

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1548

H.P. 1115

House of Representatives, May 8, 1989

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative COLES of Harpswell.

Cosponsored by Representative RIDLEY of Shapleigh, Representative GOULD of Greenville and Representative CARTER of Winslow.

STATE OF MAINE

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

An Act to Create the Maine Solid Waste Authority.



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

3 PART A

5 Sec. 1. 3 MRSA §507, sub-§8-A, ¶B, as amended by PL 1987, c.
735, §1, is further amended to read:

7 B. The evaluations and analyses of the justification
9 reports for the programs of the following Group E-2
11 independent agencies shall be reviewed by the Legislature no
later than June 30, 1988:

- 13 (1) Board of Trustees of the University of Maine
System;
- 15 (2) Board of Trustees of the Maine Maritime Academy;
- 17 (3) State Government Internship Advisory Committee;
- 19 (6) Electricians' Examining Board;
- 21 (7) Arborist Examining Board;
- 23 (8) Maine Occupational Information Coordinating
25 Committee;
- 27 (9) Maine Conservation School;
- 29 (10) Advisory Committee on Maine Public Broadcasting;
- 31 (11) Board of Examiners of Psychologists;
- 33 (12) Board of Commissioners of the Profession of
Pharmacy;
- 35 (13) Alcohol and Drug Abuse Planning Committee; and
- 37 (14) State Board of Social Worker Licensure; and
- 39 (15) Maine Solid Waste Authority.

41 Sec. 2. 5 MRSA §12004-D, sub-§4 is enacted to read:

43 4. Maine Solid Waste 100/Day 38 MRSA §2102
45 Authority Plus Expenses

47 Sec. 3. 38 MRSA §1303, first ¶, as repealed and replaced by PL
49 1979, c. 383, §2, is amended to read:

1 The following words when used in this chapter or in chapter
2 25 shall have the following meanings unless the context in which
3 they are used clearly shows a different meaning.

5 **Sec. 4. 38 MRSA S1310-N, sub-§4,** as enacted by PL 1987, c.
6 517, §25, is amended to read:

7
8 **4. Presumption of public benefit.** A publicly owned waste
9 disposal facility is presumed to have met the requirements of
10 subsection 3 when it receives only waste generated within the
11 municipality in which the facility is located or when it receives
12 only waste generated within municipalities which are members of
13 the facility. A solid waste landfill facility established under
14 chapter 25 is presumed to have met the requirements of subsection
15 3.

17 **Sec. 5. 38 MRSA §1310-N, sub-§8** is enacted to read:

19 **8. New commercial landfills prohibited.** The board shall
20 not issue a license for a new commercial landfill after July 1,
21 1990. The board may relicense commercial landfills after July 1,
22 1989, if those facilities had been previously licensed by the
23 board prior to July 1, 1989, and all other provisions of law have
24 been satisfied. The board may license expansions of commercial
25 landfills after July 1, 1989, if those facilities had been
26 previously licensed by the board prior to July 1, 1989, and if
27 the board determines that additional disposal capacity is needed
28 to meet the needs of the State before the development of disposal
29 facilities by the Maine Solid Waste Authority under chapter 25.
30 For the purposes of this section, "commercial landfill" means a
31 privately owned facility which accepts solid waste or special
32 waste for a fee or other consideration and which is used for the
33 disposal of the solid waste.

35 **Sec. 6. 38 MRSA c. 25** is enacted to read:

37 **CHAPTER 25**

39 **MAINE SOLID WASTE AUTHORITY**

41 **SUBCHAPTER I**

43 **GENERAL PROVISIONS**

45 **§2101. Purpose**

47
48 The Legislature finds that rising costs, a shortage of
49 landfill capacity and the serious environmental and public health
50 consequences of improper waste disposal pose a severe threat to
51 public health, safety and welfare. The Legislature further finds
that the most critical environmental threat from solid waste

1 disposal is ground water contamination from leaking landfills and
2 that, therefore, the most critical solid waste disposal need is
3 for adequate, environmentally sound landfill capacity under
4 public control. Therefore, the Legislature declares that it is
5 in the best interests of the citizens of the State to adopt a
6 method of creating landfill capacity which will minimize adverse
7 environmental impacts and will serve all regions of the State.
8 The Legislature further declares that the development of future
9 landfill capacity should be subject to a fair and open site
10 selection process and that public control over the operation of
11 landfill capacity is essential.

