

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1330

H.P. 983 House of Representatives, April 22, 1987
Reference to the Committee on Energy and Natural
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative MURPHY of Berwick.

Cosponsored by Senator TUTTLE of York, Representatives
LORD of Waterboro and RIDLEY of Shapleigh.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Establish a Moratorium on
2 Licensing, Development and Expansion of all
3 Solid Waste Disposal Facilities, Landfills
4 and Incinerators Pending the
5 Development of a Comprehensive Solid
6 Waste Management Plan for this State.
7

8 Emergency preamble. Whereas, Acts of the Legis-
9 lature do not become effective until 90 days after
10 adjournment unless enacted as emergencies; and

11 Whereas, many concerns about problems of solid
12 waste have been urgently raised by the citizens of
13 this State; and

14 Whereas, individual problems with solid waste
15 disposal cannot be addressed by the Legislature until

1 an examination of the overall solid waste management
2 problems proposed by this Legislature has been under-
3 taken; and

4 Whereas, in the judgment of the Legislature,
5 these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preser-
8 vation of the public peace, health and safety; now,
9 therefore,

10 Be it enacted by the People of the State of Maine as
11 follows:

12 **Sec. 1. Moratorium.** Notwithstanding the Maine
13 Revised Statutes, Title 38, sections 344 and 1304, or
14 any other provision of law, no license or permit for
15 development or expansion of solid waste disposal fa-
16 cilities, landfills or incinerators may be issued af-
17 ter the effective date of this Act until January 1,
18 1988, or until the commission's report, including a
19 comprehensive plan for solid waste management, re-
20 quired in section 2, is submitted to the Legislature,
21 whichever is later.

22 **Sec. 2. Study commission created.** There is cre-
23 ated a commission to examine problems of solid waste
24 management in this State and to develop a comprehen-
25 sive state plan. The study shall include, but not be
26 limited to:

27 A redefinition of the Department of Environmental
28 Protection's role in regard to applicants, the public
29 and the Legislature;

30 An explicit formulation of licensing guidelines
31 and requirements for all proposed uses of riparian
32 systems necessary for human survival. This formula-
33 tion is to allow benign uses, restrict uncertain uses
34 and prohibit hostile uses;

35 A state capacity analysis and public interest re-
36 quirement for new waste disposal facilities whereby
37 applicants would have to demonstrate proposed facili-
38 ties as necessary to meet state needs;

1 A program component for technical assistance to
2 be shared with affected municipalities when attempt-
3 ing to assess, minimize or avoid risks associated
4 with proposed solid waste facilities;

5 A scientific and technical methodology for choice
6 of methods in remediating existing and closed dumps
7 and landfills;

8 An accountability program with a double entry
9 manifest system for all solid waste transactions, de-
10 cisions, handling, and transporting, with
11 point-to-point volume reports from source to final
12 disposition in the stream;

13 An ongoing planning component for future planning
14 strategies and guidelines for future market strate-
15 gies to be used in dealing with solid waste prac-
16 tices;

17 A mechanism for affected persons or municipali-
18 ties to bring civil action in court against any legal
19 entity, including persons, limited partnerships, cor-
20 porations or the State to enforce provisions of solid
21 waste laws or regulations; and

22 A statewide waste reduction corporation with a
23 primary goal to guarantee recycling the major portion
24 of the waste stream within a practical time frame.

25 The commission shall consist of 12 members, as
26 follows: Two Senators appointed by the President of
27 the Senate, provided that there shall be 2 members of
28 the Joint Standing Committee on Energy and Natural
29 Resources among the Senators appointed; 2 Representa-
30 tives appointed by the Speaker of the House, provided
31 that there shall be one member of the Joint Standing
32 Committee on State and Local Government and one mem-
33 ber of the Joint Standing Committee on Business Leg-
34 islation among the Representatives appointed; the Di-
35 rector of the State Planning Office and the Commis-
36 sioner of Environmental Protection and the Commis-
37 sioner of Human Resources; 2 members representing lo-
38 cal and federal agencies appointed by the Governor;
39 and 3 members of the public appointed by the Gover-
40 nor. The Governor shall select a chairman from among
41 the commission members.

1 Each person required to make an appointment or
2 appointments under this Act shall make the appoint-
3 ment or appointments by August 1, 1988, and shall in-
4 form the Legislative Council upon making the appoint-
5 ment or appointments.

6 A commission member who is not a Legislator shall
7 serve until he becomes unable to do so by death, res-
8 ignation or by no longer being a member of the group
9 he was appointed to represent. A commission member
10 who is a Legislator shall serve until he becomes un-
11 able to do so by death or resignation, but shall con-
12 tinue to serve even if he is not elected to a term in
13 the 114th Legislature. When any commission member
14 vacates his commission membership, the authority who
15 appointed the member shall appoint a new member to
16 take his place.

17 **Sec. 3. Duties.** The commission shall investigate
18 and propose recommendations, including all necessary
19 legislation, to address problems of solid waste man-
20 agement in this State. The goal of the commission's
21 recommendations shall be to assure the development of
22 a comprehensive state plan for solid waste management
23 at a reasonable cost.

24 **Sec. 4. Investigative powers.** The commission may
25 administer oaths, issue subpoenas, compel the attend-
26 ance of witnesses and the production of any papers,
27 books, accounts, documents and testimony and cause
28 the deposition of witnesses, whether residing within
29 or without the State, to be taken in the manner pre-
30 scribed by law for taking depositions in civil ac-
31 tions in the Superior Court. In exercising these
32 powers, the commission is governed by the Maine Re-
33 vised Statutes, Title 3, chapter 21.

34 **Sec. 5. Report.** The commission shall present its
35 report, together with any recommended legislation, to
36 the Second Regular Session of the 114th Legislature
37 by January 1, 1990.

38 **Sec. 6. Assistance.** The commission may request
39 staff assistance from the Legislative Council. The
40 commission may contract, with the approval of the
41 Legislative Council, with an actuary, certified pub-
42 lic accountant or other expert professional for as-
43 sistance.

1 **Sec. 7. Compensation.** The members of the commis-
2 sion who are Legislators shall receive the legisla-
3 tive per diem, as defined in the Maine Revised Stat-
4 utes, Title 5, section 12002, for days of attendance
5 at commission meetings. If the commission meets on a
6 day when the Legislature is in session, the members
7 of the commission who are Legislators shall receive
8 only one legislative per diem on that day. All mem-
9 bers of and judicial advisors to the commission shall
10 receive expenses, as defined in the Maine Revised
11 Statutes, Title 5, section 12002, upon application to
12 the Executive Director of the Legislative Council for
13 those expenses.

14 **Sec. 8. Appropriation.** The following funds are
15 appropriated from the General Fund to carry out the
16 purposes of this Act.

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19	Positions	(3)
20	Personal Services	\$35,000
21	All Other	25,000

22 These funds
23 shall be used
24 for 3 new posi-
25 tions and travel
26 expenses for a
27 commission to
28 study solid
29 waste management
30 and develop a
31 comprehensive -
32 solid waste
33 plan.

34		
35	Total	<u>\$60,000</u>

36 **Emergency clause.** In view of the emergency cited
37 in the preamble, this Act shall take effect when ap-
38 proved.

1

STATEMENT OF FACT

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The purpose of this bill is reflected in the
3 emergency preamble and provides a Comprehensive Solid
4 Waste Management Plan using the widest possible expe-
5 rience available.

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