

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**THIRD SPECIAL SESSION**  
October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**  
October 16, 1992

**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
December 2, 1992 to July 14, 1993

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 13, 1993**

**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  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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Title 17-A, section 1301, subsection ~~1~~ 1-A, paragraph C; or Title 17-A, section 1301, subsection 3, paragraph E, the fine for such a violation may not be less than \$100 nor more than \$25,000 for each day of the violation.

This subsection does not apply to actions subject to the criminal penalties set forth in section 1319-T.

**Sec. 72. 38 MRSA §2310, sub-§2**, as repealed by PL 1991, c. 804, Pt. C, §4 and repealed and replaced by c. 824, Pt. A, §89, is repealed.

**Sec. 73. 39-A MRSA §403, sub-§15**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**15. Confidentiality of information.** All written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, all information contained in the minutes of trustee meetings and all information relating to individual compensation cases, that a self-insurer is required to file with or make available to the superintendent under this section, section ~~304~~ 404 or rules adopted pursuant to it are confidential and are not public records.

The confidential nature of ~~any such~~ this information does not limit or affect its use by the superintendent in administering this Act, including, but not limited to, communications with the service agent, the Workers' Compensation Board or the Maine Self-Insurance Guarantee Association.

**Sec. 74. PL 1989, c. 875, Pt. E, §62** is repealed.

**Sec. 75. PL 1991, c. 591, Pt. I, §4** is repealed and the following enacted in its place:

**Sec. I-4. 20-A MRSA §8607-A, sub-§6**, as amended by PL 1991, c. 518, §39, is repealed.

**Sec. 76. PL 1991, c. 622, Pt. QQ, §3** is repealed.

**Sec. 77. PL 1991, c. 655, §8** is repealed.

**Sec. 78. PL 1991, c. 779, §59** is amended to read:

**Sec. 59. Retroactivity.** Section ~~51~~ 52 of this Act takes effect retroactively to December 23, 1991.

**Sec. 79. PL 1991, c. 780, Pt. U, §10, first 2 lines** are amended to read:

**Sec. U-10. 13-A MRSA §1401, sub-§§37 and 38** is are enacted to read:

**Sec. 80. PL 1991, c. 781, Pt. A, §3** is repealed.

**Sec. 81. PL 1991, c. 824, Pt. A, §§96 and 97** are repealed.

**Sec. 82. PL 1993, c. 25, §15** is amended to read:

**Sec. 15. Effective date.** Those sections of this Act that amend the Maine Revised ~~Statutes~~ Statutes, Title 32, sections 4700-E, ~~4700-K~~ 4700-H and 4700-I take effect January 1, 1994.

**Sec. 83. PL 1993, c. 79, §7** is amended to read:

**Sec. 7. Effective date.** Section 6 of this Act takes effect when approved. Sections 1 to 5 and section ~~7~~ 8 of this Act take effect on July 1, 1993, if deorganization is approved by the voters of the Town of Greenfield pursuant to section 6 of this Act.

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

Effective June 16, 1993.

## CHAPTER 350

### H.P. 406 - L.D. 519

#### An Act Establishing Performance Standards for Internally Drained Borrow Pits Consisting of 5 to 30 Acres of Reclaimed and Unreclaimed Land

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

**Sec. 1. 38 MRSA §482, first ¶**, as amended by PL 1983, c. 743, §13, is further amended to read:

As used in this ~~Article~~ article and article 7, unless the context otherwise indicates, the following terms have the following meanings.

**Sec. 2. 38 MRSA §482, sub-§1-A** is enacted to read:

**1-A. Borrow pit.** "Borrow pit" means a mining operation undertaken primarily to extract and remove sand, fill or gravel. "Borrow pit" does not include any mining operation undertaken primarily to extract or remove rock or clay.

