

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1422

H.P. 1021

House of Representatives, May 2, 1989

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

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative RUHLIN of Brewer.

Cosponsored by Senator COLLINS of Aroostook, Representative JACQUES of Waterville and Representative GOULD of Greenville.

STATE OF MAINE

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

**An Act to Require that the Department of Environmental Protection
Be Responsible for the Location, Construction and Operation of
Regional Solid Waste Disposal Facilities.**

(EMERGENCY)



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

5 Whereas, solid waste disposal capacity shortages have
7 reached critical proportions in many areas of the State; and

9 Whereas, it has become apparent that direct state
11 involvement in the siting, construction and operation of regional
solid waste disposal facilities is essential to accomplish the
13 purposes of the Maine Hazardous Waste, Septage and Solid Waste
Management Act; and

15 Whereas, if such involvement is not authorized, siting,
17 construction and operation of needed facilities may be delayed,
causing many communities to exceed current solid waste disposal
capacity; and

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

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

27 **Sec. 1. 38 MRSA §1302**, as repealed and replaced by PL 1987,
29 c. 517, §5, is amended by adding before the last paragraph a new
paragraph to read:

31 The Legislature also finds that the solid waste disposal
33 capacity shortages in many areas of the State are at critical
levels; that the costs and time required to license and develop
35 facilities to meet the increasingly strict rules being developed
37 by the Department of Environmental Protection may make it
prohibitive for many municipalities or regions to fund and carry
39 out the objectives of this Act; and that the most efficient,
economically viable and environmentally sound procedure for
41 accomplishing solid waste disposal is to require that the State,
through the Board of Environmental Protection, be responsible for
43 the establishment of regional solid waste disposal facilities,
including site investigation, acquisition, licensing, design,
construction, monitoring, operation and closure.

45 **Sec. 2. 38 MRSA §1310-O, first ¶**, as enacted by PL 1987, c.
47 517, §25, is amended to read:

49 The board shall complete and adopt by rule an analysis of
the solid waste disposal capacity needs of the State by January
1, 1989. The analysis shall be considered by the board in making
51 its finding of consistency in facility siting decisions as
provided in section 1310-N, subsection 1, paragraph B and section

1 1310-N, subsection 3. The analysis shall also serve as a guide
3 for ~~municipal--and--commercial--entities--interested~~ the board in
developing regional solid waste facilities to meet needs
5 identified in this analysis. The board shall prepare the
capacity needs analysis according to the following provisions.

7 **Sec. 3. 38 MRS §1310-X** is enacted to read:

9 **§1310-X. State development and operation of regional landfills**

11 As a supplement to the completion of the capacity needs
13 analysis as provided in section 1310-O, the board shall develop a
priority list of regions where the most critical demands for
15 solid waste disposal facilities exist, taking into account
regional and local considerations as described in section 1310-O,
17 subsection 3, and shall correct the deficiencies according to the
following provisions.

19 1. Solid waste disposal regions. The board shall develop
and maintain a map of the State, subdivided into solid waste
21 disposal regions, with the goal of subsequently siting potential
waste disposal facilities within each region to serve the needs
23 of the region.

25 2. Site investigation; licensing, design and land
acquisition. The board shall complete comprehensive site
27 investigations within each of the solid waste disposal regions to
locate lands which are environmentally, geographically and
29 politically suited for the development of solid waste disposal
facilities, including, but not limited to, sanitary landfills for
31 municipal solid waste, incinerator ash and demolition debris;
recycling staging or processing areas; other special waste
33 staging or processing areas; and transfer stations. These
facilities shall include provisions for transfer and
35 transportation as necessary to serve the municipalities located
within the region. The board shall then complete the land
37 acquisition, design and site location licensing under the
provisions of section 1310-N.

39 3. Construction monitoring and operation. The board shall
41 contract with either private contractors, municipalities,
counties or refuse disposal districts to construct, operate and
43 maintain the solid waste disposal facilities. The board shall
monitor the operation and maintenance of these facilities until
45 the facilities are ready for replacement and closure.

