

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 327, L.D. 972)
2 (New Title)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1738

8
9 S.P. 609

In Senate, June 7, 1983

10 Reported by Senator Kany of Kennebec from the Committee on Energy
11 and Natural Resources and printed under Joint Rule 2.

12 Original bill presented by Senator Shute of Waldo. Cosponsored by
Representative Drinkwater of Belfast, Representative Crowley of Stockton
Springs and Senator Perkins of Hancock.

JOY J. O'BRIEN, Secretary of the Senate

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Require Legislative Approval
20 of Low-level Radioactive Waste Facilities.
21

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

24 Sec. 1. 10 MRSA §174 is reallocated to Title 38,
25 section 1474.

26 Sec. 2. 38 MRSA §482, sub-§2-C, as enacted by PL
27 1981, c. 449, §5, is amended to read:

28 2-C. Hazardous activity. "Hazardous activity"
29 means any activity that consumes, generates or
30 handles any of the following:

31 A. Hazardous wastes, as defined in section 1303;

1 B. Hazardous matter, as defined in section 1317;

2 C. Oil, as defined in section 542; or

3 D. Quantities of road salt in excess of one ton
4 per year.

5 "Hazardous activity" also includes any low-level
6 radioactive waste storage or disposal facility, as
7 defined in section 1451.

8 This definition shall not include an expansion of an
9 existing development unless that expansion by itself
10 would be a hazardous activity.

11 The board shall identify by regulation activities
12 that are exempt from this definition, including
13 domestic and other uses of substances in quantities
14 too small to present a significant risk of
15 groundwater contamination.

16 Sec. 3. 38 MRSA §484, 8th ¶, as amended by PL
17 1971, c. 618, §12, is further amended to read:

18 Within 30 days after the board adjourns any hearing
19 held under this section, it shall make findings
20 of fact and issue an order granting or denying
21 permission to the person proposing such development
22 to construct or operate the same as proposed, or
23 granting such permission upon such terms and conditions
24 as the board may deem advisable to protect and
25 preserve the environment and the public's health,
26 safety and general welfare, except in the case of any
27 low-level radioactive waste storage or disposal
28 facility in which case the board shall act in accordance
29 with section 1478.

30 Sec. 4. 38 MRSA §1402, as reallocated by PL
31 1983, c. 345, §2, is repealed.

32 Sec. 5. 38 MRSA §§1478 to 1480-A are enacted to
33 read:

34 §1478. Departmental review of low-level radioactive
35 waste facilities

1 1. Notice. Any person intending to construct or
2 operate a low-level radioactive waste storage or dis-
3 posal facility shall file a preliminary notice with
4 the department and the municipality in accordance
5 with section 483, subsection 1 and also notify the
6 board of his intent in accordance with section 483,
7 subsection 2.

8 2. Hearings. The board shall hold hearings on
9 the proposed facility in accordance with section 484.
10 Subject to the requirements of Title 5, section 9057
11 any person who resides within the State is entitled
12 to be heard. The hearings shall as a minimum address
13 the following issues:

14 A. The technical feasibility of the proposed
15 waste disposal or storage facility;

16 B. The environmental impact of the proposed
17 waste disposal or storage facility on the sur-
18 rounding area;

19 C. The social impact of the proposed waste dis-
20 posal or storage facility on the surrounding
21 area; and

22 D. The economic impact of the proposed waste
23 disposal or storage facility on the surrounding
24 area.

25 Whether the proposed facility will satisfy any re-
26 quirements under: Section 413, waste discharge
27 licenses; section 590, air emission licensing;
28 section 1304, licenses for waste facilities; and any
29 other laws administered by the department that may be
30 applicable.

31 3. Municipal participation. The municipality in
32 which the proposed facility would be located may par-
33 ticipate in the departmental site review using proce-
34 dures conformed to the procedures for municipal
35 participation in siting or hazardous waste facilities
36 under section 1305-A, subsection 2.

37 4. Findings; recommendations. Notwithstanding
38 any requirement of chapter 3, subchapter I, Article
39 6, within 90 days after adjournment of the hearings,

1 the board shall make findings of fact and conclusions
2 derived from those findings. Based upon those find-
3 ings and conclusions, the board shall issue an order
4 denying permission for construction and operation of
5 the facility on grounds stated in section 484, or
6 shall recommend to the Legislature granting that
7 permission, subject to any terms and conditions
8 deemed appropriate. Any favorable recommendation
9 shall be transmitted to the Legislature, together
10 with the supporting findings and conclusions, for ac-
11 tion under section 1479.

12 5. Judicial review. Either action of the board
13 under subsection 4 shall constitute final agency ac-
14 tion, reviewable in accordance with the Maine Admin-
15 istrative Procedure Act, Title 5, chapter 375, sub-
16 chapter VII.

17 §1479. Legislative approval of facilities required

18 No low-level radioactive waste disposal or stor-
19 age facility may be established in the State, unless
20 the Legislature has, by statute, approved the estab-
21 lishment of that facility pursuant to the provisions
22 of this subchapter. The Legislature shall act
23 expeditiously on any recommendation of the board
24 under section 1478, but shall not act until after the
25 conclusion of any judicial review of the recommenda-
26 tion and any resulting administrative proceedings.

27 Approval under this subchapter constitutes
28 approval under the site location of development laws,
29 but does not replace any other license required by
30 law.

31 §1480. Applicability of regulations

32 All low-level radioactive waste storage facili-
33 ties, whether privately or publicly owned or oper-
34 ated, shall be subject to regulation in accordance
35 with this chapter.

36 §1480-A. Joint hearings; intervention

37 The board may hold joint hearings with the United
38 States Nuclear Regulatory Commission and intervene
39 in any federal licensing proceeding to carry out the

1 purpose of this chapter.

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STATEMENT OF FACT

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This new draft requires legislative approval of the establishment of any low-level radioactive waste storage or disposal facility within the State.

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Any person intending to construct or operate such a facility would file preliminary notice with the Department of Environmental Protection and the municipality, and then a full application with the Board of Environmental Protection under the site location of development laws, Title 38, section 481. The board would then be required to hold public hearings. Any person who resides within the State is entitled to be heard, but repetitious or irrelevant testimony is restricted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and this right to be heard does not automatically confer party status. The municipality would be allowed to appoint 4 voting representatives to the board, as is the case for commercial hazardous waste facilities. After the hearings, the board would have 90 days to deny permission, or recommend that the Legislature grant that permission. Legislative approval constitutes approval under the site location of development laws.

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The new draft also reallocates a section of existing law. L.D. 1631 erroneously reenacted only part of that section in Title 38 after repealing it in Title 10. It also repeals an unnecessary section reallocated from Title 10, section 52.

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