

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 229

H.P. 181

House of Representatives, January 24, 1995

An Act to Abolish the Maine Waste Management Agency.

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WHITCOMB of Waldo.
Cosponsored by Representatives: DEXTER of Kingfield, GOULD of Greenville, LIBBY of
Kennebunk, PERKINS of Penobscot, Senator: LORD of York.

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

Sec. 1. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director of the Bureau of Parks and Recreation;

Director of Public Lands;

Director of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

Director, Bureau of Administration; and

~~Director, Office of Planning;~~

~~Director, Office of Waste Reduction and Recycling;~~

~~Director, Office of Siting and Disposal Operations; and~~

Executive Director, Board of Environmental Protection.

Sec. 2. 3 MRSA §927, sub-§9, ¶B, as repealed and replaced by PL 1991, c. 376, §11, is amended to read:

B. Independent agencies:

(1) Maine Conservation School;

(2) Office of State Historian;

(3) Maine Arts Commission;

(4) Maine State Museum Commission;

(5) Maine Historic Preservation Commission;

(6) Maine Health Care Finance Commission;

(7) Board of Occupational Therapy Practice;

- 2 (8) Board of Respiratory Care Practitioners;
4 (9) Radiologic Technology Board of Examiners;
6 (10) Maine Library Commission; and
8 ~~(11) --Maine Waste Management Agency, and~~
10 (12) Maine Court Facilities Authority.

12 **Sec. 3. 5 MRSA §931, sub-§1, ¶K**, as amended by PL 1993, c.
14 349, §6, is further amended to read:

16 K. All major policy-influencing positions listed in
sections 932 to ~~953-A~~ 952;

18 **Sec. 4. 5 MRSA §953-A**, as enacted by PL 1989, c. 585, Pt. A,
20 §4, is repealed.

22 **Sec. 5. 5 MRSA §12004-D, sub-§4**, as enacted by PL 1989, c.
585, Pt. A, §5, is repealed.

24 **Sec. 6. 5 MRSA §12004-I, sub-§22**, as repealed and replaced by
26 PL 1989, c. 585, Pt. A, §6, is repealed.

28 **Sec. 7. 32 MRSA §1866-A, sub-§2**, as amended by PL 1991, c.
819, §11, is further amended to read:

30 **2. Unclaimed deposits.** Except for initiators of deposit
32 under section 1863-A, subsection 1, each deposit initiator shall
pay to the Treasurer of State on or before the 20th day of March,
34 June, September and December an amount equal to 50% of the
unclaimed minimum deposits held by the deposit initiator. The
36 remaining unclaimed minimum deposits, any other unclaimed
deposits and any income earned on deposits become the property of
38 the distributor on the day payment is made to the Treasurer of
State. Deposit initiators under section 1863-A, subsection 1
40 shall retain all unclaimed deposits. Funds received by the
Treasurer of State under this subsection become the property of
42 the State and must be deposited in the ~~Maine--Solid--Waste
Management General Fund established in Title 38, section 2201.~~

44 **Sec. 8. 32 MRSA §1866-A, sub-§3**, as enacted by PL 1991, c.
46 591, Pt. R, §4 and affected by §18, is amended to read:

48 **3. Over-redemption of beverage container deposits.** When a
deposit initiator pays out more in refund values than it collects
50 in deposits during the course of a calendar year, the deposit
initiator may apply to the Treasurer of State for a reimbursement

2 from the ~~Maine-Solid-Waste-Management~~ General Fund equal to the
3 amount of over-redeemed minimum deposits. The Treasurer of State
4 shall reimburse documented claims of over-redeemed minimum
5 deposits.

6 **Sec. 9. 36 MRSA §4833, last ¶**, as amended by PL 1989, c. 927,
7 §5, is further amended to read:

8
9 The revenue derived from the fee imposed by this chapter
10 must be deposited in the ~~Maine-Solid-Waste-Management~~ General
11 Fund ~~established under Title 38, chapter 24, which must reimburse~~
12 ~~the General Fund for the administrative costs of the fee as~~
13 ~~certified by the Bureau of Taxation.~~

14
15 **Sec. 10. 38 MRSA §343-D, sub-§1**, as amended by PL 1993, c.
16 500, §2 and affected by §5, is further amended to read:

17 **1. Appointment; composition.** The committee consists of 16
18 voting members.

