

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 991

H.P. 722

House of Representatives, March 30, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative HOLT of Bath.

Cosponsored by Representative COLES of Harpswell, Representative SIMPSON of Casco and Representative HICHBORN of LaGrange.

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STATE OF MAINE

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

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An Act Concerning the Maine Low-level Radioactive Waste Authority.

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(EMERGENCY)



1           **Emergency preamble.** Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
3 as emergencies; and

4           **Whereas,** state law unfairly targets all producers of  
5 low-level nuclear waste to participate in sharing the financial  
6 burden of nuclear waste disposal although the preponderance of  
7 generators that produce low-level nuclear waste use other methods  
8 of elimination regulated by the United States Nuclear Regulatory  
9 Commission; and

10           **Whereas,** state law is explicit as to the creation of  
11 assessments, by contractual agreement with Maine Yankee; however,  
12 established limits do not allow alternative methods for  
13 procurements of necessary funds to fulfill federal and state  
14 laws; and

15           **Whereas,** state law has allowed for an unfair system of  
16 service and user fee assessments which equated all classes of  
17 low-level nuclear waste with a fee for curies equal to the volume  
18 produced; and

19           **Whereas,** state law has required liability coverage, but has  
20 not provided sufficient coverage for property and personal  
21 liability in the absence of limited insurance; and

22           **Whereas,** in the judgment of the Legislature, these facts  
23 create an emergency within the meaning of the Constitution of  
24 Maine and require the following legislation as immediately  
25 necessary for the preservation of the public peace, health and  
26 safety; now, therefore,

27  
28 **Be it enacted by the People of the State of Maine as follows:**

29           **Sec. 1. 38 MRSA §1534-A,** as enacted by PL 1987, c. 530, §4,  
30 is repealed and the following enacted in its place:

31  
32 **§1534-A. Administrative costs**

33           **1. Assessment.** Funds to pay the administrative and  
34 operational costs of the authority shall be raised by assessing  
35 each low-level radioactive waste generator a service fee on  
36 low-level radioactive waste generated in this State which is  
37 shipped to a state or commercial low-level radioactive waste  
38 disposal facility, and any low-level radioactive waste that was  
39 generated during the assessed year and was temporarily stored  
40 awaiting disposal at a state or commercial low-level radioactive  
41 waste disposal facility. The assessed fee shall be credited to  
42 the generator's next year assessment as a rebate when the nuclear  
43 waste is shipped or transferred to a state or commercial  
44 low-level radioactive waste disposal facility. The authority  
45 shall annually on June 30th, beginning in 1989, assess a service  
46 fee calculated in accordance with this subsection with

1 an estimated amount approximately equal to \$200,000 less any  
3 balance carried forward under section 1534, subsection 3. Each  
5 generator shall pay the service fee within 30 days, except that  
7 any generator may choose to make quarterly payments instead. The  
9 revenue from this service fee shall be deposited in the low-level  
11 radioactive waste facility fund. The authority shall promulgate  
13 rules in accordance with the Maine Administrative Procedure Act,  
15 Title 5, chapter 375, concerning the calculation of the fee,  
17 which shall be based according to the fee schedules in section  
19 1536, subsection 2, based on the waste generated in the previous  
21 year.

23 2. Fee exemptions. The following types of low-level  
25 radioactive waste shall be exempt from the service fee  
27 established in subsection 1:

29 A. Waste which is authorized by the United States Nuclear  
31 Regulatory Commission for disposal without regard to  
33 activity;

35 B. Waste which is authorized by the United States Nuclear  
37 Regulatory Commission to be stored for up to 3 years at the  
39 site of generation for decay and ultimate disposal without  
41 regard to radioactivity; and

43 C. Radioactive waste or other material including, but not  
45 limited to, sealed radioactive sources, which is returned to  
47 the vendor.

