

# MAINE STATE LEGISLATURE

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New Draft of : H. P. 1322, L. D. 1522  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1636**

H. P. 1526

House of Representatives, May 21, 1981

Reported by Representative Dexter from the Committee on Energy and Natural Resources. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

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**AN ACT Assuring Legislative Participation in Nuclear Waste Repository Research and Development Activity within the State.**

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

Sec. 1. 10 MRSA § 52, sub-§§ 2-A and 2-B are enacted to read:

2-A. **Environmental impact statement.** "Environmental impact statement" means any document prepared pursuant to or in compliance with the requirements of the United States National Environmental Policy Act of 1969, Section 102(2) (c), 83 Stat. 852.

2-B. **High-level waste.** "High-level waste" means spent nuclear fuel, radioactive wastes resulting from the reprocessing of spent nuclear fuel, and includes both the liquid waste which is produced directly in reprocessing and any solid material into which such liquid waste is made.

Sec. 2. 10 MRSA § 52, sub-§§ 3-A and 3-B are enacted to read:

3-A. **Low-level waste.** "Low-level waste" means any source, by-product or special nuclear material other than high-level waste or transuranic contaminated waste.

3-B. **Low-level waste licensee.** "Low-level waste licensee" means any person licensed under section 103 or 151 to generate, treat, store or dispose of low-level radioactive wastes.

Sec. 3. 10 MRSA § 52, sub-§ 4-A is enacted to read:

**4-A. Repository.** "Repository" means a facility for the disposal of high-level waste, transuranic contaminated waste or spent nuclear fuel, whether or not the facility is designed to permit the subsequent recovery of such material, except for facilities to be used exclusively for research and development purposes containing an insignificant amount of such material.

Sec. 4. 10 MRSA § 52, sub-§ 6-A is enacted to read:

**6-A. Transuranic contaminated waste.** "Transuranic contaminated waste" means material contaminated with elements having an atomic number greater than 92, including neptunium, plutonium, americium and curium, in concentrations of greater than 10 nanocuries per gram.

Sec. 5. 10 MRSA § 151-A is enacted to read:

**§ 151-A. Coordination and liaison with federal agencies**

The following state agencies shall serve as liaison with federal agencies and coordinate administration of the issues indicated.

**1. Department of Human Services.** The Department of Human Services shall coordinate monitoring of radiation and health and safety in medical and industrial use of radiation.

**2. Bureau of Civil Emergency Preparedness.** The Bureau of Civil Emergency Preparedness shall coordinate off-site emergency procedures for nuclear facilities, and shall serve as liaison with federal agencies with jurisdiction over defense activities and emergency response management.

**3. Department of Transportation.** The Department of Transportation shall coordinate transportation of radioactive materials.

**4. Department of Environmental Protection.** The Department of Environmental Protection shall coordinate management of high and low-level wastes.

**5. Maine Geological Survey.** The Maine Geological Survey shall provide technical assistance for radioactive waste management.

**6. Office of Energy Resources.** The Office of Energy Resources shall serve as liaison with the United States Department of Energy and the United States Nuclear Regulatory Commission.

Sec. 6. 10 MRSA § 152 is repealed and the following enacted in its place:

**§ 152. Contracts with federal agencies**

The Governor may, subject to the conditions of Title 5, section 1669, execute contracts with appropriate federal officers or agencies relating to the responsibility for radiation hazards under the Federal-State Amendment to the United States Atomic Energy Act of 1954, Public Law 86-377. He may execute

contracts with federal officers or agencies relating to radioactive waste management and disposal, subject to the further limitations of subchapter III-A.

Sec. 7. 10 MRSA § 153 is amended to read:

**§ 153. Agreements and cooperative arrangements authorized**

**Any Except as expressly limited, any appropriate department or agency may cooperate with the Federal Government in performing functions on behalf of the Federal Government relating to atomic energy, and in the administration of this chapter or any matter pertaining thereto, and for that purpose may ~~with the approval of the coordinator~~ enter into agreements or cooperative arrangements with the Federal Government.**

Such department or agency may receive, administer and disburse any funds or contributions received from the Federal Government for the purposes mentioned in this chapter.