19
20 A. The Governor shall appoint 2 representatives from the
21 business community, 2 elected or appointed municipal
22 officials who are not owners or representatives of owners of
23 small business stationary sources, and 2 representatives of
24 organized labor.

25
26 B. The President of the Senate shall appoint one member
27 from a public health organization, one member from an
28 environmental organization and one public member who is an
29 owner or represents an owner of a small business stationary
30 source.

31
32 C. The Speaker of the House of Representatives shall
33 appoint one member from a public health organization, one
34 member from an environmental organization and one public
35 member who is an owner or represents an owner of a small
36 business stationary source.

37
38 D. The commissioner shall appoint a designee to represent
39 the department.

40
41 E. The Senate Minority Leader and the House Minority Leader
42 shall each appoint one member who is an owner or represents
43 an owner of a small business stationary source.

44
45 F. The Director of the Bureau of Air Quality Control shall
46 appoint a designee to represent the bureau.

47
48 The Commissioner of Labor, and the Director of the Maine
49 Emergency Management Agency ~~and the Executive Director of the~~

2 ~~Maine Waste Management Agency~~ serve as ex officio members and do
not vote on committee matters.

4 As used in this subsection, unless the context otherwise
6 indicates, a "small business stationary source" means a source
that meets the eligibility requirements of 42 United States Code
Annotated, Section 7661f.

8
10 **Sec. 11. 38 MRSA §1302, 5th ¶**, as repealed and replaced by PL
1989, c. 585, Pt. E, §2, is repealed.

12 **Sec. 12. 38 MRSA §1303-C, sub-§1**, as enacted by PL 1989, c.
14 585, Pt. E, §4, is amended to read:

16 **1. Agency.** "Agency" means the ~~Maine--Waste--Management~~
Agency Commissioner of Environmental Protection.

18 **Sec. 13. 38 MRSA §1303-C, sub-§7, ¶D**, as amended by PL 1991,
20 c. 220, §6, is repealed.

22 **Sec. 14. 38 MRSA §1303-C, sub-§35**, as enacted by PL 1989, c.
585, Pt. E, §4, is amended to read:

24 **35. State waste management and recycling plan.** "State
26 waste management and recycling plan" means the plan adopted by
the ~~agency~~ former Maine Waste Management Agency pursuant to
former chapter 24, subchapter II, and may also be referred to as
28 "state plan."

30 **Sec. 15. 38 MRSA §1310-N, sub-§3**, as repealed and replaced by
32 PL 1993, c. 680, Pt. A, §37, is amended to read:

34 **3. Public benefit determination.** The department shall
determine the public benefit of a proposed facility according to
the following provisions.

36
38 ~~A. Prior to the initial adoption of the state plan, the~~
~~department shall find that a proposed facility provides a~~
~~substantial public benefit when the applicant demonstrates~~
~~that the facility is designed, located and will be operated~~
~~so that it is consistent with and meets the needs identified~~
~~in the capacity needs analysis under former section 1310-O.~~

44 B. Subsequent to the initial adoption of the state plan and
46 for those facilities not ~~subject to chapter 24, subchapter~~
IV listed under section 2163, the department shall employ a
rebuttable presumption of public benefit.

48
50 C. Subsequent to the adoption of the state plan and for
these all other solid waste disposal facilities ~~subject to~~

2 ~~chapter--24,--subchapter--IV,~~ the agency department shall
determine whether or not the proposed facility meets the
4 requirements of section 2157.

6 **Sec. 16. 38 MRSA §1310-R, sub-§2, ¶B,** as affected by PL 1989,
c. 890, Pt. A §40 and amended by Pt. B, §246, is further amended
8 to read:

10 B. The department shall require an applicant for a new or
expanded solid waste disposal facility or for a license
12 renewal submitting a complete application prior to the
adoption of the state plan to demonstrate that the facility
14 ~~furthers--the--purposes--of--section--2101--and~~ satisfies the
regulations under section 1310-N.

