

L.D. 2443

(Filing No. S-569)

3 STATE OF MAINE 4 SENATE 5 112TH LEGISLATURE THIRD SPECIAL SESSION 6 7 COMMITTEE AMENDMENT " A " to S.P. 988, L.D. censing of Commercial Landfills for the Disposal of Solid Waste." 8 9 10 11 Amend the bill by striking out all of sections 1 12 and 2 and inserting in their place the following: 13 'Sec. 1. 30 MRSA §4962-B is enacted to read: 14 §4962-B. State policy relating to municipal commer-15 cial landfill facilities moratoria 16 It is the policy of this State, with respect to 17 commercial landfill facilities: 18 1. State and municipal control. To affirm the importance of state and municipal control over the establishment of new commercial landfill facilities 19 20 and over the substantial expansion of existing com-21 mercial landfill facilities; and 22 Recognition of home rule authority. To rec-23 2. 24 ognize that any municipality may, in the exercise of 25 its home rule authority under section 1917 and the 26 Constitution of Maine, Article VIII, Section 1, enact 27 a moratorium on the issuance or processing of any municipal permit for a new commercial landfill facility 28 29 or the substantial expansion of a commercial landfill 30 facility, as defined in Title 38, section 1303, sub-31 section 11-B. 32 Sec. 2. 38 MRSA §1303, sub-§1-C is enacted to 33 read: Commercial landfill facility. "Commercial 34 1-C. 35 facility" means a privately-owned waste falandfill

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1	cility which accepts solid waste for a fee or other
2	consideration, which is used for the burial of solid
3	waste and which is used for the disposal of waste
4	other than waste generated by its owners.
5	A. "Commercial landfill facility" does not in-
6	clude:
7	(1) A waste facility used solely for the
8	disposal of solid waste which is generated
9	by, or which is under contract to be dis-
10	posed of at, an energy recovery facility de-
11	signed to reduce the volume or alter the
12	physical characteristics of municipal solid
13	waste and to produce electricity through
14	incineration; or
15	(2) A waste facility owned, controlled, op-
16	erated or used exclusively by:
17	(a) A public waste disposal corpora-
18	tion under section 1304-B, subsection
19	5;
20	(b) A municipality under section 1305;
21	or
22 23	(c) A refuse disposal district under chapter 17.
24 25 26 27	Further amend the bill in section 3, in the next to the last line (page 3, line 18 in L.D.) by striking out the underlined word " <u>less</u> " and inserting in its place the underlined word ' <u>more</u> '
28 29 30	Further amend the bill in section 3 in subsection 11-B by inserting after the first paragarph the following:
31	"Substantial expansion" does not include an expan-
32	sion or location of an additional site by an existing
33	commercial landfill owner or operator which is neces-

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1	sary,	as	determined	by	the	board,	to:	
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- 2 A. Dispose of municipal solid waste; or
- 3 <u>B. Accommodate any commercial, industrial or</u> 4 <u>residential development that requires site loca-</u> 5 <u>tion of development approval.</u>

6 Further amend the bill in section 5, in the 5th 7 line (page 3, line 41 in L.D.) by inserting after 8 "subsection 8," the following: 'or under municipal 9 ordinance,'

## STATEMENT OF FACT

11 This amendment replaces section 1 of the bill to 12 reaffirm that the State places importance on state 13 and municipal control of new commercial landfill fa-14 cility development. It also specifically recognizes 15 that municipalities may exercise their home rule au-16 thority extended under the Constitution of Maine to 17 enact their own moratoria on the processing or issuance of a permit for a new or expanded commercial 18 19 landfill facility.

20 This amendment amends section 2 of the bill to 21 further define "commercial landfill facilities" as 22 solid waste landfills that are paid by waste genera-23 tors to accept solid waste. It excludes from the def-24 inition of "commercial landfill facility" those sites 25 which accept solid waste, other than waste the owner 26 generates, without charging a fee. This definition 27 also exempts a waste facility used exclusively to 28 dispose of ash from an energy recovery facility or 29 municipal solid waste contracted for disposal should 30 that facility not operate. Section 2 of the bill is 31 also amended to clarify that a facility used exclu-32 sively by a public waste disposal corporation, munic-33 ipality or a refuse disposal district is not consid-34 ered a commercial landfill facility.



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1 This amendment modifies section 3 of the bill 2 which defines "substantial expansion." The bill de-3 fines "substantial expansion" in terms of present 4 volume or land area affected, whichever is less. 5 This amendment allows expansions to be based on the 6 larger of the 2 figures.

7 Section 3 of the bill is also amended to give the Board of Environmental Protection discretion to allow 8 9 expansions of existing commercial landfill facilities 10 when necessary to accommodate municipal waste or solid waste from economic growth and development. This 11 12 change addresses the required guarantee for solid 13 waste capacity at a site the Department of Environ-14 mental Protection considers in compliance before site 15 location of development approval is granted. This is 16 required under the Fitzpatrick decision. It also al-17 lows an existing commercial landfill facility owner or operator to locate an additional site not adjacent 18 19 to the existing commercial landfill facility when the 20 board determines it is necessary.

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Reported by the Majority for the Committee on Energy and Natural Resources.

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(10/17/86) (Filing No. S-569)

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