**Sec. 3. 38 MRSA §482, sub-§2**, as repealed and replaced by PL 1987, c. 812, §§2 and 18, is amended to read:

**2. Development that may substantially affect the environment.** "Development ~~which~~ that may substan-

tially affect the environment,” in this article called “development,” means any state, municipal, quasi-municipal, educational, charitable, residential, commercial or industrial development ~~which that~~:

- A. Occupies a land or water area in excess of 20 acres;
- B. Contemplates drilling for or excavating natural resources on land or under water where the area affected is in excess of 60,000 square feet;
- C. Is a mining activity as defined in this section;
- D. Is a hazardous activity as defined in this section;
- E. Is a structure as defined in this section;
- F. Is a conversion of an existing structure that meets the definition of structure in this section;
- G. Is a subdivision as defined in this section; or
- H. Is a ~~multi-unit~~ multiunit housing development as defined in this section located wholly or in part within the shoreland zone.

~~This term “Development” does not include state highways, state aid highways and borrow pits for sand, fill or gravel of less than 5 acres or when, borrow pits less than 5 acres, borrow pits regulated under article 7, borrow pits regulated by the Department of Transportation, and such borrow pits entirely within the jurisdiction of the Maine Land Use Regulation Commission under Title 12, chapter 206-A, and those activities regulated by the Department of Marine Resources under Title 12, section 6072.~~

**Sec. 4. 38 MRSA §484-A** is enacted to read:

**§484-A. Unlicensed pits; temporary licensing exemption**

Notwithstanding section 482, subsection 2, a borrow pit within the jurisdiction of the department that on October 1, 1993 was between 5 and 30 acres and did not possess a valid license under this article is not required to obtain a license under this article if:

**1. Notice of intent to comply.** Pursuant to section 490-C, the owner or operator of the pit files a notice of intent to comply no later than:

- A. April 1, 1994, for pits having reclaimed or unreclaimed areas that drain externally or having reclaimed or unreclaimed areas where internal drainage is achieved with berms or other structures; or
- B. October 1, 1994 for pits where all reclaimed and unreclaimed lands are naturally internally drained; and

**2. Adherence to compliance schedule.** By October 1, 1995:

A. All reclaimed and unreclaimed areas that were not naturally internally drained on October 1, 1993 are stabilized or reclaimed;

B. All other conditions existing on October 1, 1993 comply with the performance standards under article 7; and

C. All activities conducted after filing a notice of intent to comply are conducted in compliance with article 7.

An unlicensed borrow pit of 5 or more acres is in violation of this article if the owner or operator of that pit does not file a notice of intent to comply under subsection 1.

**Sec. 5. 38 MRSA c. 3, sub-c. I, art. 7** is enacted to read:

**Article 7**

**Performance Standards for Medium Borrow Pits**

**§490-A. Definitions**

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

**1. Affected land.** “Affected land” means reclaimed and unreclaimed land, land that has or will have the overburden removed, land on which stumps, spoil or other solid waste has or will be deposited and any storage area or other land area, except a natural buffer strip, that will be or has been used in connection with the borrow pit.

**2. Medium borrow pit.** “Medium borrow pit” means a borrow pit that has a total reclaimed and unreclaimed area from 5 to 30 acres and that has:

A. Except as otherwise provided, a working pit not larger than 10 acres; and

B. Natural internal drainage in all reclaimed and unreclaimed areas.

**2. Natural buffer strip.** “Natural buffer strip” means an undisturbed area or belt of land that is covered with trees or other vegetation.

**3. Private drinking water supply.** “Private drinking water supply” means a surface water supply, a dug well, or a spring or a hole drilled, driven or bored into the earth that is used to extract drinking water for human consumption that is not part of a public drinking water supply.

**4. Protected natural resource.** "Protected natural resource" has the same meaning as in section 480-B, subsection 8.

**5. Public drinking water supply.** "Public drinking water supply" has the same meaning as public water system as defined in Title 22, section 2601, subsection 8.

**6. Regulator.** "Regulator" means:

A. For medium borrow pits located within a municipality that is registered under section 490-I to enforce this article, the municipality; and

B. For all other medium borrow pits, the Department of Environmental Protection.

**7. Working pit.** "Working pit" means the unreclaimed area of a borrow pit, including side slopes. "Working pit" does not include stockpiles.