16 **Sec. 17. 38 MRSA §1310-R, sub-§3, ¶C,** as affected by PL 1989,
c. 890, Pt. A §40 and amended by Pt. B, §247, is further amended
18 to read:

20 C. The department shall apply the provisions of section
1310-N, subsection 3, ~~paragraph-A,~~ to any application for a
22 waste disposal facility receiving ash resulting from the
combustion of municipal solid waste or from fuel derived
24 from municipal solid waste when the application was accepted
as complete by the commissioner prior to July 1, 1989, and
26 is still pending before the department on or after the date
of the initial adoption of the state plan under chapter 24.

28 **Sec. 18. 38 MRSA §1310-R, sub-§4,** as affected by PL 1989, c.
30 890, Pt. A §40 and amended by Pt. B, §248, is repealed.

32 **Sec. 19. 38 MRSA §1310-U, first ¶,** as repealed and replaced by
PL 1989, c. 585, Pt. E, §33, is amended to read:

34 Municipalities are prohibited from enacting stricter
36 standards than those contained in this chapter and in the solid
waste management rules adopted pursuant to this chapter governing
38 the hydrogeological criteria for siting or designing solid waste
disposal facilities or governing the engineering criteria related
40 to waste handling and disposal areas of a solid waste disposal
facility. ~~Except--as--provided--in--section--2173,--municipalities~~
42 Municipalities are further prohibited from enacting or applying
ordinances that regulate solid waste disposal facilities owned by
44 ~~the--agency--or~~ a regional association.

46 **Sec. 20. 38 MRSA §1310-X, sub-§§1 to 3,** as amended by PL 1993,
c. 355, §52, are further amended to read:

48 **1. New facilities.** Notwithstanding Title 1, section 302,
50 the department may not approve an application for a new

2 ~~commercial-solid-waste-disposal-or~~ biomedical waste disposal or
treatment facility after September 30, 1989, including any
4 applications pending before the department on or after September
30, 1989.

6 **2. Relicense or transfer of license.** The department may
relicense or approve a transfer of license for a commercial ~~solid~~
8 ~~waste-disposal-or~~ biomedical waste disposal or treatment facility
after September 30, 1989, if the facility had been previously
10 licensed by the department prior to October 6, 1989, and all
other provisions of law have been satisfied.

12 **3. Expansion of facilities.** The department may license an
14 expansion of a commercial ~~solid-waste-disposal-or~~ biomedical
waste disposal or treatment facility after September 30, 1989 if:

16 A. The department has previously licensed the facility
18 prior to October 6, 1989; and

20 B. The department determines that the proposed expansion is
contiguous with the existing facility and is located on
22 property owned by the licensee on September 30, 1989~~+-and.~~

24 ~~C.--For-a-commercial-solid-waste-disposal-facility-and-prior~~
~~to-the-adoption-of-the-state-plan-and-siting-criteria-under~~
26 ~~chapter-24,-the-department-determines-that-the-proposed~~
~~expansion-is-consistent-with-the-provisions-of-section~~
28 ~~1310-R,-subsection-3,-paragraph-A-1-or,-after-the-adoption~~
~~of-the-state-plan-and-siting-criteria-under-chapter-24,-the~~
30 ~~agency-determines-that-the-provisions-of-section-2157-are~~
~~met.~~

32 **Sec. 21. 38 MRSA §1382, first ¶,** as amended by PL 1991, c. 517,
34 Pt. B, §2, is further amended to read:

36 Members of the board of trustees are appointed by the
Governor, subject to review by the joint standing committee of
38 the Legislature having jurisdiction over natural resources and to
confirmation by the Legislature. The board of trustees consists
40 of 8 7 members as follows: one member from the Department of
Environmental Protection; one member from the Department of
42 Agriculture, Food and Rural Resources; ~~one member from the Maine~~
~~Waste-Management-Agency;~~ one member from an environmental
44 interest group; one member from the Maine Waste Water Control
Association; one member from the Maine Municipal Association; one
46 member representing users of sludge or residuals; and one member
representing generators of sludge and residuals.

48 **Sec. 22. 38 MRSA c. 24, first 2 lines** are repealed and the
50 following enacted in their place:

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CHAPTER 24

MAINE WASTE MANAGEMENT

Sec. 23. 38 MRSA c. 24, sub-cc. I and II, as amended, are repealed.

