

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(New Draft of I.B. 1, L.D. 615)
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document No. 1649

H.P. 1141 House of Representatives, June 10, 1985

The Majority of the Committee on Energy and Natural Resources reporting a New Draft of I.B. 1, L.D. 615 and 2,200 ordered printed pursuant to Joint Rule 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FIVE

AN ACT to Establish a State Policy Relating
to the Disposal of Low-level
Radioactive Waste.

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

Sec. 1. 38 MRSA c. 14-A, sub-c. IV is enacted to read:

SUBCHAPTER IV

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

§1481. Title

This subchapter shall be known and may be cited as the "Low-level Radioactive Waste Disposal Act."

§1482. Purpose

1 The purpose of this Act is to establish a state
2 policy with respect to the disposal of low-level ra-
3 dioactive waste.

4 §1483. Findings on low-level radioactive waste

5 The Legislature finds the following facts with
6 respect to low-level radioactive waste in the State.

7 1. Quantity of waste. Approximately 12,000 cu-
8 bic feet of low-level radioactive waste are generated
9 within the State each year.

10 2. Generators. The principal generator of the
11 waste is the Maine Yankee Atomic Power Station lo-
12 cated at Wiscasset, with over 90% of the total pro-
13 duction. The remainder is produced by biomedical re-
14 search and other institutional facilities and the
15 Portsmouth-Kittery Naval Shipyard.

16 3. Licenses. All of the generators described in
17 subsection 2 may possess some low-level radioactive
18 waste under their current United States Nuclear Regu-
19 latory Commission licenses.

20 4. Waste is a by-product. Low-level radioactive
21 waste is an inevitable by-product of the operation of
22 energy production, research and commercial facilities
23 at the current state of the art of the technologies
24 employed.

25 5. Maine generates small quantities. All
26 sources of the low-level radioactive waste in the
27 State combined generate less than 2% of total New
28 England waste and 1/2 of 1% of all United States
29 waste in each year.

30 6. Responsibility under federal law. The Feder-
31 al Government, through enactment of the United States
32 Low-level Radioactive Waste Policy Act of 1980, Pub-
33 lic Law 96-573, has delegated to each state the re-
34 sponsibility for providing for the capacity for the
35 disposal of low-level radioactive waste generated
36 within the State and has authorized the states to en-
37 ter into regional compacts for that purpose.

1 7. Curtailment of existing disposal capacity.
2 The 3 states that currently accept low-level radioac-
3 tive waste for disposal are expected to curtail sub-
4 stantially or entirely the amounts they will accept
5 by January 1, 1986.

6 8. Public health and safety. Improper disposal
7 of low-level radioactive waste may result in physical
8 harm to human and other forms of life. The regula-
9 tion of the disposal of the waste is a proper exer-
10 cise of the police power of the State.

11 §1484. State low-level radioactive waste policy

12 It is the policy of this State to require the
13 permanent disposal of low-level radioactive waste
14 generated within the State and for which this State
15 must provide disposal capacity in facilities which
16 will isolate that radioactive waste from the
17 biosphere inhabited by people and their food chains.

18 In order to implement this policy, a suitable in-
19 stitutional framework is necessary. It is the policy
20 of the State to pursue the following alternatives,
21 expressed in order of preference.

22 1. Interstate compact. The relatively small
23 volume of waste generated within the State and the
24 provisions of federal law justify entrance into a re-
25 gional compact with other states on equitable terms
26 as the first preference of the State for low-level
27 radioactive waste disposal. If the terms of a com-
28 compact require this State to host any waste facility,
29 that facility must be approved by the voters in a
30 statewide election.

31 2. Agreement for disposal elsewhere. If an in-
32 terstate compact is not feasible on satisfactory
33 terms, it is the 2nd preference of the State to enter
34 into an agreement with governmental or private agen-
35 cies outside the State which are willing and able to
36 accept Maine's low-level radioactive waste for dis-
37 posal.

38 3. State facility. If no such compact or agree-
39 ment is feasible on satisfactory terms, it is the 3rd
40 preference of the State to establish a state-ownec

1 and state-controlled low-level radioactive waste dis-
2 posal facility at one suitable state-owned site in
3 this State to dispose of only the low-level radioac-
4 tive waste generated in this State for which this
5 State must provide disposal capacity. Any such fa-
6 ility must be recommended by the Board of Environ-
7 mental Protection and approved by the Legislature as
8 required by subchapter III. It must also be approved
9 by the United States Nuclear Regulatory Commission
10 under federal law.