#### **§490-B. Applicability**

This article does not apply to:

**1. Site law pits.** A person in possession of a valid permit for a borrow pit under article 6 on October 1, 1993. A person in possession of a valid permit for a borrow pit under article 6 on October 1, 1993 must operate that pit in compliance with the terms and conditions of that permit;

**2. Maine Land Use Regulation Commission pits.** Borrow pits wholly within the jurisdiction of the Maine Land Use Regulation Commission; and

**3. Other mining operations.** A mining operation undertaken primarily to extract clay, silt, topsoil, consolidated minerals or peat or any mineral extraction below the normal high water line of any fresh, estuarine or marine surface waters.

A person having a medium borrow pit site law permit application pending at the department on October 1, 1993 may, at the discretion of that person, withdraw that application and file a notice of intent to comply pursuant to section 490-C. If that person does not withdraw that application, the department shall continue to process the application and that person must operate that medium borrow pit in compliance with the terms and conditions of any permit issued as a result of that application.

#### **§490-C. Notice of intent to comply**

Except as provided in section 484-A, a person intending to operate a borrow pit as a medium borrow pit under this article must file a notice of intent to comply before expanding that pit to 5 or more acres. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the

municipality, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the regulator must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation of the borrow pit.

A notice of intent to comply is not complete unless it includes all the following information:

**1. Name, address and phone number.** The name, mailing address and telephone number of the owner of the borrow pit and, if different from the owner, the operator of the borrow pit;

**2. Map and site plan.** A location map and site plan drawn to scale showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, all applicable private or public drinking water supplies and all existing or proposed solid waste disposal areas;

**3. Parcel description.** A parcel description and size, by tax map or deed description;

**4. Information on abutters.** The name and address of abutting property owners;

**5. Signed statement.** A statement, signed and dated by the owner or operator, certifying that the borrow pit will be operated in compliance with this article; and

**6. Fees.** Any fee required by section 490-J.

If the department determines that a notice filed under this section is not complete, the department must notify the owner or operator of the borrow pit no later than 45 days after receiving the notice.

#### **§490-D. Performance standards for medium borrow pits**

**1. Significant wildlife habitat.** Affected land may not be located in a significant wildlife habitat, as defined in section 480-B, or in an area listed under the Maine Natural Heritage Program under Title 5, section 13074-A. The department may not grant a variance from the provisions of this subsection.

**2. Solid waste.** Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be disposed of in accordance with section 421 and chapter 13, including any rules adopted to implement those laws. The department may not grant a variance from the provisions of this subsection.

**3. Groundwater protection.** Excavation may not occur within 5 feet of the seasonal high water table. A benchmark sufficient to verify the location of the seasonal high water table must be established and at least

one test pit or monitoring well must be established on each 5 acres of unreclaimed land. To further ensure adequate groundwater protection:

A. A 300-foot separation must be maintained between any area used to store oils and any private drinking water supply;

B. A 200-foot separation must be maintained between any excavation and any private drinking water supply in existence prior to that excavation;

C. A 1,000-foot separation must be maintained between any excavation and any public drinking water supply; and

D. Refueling operations, oil changes and other maintenance activities requiring the handling of fuels, petroleum products, hydraulic fluids, and other on-site activity involving the storage or use of products which, if spilled, may contaminate groundwater, must be conducted in accordance with the department's spill prevention, control and countermeasures plan. Petroleum products and other substances that may contaminate groundwater must be stored and handled over impervious surfaces that are designed to contain spills. The spill prevention, control and countermeasures plan must be posted at the site.

The department may not grant a variance from the provisions of paragraphs A to D.

**4. Natural buffer strip.** Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by activities related to operation of the borrow pit before submission of a notice of intent to comply, that vegetation must be reestablished as soon as practicable after filing the notice of intent to comply. The department may not grant a variance from the provisions of this subsection.

**5. Protected natural resources.** An undisturbed natural buffer strip having a width of at least 75 feet plus 4 times the average percent slope must be maintained between the affected land and any protected natural resource.

