

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1520

H. P. 1138

House of Representatives, March 13, 1973

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Susi of Pittsfield.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT to Enable Communities to Establish Multiple Community Solid  
Waste Districts.**

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

R. S., T. 38, c. 15, additional. Title 38 of the Revised Statutes is amended by adding a new chapter 15 to read as follows:

**CHAPTER 15**

**REGIONAL REFUSE DISPOSAL DISTRICT ENABLING ACT**

§ 1551. Short title

This chapter shall be known and may be cited as the "Regional Refuse Disposal Enabling Act."

§ 1552. Policy

It is declared to be the policy of the State of Maine to facilitate the development of regional refuse disposal districts consisting of 2 or more municipalities.

§ 1553. Purpose

The purpose of each district formed under this chapter shall be to construct, maintain, operate and provide a system of solid waste management for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

§ 1554. Exemption from taxation

The property, both real and personal, rights and franchises, of any district formed under this chapter shall be exempt from taxation.

§ 1555. Definitions

The term "refuse disposal facility" as used in this chapter means an incinerator, sanitary landfill, transfer station, composting plant, other means of solid waste disposal, or any combination of 2 or more such facilities.

§ 1556. Refuse disposal district formation

Before municipalities initiate the formation of a refuse disposal district, it is expected that they will evaluate the need and various alternatives for providing separate and regional refuse disposal facilities and various administrative alternatives for developing regional refuse disposal facilities. If following such planning process, 2 or more municipalities desire to form a refuse disposal district, they shall file a request with each regional planning commission which is included within the area of the proposed refuse disposal district. The regional planning commission shall hold a public hearing to give all interested parties an opportunity to present suggestions pertaining to the validity of the proposed district. The regional planning commission shall schedule the public hearing in a convenient location with a written notice to all requesting municipalities and all contiguous municipalities to the proposed refuse disposal district. At least 2 weeks prior to the meeting, notice of said public hearing shall be published in a newspaper of general circulation in the area of the proposed district for at least 2 successive weeks prior to the public hearing. The regional planning commission shall, within 30 days of the public hearing, notify the towns of its recommendations regarding the proposed district.

The municipal officers shall, within 30 days of receiving this report, notify the regional planning commission of its intent to form the district as proposed or not.

§ 1557. Vote on establishing district

If all requesting municipalities still desire to form the district, municipal officers of each of the municipalities shall, following the public hearing, cause the question of accepting such district to be prepared for determination by vote with printed ballots at the next annual town meeting or at a special election called for that purpose, but within a period of 6 months following the public hearing. The question to be voted on shall be "Shall the city/town accept the provisions of Chapter 15, Title 38 of the Maine Revised Statutes providing for the establishment of a Regional Refuse Disposal District together with the municipalities of ..... and the construction, maintenance and operation of a regional refuse facility by said district with district directors to be appointed by each municipality as follows:.....?"

Each municipality shall, within 30 days of the vote, notify the regional planning commission of the action taken by that municipality. If a majority of the voters voting on the question shall vote in the affirmative, the proposed regional refuse disposal district shall be established. If one or more of the proposed municipalities reject formation of a district, the district shall not be formed. The regional planning commission shall notify all municipi-

palties in writing of the action taken by each and, in the event a district is to be formed, shall notify each municipality of the date and place of the organizational meeting, giving sufficient time for appointment of directors by the municipal officers. Within 30 days of the organizational meeting, the district directors shall file a statement with the Secretary of State, identifying the name of the district and its membership. Copies of bylaws and a current list of directors and elected officers shall be kept on file with the Secretary of State.

§ 1558. Corporate body; powers and duties

A regional refuse disposal district, established under section 1560, shall be a body politic and corporate with the following powers and duties:

1. To adopt a name and a corporate seal. The engraved or printed facsimile of the seal appearing on a bond or note of the district shall have the same legal effect as if it were impressed thereon;

2. To acquire and hold real and personal property by purchase, lease or otherwise, any land, real estate, easement or interest therein, necessary or convenient for its purposes;

3. To plan, construct, equip, operate and maintain refuse disposal facilities and solid waste collection services for the benefit of participating municipalities or residents thereof;

4. To contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district, and with the State of Maine, United States Government and any agency of either to provide for collection and disposal of any kind of solid waste; and every other district and municipality or county of the State of Maine not a participant or member of such district is authorized to contract with such district for the collection and disposal of solid waste, and for said purpose any such municipality, county or district may raise money as for other municipal charges;

