

MAINE STATE LEGISLATURE

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L.D. 615

(Filing No. H- 371)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to I.B. 1, L.D. 615, Bill,
"AN ACT to Require Voter Approval of the Disposal of
Low-level Radioactive Waste."

Amend the bill by striking out all of the title
and inserting in its place the following:

'AN ACT to Establish a State Policy Relating to
the Disposal of Low-level Radioactive Waste.'

Further amend the bill by striking out everything
after the enacting clause and inserting in its place
the following:

'Sec. 1. 38 MRSA c. 14-A, sub-c. IV is enacted
to read:

SUBCHAPTER IV

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

§1481. Title

This subchapter shall be known and may be cited
as the "Low-level Radioactive Waste Disposal Act."

§1482. Purpose

The purpose of this Act is to establish a state
policy with respect to the disposal of low-level ra-
dioactive waste.

§1483. Findings on low-level radioactive waste

The Legislature finds the following facts with
respect to low-level radioactive waste in this State.

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1 1. Quantity of waste. Approximately 12,000 cu-
2 bic feet of low-level radioactive waste are generated
3 within the State each year.

4 2. Generators. The principal generator of this
5 waste is the Maine Yankee Atomic Power Station lo-
6 cated at Wiscasset, with over 90% of the total pro-
7 duction. The remainder is produced by biomedical
8 research, other institutional facilities and the
9 Portsmouth-Kittery Naval Shipyard.

10 3. Licenses. All of the generators described in
11 subsection 2 are authorized to possess some low-level
12 radioactive waste under their current United State
13 Nuclear Regulatory Commission licenses.

14 4. Waste is a by-product. Low-level radioactive
15 waste is an inevitable by-product of the operation of
16 energy production, research and commercial facilities
17 at the current state of the art of the technologies
18 employed.

19 5. Maine generates small quantities. All
20 sources of low-level radioactive waste in Maine com-
21 bined generate less than 2% of total New England
22 wastes and 1/2 of 1% of all United States wastes in
23 each year.

24 6. Responsibility under federal law. The Feder-
25 al Government, through enactment of the Low-level Ra-
26 dioactive Waste Policy Act of 1980, Public Law
27 96-573, has delegated to each state the responsibili-
28 ty for providing for the capacity for the disposal of
29 low-level radioactive waste generated within each
30 state and has authorized the states to enter into re-
31 gional compacts for that purpose.

32 7. Curtailment of existing disposal capaci-
33 ty. The 3 states that currently accept low-level ra-
34 dioactive waste for disposal are expected to curtail
35 substantially or entirely the amounts they will ac-
36 cept by January 1, 1993.

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1 8. Public health and safety. Improper disposal
2 of low-level radioactive waste may result in physical
3 harm to human and other forms of life. The regula-
4 tion of the disposal of this waste is a proper exer-
5 cise of the police power of the State.

6 §1484. State low-level radioactive waste policy

7 It is the policy of the State to require the per-
8 manent disposal of low-level radioactive waste gener-
9 ated within the State and for which this State must
10 provide disposal capacity in facilities which will
11 isolate that radioactive waste from the biosphere in-
12 habited by people and their food chains.

13 In order to implement this policy, a suitable in-
14 stitutional framework is necessary. It is the policy
15 of the State to pursue the following alternatives,
16 expressed in order of preference.

17 1. Interstate compact. The relatively small
18 volume of waste generated within the State and the
19 provisions of Federal law justify entrance into a re-
20 gional compact with other states on equitable terms
21 as the first preference of this State for low-level
22 radioactive waste disposal. If the terms of the com-
23 compact do not exclude this State from the possibility
24 of hosting a waste facility, that compact must be ap-
25 proved by the voters in a statewide election.

26 2. Agreement for disposal elsewhere. If an in-
27 terstate compact is not feasible on satisfactory
28 terms, it is the 2nd preference of the State to enter
29 into an agreement with governmental or private agen-
30 cies outside the State which are willing and able to
31 accept Maine's low-level radioactive waste for dis-
32 posal.