**6. Roads.** Excavation may not occur below road level within 150 feet of a road or right-of-way, except that excavation below road level may occur within 150 feet of any private road with the written permission of the owner of the road. The department may not grant a variance from the provisions of this subsection.

**7. Property boundary.** A natural buffer strip at least 150 feet wide must be maintained between any excavation and a property boundary, including a road right-of-way. This distance may be reduced to not less than 10

feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The distance between borrow pits owned by abutting owners may be reduced to not less than 50 feet with the abutter's written permission. The department may not grant a variance from the provisions of this section.

**8. Erosion and sedimentation control.** All reclaimed and unreclaimed areas, except for access roads, must be naturally internally drained at all times. Berms or other structures may not be constructed to create or maintain internal drainage.

A. The area of a working pit may not exceed 10 acres.

B. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

Except for the provisions of paragraph A, the department may not grant a variance from the provisions of this subsection. Notwithstanding any other provision of this article, a variance from paragraph A may not result in the combined working pit and stockpile area exceeding 15 acres.

**9. Surface water protection and storm water management.** Surface water discharges from areas not required to be naturally internally drained may not be increased as a result of storm water runoff from storms up to a level of intensity of a 25-year, 24-hour storm. Structures such as detention ponds, retention ponds and undersized culverts may not be used to meet this standard. Sediment may not leave the parcel or enter a protected natural resource. Grubbed areas not internally drained must be stabilized. Erosion and sedimentation control for access roads must be conducted in accordance with the best management practices for the control of erosion and sediment adopted by the department.

Grading or other construction activity on the site may not alter natural drainageways such that the drainage, other than that which occurred before development, adversely affects adjacent parcels of land, or that the drainageways flowing from adjacent parcels of land to the parcel are impeded.

**10. Stockpiles.** There may not be more than 2 acres of stockpiles within the working pit at any time. The department may grant a variance from this subsection, except that a variance may not result in the combined working pit and stockpile area exceeding 15 acres.

**11. Traffic.** Entrances and exits of the borrow pit must be located, posted and constructed in accordance with standards for commercial or industrial entrances of the Department of Transportation. Adequate sight dis-

tances for entering, exiting and stopping must be maintained in accordance with these standards. The department may not grant a variance from the provisions of this subsection.

**12. Noise.** Noise levels may not exceed applicable noise limits in rules adopted by the board. The department may not grant a variance from the provisions of this subsection.

**13. Dust.** Dust generated by activities at the borrow pit, including dust associated with traffic to and from the borrow pit, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. The department may not grant a variance from the provisions of this subsection.

**14. Reclamation.** The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation should be conducted in accordance with the department's best management practices for erosion and sediment control, and must include:

A. Regrading side slopes to a slope no steeper than 2 1/2 horizontal feet for each vertical foot;

B. Establishing a vegetative cover by seeding within one year of the completion of excavation. Vegetative cover is acceptable if, within one year of seeding:

(1) The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession, sufficient to ensure a 75% survival rate; and

(2) The planting of all materials results in permanent 90% ground coverage;

C. Removing all structures and, once no longer in productive use, reclaiming all access roads, haul roads and other support roads; and

D. Reclaiming all affected lands within 2 years after final grading.

Except for paragraph A, the department may not grant a variance from the provisions of this subsection. The department may grant a variance from paragraph A, provided that the variance will not result in a reclaimed slope steeper than 2 horizontal feet for each vertical foot. The department may not assess a fee for a request for a variance from paragraph A.

#### **§490-E. Variances**

The owner or operator of a medium borrow pit must comply with the performance standards in section 490-D unless a variance from those performance stan-

dards is approved by the department. Except where prohibited by section 490-D, the department may grant a variance from the performance standards in this article if the owner or operator affirmatively demonstrates to the department that the variance does not adversely affect natural resources or existing uses and does not adversely affect the health, safety and general welfare of the public. The department must use the applicable provisions of rules adopted under the site location of development laws to decide upon variances. A variance request must be mailed to the department by certified mail, return receipt requested. At the time a variance request is mailed to the department, a copy of the variance request must be sent to each abutting property owner and to the municipality in which the borrow pit is located. A variance request must include any fee applicable under section 490-J.