5. Subject to approval of the Public Utilities Commission under Title 35, chapters 1 to 17 and the member cities and towns comprising the district, to borrow money and issue, from time to time, bonds, notes or other evidence of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine, subject to such approval of said Public Utilities Commission. Any such bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees, subject to such approval of the Public Utilities Commission, may determine, but the term of indebtedness shall not be longer than the expected life of the capital facility for which it is incurred. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable, may be made callable at par or at such premium as the trustees, subject to such approval of the Public Utilities Commission, may determine. All bonds, notes or other evidences of indebtedness shall be signed by the treasurer and countersigned by

the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile of the signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by any such district shall be legal obligations of the district, and all districts formed under this chapter are declared to be quasi-municipal corporations within the meaning of Title 30, section 5053. Subject to the foregoing provisions of this section, any such district may, from time to time, issue in one series or in separate series, its bonds, notes and other evidences of indebtedness, for the purpose of paying, redeeming or refunding outstanding bonds, notes or evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by any such district shall be legal investments for savings banks in the State of Maine and shall be tax exempt;

6. To receive and disburse funds for any district purpose;
7. To assess member cities and towns for any expenses of the district;
8. To receive any grants or gifts for the purposes of the district;
9. To engage legal counsel;
10. To submit an annual report to each of the member cities and towns, containing a detailed financial statement and a statement showing the method by which the annual charges assessed against each city and town were computed;
11. To employ an executive director and such other employees necessary to operate the district and to provide for compensation to such employees;
12. To adopt an annual operating budget, not later than December 31st of each year for the subsequent fiscal year;
13. To enter into contracts for refuse disposal with persons, nonmember municipalities, as well as other bodies politic, and the United States of America.

#### § 1559. Directors

All of the affairs of the refuse disposal district shall be managed by a board of directors which shall consist of not less than 3 members. The municipal officers of each member municipality will appoint one director for a 3-year term. Each town with a population of more than 5,000 people shall appoint an additional director for each additional 5,000 people or increment thereof. In the event this formula produces less than 3 directors, the municipal officers of towns proposing the district shall establish an alternate means for apportioning directors from the member towns prior to filing a request for formation of a district with the regional planning commission. The directors shall choose a chairman by ballot from its membership. It shall appoint a secretary and a treasurer, who may be the same person, but who need not be directors. The treasurer shall receive and take charge of all money belonging to the district and shall pay any bill of the district which has been approved by the directors. The secretary shall keep accurate records of all meetings of the board of directors.

**§ 1560. Apportionment of expenses**

Annually, the directors shall determine the amount necessary to be raised to maintain and operate the district during the next calendar year, and the amounts required for payment of debt and interest incurred by the district that will be due in the next year. The directors shall prepare a budget and make a preliminary apportionment in accordance with the refuse disposal district plan of the amount so determined among the member cities and towns in accordance with the equitable formula stated in the terms of the plan. Prior to December 31st of each year, the directors shall hold at least one public hearing at some convenient place in the district on the amounts required in the budget and the preliminary apportionment of the amounts listed in the budget. At least 7 days' notice of the meeting shall be given by publication of the budget and apportionment in a newspaper of general circulation within the district, and by posting a copy of the budget and apportionment in a public place in each municipality in the district. After the hearing, the directors shall adopt a budget and make a final determination of the apportionment among the member municipalities.

The treasurer of the district shall thereupon issue his warrant, in substantially the same form as the warrant of the Treasurer of the State for taxes, to the assessors of each participating municipality requiring them to assess upon the taxable polls and estates within said municipality the amount assessed each such municipality by the district directors.

Said assessors shall commit the assessment to the constable or collector of said municipality who shall have all the authority and powers to collect said taxes as is in him vested by law to collect state, county and municipal taxes. In the year in which the assessment is so levied, the treasurer of each municipality shall pay the amount of assessment so levied to the district at the time or times specified by the district directors. In case of the failure of the treasurer of the said municipality to pay any installment or any part thereof on or before the dates required, the treasurer of the district shall issue his warrant for the amount of said assessment or so much thereof as shall then remain unpaid to the county sheriff requiring him to levy by distress and sale on the real and personal property of any of the residents of said district living in the municipality where such default takes place and the sheriff or any of his deputies shall execute said warrant, except as otherwise provided. The same authority as is vested in county officials for the collection of county taxes under the Revised Statutes is vested in the directors of said district in relation to the collection of assessments within such municipality.