13

§2102. Authority established

15

16 There is established, to carry out the purposes of this
17 chapter, the Maine Solid Waste Authority referred to in this
18 chapter as the "authority." The authority is a body corporate
19 and politic and is an instrumentality of the State.

21

§2103. Membership; qualifications; terms; compensation

23

24 1. Membership. The authority shall be controlled, managed
25 and operated by a 7-member board. The members shall be appointed
26 by the Governor, subject to review by the joint standing
27 committee of the Legislature having jurisdiction over natural
28 resource matters and to confirmation by the Legislature.

29

30 A. Two of the members shall initially be appointed to terms
31 of 2 years; 2 to terms of 3 years; and 3 to terms of 4
32 years. The successor of each appointed member shall be
33 appointed for a term of 4 years, except that any person
34 appointed to fill a vacancy occurring prior to the
35 expiration of the term for which the predecessor was
36 appointed shall be appointed only for the remainder of that
37 term. Each member shall serve until the appointment and
38 qualification of that member's successor.

39

40 B. No member may be an officer or employee of the United
41 States or this State. All members of the board shall be
42 citizens of the State. Members may be removed from the
43 board by the Governor only for cause.

44

45 2. Selection of officers. Annually the authority shall
46 elect one of its members as the chair of the authority, another
47 as vice-chair of the authority and a 3rd member as treasurer of
48 the authority.

49

50 3. Compensation. The members shall be compensated as
51 provided in Title 5, section 12004-D, subsection 4.

52

1 4. Qualifications. The appointments shall reflect
2 geographical diversity.

3 §2104. Powers

4 The authority is exempt from the budget requirements of
5 Title 5. In order to accomplish the purposes of this chapter and
6 in addition to any other powers conveyed by this chapter, the
7 authority may exercise the following powers:

8 1. Sue. Sue and be sued;

9 2. Seal. Have a seal and alter the seal at its pleasure;

10 3. Bylaws. Adopt and amend, from time to time, bylaws
11 covering its procedure, publish those bylaws as necessary or
12 advisable and keep records of its proceedings;

13 4. Rules. Promulgate in accordance with the Maine
14 Administrative Procedure Act, Title 5, chapter 375, all rules
15 necessary to carry out its responsibilities under this chapter,
16 including procedural rules, rules for operation of a landfill
17 facility and other rules;

18 5. Landfill facility. Plan, site, construct, operate,
19 maintain, close, provide long-term care for solid waste landfill
20 facilities with sufficient capacity to dispose of the solid waste
21 generated by municipalities within this State and other solid
22 waste as the authority finds consistent with the purposes of this
23 chapter;

24 6. Personal property. Acquire, hold and dispose of
25 personal property;

26 7. Real property. Acquire in the name of the authority by
27 purchase, lease or otherwise, real property and interests in real
28 property determined necessary or desirable for its purposes, and
29 use the property;

30 8. Fees. Establish and collect fees, assessments and other
31 charges and expend money received as provided in this chapter;

32 9. Contracts. Make, modify and carry out contracts or
33 agreements with the United States or any instrumentality or
34 agency of the United States, this State or any agencies or
35 instrumentalities, municipalities or bodies existing in the
36 State, public corporations, private corporations, partnerships,
37 associations and individuals which are necessary or useful in
38 carrying out its powers, duties or purposes;

39 10. Employees. Employ assistants, agents, engineering,
40 architectural and construction experts and inspectors, attorneys

1 and other employees it deems necessary or desirable to carry out
2 its purposes;

3 11. Information. Obtain any information and conduct
4 investigations useful or convenient for carrying out any of its
5 purposes, powers or duties;