The department shall publish a timetable for responding to variance requests in the same manner prescribed in section 344-B. A variance is not valid unless approved by the department and, if a municipality is the regulator, the municipality. In making its decision on variance requests, the department shall consider comments or information received from abutters and the compliance record of the owner or operator. The department shall inform the owner or operator of the borrow pit of any significant concerns or issues raised by abutters.

#### **§490-F. Review before expansion**

Before expanding a borrow pit beyond an area that exceeds a total of 10 acres of reclaimed and unreclaimed land, and before expanding a borrow pit beyond an area that exceeds a total of 20 acres of reclaimed and unreclaimed land, the owner or operator shall notify the regulator of an intent to expand and must request an inspection. In the same manner as prescribed in section 344-B, the department shall publish a timetable for responding to inspection requests and shall inspect the site within that time period to determine the pit's compliance with this article and other applicable laws administered by the department. Mining activities at the pit may continue after the filing of a notice of an intent to expand. The failure of a regulator to conduct a site visit within a published time period is not sufficient basis for a stop-work order under section 490-H, subsection 1.

At the time of filing a notification of intent to expand, the owner or operator shall pay any fee required by section 490-J.

#### **§490-G. Inspections**

The regulator may periodically inspect a site, may examine relevant records of the owner or operator of the borrow pit and may take samples and perform tests necessary to determine compliance with the provisions of this article.



**§490-H. Enforcement and penalties**

Except as provided in section 490-I, the department shall administer and enforce the provisions of this article.

**1. Stop-work order.** The regulator may order the owner or operator of any medium pit that is not operating in compliance with this article to cease operations until the noncompliance is corrected or until the owner or operator of that pit obtains a permit under article 6.

**2. Penalty.** A person who violates the provisions of this article commits a civil violation and is subject to the penalties established under section 349. Penalties assessed for enforcement actions taken by the State are payable to the State and penalties assessed for enforcement actions taken by a municipality registered under section 490-I are payable to that municipality. For any action brought by a municipality under this article in which the municipality prevails, the court may require the owner or operator to reimburse the municipality for costs associated with that enforcement action.

**§490-I. Municipal enforcement; registration**

This section allows a municipality to register for authority to enforce this article by adopting and submitting to the commissioner an ordinance that meets or exceeds the provisions of this article. The commissioner shall review that ordinance to determine if that ordinance meets the provisions of this article and if the municipality has adequate resources to enforce the provisions of this article. If the commissioner determines that the ordinance meets the provisions of this article and that the municipality has the resources to enforce this article, the commissioner shall register that municipality for authority to enforce this article. Immediately upon approval by the commissioner, primary enforcement authority for this article vests in that municipality. The commissioner may not approve an ordinance under this section unless the ordinance requires that any request for a variance from the standards in the article be approved by the commissioner before that variance is valid.

**1. Relation to home rule.** Nothing in this section may be construed to limit a municipality's authority under home rule to adopt ordinances regulating borrow pits.

**2. Optional participation.** Nothing in this article may be construed to require a municipality to adopt any ordinance.

**3. Suspension of approval.** The commissioner may act to enforce any provision of this article or suspend the registration of a municipality if the commissioner determines that a municipal ordinance no longer conforms to the provisions of this article or that the municipality is not adequately enforcing this article. The commissioner

shall notify a municipality of any such determination in writing. Suspension of municipal registration by the commissioner does not void or in any way affect a municipal ordinance or in any way limit the municipality's authority to enforce the provisions of its ordinance.

**4. Appeal.** A municipality may appeal to the board any decision of the commissioner under this section. Any decision by the board on appeal by a municipality constitutes final agency action.