11 A. It is determined that, subject to detailed
12 site review and regulatory approval as required
13 by law, the most appropriate disposal site in
14 this State is within the area presently owned by
15 the Maine Yankee Atomic Power Station located in
16 Wiscasset. The reasons are that site's nearness
17 to the major waste generator, nearness to a work
18 force trained in radiological hazards, nearness
19 to existing waste storage capacity and its estab-
20 lished acceptability by the United States Nuclear
21 Regulatory Commission for certain nuclear and
22 radiological activities. Ratification of this
23 Act in referendum shall constitute voter approval
24 of the Maine Yankee Atomic Power Station site for
25 a state facility for the disposal of waste gener-
26 ated within the State for which this State is re-
27 sponsible.

28 B. If the Maine Yankee Atomic Power Station site
29 is found to be unacceptable or unavailable, the
30 site for a state facility shall be located else-
31 where in the State, but only after approval by
32 the voters in a referendum ratifying the Act of
33 the Legislature approving that site in accordance
34 with this subchapter.

35 4. Defense waste. It is the policy of the State
36 to recommend to the Congress of the United States and
37 the President of the United States that the Federal
38 Government assume all responsibility for the safe and
39 timely disposal of low-level radioactive waste gener-
40 ated by the defense activities of the Federal Govern-
41 ment and not to depend upon the states to develop or
42 implement policies with respect to that waste. The
43 Federal Government has a number of operating
44 low-level radioactive waste disposal facilities.

1 5. Disposal method. It is the policy of this
2 State that the safest available technology shall be
3 used for any low-level radioactive waste disposal fa-
4 ci-ty in the State. The facts as we know them to-
5 day, including the humid climate, high water table
6 and other geological characteristics of the State,
7 suggest that conventional shallow land burial will
8 not be adequate in this State. Improved engineered
9 disposal methods are needed.

10 §1485. State ownership required

11 Any facilities for the disposal of low-level ra-
12 dioactive waste located within this State and the
13 land required for the operation of those facilities
14 shall be owned by the State and operated by the State
15 or an organization selected by and under the direct
16 supervision of the State. The Governor may accept on
17 behalf of the State such property interests as may be
18 necessary to carry out the purposes of this Act upon
19 terms agreeable to the parties.

20 §1486. Ratification of compacts

21 1. General provisions. Any compact or agreement
22 with other states or the Federal Government with re-
23 spect to the siting, licensing, operation and use of
24 low-level waste disposal facilities within and out-
25 side this State shall be negotiated by the Governor
26 on behalf of this State and ratified by an Act of the
27 Legislature in accordance with section 1474.

28 2. Referendum not required. Voter approval
29 shall not be required to ratify any interstate com-
30 pact or any agreement with any person, state, group
31 of states, whether or not party to an interstate com-
32 pact or the Federal Government concerning the dispos-
33 al of low-level radioactive waste.

34 §1487. Voter approval of disposal facilities

35 Except for a disposal facility located within the
36 area owned by the Maine Yankee Atomic Power Station
37 in Wiscasset on the effective date of this Act, to be
38 owned by the State and used exclusively for waste
39 generated in the State, no low-level radioactive
40 waste disposal facility may be established within the

1 State unless the establishment of that facility has
2 been approved by a majority of the voters voting
3 thereon in a statewide election. That election shall
4 be held in the manner prescribed by law for holding a
5 statewide election. The voters shall be asked to
6 vote on the acceptance or rejection of construction
7 and operation by voting on the following question:

8 "Do you approve construction and operation
9 of a low-level radioactive waste disposal facili-
10 ty as approved by the Maine Legislature as pro-
11 posed for (insert location)?"

12 This question shall be submitted to the legal
13 voters of the State at the next following statewide
14 election after review and issuance of an order recom-
15 ending permission for construction and operation of
16 the facility by the Board of Environmental Protection
17 pursuant to section 1478 and approval by the Legisla-
18 ture of the establishment of the facility in accord-
19 ance with section 1479, provided that no construction
20 or operation of any facility may commence prior to
21 the election.

22 The legal voters of each city, town and
23 plantation shall vote by ballot on this question and
24 shall designate their choice by a cross or check mark
25 placed within a corresponding square below the words
26 "Yes" or "No." The ballots shall be received,
27 sorted, counted and declared in open ward, town and
28 plantation meetings and returns made to the Secretary
29 of State in the same manner as votes for members of
30 the Legislature. The Governor shall review the re-
31 turns and, if it appears that a majority of the legal
32 voters are in favor of construction and operation,
33 the Governor shall proclaim that fact without delay.

34 The Secretary of State shall prepare and furnish
35 to each city, town and plantation all ballots, re-
36 turns and copies of this subchapter necessary to car-
37 ry out the purpose of this referendum.

38 Sec. 2. Intent of the Legislature; competing
39 measure. It is the intent of the Legislature that
40 this Act be interpreted as a competing measure within
41 the meaning of the Constitution of Maine, Article IV,
42 Part Third, Section 18, with Initiated Bill 1, Legis-

1 lative Document 615 of the 112th Legislature, "AN ACT
2 to Require Voter Approval of the Disposal of
3 Low-level Radioactive Waste." It is the further in-
4 tent of the Legislature that this measure be subject
5 to referendum as a competing measure with that bill.