**§ 1561. Audit of accounts**

Each year an audit is to be made of the accounts of the district, and for this purpose authorized agents shall have access to all necessary papers, books and records. Upon the completion of each audit, a report thereon shall be made to the chairman of the district and a copy thereof shall be sent to the mayor and to the chairman of the board of selectmen, respectively, of each city and town which is a member of the district.

### § 1562. Refuse disposal plan

Within one year of the organizational meeting, the district directors shall prepare a regional refuse disposal plan. This plan shall be compiled in report form and submitted for review to each member municipality and to the regional planning commission. The plan shall include the following:

1. Area to be served and collection methods;
2. Method of disposal and location of solid waste disposal facilities;
3. A proposed budget, both capital and operating costs, for each of the first 5 years of operation, including the method of apportionment to member municipalities in accordance with an equitable formula based on population, volume or weight of refuse to be disposed of or other equitable formula designed to place the burden of costs on those benefited.

The municipal officers shall notify the district within 30 days of receipt of such report of their endorsement of the plan or of their reservations. The district director shall, with endorsement by  $\frac{2}{3}$  of the municipalities, put the plan into effect.

### § 1563. Plan revision

The district directors shall proceed to implement the plan in accordance with the proposed budget and shall not exceed the amount of the proposed budget in any given year by more than 20%. The district directors may make substantial changes in the plan or exceed their annual proposed budget by more than 20% only after holding a public hearing, and receiving approval in writing, from the municipal officers of  $\frac{2}{3}$  of the municipalities. Such public hearing shall be held in a convenient location within the district, not less than 30 days after submitting notice of the hearing and a description of the proposed changes in writing to the regional planning commission and member municipalities.

### § 1564. Admission of new members

The district shall add to its membership upon request of a municipality and negotiation with the new member for compensation to the district in consideration of capital facilities currently owned by the district and similar considerations.

### § 1565. Withdrawal of membership

1. Any municipality, after approval of  $\frac{2}{3}$  of the qualified voters present and voting during any annual or special election or at any annual or special town meeting, shall notify the district directors of its desire to withdraw from the district. Such withdrawal may occur at any time, if a  $\frac{2}{3}$  vote of the district directors approve such withdrawal. The effective date of withdrawal shall be established by the directors and shall be as soon as practical, but in any event, within one year of receiving notice from the municipality.

2. A municipality may withdraw from the district without approval of the directors with an effective date to be December 31st of the 5th year of

operation or upon the expiration of any 5-year plan. The municipality must have approval by  $\frac{2}{3}$  of the qualified voters present and voting during any annual or special election or at any annual or special town meeting and shall notify the directors of its desire to withdraw from the district at least one year prior to the effective date of withdrawal.

3. In the event of withdrawal, the withdrawing town shall continue to pay annually to the district its share of the debt outstanding at the time of withdrawal, at the rate prevailing at the time of withdrawal, until its share of such debt shall be paid in full.

#### § 1566. Dissolution

1. In the event all towns vote to withdraw, as in section 1565, subsection 2, the district shall be dissolved, effective date to be December 31st of the 5th year of operation or upon the next expiration of a 5-year plan. The board of directors may, by  $\frac{2}{3}$  vote, establish an earlier effective date of dissolution. If the district is dissolved by action of all members withdrawing, assets or liabilities shall be disposed of as provided in subsection 3.

2. The board of directors may, at any time by  $\frac{2}{3}$  vote, recommend to its member municipalities that the district be dissolved. Such recommendation shall include a statement of reasons therefor, and suggested effective date. When such recommendation has been made, the municipal officers shall cause the question of dissolving the district to be prepared for determination by vote with printed ballots at the next annual town meeting or at a special election called for that purpose within a period of 3 months following the recommendation. If  $\frac{2}{3}$  of the municipalities vote to dissolve the district, the district shall be dissolved.

3. If the district is dissolved, the directors, within a time fixed by their designation, and in no case longer than 12 months from the effective date of dissolution, shall liquidate its assets and shall distribute assets and liabilities in a manner set forth in this section:

A. Pay debts and expenses;

B. Distribute assets or liabilities proportionately among the towns according to the same formula as their assessments for support of the district for the last year in which assessments were paid;

C. The board of directors shall file a copy of the dissolution decree with the Secretary of State.

#### STATEMENT OF FACT

This Act would enable communities to decide if they wished to participate in regional solid waste disposal districts. The entire mechanism is carried out at the local level with no state approval or interference.