**§490-J. Fees**

The owner or operator of a medium borrow pit operating under this article must pay the regulator:

**1. Initial fee.** A fee of \$250 upon filing a notice of intent to comply under section 484-A or 490-C;

**2. Annual fee.** By March 1st of each year, an annual fee of:

A. Two hundred dollars for borrow pits that will have 2,500 cubic yards or more of material extracted during that year; and

B. Fifty dollars, for all other borrow pits. To be eligible for the annual fee under this paragraph, the owner or operator must include with the payment of this fee a signed statement certifying that the fewer than 2,500 cubic yards of material will be extracted during that year;

**3. Variance fee.** A fee of \$250 for each variance requested under section 490-E; and

**4. Notice of intent to expand.** A fee of \$250 upon filing a notice of intent to expand under section 490-F.

Notwithstanding any other provision of this section, the total for all fees paid under subsections 1 and 2 for one borrow pit in one calendar year may not exceed \$250.

**Sec. 6. Working group.** The department shall convene a working group to review the site law permitting process for borrow pits larger than 30 acres. The working group must include, but is not limited to, borrow pit operators, representatives of environmental groups and municipal officials. The working group shall report to the Joint Standing Committee on Energy and Natural Resources by January 15, 1994 with recommendations for minimum standards for borrow pits having fewer than 5 acres and recommendations for amending the site law permitting process in a manner that reduces the cost of obtaining a permit, reduces the time required to obtain the permit and enhances the consistency of the permitting process while ensuring adequate protection of the environment and protected natural resources.

**Sec. 7. Report.** The Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters by January 15th of 1994, 1995, 1996 and 1997 on the implementation of this Act. Each report must show total fees received by the department during the previous calendar year from borrow pit operators who filed a notice under this Act, expenditures of the department in the previous calendar year to administer and enforce this Act, a summary of actions taken by the State to enforce this Act, a list of the municipalities that choose to assume sole jurisdiction for borrow pit regulation under the provisions of this Act and any other information useful in assessing the implementation of this Act.

**Sec. 8. Use of funds.** All fees paid to the Department of Environmental Protection pursuant to the Maine Revised Statutes, Title 38, section 490-J must be retained and used by the department to carry out the purposes of this Act.

**Sec. 9. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Land Quality Control</b>		
Positions	(3.0)	(3.0)
Personal Services	\$79,235	\$107,182
All Other	11,250	15,000
Provides for the allocation of funds to authorize one Environmental Specialist IV position, 2 additional Environmental Specialist II positions and general operating costs to administer the regulation of certain borrow pits.		
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL</b>	<b>\$90,485</b>	<b>\$122,182</b>

See title page for effective date.

## CHAPTER 351

### H.P. 574 - L.D. 779

#### An Act to Implement the Constitutional Requirement for State Funding of Mandates Imposed on Local Units of Government

**Mandate implementation preamble.** Whereas, this measure constitutes legislation implementing the Con-

stitution of Maine, Article IX, Section 21 and requires the vote of two thirds of all of the members elected to each House for approval; and

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

**Whereas,** Article IX, Section 21 of the Constitution of Maine, which was approved by the voters effective November 23, 1992, prohibits the imposition of mandates on local units of government unless 90% of the costs of those mandates are funded by the State or unless the mandates are approved by a 2/3 vote in each House of the Legislature; and

**Whereas,** implementing legislation is immediately necessary to carry out the intent of the constitutional amendment; 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. 30-A MRSA §5685** is enacted to read:

#### §5685. Funding for required activities

**1. Definitions.** As used in this section and in the Constitution of Maine, Article IX, Section 21, unless the context otherwise indicates, the following terms have the following meanings.

A. "Local revenues" means revenues generated by local units of government, including property taxes, other locally levied taxes and user fees and other revenues, such as excise taxes collected and retained by local units of government pursuant to statutory authority.

B. "Local unit of government" or "local unit" means a municipality, as defined in this Title; a plantation, as governed by chapter 301; a county; a school administrative unit, as defined in Title 20-A, section 1; or a governmental entity that is:

- (1) Created or authorized by special act of the Legislature or authorized to be created by a general purpose unit of government under a general act of the Legislature;
- (2) Established to provide public services;
- (3) Funded by local revenues;