6 **Sec. 3. Statutory referendum procedure; submis-**
7 **sion at statewide election; form of question; effec-**
8 **tive date.** This Act shall be submitted to the legal
9 voters of the State of Maine at a statewide election
10 to be held on the Tuesday following the first Monday
11 of November following passage of this Act as a com-
12 peting measure with Initiated Bill 1, Legislative
13 Document 615 of the 112th Legislature, "AN ACT to Re-
14 quire Voter Approval of the Disposal of Low-level Ra-
15 dioactive Waste." The city aldermen, town selectmen
16 and plantation assessors of this State shall notify
17 the inhabitants of their respective cities, towns and
18 plantations to meet, in the manner prescribed by law
19 for holding a statewide election, to vote on the ac-
20 ceptance or rejection of this Act by voting on the
21 following question:

22 "Do you want to vote on any Maine site for
23 disposal of low-level radioactive waste if it is
24 not disposed of safely outside of Maine or at the
25 Maine Yankee site?"

26 The legal voters of each city, town and plantation
27 shall vote by ballot on this question, and shall des-
28 ignate their choice by a cross or check mark placed
29 within a corresponding square below the word "Yes" or
30 "No." The ballots shall be received, sorted, counted
31 and declared in open ward, town and plantation meet-
32 ings and returns made to the Secretary of State in
33 the same manner as votes for members of the Legisla-
34 ture. The Governor shall review the returns and, if
35 it appears that a majority of the legal voters are in
36 favor of the Act, the Governor shall proclaim that
37 fact without delay, and the Act shall become immedi-
38 ately.

39 The Secretary of State shall prepare and furnish to
40 each city, town and plantation all ballots, returns
41 and copies of this Act necessary to carry out the
42 purpose of this referendum.

1 STATEMENT OF FACT

2 The purpose of this new draft is to establish a
3 competing measure to the initiated bill, Legislative
4 Document 615, "AN ACT to Require Voter Approval of
5 the Disposal of Low-level Radioactive Waste" to be
6 submitted to the voters at a statewide referendum.
7 The initiated bill requires voter approval of the
8 construction or operation of any low-level radioac-
9 tive waste disposal system located in Maine. It also
10 requires approval by the voters of any compact or
11 agreement entered into by the State for disposal of
12 its low-level radioactive waste, whether or not a fa-
13 cility would be required to be located in Maine.

14 The new draft establishes a state policy on al-
15 ternative methods of disposal of low-level radioac-
16 tive waste generated in Maine. The most desirable
17 alternative is to enter a regional compact with other
18 states on equitable terms. The 2nd best option is
19 to enter an agreement with governmental or private
20 agencies for disposal outside of the State. The 3rd
21 alternative is to establish a state-owned and
22 state-controlled disposal facility in Maine. Because
23 of its nearness to the major generator, nearness to a
24 trained work force, nearness to existing waste stor-
25 age capacity and acceptability by the United States
26 Nuclear Regulatory Commission for certain nuclear and
27 radiological activities, the Maine Yankee Atomic Pow-
28 er Station site is determined to be the most appropri-
29 ate location for that state-owned facility.

30 The basic premise of the policy established in
31 the new draft is that establishment of a low-level
32 radioactive waste disposal facility in Maine requires
33 voter approval. Entering into an interstate compact
34 by Maine would not need voter approval, but location
35 of a site in Maine under that compact would. Negoti-
36 ation of an agreement for disposal outside the State
37 under alternative 2 would not require voter approval.
38 If a low-level radioactive waste disposal facility is
39 located at the Maine Yankee Atomic Power Station
40 site, no additional voter approval is necessary.
41 Ratification of this new draft as a competing measure
42 at referendum would constitute voter approval of the
43 Maine Yankee Atomic Power Station site, no additional
44 voter approval is necessary. If that site is found

1 to be inappropriate or unavailable and a facility is
2 to be located anywhere else in Maine, another site
3 would be subject to voter approval.

4 The voter approval required by this new draft,
5 and the initiated bill, is in addition to existing
6 safeguards in current law. The location of any dis-
7 posal facility in Maine currently requires approval
8 by the Board of Environmental Protection, the Legis-
9 lature and the United States Nuclear Regulatory Com-
10 mission. An interstate compact must be negotiated by
11 the Governor on behalf of the State and approved by
12 the Legislature.

13 The new draft also establishes state policy con-
14 cerning defense generated waste and the method of
15 disposal in Maine. It recommends that the Federal
16 Government assume responsibility for disposal of
17 waste generated by defense activities.

18 The policy of the State is that the safest avail-
19 able technology be used for any disposal facility lo-
20 cated in Maine. Specifically, improved engineered
21 facilities are necessary in Maine rather than conven-
22 tional shallow land burial.

23

4108060485