6 12. Entry at reasonable hours. Enter during normal working
7 hours upon any lands, waters and premises in the State for the
8 purpose of making surveys, soundings, drillings, examinations and
9 inspections as it deems necessary for the purposes of this
10 chapter. The entry shall not be deemed a trespass;

11 13. Insurance. Procure insurance or other assurances in
12 aid of any of its purposes;

13 14. Exercise powers. Exercise any of its powers in the
14 public domain of the United States, unless the exercise of those
15 powers is not permitted by the laws of the United States; and

16 15. Other actions. Take all other lawful actions necessary
17 and incidental to these powers in carrying out the requirements
18 of this chapter.

19 §2105. Definitions

20 As used in this chapter, unless the context otherwise
21 indicates, the following terms have the following meanings.

22 1. Authority. "Authority" means the Maine Solid Waste
23 Authority created in this chapter.

24 2. Closure. "Closure" or "site closure" means all
25 activities performed at a waste disposal site, such as
26 stabilization and contouring, to ensure that the site is in a
27 stable condition so that only minor custodial care, surveillance
28 and monitoring are necessary at the site, following termination
29 of operation.

30 3. Operator. "Operator" means a person, including the
31 authority, designated to develop and operate a facility.

32 4. Person. "Person" means an individual, partnership,
33 voluntary association, firm, corporation or a governmental or
34 quasi-public entity.

35 §2106. Meetings; quorum

36 1. Meetings. The authority shall meet at least every 2
37 months. The chair may call a meeting of the authority at any
38 time. The chair shall call a meeting of the authority upon
39

1 receiving a written request for a meeting from at least 4 members
2 of the authority.

3
4 2. Quorum. A quorum shall consist of a majority of the
5 members of the authority and any decision requiring a vote shall
6 require the favorable vote of at least a majority of the members
7 of the authority.

8 §2107. Executive director

9
10 1. Salary. The authority shall hire an executive director
11 who shall serve at the pleasure of the authority. The salary of
12 the executive director shall be established by the authority at
13 the time of appointment.

14
15 2. Powers and duties. The executive director shall oversee
16 day-to-day operations of the authority, hire appropriate staff
17 members with approval of the authority and carry out other
18 responsibilities delegated by the authority subject to conditions
19 and instructions which the authority deems appropriate.

20 §2108. Staff employees; conflict of interest; personal liability

21
22 1. Authority. The authority may hire, on a temporary or
23 permanent basis, necessary staff, including legal counsel and
24 financial experts.

25
26 2. Civil Service Law. Except for the executive director,
27 employees of the authority are subject to Title 5, chapters 71
28 and 372.

29
30 3. Conflict of interest. Notwithstanding Title 5, section
31 18, subsection 1, each member of the authority and each employee,
32 contractor, agent or other representative of the authority is
33 deemed an "executive employee" solely for purposes of Title 5,
34 section 18. In addition, Title 17, section 3104, shall be
35 applicable in accordance with its provisions to all such
36 representatives of the authority.

37
38 4. Personal liability. Personal liability of authority
39 members and employees shall be as provided in the Maine Tort
40 Claims Act, Title 14, chapter 741, except that the authority
41 shall indemnify a member or an employee against any liability
42 arising out of an act or omission occurring within the course or
43 scope of employment.

44 §2109. Essential governmental function

45
46 The purposes of this chapter are public and the authority is
47 performing an essential governmental function in carrying out
48 this chapter.

1 §2110. Exemption from taxes; payment in lieu of taxes

3 1. Exemption from taxes. The authority shall not be
5 required to pay any tax on any property required or used by it
7 for the purposes provided in this chapter or any tax upon its
 income, except as may be required by the laws of the United
 States.

9 2. Payment in lieu of taxes. The authority shall annually
11 pay a municipality an amount in lieu of taxes equal to the amount
13 of property taxes not paid to that municipality during the
15 previous calendar year due to the statutory property tax
17 exemption provided in this section. In the case of an
19 unorganized territory, the authority shall annually pay the
 amount to the State Tax Assessor who shall deposit that amount in
 the Unorganized Territory Education and Services Fund established
 in Title 36, section 1547. If the authority disagrees with the
 amount determined due in lieu of taxes under this subsection, it
 may appeal to the State Board of Property Tax Review as provided
 in Title 36, section 271.

