

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2242

7
8 S.P. 892

In Senate, March 20, 1986

9 Approved for introduction by a majority of the Legislative Council
10 pursuant to Joint Rule 26.

11 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 Kany of Kennebec.

12 Cosponsored by Representative Halloway of Edgecomb, Representative
Mitchell of Freeport and Senator Usher of Cumberland.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Provide for Development of a State
19 Low-level Radioactive Waste Facility
20 if Necessary.
21

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

25 Whereas, the State has accepted its responsibili-
26 ty for providing for the capacity, either within the
27 State or elsewhere, for the disposal of low-level ra-
28 dioactive waste generated within the State as re-
29 quired by federal law; and

30 Whereas, the United States Low-level Radioactive
31 Waste Policy Amendments Act of 1985, PL 99-240, has
32 been signed into law on January 15, 1986, by the
33 President of the United States; and

34 Whereas, those amendments require that each state
35 which is not a member of a low-level radioactive

1 waste compact meet certain milestones in order to
2 have continued access to existing regional disposal
3 facilities; and

4 Whereas, the first milestone is that "By July 1,
5 1986, each such non-member state shall ratify compact
6 legislation or ... indicate its intent to develop a
7 site for the location of a low-level radioactive
8 waste disposal facility within such State."; and

9 Whereas, the penalties for failing to reach that
10 milestone could reach \$100,000 for each year plus,
11 beginning January 1, 1987, denial of access to re-
12 gional disposal facilities; and

13 Whereas, the purpose of this legislation is to
14 meet that first milestone; and

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

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

23 Sec. 1. 38 MRSA §1471, as enacted by PL 1983, c.
24 381, §9, is amended to read:

25 §1471. Purpose

26 In accordance with the United States Low-level
27 Radioactive Waste Policy Act of 1980, Public Law
28 96-573, as amended by the United States Low-level Ra-
29 dioactive Waste Policy Amendments Act of 1985, Public
30 Law 99-240, the Legislature State accepts its respon-
31 sibility for providing for the capacity for the dis-
32 posal of low-level radioactive waste generated within
33 this State that consists of or contains Class A, B or
34 C radioactive waste, as defined by the Code of Feder-
35 al Regulations, Title 10, Section 61.55, as in effect
36 on January 26, 1983, except for waste owned or gener-
37 ated by the United States Department of Energy or
38 waste owned or generated by the United States Navy as
39 a result of the decommissioning of vessels of the

1 United States Navy or waste owned or generated as a
2 result of any research, development, testing or pro-
3 duction of any atomic weapon. It is the purpose of
4 this subchapter to establish a program for the safe
5 management of low-level radioactive waste, and to
6 provide capacity for its disposal either within this
7 State or in regional facilities.

8 Sec. 2. 38 MRSA §1472, as enacted by PL 1983, c.
9 381, §9, is amended to read:

10 §1472. Reporting

11 Each low-level radioactive waste generator shall
12 annually report, by March 31st, the volume ~~and~~, ra-
13 dioactivity and other physical and chemical
14 characteristics of low-level waste generated and the
15 volume and radioactivity of low-level waste shipped
16 to commercial disposal facilities, and the volume,
17 radioactivity and other pertinent characteristics of
18 low-level radioactive waste stored on-site. This re-
19 port shall be submitted to the commissioner and to
20 the Commissioner of Human Services, and shall include
21 information on the specific radioactive materials
22 handled.

23 Sec. 3. 38 MRSA §1474, as repealed and replaced
24 by PL 1983, c. 862, §91, is repealed and the follow-
25 ing enacted in its place:

26 §1474. Regional compacts

27 1. Negotiation. The Governor may negotiate on
28 behalf of the State compacts or other agreements,
29 with other states and the Federal Government with re-
30 spect to the siting, licensing, operation and use of
31 low-level radioactive waste disposal facilities.

32 2. Ratification. Any compact or agreement with
33 any other state or states or the Federal Government
34 for low-level waste disposal must be ratified by leg-
35 islative act and, in accordance with subchapter IV,
36 by the voters of the State.