33 3. State facility. If no such compact or agree-
34 ment is feasible on satisfactory terms, it is the 3rd
35 preference of the State to establish a state-owned

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1 and controlled low-level radioactive waste disposal
2 facility at one suitable state-owned site in this
3 State to dispose of only the low-level radioactive
4 waste generated in this State for which this State
5 must provide disposal capacity. Any such facility
6 must be recommended by the Board of Environmental
7 Protection and approved by the Legislature as re-
8 quired by subchapter III. It must also be approved
9 by the United States Nuclear Regulatory Commission
10 under federal law and by the voters of the State in a
11 referendum ratifying the Act of the Legislature ap-
12 proving that site in accordance with this subchapter.

13 A. It is further determined that, subject to de-
14 tailed site review and regulatory approval as re-
15 quired by law, the most appropriate disposal site
16 in Maine is within the area presently owned by
17 the Maine Yankee Atomic Power Station located in
18 Wiscasset. The reasons are that site's nearness
19 to the major waste generator, nearness to a work
20 force trained in radiological hazards, nearness
21 to existing waste storage capacity and its estab-
22 lished acceptability by the Nuclear Regulatory
23 Commission for certain nuclear and radiological
24 activities.

25 B. If the Maine Yankee site is found to be unac-
26 ceptable or unavailable, then the site for a
27 state facility shall be located elsewhere in the
28 State.

29 4. Defense waste. It is the policy of the State
30 to recommend to the Congress and the President of the
31 United States that the Federal Government assume all
32 responsibility for the safe and timely disposal of
33 low-level radioactive waste generated by the defense
34 activities of the government of the United States and
35 not to depend upon the states to develop or implement
36 policies with respect to that waste. The Federal
37 Government has a number of operating low-level radio-
38 active waste disposal facilities.

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1 5. Long-term storage and processing facilities.
2 Construction of any facilities or use of any
3 existing facilities for storage of low-level radioac-
4 tive waste, except those facilities to be used solely
5 for the storage of medical or bio-research waste and,
6 except those facilities having all the necessary fed-
7 eral, state and local licenses, permits, certifi-
8 cates, variances and other approvals necessary for
9 the construction and operation of the facilities pri-
10 or to June 1, 1985, shall be subject to review by the
11 Board of Environmental Protection, review by the Leg-
12 islature, approval by the United States Nuclear Regu-
13 latory Commission and approval by the voters in a
14 referendum ratifying the act of the Legislature ac-
15 ording to this subchapter.

16 6. Disposal method. It is the policy of the
17 State that the safest available technology shall be
18 used for any low-level radioactive waste storage or
19 disposal facility in the State. The facts as we know
20 them today, including the humid climate, high water
21 table and other geological characteristics of the
22 State, suggest that conventional shallow land burial
23 will not be adequate in this State. Improved
24 engineered disposal methods are needed.

25 §1485. State ownership required

26 Any facilities for the disposal of low-level ra-
27 dioactive waste located within this State and the
28 land required for the operation of those facilities
29 shall be owned by the State and operated by the State
30 or an organization selected by and under the direct
31 supervision of the State. The Governor may accept on
32 behalf of the State such property interests as may be
33 necessary to carry out the purposes of this subchap-
34 ter upon terms agreeable to the parties.

35 §1486. Ratification of compacts

36 1. General provisions. Any compact with other
37 states or the Federal Government with respect to the

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1 siting, licensing, operation and use of low-level
2 waste disposal facilities within and outside this
3 State shall be negotiated by the Governor on behalf
4 of this State and ratified by an Act of the Legisla-
5 ture in accordance with section 1474.

6 2. Referendum not required. Voter approval is
7 not required to ratify any interstate compact or any
8 agreement with any person, state, group of states,
9 whether or not party to an interstate compact or the
10 Federal Government concerning the disposal of
11 low-level radioactive waste, unless that compact does
12 not exclude the State from the possibility of hosting
13 a facility for the storage or disposal of waste gen-
14 erated outside the State.