21 §2111. Property

23 All property of the authority and all property held in the
25 name of the State pursuant to this chapter shall be exempt from
27 levy and sale by virtue of any execution, and no execution or
29 other judicial process may be a lien upon its property held
 pursuant to this chapter.

31 §2112. Fiscal year

33 The fiscal year of the authority shall coincide with that of
 the State.

35 §2113. Sunset

37 For purposes of the Maine Sunset Act, Title 3, chapter 23,
39 the authority shall be considered an independent agency with its
41 first justification report in accordance with Title 3, section
43 504, due no later than October 31, 1998, and the evaluation and
45 analysis in accordance with Title 3, section 505, by the joint
 standing committee of the Legislature having jurisdiction over
 audit and program review matters due no later than December 31,
 1999. Notwithstanding Title 3, sections 506 and 507, the
 authority shall not terminate.

47 §2114. Contractors; contracts

49 1. Use authorized. The authority may determine to carry
51 out any authorized activity through use of contractors, subject
 to the requirements of law.

1 2. Approval. Contracts and agreements for more than
2 \$10,000 relating to the site selection, design, construction,
3 operation, maintenance, closure and post-closure monitoring of a
4 landfill facility shall be awarded only after competitive bid and
5 approval by the authority.

7 3. Rules. The authority shall promulgate rules by January
8 1, 1990, for the awarding of contracts.

9
10 **§2115. Penalties**

11 1. Violation. Any person who violates this chapter or any
12 rule promulgated under this chapter or neglects or refuses to
13 comply with any of the provisions of this chapter, commits a
14 civil violation for which a forfeiture not to exceed \$1,000 may
15 be adjudged. Each day of violation shall be considered a
16 separate offense.

17
18 2. Public health and safety. Any person who commits a
19 violation as described in subsection 1 which endangers the health
20 and safety of the public or of the employees of an
21 authority-owned landfill facility shall be subject to a civil
22 penalty not to exceed \$5,000 to be recovered in a civil action.
23 Each day of violation shall be considered a separate offense.

24
25 3. Suspension of access. Any person who commits a
26 violation as described in subsections 1 and 2 may, in addition to
27 the penalties provided in subsections 1 and 2, have access to a
28 landfill facility suspended by the authority for up to one year.
29 That suspension may be renewed until the violator demonstrates
30 the ability to remedy the situation for which the penalty was
31 assessed.

32
33 The authority shall enforce this section in the Superior Court
34 for Kennebec County or for the county in which the violation
35 occurs.

36
37 **§2116. Annual report; audit**

38
39 The authority shall submit its annual report to the Governor
40 and the Legislature no later than 120 days after the close of the
41 authority's fiscal year.

42
43 Within 120 days after the close of its fiscal year, the
44 authority shall provide the Treasurer of State with a copy of its
45 annual financial report certified by an independent certified
46 public accountant selected by the authority. The authority shall
47 also be subject to Title 5, chapter 11.

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SUBCHAPTER II

SITING AND OPERATION

§2121. Planning, siting and construction of facilities

1. Siting criteria. The authority shall adopt by rule, by May 1, 1990, siting criteria for solid waste landfill facilities based on geologic, hydrologic, social, economic, transportation and other factors the authority finds necessary.

2. Site screening. The authority shall complete a site screening and selection process on or before July 1, 1991, and subsequently as necessary to identify landfill capacity sufficient to meet the projected needs identified in the analysis conducted under former section 1310-O, including the need for geographic distribution to adequately serve all regions of the State. The authority also shall consider in its site selection process the need for landfill capacity to dispose of incinerator ash resulting from the combustion of domestic and commercial solid waste generated within its jurisdiction. Prior to completion of the site selection process, the authority shall hold a public hearing in every municipality or plantation identified in the screening process as a potential site. For potential sites within an unincorporated township, the authority shall hold a public hearing within the vicinity of the proposed site.

