



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 685

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H.P. 476

House of Representatives, February 28, 2017

### **An Act To Establish the Mining Advisory Panel**

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

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative CHAPMAN of Brooksville.

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

2               **Sec. 1. 5 MRSA §12004-I, sub-§24-G** is enacted to read:

3               **24-G.**

4               Environment:        Mining Advisory        Legislative Per        38 MRSA §490-UU  
5               Natural Resources Panel                Diem and Expenses

6       This subsection is repealed January 1, 2020.

7               **Sec. 2. 38 MRSA §490-UU** is enacted to read:

8               **§490-UU. Mining Advisory Panel**

9               **1. Establishment and purpose.** The Mining Advisory Panel, referred to in this  
10       section as "the panel," established by Title 5, section 12004-I, subsection 24-G, is created  
11       for the purpose of designing and submitting to the Legislature recommendations  
12       regarding the establishment of a statutory and regulatory framework for metallic mineral  
13       mining in the State.

14              **2. Membership.** The panel consists of between 3 and 7 members as provided in this  
15       subsection.

16              A. Two members of the panel must be individuals with expertise in the mining of  
17       volcanogenic massive sulfide deposits, one appointed by the President of the Senate  
18       and one appointed by the Speaker of the House of Representatives.

19              B. The members appointed under paragraph A shall appoint the 3rd member of the  
20       panel, who must also have expertise in the mining of volcanogenic massive sulfide  
21       deposits.

22              C. The members appointed under paragraphs A and B shall jointly, by unanimous  
23       consent, appoint up to 4 additional members of the panel, at least one of whom must  
24       have expertise in the mining of volcanogenic massive sulfide deposits.

25              D. If the members appointed to the panel under paragraph A are unable to agree on  
26       the appointment of a 3rd member as provided in paragraph B, they shall  
27       communicate their disagreement to the President of the Senate and the Speaker of the  
28       House of Representatives, who shall rescind the appointments made under paragraph  
29       A and shall each make a new appointment to the panel consistent with paragraph A.

30              **3. Chairs.** The members of the panel appointed under subsection 2, paragraph A are  
31       the cochairs of the panel.

32              **4. Staff assistance.** Within the limits of its budget, the panel is authorized to  
33       contract with and employ staff members to assist the panel in carrying out its duties.

34              **5. Quorum.** For purposes of holding a meeting, a quorum is a simple majority of all  
35       members appointed to the panel in accordance with subsection 2. A quorum must be  
36       present to start a meeting or to vote but not to continue or adjourn a meeting.

1       **6. Terms; vacancies.** Members of the panel serve for a term of 2 years and may be  
2       reappointed. A vacancy must be filled in the same manner as the original appointment.  
3       Members may continue to serve until their replacements are appointed. A member may  
4       designate an alternate to serve on a temporary basis.

5       **7. Consultation.** Whenever the panel considers it appropriate, the panel may seek  
6       the advice of experts in fields related to its duties.

7       **8. Powers and duties.** The panel:

8       A. Shall meet at least 4 times annually;

9       B. Shall review, study and analyze the State's current and historical statutory and  
10       regulatory frameworks for metallic mineral mining as well as those in place in other  
11       jurisdictions, including the mining laws and regulations adopted by other nations;

12       C. May hold public hearings or other public meetings to receive testimony and  
13       recommendations from members of the public, state agencies and qualified experts  
14       on matters related to metallic mineral mining; and

15       D. Shall design a statutory and regulatory framework for metallic mineral mining in  
16       the State that contains all standards necessary to protect the public health and safety  
17       and the environment, including, but not limited to, standards regulating effects on  
18       groundwater quality, control of noise, preservation of historic sites, preservation of  
19       unusual natural areas, effects on scenic character and protection of wildlife and  
20       fisheries. The statutory and regulatory framework for metallic mineral mining  
21       designed by the panel must, at a minimum:

22               (1) Comply with all applicable federal environmental laws and standards,  
23               including, but not limited to, the federal Clean Air Act of 1963 and the federal  
24               Clean Water Act of 1977;

25               (2) Require that all mining areas be left in or returned to a geologically stable  
26               condition following remediation and closure;

27               (3) Require a permittee to provide a specific plan for ensuring that all mining  
28               areas will be left in or returned to a geologically stable condition following  
29               remediation and closure;

30               (4) Require a permittee to demonstrate that the environmental quality and  
31               security of a mining site will be protected through the use of proven technologies  
32               and best available practices and require use of these technologies and practices as  
33               a permit condition;

34               (5) Require that all remediation costs related to a mining area be paid by a  
35               permittee and not by the State;

36               (6) Require that the financial assurance method approved for and financial  
37               assurance amount required for a permittee be determined by an independent 3rd-  
38               party expert with a background in mining;

39               (7) Prohibit mining operations using in situ leaching, heap leaching and block  
40               caving;

(8) Prohibit the granting of a permit to an applicant if the applicant or an affiliate, subsidiary or parent corporation of the applicant has ever been listed in the World Bank Listing of Ineligible Firms & Individuals or successor listing, has ever abandoned any mining site resulting in nonremediable or unremediated environmental or economic damages or has ever engaged in any ocean dumping of mining tailings regardless of the legality of such dumping; and

(9) Implement a framework for permitting a mining activity that includes several well-defined decision points, both prior to the commencement of and during the conduct of mining activities, allows for and requires additional review of the permit and mining plan by the regulatory agency, with the agency retaining the authority to require the amendment of permit conditions or the immediate cessation of previously permitted mining activities.

For the purposes of this subsection, "geologically stable" means impervious for a period of at least 1,000 years to physical, chemical or biological weathering processes that could otherwise form a toxic metal transport mechanism that can result in off-site contamination.

**9. Accounting; outside funding.** All funds appropriated, allocated or otherwise provided to the panel must be deposited in a legislative account separate from all other funds of the Legislature and are nonlapsing. Funds in the account may be used only for the purposes of the panel. The panel may seek and accept outside funding, and any outside funds accepted must be forwarded to the Executive Director of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director shall administer all funds received in accordance with this subsection. At the beginning of each fiscal year, and at any other time at the request of the cochairs of the panel, the executive director shall provide to the panel an accounting of all funds available to the panel, including funds available for staff support.

**10. Repeal.** This section is repealed January 1, 2020.

**Sec. 3. Mining Advisory Panel; report.** By December 31, 2019, the Mining Advisory Panel, established in the Maine Revised Statutes, Title 38, section 490-UU, shall submit to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters a report and recommendations, including draft legislation, regarding the establishment of a statutory and regulatory framework for metallic mineral mining in the State.

## SUMMARY

This bill establishes the Mining Advisory Panel, the purpose of which is to design and submit to the Legislature recommendations regarding the establishment of a statutory and regulatory framework for metallic mineral mining in the State. The panel consists of between 3 and 7 members, some of whom must have expertise in the mining of volcanogenic massive sulfide deposits. On or before December 31, 2019, the panel must submit a report to the joint standing committee of the Legislature having jurisdiction over

1 environmental and natural resources matters containing its findings and  
2 recommendations, including draft legislation, regarding the establishment of a statutory  
3 and regulatory framework for metallic mineral mining. The Mining Advisory Panel is  
4 eliminated January 1, 2020.