Sec. 24. 38 MRSA §2131, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. 25. 38 MRSA §2133, as amended by PL 1993, c. 298, §2, is repealed.

Sec. 26. 38 MRSA §2133-A is enacted to read:

§2133-A. Municipal recycling

The Department of Economic and Community Development may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling facilities and the purchase of recycling equipment. The Department of Economic and Community Development may establish requirements for local cost sharing of up to 25% of the total grant amount. The Department of Economic and Community Development shall give preference to recycling programs that require the participation of the waste generators served.

Sec. 27. 38 MRSA §§2134 and 2135, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

Sec. 28. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A, §3, is repealed.

Sec. 29. 38 MRSA §2136, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. 30. 38 MRSA §2139, as amended by PL 1989, c. 700, Pt. A, §170, is repealed.

Sec. 31. 38 MRSA §§2140, 2151 and 2152, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

Sec. 32. 38 MRSA §2153, sub-§1, ¶A-1, as enacted by PL 1991, c. 794, §2, is repealed.

Sec. 33. 38 MRSA §2154, as amended by PL 1991, c. 794, §§3 and 4 and affected by §9, is repealed.

2 **Sec. 34. 38 MRSA §2155**, as enacted by PL 1989, c. 585, Pt. A,
§7, is repealed.

4 **Sec. 35. 38 MRSA §2156**, as amended by PL 1991, c. 794, §5, is
repealed.

6 **Sec. 36. 38 MRSA §2157**, as amended by PL 1993, c. 732, Pt. B,
8 §3, is further amended to read:

10 **§2157. Review of proposed waste facilities**

12 Subsequent to the adoption of the state plan, the Department
of Environmental Protection may not approve an application of a
14 new or expanded solid waste disposal facility requiring review
under this section until the ~~agency has approved the proposed~~
16 ~~facility under~~ requirements of this section are met. An
expansion of a commercial solid waste disposal facility or a
18 solid waste disposal facility owned by a municipality or a
regional association or a sanitary district created under chapter
20 11 or by special act of the Legislature is not subject to
subsection 1, paragraph C, subparagraph (2), if the facility was
22 licensed and in existence as of October 1, 1989, and at the time
of application for the expansion.

24 **1. Requirement.** After the adoption of the state plan, a
26 permit for a new or expanded solid waste disposal facility may
not be issued unless the applicant demonstrates to the ~~agency~~
28 department that the proposed facility:

30 A. Meets capacity needs identified in the state plan in
addition to capacity that is under development by ~~the office~~
32 ~~under section 2156 or by any other~~ a party approved by the
~~office~~ department at the time of the application;

34 B. Is consistent with the state plan, except that this
36 paragraph does not apply to expansions of commercial solid
waste disposal facilities that accept only special waste for
38 landfilling; and

40 C. Meets the following requirements:

42 (1) The proposed facility is consistent with local,
regional or state waste collection, storage,
44 transportation, processing or disposal; and

46 (2) After the adoption of the siting criteria, the
proposed facility meets the criteria in section 2153.

48

2 Except as otherwise provided in this section, proceedings under
this subsection are subject to the provisions of Title 5, chapter
375, subchapter IV.

4
6 Proceedings under this section for the expansion of a commercial
solid waste disposal facility that accepts only special waste for
landfilling are not subject to the provisions of Title 5, chapter
8 375, subchapter IV.

10 In making the determination required under this section for the
expansion of a commercial solid waste disposal facility that
12 accepts only special waste for landfilling, the agency department
shall consider the written information submitted in support of
14 the application and any other written information the agency
department considers pertinent. In addition, the agency
16 department may hold a public meeting in the vicinity of the
proposed expansion to take public comments and shall consider
18 those comments in making the determination.

20 **Sec. 37. 38 MRSA §2158**, as amended by PL 1989, c. 890, Pt. A,
§40 and Pt. B, §290, is repealed.

22 **Sec. 38. 38 MRSA §§2159 to 2162**, as enacted by PL 1989, c.
24 585, Pt. A, §7, are repealed.

26 **Sec. 39. 38 MRSA §2164**, as amended by PL 1991, c. 808, §1, is
repealed.