37 Sec. 4. 38 MRSA §1479, as amended by PL 1983, c.
38 583, §25, is further amended by adding at the end a
39 new paragraph to read:

1 Approval under this subchapter is in addition to
2 the voter approval required by subchapter IV.

3 Sec. 5. 38 MRSA §§1481 and 1482 are enacted to
4 read:

5 §1481. State low-level radioactive waste disposal
6 facility

7 1. Intent. It is the present intent of the State
8 to develop a site for the location of a low-level ra-
9 dioactive waste disposal facility within the State.

10 2. Federal milestone. It is the intent of this
11 section to meet the July 1, 1986, milestone require-
12 ments for interim access to existing regional dispos-
13 al facilities as required by the United States
14 Low-level Radioactive Waste Policy Amendments Act of
15 1985, PL 99-240.

16 §1482. Requirements to be met by any low-level ra-
17 dioactive waste disposal facility

18 1. State ownership and control. Any low-level
19 radioactive waste disposal facility developed in the
20 State shall be owned and controlled by the State, but
21 the State may contract for services as necessary.

22 2. Protection of public health and safety. Any
23 low-level radioactive waste disposal facility devel-
24 oped in the State shall employ the safest available
25 technology. In order to cope with the humid climate,
26 high water table, cold winters and other geological
27 characteristics of the State, improved engineered
28 disposal methods in addition to geological barriers
29 shall be used rather than conventional shallow land
30 burial.

31 3. Financing. Any low-level radioactive waste
32 disposal facility developed in the State shall be fi-
33 nanced by funds collected prior to their expenditure
34 from the generators of that waste within the State.
35 This includes funds for planning, licensing, siting,
36 construction, operation, closure, long-term monitor-
37 ing and any other necessary functions.

1 4. Licensing. Any low-level radioactive waste
2 disposal facility developed in the State shall be li-
3 icensed by the United States Nuclear Regulatory Com-
4 mission or, in the event the State becomes an agree-
5 ment state, by the State. The facility must be recom-
6 ended by the Board of Environmental Protection and
7 approved by the Legislature in accordance with this
8 subchapter and approved by the voters in accordance
9 with subchapter IV.

10 **Sec. 6. Report.** The Governor is directed to con-
11 tinue discussions and negotiations with other states
12 to develop a compact or other agreement in a timely
13 fashion which would provide for disposal elsewhere of
14 the relatively small amount of low-level radioactive
15 waste generated in Maine. The Governor shall report
16 to the Legislature on or before July 1, 1987, on the
17 likelihood of success of those efforts, with an in-
18 terim progress report on December 2, 1986.

19 **Emergency clause.** In view of the emergency cited
20 in the preamble, this Act shall take effect when ap-
21 proved.

1 STATEMENT OF FACT

2 Under the recently enacted amendments to the
3 United States Low-level Radioactive Waste Policy Act,
4 Public Law 99-240, any state which is not a member of
5 a regional low-level waste compact and which does not
6 have an operating disposal facility may be immediate-
7 ly charged \$10 for each cubic foot surcharge and may
8 be denied access to existing regional disposal facil-
9 ities beginning January 1, 1987, unless, by July 1,
10 1986, it ratifies compact legislation or enacts leg-
11 islation indicating its intent to develop its own
12 site.

13 This bill is intended to meet that deadline by
14 stating the present intent of the State to develop a
15 site for the location of a low-level radioactive
16 waste facility within the State for disposal of
17 low-level radioactive waste generated within the
18 State.

19 The authority of the Governor to negotiate inter-
20 state compacts or agreements for low-level radioac-
21 tive waste disposal outside the State subject to leg-
22 islative and voter ratification is reiterated. Un-
23 fortunately, no viable compact or agreement is avail-
24 able to the State now, but if one should develop,
25 that could still be preferable to development of an
26 in-state disposal facility. The Governor is to make
27 an interim progress report to the Legislature on De-
28 cember 2, 1986, and another report July 1, 1987, 6
29 months before the next federal milestone.

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