Fund or Overboard Discharge Replacement Fund and to maintain income from eligible projects, the authority may, in addition to its other powers:

Sec. 6. 38 MRSA §569, sub-§4, as repealed and replaced by PL 1987, c. 769, Pt. A, §177, is amended to read:

4. Funding. A fee of ~~3¢ 9¢~~ per barrel of gasoline and ~~2¢ 8¢~~ per barrel of refined petroleum products and their by-products other than gasoline and liquid asphalt, including #6 fuel oil, #2 fuel oil, kerosene, jet fuel and diesel fuel, shall be assessed on the transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7. These fees shall be paid monthly by the oil terminal facility licensees on the basis of records certified to the department. All such transfer fees shall be credited to the Ground Water Oil Clean-up Fund upon receipt by the department, except that the amount of these fees in excess of 3¢ per barrel of gasoline and 2¢ per barrel of refined petroleum products and their by-products, other than gasoline and liquid asphalt, shall be transferred by the department upon receipt as follows.

A. Sixty-two and one half percent of the excess shall be transferred to the Finance Authority of Maine for deposit in the Underground Oil Storage Replacement Fund.

B. Thirty-seven and one half percent of the excess shall be transferred to the Maine State Housing Authority for deposit in the Housing Opportunities for Maine Fund to be used initially for loans and grants to finance the costs of removal, disposal, replacement or abandonment of underground oil storage facilities and tanks located on owner-occupied or residential rental property, which facilities and tanks have been identified by the department as leaking or posing an environmental threat or as having been abandoned.

After an aggregate sum of \$5,000,000 has been transferred to the Finance Authority of Maine and an aggregate sum of \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to this subsection, the per barrel fee assessed pursuant to this subsection shall be reduced by 6¢ per barrel.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 10, 1989.

CHAPTER 544

S.P. 166 - L.D. 323

An Act to Improve Ferry Service to Matinicus Isle

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

Sec. 1. 23 MRSA §4401, as enacted by PL 1981, c. 456, Pt. A, §88, is amended to read:

§4401. Ferry service for North Haven, Vinalhaven, Islesboro, Matinicus Isle, Swan's Island and Frenchboro

It is the duty of the Department of Transportation to operate a ferry route or routes between the mainland and the towns of North Haven, Vinalhaven, Islesboro, Matinicus Isle and Swan's Island for the purpose of transporting vehicles, freight and passengers to and from these towns, and the department may operate the ferry route or routes to and from Frenchboro. Ferry service to Matinicus Isle shall be ~~on a once a month basis~~ at least 12 times per year and may be up to 24 times per year and may be provided by state-owned or privately-contracted vessels. These ferry routes shall be designated as the "Maine State Ferry Service."

Sec. 2. P&SL 1929, c. 114, §1, sub-§(e), last sentence, as enacted by P&SL 1979, c. 51, §1, is repealed.

See title page for effective date.

CHAPTER 545

S.P. 331 - L.D. 868

An Act Concerning the Inspection of Dams

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

Whereas, there are numerous dams in this State which are in poor material condition and falling into disrepair, and therefore require periodic inspection and maintenance; and

Whereas, the State does not have a program of coordinated dam inspection and safety; and

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

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

Sec. 1. 37-B MRSA c. 22 is enacted to read:

CHAPTER 22

DAM INSPECTION

§1061. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agency. "Agency" means the Maine Emergency Management Agency.

2. Dam. "Dam" means any man-made artificial barrier, including appurtenant works, the site on which it is located and appurtenant rights of flowage and access, which impounds or diverts a river, stream or great pond and which is 2 feet or more in height and has an impounding capacity at maximum water storage elevation of 15 acre-feet or more. Any such artificial barrier constructed solely for the purpose of impounding water to allow timber to be floated downstream in a logging operation shall not be considered a dam for the purposes of this chapter, unless it has been repaired, modified or maintained by or with the knowledge of the owner, lessee or person in control since the discontinuance of its use in connection with logging operations. Any adjacent property, easements, roads, bridges or works not necessary for the operation or maintenance of a dam or access to the dam shall not be included under the provisions of this chapter.

3. Dam reconstruction. "Dam reconstruction" means the rebuilding or replacement of all or part of an existing dam that no longer functions in the manner for which it was originally constructed.

4. Director. "Director" means the Director of the Maine Emergency Management Agency.

5. Emergency operations plan. "Emergency operations plan" means a set of written instructions or guidelines for use by public officials which recommends actions which, when implemented, will minimize the effects of a dam failure on people and property.

6. High or significant hazard. "High or significant hazard" means that condition which poses a risk of loss of human life and substantial property damage.

7. Public safety. "Public safety" or "safety of the public" means protection of life, health or property from any condition, event or action at a dam which might compromise the safety, stability or integrity of the dam or its ability to function safely.

8. State dam inspector. "State dam inspector" means an inspector appointed or hired under section 1064.

§1062. Jurisdiction

The inspection of and design standards for all dams shall be under the sole jurisdiction of the agency, except that the agency does not have jurisdiction over any dam licensed or inspected by any agency of the Federal Government or by the International Joint Commission.

§1063. Design standards

All new or reconstructed dams which are classified as high or significant hazard dams shall be constructed or reconstructed in accordance with design and construction