Sec. 8. 10 MRSA c. 3, sub-c. III-A is enacted to read:

**SUBCHAPTER III-A  
HIGH-LEVEL WASTES**

**§ 161. Intent**

**It is the intent of the Legislature to cooperate fully with the Federal Government to manage safely and effectively high-level radioactive wastes, provided that the Federal Government financially assists the State in this participation. It is further the intent of the Legislature to participate to the maximum extent in siting federal high-level waste repositories.**

**§ 162. Limitation**

**No state department or agency may accept any funds related to siting high-level repositories, nor may any state agency participate in these efforts, unless the applicable requirements of this subchapter have been fulfilled.**

**§ 163. Area studies**

**1. Definition. "Area studies" means geological reconnaissance and field work, including core sample drilling, to define locations of up to 30 square miles that may be suitable for high-level radioactive waste repositories.**

**2. Exploration. No person may explore geological formations within this State for the purpose of siting a high-level waste repository without a written permit from the State Geologist. The State Geologist shall approve requests for these exploration permits if the proposed activity is consistent with the plan required by subsection 3.**

**3. Plan. Prior to initiation of area studies, the Commissioner of Environmental Protection shall submit a plan for these studies to the Legislature for approval. This plan shall include procedures for the establishment of a state**

review group to review the conduct of area studies and report their findings. This review group shall include representatives of the scientific community, the Legislature and the general public.

4. Reports. All findings and reports conducted under this section shall be submitted to the Governor and the Legislature.

§ 164. Location studies

1. Definition. "Location studies" means detailed site evaluations, socioeconomic studies, environmental studies, surveys of plant and animal populations and other studies to identify specific sites that may be suitable for high-level waste repositories.

2. Prior to initiation of location studies, the Commissioner of Environmental Protection shall submit a plan for these studies to the Legislature for approval. This plan shall include as a minimum public hearings on the following issues:

- A. The technical feasibility of the proposed waste management technology;
- B. The environmental impact of a waste repository in the area of study;
- C. The social impact of a waste repository in the area of study; and
- D. The economic impact of a waste repository in the area of study.

3. Legislative findings. No agent of the State may participate in site selection or construction of a high-level radioactive waste repository unless the Legislature finds that all of the issues in subsection 2 have been adequately addressed.

§ 165. Site selection

1. Definition. "Site selection" means the selection of a specific site as a candidate to be licensed as a high-level radioactive waste repository.

2. Limitation. No agent of the State may participate in site selection efforts unless the Federal Government agrees that the site selection process will include:

- A. Compliance with the United States National Environmental Policy Act of 1969, Public Law 91-190, including preparation of a specific environmental impact statement; and
- B. Compliance with all applicable state and local laws.

Sec. 9. 10 MRSA c. 3, sub-c. III-B is enacted to read:

**SUBCHAPTER III-B**

**LOW-LEVEL RADIOACTIVE WASTES**

§ 171. Purpose

In accordance with the United States Low-level Radioactive Waste Policy Act of 1980, Public Law 96-573, the Legislature accepts its responsibility for providing for

the capacity for the disposal of low-level waste generated within this State. It is the purpose of this subchapter to establish a program for the safe management of low-level waste, and to provide capacity for its disposal either within this State or in regional facilities.

#### § 172. Reporting

Each low-level waste licensee shall annually report, by March 31st, the volume and radioactivity of low-level wastes generated and the volume and radioactivity of low-level wastes shipped to commercial disposal facilities. This report shall be submitted to the Commissioner of Environmental Protection, and shall include information on the specific radioactive materials handled.

#### § 173. Geological characterization

Within one year of the effective date of this subchapter, the State Geologist shall report to the Governor and the Legislature on the suitability of areas of this State for low-level waste disposal. In determining suitability, the State Geologist shall consider proposed and final rules for facility siting under 10 Code of Federal Regulations, Part 61.

