

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**

December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
NON-EMERGENCY LAWS IS  
JUNE 30, 1992

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1992

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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**CHAPTER 883**

**H.P. 1715 - L.D. 2400**

**An Act Concerning Site Protection at Former Mining Operations**

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

**Sec. 1. 5 MRSA §453-A** is enacted to read:

**§453-A. Board of trustees**

The Mining Excise Tax Trust Fund Board of Trustees, as established in section 12004-G, subsection 33-B and referred to in the chapter as the "board," consists of 5 members, at least one of whom must be a resident of the unorganized territory.

**1. Appointment.** The members of the board are appointed by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and to confirmation by the Legislature.

**2. Terms.** Of the initial members one serves a term of one year, one serves a term of 2 years, one serves a term of 3 years, one serves a term of 4 years and one serves a term of 5 years. Upon the expiration of the initial terms, members are appointed to serve 5-year terms. Members may be reappointed. Members serve until their successors are appointed and qualified.

**3. Vacancies.** A vacancy is filled for the expiration of the term to which the member has been appointed.

**Sec. 2. 5 MRSA §12004-G, sub-§33-A,** as repealed by PL 1991, c. 622, Pt. S, §8, is reenacted to read:

<b>33-A.</b>	<u>Board of</u>	<u>Not</u>	<u>5 MRSA</u>
<u>Taxation</u>	<u>Trustees,</u>	<u>Authorized</u>	<u>§453-A</u>
	<u>Mining Excise</u>		
	<u>Tax Trust Fund</u>		

**Sec. 3. 36 MRSA §2861, sub-§§2 and 4,** as enacted by PL 1981, c. 711, §10, are amended to read:

**2. Treasurer's duties.** The Treasurer of State shall reimburse each municipality at least 50% and, if revenues from the Mining Excise Tax are available, up to 100% of the property tax revenue loss suffered by that municipality during the previous calendar year as a result of the exemptions established by this chapter.

**4. Payment.** The Treasurer of State shall use the excise tax revenues to pay to each municipality at least 50% and, if revenues are available, up to 100% of the actual tax revenue loss as determined by subsection 3, paragraph E. The Treasurer of State shall set aside an

amount from these revenues sufficient to meet this obligation. He ~~The Treasurer of State~~ shall pay the ~~50%~~ money due to the municipality by February 1st of the year following the year in which property tax revenue was lost by the municipality.

**Sec. 4. 36 MRSA §2861, sub-§6** is enacted to read:

**6. Corrective action.** The Treasurer of State, following the payment of excise tax revenues to municipalities pursuant to subsection 4, shall annually set aside 25% of the remaining revenues from mining operations in municipalities not under the jurisdiction of the Maine Land Use Regulation Commission to be deposited in the Mining Corrective Action Fund. Money in this fund is available to municipalities to fund corrective action as defined by rule by the Department of Environmental Protection in relation to metallic mineral exploration.

**Sec. 5. 36 MRSA §2862, first ¶,** as enacted by PL 1981, c. 711, §10, is amended to read:

Excise tax revenues remaining after municipal reimbursement and payments into the Mining Corrective Action Fund under section 2861 shall ~~must~~ be used as follows.

**Sec. 6. 36 MRSA §2862, sub-§8, ¶¶B and D,** as enacted by PL 1981, c. 711, §10, are repealed.

**Sec. 7. 36 MRSA §2863, sub-§3,** as enacted by PL 1981, c. 711, §10, is repealed.

**Sec. 8. 36 MRSA §2866** is enacted to read:

**§2866. Mining Corrective Action Fund**

**1. Creation of fund.** The Mining Corrective Action Fund, referred to in this section as the "fund," is established as a nonlapsing fund administered by the Mining Excise Tax Trust Fund Board of Trustees, referred to in this section as the "board." The board shall oversee and authorize expenditures from the fund.

**2. Investment.** The Treasurer of State shall invest the money in the fund as authorized by Title 5, section 138.

**3. Scope of corrective action.** The fund may be used only for corrective action for mining operations located in municipalities.

**4. Uses of fund.** Money from the fund may be used only to fund corrective action as defined in the mining rules adopted by the Department of Environmental Protection and the Maine Land Use Regulation Commission. Corrective action includes, but is not limited to, remedial action related to:

- A. Contaminated ground water;
- B. Disposition of mining wastes;
- C. Reclamation defects on or surrounding the site;  
and
- D. Pollution control at the site.

**5. Restrictions and liability.** Money from the fund may be used only for corrective action necessary to address problems that occur at the site following termination of mining operations and closure of the mine. Corrective action necessary during the operation of a mine must be funded by the mining company. The existence of this fund does not relieve a mining company of any liability or responsibility arising from a corrective action following termination of its mining operation in a municipality.

**6. Disposition of fund.** When corrective action is necessary in accordance with this section, the board shall provide funds for remedial activities at the site on a pro rata basis to ensure that funds are available for any necessary corrective action at other sites. This determination is based on the amount of excise tax revenues generated at each site.

**7. Depletion of fund.** Following termination of mining operations, the mining company and, in the case of a mining company that is a subsidiary of a corporation, the parent company remain liable for any corrective action determined necessary by the board. If the contributions of the mining company to the fund are insufficient to fund corrective action, the mining company or its successor, if the company has been sold, remains liable for the costs of corrective action. If the mining company ceases to exist, the parent company, if any, is liable for any necessary corrective action. Any funds expended for corrective action as provided in this section must be reimbursed in full by the mining company, its successor or its parent corporation.

See title page for effective date.

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