49 3. Reports. The authority shall report annually, before  
51 February 1st, to the joint standing committee of the Legislature  
53 having jurisdiction over natural resource matters on the income  
55 to and expenditures from the Low-level Radioactive Waste Facility  
57 Fund for administrative costs for the previous fiscal year and on  
59 the budget for the coming year. Those reports shall include  
61 total fees received from each generator and line-item detail on  
63 expenditures, including in-state travel and out-of-state travel,  
65 printing, mailing and hearings, personnel, consultant services,  
67 general operating expenses, supplies and overhead for both the  
69 commission and the department.

71 Sec. 2. 38 MRSA §1535, sub-§1, as amended by PL 1987, c. 769,  
73 Pt. A, §183, is further amended to read:

75 1. Assessment. The authority shall assess any nuclear  
77 plant within the State for the full cost of planning, siting,  
79 licensing and construction of a low-level radioactive waste  
81 disposal facility, including reasonable reserves for unforeseen  
83 contingencies. The assessment shall ~~not exceed \$10,000,000 and~~  
85 shall be approximately assessed as follows: \$1,500,000 on March  
87 1, 1988; \$2,500,000 on March 1, 1989; \$2,000,000 on March 1,  
89 1990; \$2,000,000 on March 1, 1991; \$2,000,000 on March 1, 1992.

1 The amount amounts assessed shall be paid within 30 days of  
assessment and the estimated amounts are subject to change as  
3 needed. Cost overruns above these amounts shall be assessed  
4 against the generators in proportion to the amounts of  
5 radioactive waste generated annually, as described in section  
6 1534-A. This assessment shall be deposited in the Low-level  
7 Radioactive Waste Facility Fund.

9 **Sec. 3. 38 MRSA §1536, sub-§§1 and 2, as enacted by PL 1987, c.**  
10 **530, §4, are amended to read:**

11  
12 1. User fees. All users of a low-level radioactive waste  
13 disposal facility shall be assessed a user fee calculated in  
14 accordance with subsections 2 and 3. User fees established under  
15 this section shall be designed to raise \$1,000,000 per year.  
16 ~~Fees shall not be collected in excess of that amount or, if~~  
17 ~~collected, shall be returned to the users within 15 days of~~  
18 receipt subject to change as needed. The authority shall  
19 establish, by rule, a schedule of fees to be paid by all users of  
20 a low-level radioactive waste disposal facility.

21  
22 2. Calculation for service and user fees. The authority  
23 shall calculate service and user fees based 50% on the volume and  
24 50% on the radioactivity of waste accepted by the facility. ~~The~~  
25 ~~authority shall establish, by rule, additional fees for~~  
26 ~~hard-to-handle physical forms of waste~~ according to the  
27 following fee schedules. For purposes of this subsection,  
28 "LLRWFF" means the yearly cost of the Low-level Radioactive Waste  
29 Facility Fund in accordance with sections 1534 and 1534-A.

30 A. Fee schedule #1 shall be as follows.

31	<u>Curies/Class C will be set at</u>	<u>68%</u>	<u>X</u>	<u>(LLRWFF)</u>
32	<u>Curies/Classes A and B will be set at</u>	<u>17%</u>	<u>X</u>	<u>(LLRWFF)</u>
33	<u>Volumes A, B and C will be set at</u>	<u>15%</u>	<u>X</u>	<u>(LLRWFF)</u>
34	<u>Total fee schedule #1</u>	<u>100%</u>	<u>X</u>	<u>(LLRWFF)</u>

35 B. Fee schedule #2 shall be as follows.

36	<u>Curies/Class B will be set at</u>	<u>68%</u>	<u>X</u>	<u>(LLRWFF)</u>
37	<u>Curies/Class A will be set at</u>	<u>17%</u>	<u>X</u>	<u>(LLRWFF)</u>
38	<u>Volumes B and C will be set at</u>	<u>15%</u>	<u>X</u>	<u>(LLRWFF)</u>
39	<u>Total fee schedule #2</u>	<u>100%</u>	<u>X</u>	<u>(LLRWFF)</u>