#### § 174. Regional compacts

The Governor may negotiate on behalf of the State, with other states and the Federal Government with respect to the siting, licensing, operation and use of low-level waste facilities within and outside this State. The Governor may recommend regional compacts with States that have: Identified their annual low-level radioactive waste generation; and identified areas within their state that meet preliminary site criteria.

Any regional compact for low-level waste disposal shall be ratified by legislative Act.

#### § 175. Low-level Waste Siting Commission

1. Establishment. There is established a Low-level Waste Siting Commission, referred to as the "commission."

2. Membership; appointment. The commission shall consist of 9 members, who shall be appointed as follows. The Commissioners of Environmental Protection and Human Services, and the State Geologist, or their designees, shall be members of the commission. The President of the Senate shall appoint 2 Senators and one person from an organization that is a low-level waste licensee. The Speaker of the House of Representatives shall appoint 2 Representatives and one person from an organization that is a low-level waste licensee. The members shall be appointed in a timely manner. The Chairman of the Legislative Council shall call the first meeting of the commission, and at this meeting the commission shall elect a chairman and a vice-chairman from its membership.

3. Duties. The duties of the commission are to:

- A. Study the management, transportation and disposal of low-level waste generated in or near this State;
  - B. Evaluate current radioactive waste classifications and propose alternatives, if appropriate;
  - C. Evaluate methods and criteria for siting low-level waste disposal facilities; and
  - D. Assist the Governor in regional efforts to manage low-level waste.
4. Reports. The commission shall regularly report on its progress to the Governor and the Legislature.
5. Compensation. Members, except state employees, shall receive reimbursement for the necessary actual expenses incurred in carrying out their duties.
6. Assistance. The Commissioner of Environmental Protection shall assist the commission in the conduct of its business.

#### § 175. Low-level Waste Siting Fund

1. Establishment. There is established the Low-level Waste Siting Fund to be used to carry out the purpose of this subchapter. This fund shall be administered by the Commissioner of Environmental Protection in accordance with established budgetary procedures. The commissioner may accept state, federal and private funds to be used to assure safe and effective low-level waste management, and to develop capacity to safely dispose of these wastes.
  2. Service fee. In the fiscal years 1982 and 1983 a service fee of \$1 per cubic foot shall be levied on all low-level radioactive waste generated in this State and shipped to commercial disposal facilities. The revenue from this service fee shall be credited to the fund established in subsection 1 and used to carry out the purposes of this subchapter.
  3. Allocation. The expenses for the administration of the commission in carrying out the duties as set forth in this subchapter shall be paid from such amounts as the Legislature may allocate from the revenues in the Low-level Waste Siting Fund. These amounts shall become available in accordance with Title 5, chapters 141 to 155.
  4. Balance carried forward. Any unexpended balance shall not lapse, but shall be carried forward to the same fund for the next fiscal year and shall be available for the purposes authorized by this subchapter.
  5. Report to Legislature. The commissioner shall report annually to the Legislature the revenues and expenditures under this subchapter.
- Sec. 10. Allocation. The following funds are allocated from the Low-level Waste Siting Fund to carry out the purposes of this Act.

LOW-LEVEL WASTE SITING COMMISSION	1981-82	1982-83
All Other	\$5,000	\$5,000

#### FISCAL NOTE

The fee assessed in Title 10, section 175 will raise approximately \$35,000 in each of the next 2 fiscal years. This revenue will be used by the Low-level Waste Siting Commission to facilitate management of low-level radioactive wastes.

#### STATEMENT OF FACT

This new draft makes several technical modifications and amends agency responsibilities for radioactive wastes. The Department of Environmental Protection is charged with coordination of high and low-level waste. The Office of Energy Resources is designated liaison with the United States Department of Energy and Nuclear Regulatory Commission.

Section 8 of the new draft is amended to make it clear that certain requirements must be met before the State may participate in subsequent steps in the process to site high-level waste facilities.

Section 9 of the new draft is amended to clarify the separation of power between the Executive and Legislative Branches on low-level waste management. The Governor is authorized to negotiate regional compacts with other states, while the Low-level Waste Siting Commission is directed to study several aspects of low-level waste generation, transportation, and disposal, and to assist the Governor in regional efforts to manage these wastes.