



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1324

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H.P. 948

House of Representatives, April 3, 2013

### **An Act To Protect Local Communities When a Mining Project Is Terminated**

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Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative KRUGER of Thomaston.  
Cosponsored by Representatives: CHAPMAN of Brooksville, EVANGELOS of Friendship,  
MITCHELL of the Penobscot Nation, STUCKEY of Portland, Senator: LANGLEY of  
Hancock.

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

2 **Sec. 1. 36 MRSA §2861, sub-§6**, as enacted by PL 1991, c. 883, §4 and amended  
3 by PL 2011, c. 682, §38, is further amended to read:

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

11 **Sec. 2. 36 MRSA §2866**, as enacted by PL 1991, c. 883, §8 and amended by PL  
12 2011, c. 682, §38, is further amended to read:

13 **§2866. Mining Oversight Fund**

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

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

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

22 **4. Uses of fund.** Money from the fund may be used ~~only~~ to fund corrective action as  
23 defined in the mining rules adopted by the Department of Environmental Protection and  
24 the Maine Land Use Planning Commission and oversight of mining activity as provided  
25 in the mining rules adopted by the Department of Environmental Protection under the  
26 Maine Metallic Mineral Mining Act. Corrective action includes, but is not limited to,  
27 remedial action related to:

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

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

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

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

14           **Sec. 3. 38 MRSA §352, sub-§4-A,** as enacted by PL 1989, c. 874, §2, is repealed  
15 and the following enacted in its place:

16           **4-A. Fees for metallic mineral mining.** Metallic mineral mining permit  
17 applications under chapter 3, subchapter 1, article 9 are subject to the following fees.  
18 Fees under this subsection must be deposited in the Mining Oversight Fund under Title  
19 36, section 2061.

20           A. The initial processing fee is \$500,000.

21           B. Preapplication and processing fees are special fees subject to subsection 3. The  
22 maximum fee for processing an application must be discussed by the department and  
23 the applicant during preapplication meetings. If the applicant does not agree to the  
24 maximum fee as determined by the commissioner, the refund provisions of paragraph  
25 F apply.

26           C. The costs associated with the department's preparation for and attendance at any  
27 application proceeding held by the board, including the costs associated with  
28 assistance to the board, must be paid by the applicant.

29           D. The costs associated with the department's assistance to the board on an appeal by  
30 the applicant before the board must be paid by the applicant and may be separately  
31 charged to the applicant by the department. The costs associated with the  
32 department's assistance to the board on an appeal by a person other than the applicant  
33 before the board may not be charged to the applicant.

34           E. The annual license fee must be at least \$20,000 and may not exceed \$50,000 and  
35 must be set by the department prior to the issuance of the permit.

36           F. If at any time the application is withdrawn by the applicant, the department shall  
37 calculate the portion of the processing fee that was expended or committed by the  
38 department or the department's agents or contractors for processing the application  
39 prior to the withdrawal and the remainder of the processing fee not expended or  
40 committed must be refunded to the applicant.

41           **Sec. 4. PL 2011, c. 653, §§4, 5, 6, 9, 11, 28 and 32** are repealed.

1           **Sec. 5. Effective date.** This Act takes effect June 1, 2014, except that section 4 of  
2 this Act takes effect 90 days after the adjournment of the First Regular Session of the  
3 126th Legislature.

4   **SUMMARY**

5           This bill returns to the Mining Oversight Fund the purposes of corrective action that  
6 were removed in amendments to the laws governing the fund, which was originally called  
7 the Mining Corrective Action Fund, that take effect in 2014, to assist municipalities  
8 remediating environmental problems that occur at mine sites following termination of  
9 mining operations.