47 4. Closure and post-closure care. The board shall require
a surcharge on established tipping fees sufficient to cover the
49 cost of closure and post-closure care and maintenance of the
disposal areas. Money from this surcharge shall be deposited in
51 a trust fund established for that purpose and shall be
administered by the commissioner.

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5. Future development and closure. The board shall cause the solid waste disposal sites to be modified or upgraded as necessary to comply with changes in the laws or rules; to be expanded or replaced as necessary to keep pace with the capacity needs for solid waste disposal; and to be properly closed when design capacity limits have been reached or the solid waste disposal sites are no longer needed.

6. Disposal from beyond regional limits prohibited. Unless otherwise permitted by the board, the disposal of solid waste at regional solid waste disposal facilities shall be limited to waste generated within that region, except when the board determines that a specific need may be suitably met by having a facility serve more than one region or parts of a region. All solid waste generated within each region shall be delivered to the established regional solid waste disposal facility unless the solid waste is currently being disposed of at an existing licensed disposal facility. Any such waste disposal shall be redirected to the regional disposal facility upon closure of currently licensed disposal sites.

7. Implementation schedule. In order to ensure that adequate regional solid waste disposal facilities are located and developed in a timely manner, the following schedule is set forth for implementation.

A. The board shall complete the preparation of a regional area map as described in subsection 1 which shall identify suitable disposal sites of adequate capacity to serve the needs of each solid waste disposal region, including the location of potential transfer stations, on or before July 1, 1990.

B. The board shall complete the design, licensing and land acquisition for all regional solid waste disposal facilities necessary to meet capacity shortages anticipated before 1995. This design, licensing and land acquisition shall be completed at least 2 years before the estimated date of shortage, or by January 1, 1991, whichever is sooner.

C. The board shall develop the regional solid waste facilities by implementing the provisions of subsection 3 and initiate the operation of the facilities as expeditiously as possible.

D. The board shall establish a schedule which provides for the completion of the design, licensing and land acquisition for all additional regional facilities before December 31, 1995, and shall schedule the completion of the construction and the start of the operation of the facilities as necessary

1 to make them available before the capacity of the existing
3 disposal facilities is exhausted.

5 **Sec. 4. Appropriation.** The following funds are appropriated
7 from the General Fund to carry out the purposes of this Act.

1989-90

9 **ENVIRONMENTAL PROTECTION,**
11 **DEPARTMENT OF**

13 **Administration**

15	Positions	(2)
16	Personal Services	\$75,000
17	Capital Expenditures	4,000,000
18	All Other	1,500,000

19 Provides funds for 2 positions for
21 administrative support necessary to carry
22 out the purposes of this Act. All Other
23 provides funds for necessary consulting
24 services to complete the site selection
25 study. Capital Expenditures provides funds
26 for purchase of sites and designing,
27 licensing and construction of the facilities
required under this Act.

29 **DEPARTMENT OF ENVIRONMENTAL PROTECTION**

31 **TOTAL** \$5,575,000

33 **Emergency clause.** In view of the emergency cited in the
35 preamble, this Act shall take effect when approved.

37 **STATEMENT OF FACT**

39 This bill addresses a number of public concerns regarding
41 the siting and operation of solid waste disposal facilities.

43 Currently, municipal and commercial entities are required to
45 follow the site location license procedure outlined in the Maine
46 Revised Statutes, Title 38, section 1310-N, which is time
47 consuming and costly.

49 This bill requires the Board of Environmental Protection to
51 be responsible for the establishment of regional solid waste
disposal facilities, including site investigation, acquisition,
licensing, design, construction, monitoring, operation and

1 closure. The bill includes an allocation of \$5,575,000 for this
fiscal year.

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5 In addition, this bill provides for a trust fund, financed
by the users and administered by the State, that provides
indefinite post-closure surveillance and corrective action.