

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

See title page for effective date.

CHAPTER 180

H.P. 1179 - L.D. 1644

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

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

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

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

Sec. 2. 38 MRSA §341-C, sub-§8, as amended by PL 2011, c. 357, §3, is repealed and the following enacted in its place:

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

A. A board member may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the board member receives, or during the previous 2 years has received, a significant portion of income directly or indirectly from license or permit holders or applicants for a license or permit under the National Pollutant Discharge Elimination System. Board members whose participation

is restricted under this paragraph shall recuse themselves and may not participate in any National Pollutant Discharge Elimination System matter as long as the restriction applies. The recusal must be from all National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency.

B. A board member may not participate in the review of or act on any permitting decision or enforcement order under the federal Clean Air Act, 42 United States Code, Section 7401, et seq. if the board member receives or derives a significant portion of that board member's income from persons subject to permits or enforcement orders under the federal Clean Air Act. Board members whose participation is restricted under this paragraph shall recuse themselves from all permitting and enforcement matters under the federal Clean Air Act. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency.

See title page for effective date.

CHAPTER 181

H.P. 955 - L.D. 1320

An Act To Require the Department of Environmental Protection To Provide Natural Resources Protection Act Permits to Affected Municipalities

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

Sec. 1. 38 MRSA §480-E, sub-§13 is enacted to read:

13. Information sharing with affected municipality. When the department issues or denies a permit or approves or denies a permit by rule under this article, the department shall provide a copy of the permitting decision or other authorization or denial to each municipality in which the proposed activity is to occur. The department may provide the information required under this subsection electronically.