15 §1487. Voter approval of disposal facilities

16 No low-level radioactive waste storage or dispos-
17 al facility may be established within the State un-
18 less the establishment of that facility has been ap-
19 proved by a majority of the voters voting thereon in
20 a statewide election. That election shall be held in
21 the manner prescribed by law for holding a statewide
22 election. The voters shall be asked to vote on the
23 acceptance or rejection of construction and operation
24 by voting on the following question.

25 "Do you approve of the (insert compact or agree-
26 ment) for the (insert disposal or storage) of
27 low-level radioactive waste proposed to be made
28 with (insert name of state or states or "the Fed-
29 eral Government")?"

30 This question shall be submitted to the legal
31 voters of the State at the next following statewide
32 election after review and issuance of an order recom-
33 ending permission for construction and operation of
34 the facility by the Board of Environmental Protection
35 pursuant to section 1478 and approval by the Legisla-
36 ture of the establishment of the facility in accord-
37 ance with section 1479, provided that no construction

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1 or operation of any facility may commence prior to
2 the election.

3 The legal voters of each city, town and
4 plantation shall vote by ballot on this question and
5 shall designate their choice by a cross or check mark
6 placed within a corresponding square below the words
7 "Yes" or "No." The ballots shall be received,
8 sorted, counted and declared in open ward, town and
9 plantation meetings and returns made to the Secretary
10 of State in the same manner as votes for members of
11 the Legislature. The Governor shall review the re-
12 turns and, if it appears that a majority of the legal
13 voters are in favor of construction and operation,
14 the Governor shall proclaim that fact without delay.

15 The Secretary of State shall prepare and furnish
16 to each city, town and plantation all ballots, re-
17 turns and copies of this subchapter necessary to car-
18 ry out the purpose of this referendum.

19 Sec. 2. Intent of the Legislature; competing
20 measure. It is the intent of the Legislature that
21 this Act be interpreted as a competing measure within
22 the meaning of the Constitution of Maine, Article IV,
23 Part Third, Section 18, with Legislative Document
24 615, Initiated Bill 1, "AN ACT to Require Voter Ap-
25 proval of the Disposal of Low-level Radioactive
26 Waste." It is the further intent of the Legislature
27 that this measure be subject to referendum as a com-
28 peting measure with that bill.

29 Sec. 3. Statutory referendum procedure; form of
30 question; effective date. This Act shall take effect
31 90 days after adjournment of the First Regular Ses-
32 sion of the 112th Legislature only for the purpose of
33 submission to the legal voters of the State at the
34 next following statewide election as a competing mea-
35 sure with Legislative Document 615, Initiated Bill 1,
36 "AN ACT to Require Voter Approval of the Disposal of
37 Low-level Radioactive Waste." The election shall be
38 held in the manner prescribed by law for holding a

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1 statewide election. The Secretary of State shall
2 prepare and furnish to each city, town and
3 plantation, all ballots, returns and copies of this
4 Act necessary to carry out the purpose of this refer-
5 endum. The voters shall vote on this Act by voting
6 on the following question:

7 "Do you want the right to vote on any plan for
8 the storage or disposal of low-level radioactive
9 waste in those cases where the State of Maine may
10 be required to locate the disposal facility in-
11 side its borders?"

12 This question shall be submitted to the legal
13 voters of the State at the next following statewide
14 election after any such compact or agreement is rec-
15 ommended by the Governor pursuant to section 1474 or
16 any other provision of law.

17 This Act shall take effect for all purposes imme-
18 diately upon approval of a majority of the legal
19 votes cast in the election.'

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STATEMENT OF FACT

2 It is the intent of this amendment to change the
3 competing measure sponsored by the Joint Standing
4 Committee on Energy and Natural Resources so that it
5 calls for voter approval of any facility which would
6 be established in the State, to extend its power to
7 regulation of long-term storage as well as permanent
8 disposal of low-level radioactive waste and to call
9 for voter approval of any compact which holds out the
10 possibility that Maine might have to host a facility
11 for out-of-state waste.

12

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