

MAINE STATE LEGISLATURE

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L.D. 1649
(Filing No. H-375)

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

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HOUSE AMENDMENT "*A*" to H.P. 1141, L.D. 1649,
Bill, "AN ACT to Establish a State Policy Relating to
the Disposal of Low-level Radioactive Waste."

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

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

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SUBCHAPTER IV

16

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

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§1481. Title

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

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§1482. Purpose

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

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§1483. Findings on low-level radioactive waste

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

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

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2. Generators. The principal generator of this
waste is the Maine Yankee Atomic Power Station lo-

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1 cated at Wiscasset, with over 90% of the total pro-
2 duction. The remainder is produced by biomedical re-
3 search, other institutional facilities and the
4 Portsmouth-Kittery Naval Shipyard.

5 3. Licenses. All of the generators described in
6 subsection 2 are authorized to possess some low-level
7 radioactive waste under their current United State
8 Nuclear Regulatory Commission licenses.

9 4. Waste is a by-product. Low-level radioactive
10 waste is an inevitable by-product of the operation of
11 energy production, research and commercial facilities
12 at the current state of the art of the technologies
13 employed.

14 5. Maine generates small quantities. All
15 sources of low-level radioactive waste in Maine com-
16 bined generate less than 2% of total New England
17 wastes and 1/2 of 1% of all United States wastes in
18 each year.

19 6. Responsibility under federal law. The Feder-
20 al Government, through enactment of the Low-level Ra-
21 dioactive Waste Policy Act of 1980, Public Law
22 96-573, has delegated to each state the responsibili-
23 ty for providing for the capacity for the disposal of
24 low-level radioactive waste generated within each
25 state and has authorized the states to enter into re-
26 gional compacts for that purpose.

27 7. Curtailment of existing disposal capaci-
28 ty. The 3 states that currently accept low-level ra-
29 dioactive waste for disposal are expected to curtail
30 substantially or entirely the amounts they will ac-
31 cept by January 1, 1993.

32 8. Public health and safety. Improper disposal
33 of low-level radioactive waste may result in physical
34 harm to human and other forms of life. The regula-
35 tion of the disposal of this waste is a proper exer-
36 cise of the police power of the State.

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1 §1484. State low-level radioactive waste policy

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

8 In order to implement this policy, a suitable in-
9 stitutional framework is necessary. It is the policy
10 of the State to pursue the following alternatives,
11 expressed in order of preference.

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

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

28 3. State facility. If no such compact or agree-
29 ment is feasible on satisfactory terms, it is the 3rd
30 preference of the State to establish a state-owned
31 and controlled low-level radioactive waste disposal
32 facility at one suitable state-owned site in this
33 State to dispose of only the low-level radioactive
34 waste generated in this State for which this State
35 must provide disposal capacity. Any such facility
36 must be recommended by the Board of Environmental

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1 Protection and approved by the Legislature as re-
2 quired by subchapter III. It must also be approved
3 by the United States Nuclear Regulatory Commission
4 under federal law and by the voters of the State in a
5 referendum ratifying the Act of the Legislature ap-
6 proving that site in accordance with this subchapter.

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

19 B. If the Maine Yankee site is found to be unac-
20 ceptable or unavailable, then the site for a
21 state facility shall be located elsewhere in the
22 State.

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

33 5. Long-term storage and processing facili-
34 ties. Construction of any facilities or use of any
35 existing facilities for storage of low-level radioac-
36 tive waste, except those facilities to be used solely
37 for the storage of medical or bio-research waste and,
38 except those facilities having all the necessary fed-

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1 eral, state and local licenses, permits, certifi-
2 cates, variances and other approvals necessary for
3 the construction and operation of the facilities pri-
4 or to June 1, 1985, shall be subject to review by the
5 Board of Environmental Protection, review by the Leg-
6 islature, approval by the United States Nuclear Regu-
7 latory Commission and approval by the voters in a
8 referendum ratifying the act of the Legislature ac-
9 cording to this subchapter.

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

19 §1485. State ownership required

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

29 §1486. Ratification of compacts

30 1. General provisions. Any compact with other
31 states or the Federal Government with respect to the
32 siting, licensing, operation and use of low-level
33 waste disposal facilities within and outside this
34 State shall be negotiated by the Governor on behalf
35 of this State and ratified by an Act of the Legisla-
36 ture in accordance with section 1474.

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

10 §1487. Voter approval of disposal facilities

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

20 "Do you approve of the (insert compact or agree-
21 ment) for the (insert disposal or storage) of
22 low-level radioactive waste proposed to be made
23 with (insert name of state or states or "the Fed-
24 eral Government")?"

25 This question shall be submitted to the legal
26 voters of the State at the next following statewide
27 election after review and issuance of an order recom-
28 mending permission for construction and operation of
29 the facility by the Board of Environmental Protection
30 pursuant to section 1478 and approval by the Legisla-
31 ture of the establishment of the facility in accord-
32 ance with section 1479, provided that no construction
33 or operation of any facility may commence prior to
34 the election.

35 The legal voters of each city, town and
36 plantation shall vote by ballot on this question and
37 shall designate their choice by a cross or check mark

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1 placed within a corresponding square below the words
2 "Yes" or "No." The ballots shall be received,
3 sorted, counted and declared in open ward, town and
4 plantation meetings and returns made to the Secretary
5 of State in the same manner as votes for members of
6 the Legislature. The Governor shall review the re-
7 turns and, if it appears that a majority of the legal
8 voters are in favor of construction and operation,
9 the Governor shall proclaim that fact without delay.

10 The Secretary of State shall prepare and furnish
11 to each city, town and plantation all ballots, re-
12 turns and copies of this subchapter necessary to car-
13 ry out the purpose of this referendum.

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

24 Sec. 3. Statutory referendum procedure; form of
25 question; effective date. This Act shall take effect
26 90 days after adjournment of the First Regular Ses-
27 sion of the 112th Legislature only for the purpose of
28 submission to the legal voters of the State at the
29 next following statewide election as a competing mea-
30 sure with Legislative Document 615, Initiated Bill 1,
31 "AN ACT to Require Voter Approval of the Disposal of
32 Low-level Radioactive Waste." The election shall be
33 held in the manner prescribed by law for holding a
34 statewide election. The Secretary of State shall
35 prepare and furnish to each city, town and
36 plantation, all ballots, returns and copies of this
37 Act necessary to carry out the purpose of this refer-
38 endum. The voters shall vote on this Act by voting
39 on the following question:

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1 "Do you want the right to vote on any plan for
2 the storage or disposal of low-level radioactive
3 waste in those cases where the State of Maine may
4 be required to locate the disposal facility in-
5 side its borders?"

6 This question shall be submitted to the legal
7 voters of the State at the next following statewide
8 election after any such compact or agreement is rec-
9 ommended by the Governor pursuant to section 1474 or
10 any other provision of law.

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

14 STATEMENT OF FACT

15 It is the intent of this amendment to change the
16 competing measure sponsored by the Joint Standing
17 Committee on Energy and Natural Resources so that it
18 calls for voter approval of any facility which would
19 be established in the State, to extend its power to
20 regulation of long-term storage as well as permanent
21 disposal of low-level radioactive waste and to call
22 for voter approval of any compact which holds out the
23 possibility that Maine might have to host a facility
24 for out-of-state waste.

25 4324061185

Filed by Rep. Scarpino of St. George
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6/11/85

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