

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 (After Deadline)  
3 FIRST REGULAR SESSION  
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE  
6

7 Legislative Document

No. 1359

8  
9 S.P. 498

In Senate, April 19, 1985

10 Approved for introduction by a majority of the Legislative Council  
11 pursuant to Joint Rule 27.

12 Referred to the Committee on Energy and Natural Resources. Sent down  
for concurrence and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Usher of Cumberland.

13 Cosponsored by President Pray of Penobscot.

14 STATE OF MAINE  
15

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

19 AN ACT to Encourage the Development of Solid  
20 Waste Energy Recovery Facilities in  
21 the State of Maine.  
22

23 **Emergency preamble.** Whereas, Acts of the Legis-  
24 lature do not become effective until 90 days after  
25 adjournment unless enacted as emergencies; and

26 Whereas, the State requires each municipality to  
27 provide for the disposal of solid waste generated  
28 within the municipality; and

29 Whereas, solid waste contains valuable recover-  
30 able resources, including energy, and many municipal-  
31 ities have found that energy recovery reduces the  
32 cost of solid waste disposal; and

33 Whereas, solid waste energy recovery technology  
34 is complex and most solid waste energy recovery fa-  
35 cilities have high capital costs and long payback pe-  
36 riods; and

1           Whereas, to make the solid waste energy recovery  
2 facilities financially feasible, the developers of  
3 these facilities need to be assured of a steady  
4 source of revenues to repay the loans used to finance  
5 the construction of the facilities; and

6           Whereas, the steady stream of revenues needed to  
7 pay for these facilities are often provided by munic-  
8 ipal service contracts, whereby municipalities agree  
9 to pay costs associated with providing such a facili-  
10 ty, whether or not this facility is operational; and

11           Whereas, there are Maine municipalities which now  
12 desire to enter into agreements in order to provide  
13 at the earliest possible date for the disposal of  
14 their solid waste at the energy recovery facilities  
15 in the State; and

16           Whereas, legal questions now exist concerning the  
17 present power of Maine municipalities to enter into  
18 the service contracts for solid waste disposal; and

19           Whereas, in the judgment of the Legislature,  
20 these facts create an emergency within the meaning of  
21 the Constitution of Maine and require the following  
22 legislation as immediately necessary for the preser-  
23 vation of the public peace, health and safety; now,  
24 therefore,

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

27           38 MRSA §1304-B, sub-§4, as enacted by PL 1983,  
28 c. 380, §1, is repealed and the following enacted in  
29 its place:

30           4. Contracts. In order to encourage and facili-  
31 tate the financing and development of solid waste fa-  
32 ilities, including facilities for resource recovery,  
33 municipalities shall have the following powers, not-  
34 withstanding any charter or ordinance provision to  
35 the contrary:

36           A. To contract with any person for the collec-  
37 tion, transportation, storage, processing, sal-  
38 vaging or disposal of waste, or may enter into an

1 agreement with the owner or operator of any waste  
2 facility. The agreement may be for such term of  
3 years as agreed upon by the parties and may pro-  
4 vide that in consideration for the obligation of  
5 the facility owner or operator to handle solid  
6 waste of the municipality, the municipality shall  
7 pay to the facility owner or operator the fees,  
8 assessments and any other payments for service  
9 set forth in the agreement. The amount of any  
10 such payments shall be calculated as set forth in  
11 the agreement, for the purpose of paying:

12 (1) Costs associated with financing, devel-  
13 oping, constructing, repairing, maintaining  
14 and operating the waste facility owned or  
15 operated by the facility owner or operator,  
16 including the payment of debt service and  
17 the maintenance of required reserves or  
18 sinking funds in connection with that fi-  
19 nanancing; and

20 (2) Any other costs incurred by the facili-  
21 ty owner or operator in connection with the  
22 handling of solid waste which the owner or  
23 operator is obligated to perform, whether  
24 performed at the waste facility referred to  
25 in subparagraph (1) or at another such fa-  
26 ility differently owned and operated, with-  
27 out regard to whether the waste facility re-  
28 ferred to in subparagraph (1) becomes opera-  
29 tional or was or will be in operation during  
30 the period for which such fees, assessments  
31 or other service payments are so charged;  
32 provided that the obligation of the munici-  
33 pality to make any such payments under the  
34 agreement shall not constitute a "debt" or  
35 "indebtedness" of the municipality within  
36 the meaning of any state or local law, lim-  
37 iting the incurrence or the amount of munic-  
38 ipal indebtedness or requiring any voter  
39 referendum or approval prior to the  
40 incurrence of municipal indebtedness; and

41 B. To pledge the full faith and credit of the  
42 municipality for the payment of fees, assessments  
43 and other payments for service chargeable against  
44 the municipality, as provided in paragraph A, and

1 to levy upon and raise from taxable estates with-  
2 in the municipality by general or special tax the  
3 amounts required to make the payments, or to  
4 raise the amounts by means of any fee, user  
5 charge or other cost sharing or assessment mecha-  
6 nism duly adopted and authorized by the munici-  
7 pality.

8 Any agreement pursuant to paragraph A shall be a le-  
9 gal, valid, binding and enforceable obligation, re-  
10 gardless of whether the agreement was authorized, ex-  
11 ecuted or delivered prior to or after the effective  
12 date of this section.

13 Emergency clause. In view of the emergency cited  
14 in the preamble, this Act shall take effect when ap-  
15 proved.

16 STATEMENT OF FACT

17 The purpose of this bill is to provide  
18 unequivocal authority for Maine municipalities to en-  
19 ter into agreements with the developers of solid  
20 waste disposal facilities whereby the municipalities  
21 are able to guarantee a steady source of revenues to  
22 the developers to pay debt service on the solid waste  
23 disposal projects financed by the developers, whether  
24 or not such facilities become operational or cease to  
25 be operational for any period prior to full payment  
26 of the debt service.

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