

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
FIRST SPECIAL SESSION  
107TH LEGISLATURE

(Filing No. H-993)

COMMITTEE AMENDMENT "A" to H.P. 1948, L.D. 2134, Bill,  
"AN ACT Enabling Municipalities to Conduct Soil Tests to Determine  
Feasibility of Solid Waste Disposal Sites."

Amend said Bill by striking out everything after the enacting  
clause and before the emergency clause and inserting in place  
thereof the following:

'30 MRSA §4101-A is enacted to read:

§4101-A. Site suitability tests

In order to determine whether a site or sites for the  
establishment of a solid waste disposal facility meet the  
requirements set out in Title 38, chapter 13 and <sup>the</sup> regulations  
promulgated pursuant thereto, a municipality may enter and  
cross all lands within, adjoining and adjacent to a site, to  
the extent necessary, for surveys, soil tests and other necessary  
related tests. The municipality shall follow the following  
procedures.

1. Determination of necessity or convenience. The  
municipal / <sup>officers</sup> shall determine that public necessity or convenience  
requires that surveys, soil tests and other necessary related  
tests be made of a site or sites in the municipality to determine  
site suitability for the establishment of a solid waste disposal  
facility.

2. Notice to land owners. At least 14 days and not more  
than 30 days prior to the date that any surveys, soil tests  
or other related tests will be made, the municipality shall  
send written notice by certified mail to each owner of record

of lands to be entered or crossed. The notice shall be mailed to each owner at his address as shown on the municipal tax assessment records. Failure to receive notice under this subsection shall not be a bar to the exercise by a municipality of any of the powers authorized by this section.

3. Conduct of tests. After the notice period has elapsed, the municipality shall conduct the tests within a reasonable time thereafter not to exceed 30 days. No soil test shall be conducted within 300 feet of a residence occupied by the owner or tenant. Upon completion of any soil analysis or test any holes, pits or trenches shall be filled in.

4. Declaration of choice of site. Within 60 days after receipt from the department of approval of a site or sites for a solid waste disposal facility, the municipality shall declare which site or sites they may acquire and shall initiate procedures for acquiring the site or sites according to the procedure set forth in section 4101. Any site or sites crossed or entered as provided in this section which are not to be acquired according to section 4101 shall be restored as near as practicable to their former condition within 60 days of the declaration.

5. Request for hearing. Within 30 days after restoration of a site as provided in subsection 4, a record owner of that site may request a public hearing to determine whether he is entitled to compensation for actual damages caused by the crossing or entering of his land. The municipality shall hold a public hearing upon such request.

6. Notice of hearing. Within 14 days and not more than 21 days prior to the date of the hearing, the municipality shall publish notice of the time and place of the hearing in a newspaper of general circulation in the municipality and shall give personal notice by certified mail to each record owner of that site.

7. Compensation. Within 14 days following the close of the hearing, the municipality shall determine the amount of compensation if any for actual damages to which the landowner is entitled. The landowner shall be given personal notice by certified mail of the amount so determined and that he may appeal if aggrieved to the Superior Court as provided in the Maine Rules of Civil Procedure. Rule 30B. If no appeal is taken within 30 days of the notice provided in this subsection, the municipality shall pay the amount of compensation for actual damages determined.'

Statement of Fact

This amendment clarifies the procedure set out in L.D. 2134 and provides for notice to landowners and the public of action undertaken by a municipality.

Reported by the Minority of the Committee on Natural Resources.

Reproduced and distributed under the direction of the Clerk of the House.  
3/18/76

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