28 **Sec. 40. 38 MRSA c. 24, sub-c. V**, as amended, is repealed.

30 **Sec. 41. 38 MRSA §§2181 to 2183**, as enacted by PL 1989, c.
32 585, Pt. A, §7, are repealed.

34 **Sec. 42. 38 MRSA c. 24, sub-c. VII, art. 1**, as enacted by PL 1989,
c. 585, Pt. A, §7, is repealed.

36 **Sec. 43. 38 MRSA §2201**, as amended by PL 1993, c. 410, Pt. C,
38 §8, is repealed.

40 **Sec. 44. 38 MRSA §2202, sub-§1**, as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

42 **1. Fees established.** The agency commissioner shall
44 establish procedures to charge fees specified in this article and
pursuant to the requirements of this article. All fees collected
46 by the agency--shall commissioner under this article must be
deposited into the Maine-Solid-Waste-Management General Fund.

48 **Sec. 45. 38 MRSA c. 24, sub-c. VII, art. 3**, as amended, is
50 repealed.

2 **Sec. 46. Transition provisions.** The following provisions apply
3 to the reassignment of the duties and responsibilities of the
4 former Maine Waste Management Agency.

6 1. Except as otherwise provided in this section, the
7 Commissioner of Environmental Protection shall assume all
8 remaining duties and responsibilities of the former Maine Waste
9 Management Agency, its offices and its executive director,
10 including administration of any rules adopted by that agency
11 relating to these remaining duties. By December 1, 1995, the
12 commissioner shall submit legislation to the Second Regular
13 Session of the 117th Legislature to revise all remaining
14 references to the Maine Waste Management Agency in the Maine
15 Revised Statutes to conform to the intent of this Act.

16 2. Unencumbered balances remaining in the Maine Waste
17 Management Fund on July 1, 1996 must be transferred to the
18 General Fund.

19 3. All rules and procedures in effect, in operation or
20 adopted on the effective date of this Act in or by the former
21 Maine Waste Management Agency or any of its administrative units
22 or officers remain in effect until rescinded, revised or amended
23 by the proper authority.

24 4. The Department of Administrative and Financial Services
25 shall serve as the fiscal agent for the former Maine Waste
26 Management Agency for the purpose of effecting the repeal of that
27 agency. The duties of the Department of Administrative and
28 Financial Services are limited to those required to close out the
29 agency and include functions such as processing payment vouchers,
30 preparing budget documents, preparing human resource documents,
31 preparing the final personnel payrolls and other related
32 administrative activities required. Essential records related to
33 the agency must be transferred to the Department of
34 Administrative and Financial Services to be maintained and stored
35 pursuant to standard procedure.

36 5. All personal property and equipment previously belonging
37 to or allocated for the use of the former Maine Waste Management
38 Agency must be transferred to the Department of Administrative
39 and Financial Services for storage, disposal or reassignment.

40 6. All existing forms, licenses, letterheads and similar
41 items bearing the name of or referring to the Maine Waste
42 Management Agency may be used by the Department of Economic and
43 Community Development and the Department of Environmental
44 Protection until existing supplies of those items are exhausted.

2 7. All real estate held by the former Maine Waste
3 Management Agency is transferred to the Department of
4 Administrative and Financial Services. The department shall
5 dispose of the property in accordance with its rules.

6 **Sec. 47. Report.** The Commissioner of Environmental Protection
7 shall submit by January 1, 1996 a plan and necessary legislation
8 to the joint standing committee of the Legislature having
9 jurisdiction over natural resource matters to provide effective
10 regulatory control over the importation and disposal of solid
11 waste from outside the State in order to protect public health
12 and safety and to conserve the limited waste disposal capacity
13 for the benefit of the people of the State.

14 **Sec. 48. Maine Revised Statutes amended; revision clause.**
15 Wherever in the Maine Revised Statutes the words "Maine Waste
16 Management Fund" appear or reference is made to those words, they
17 are amended to read and mean "General Fund," and the Revisor of
18 Statutes shall implement this revision when updating, publishing
19 or republishing the statutes.
20

22
24

STATEMENT OF FACT

26 This bill abolishes the Maine Waste Management Agency. It
transfers responsibility for recycling grants to the Department
of Economic and Community Development.