3. State facility required. On or before July 1, 1994, the authority shall develop facilities sufficient to meet the projected needs identified in the analysis conducted under former section 1310-O and to serve all geographic areas of the State. The authority shall develop solid waste landfills as required and may develop landfill capacity for industrial and special waste generated within its jurisdiction.

4. Other facilities and services. The authority may provide for the development of landfill facilities for solid waste from generators other than municipalities and may also provide recycling facilities and services.

5. Authority ownership. The authority shall maintain ownership of any landfill facility it develops and shall maintain full control over the use of the facility or facilities.

§2122. Operation of facilities

The authority shall select qualified contractors to design, construct, operate, maintain and close its facilities, subject to the requirements of this Title.

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§2123. Records

Following commencement of operation of any authority-owned solid waste landfill facility in this State, the authority shall keep, or cause to be kept, detailed records of all waste disposed of at the facility.

§2124. Host community participation

1. Formation. Within 60 days of the selection of a site by the authority for development as a solid waste landfill facility under section 2121, subsection 2, the municipal officers of the municipality in which the site is located shall form a citizen advisory committee consisting of at least 3 and no more than 7 residents of the municipality. For sites located in an unincorporated township, the county commissioners for the county in which the site is located shall act as the municipal officers for the purposes of this section. For sites located in a plantation, the plantation assessors shall act as the municipal officers for the purposes of this section.

2. Liaison function. The authority or its staff shall meet at least every other month with the citizen advisory committee during the designing and development of the facility and shall consult with the committee on a regular basis during the operating life of the facility.

3. Intervenor status. The municipal officers may designate the citizen advisory committee as their representatives under section 1310-S.

4. Host community benefits. Subject to the approval of the municipal officers, the citizen advisory committee may negotiate with the authority the scope and amount of benefits paid by the authority to the host community under sections 2110 and 2125.

§2125. Impact payments

In addition to payment in lieu of taxes provided in section 2110, the authority shall make impact payments to a municipality in which an authority-owned solid waste landfill facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The authority shall base its impact payments on measurable criteria including, without limitation:

A. Improvement, maintenance and repair of local roads directly affected by traffic to and from an authority-owned landfill facility;

B. Development and maintenance of adequate local emergency response capacity; and

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C. Financial support for on-site, municipally employed personnel or for other means determined necessary to enable the municipality to monitor the facility's compliance with state and local requirements.

§2126. Local access to facilities

The municipal officers or, in the case of the unorganized territory, the county commissioners may designate a person to monitor any authority-owned solid waste landfill facility within their jurisdiction for compliance with the requirements of any local ordinance, the requirements of this Title and any conditions of any permit or license issued to the facility. The designated person shall have access to the facility at any time.

§2127. Household and small generator hazardous waste

The authority shall develop and implement by July 1, 1991, a statewide system for the collection and disposal of hazardous waste generated by households, public and private nonprofit institutions and small quantity generators.

§2128. Real and personal property; right of eminent domain

The authority may acquire and hold real and personal property which it deems necessary for its purposes, is granted the right of eminent domain and for those purposes may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public use, any land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining and operating solid waste disposal facilities.

§2129. Procedure in exercise of right of eminent domain

The right of eminent domain granted in section 2128 may only be exercised after complying with the following procedures.

1. Notice to owner. The authority shall provide to the owner or owners of record notice of the following:

A. The determination of the authority that it will exercise the right of eminent domain;

B. A description and scale map of the land or easement to be taken;

C. The final amount offered for the land or easement to be taken, based on the fair value as estimated by the authority; and

1 D. Notice of the time and place of the hearing provided in
2 subsection 4.

3 Notice may be made by personal service in hand by an officer
4 duly qualified to serve civil process in this State or by
5 certified mail, return receipt requested, to the last known
6 address of the owner or owners. If the owner or owners are
7 not known or cannot be notified by personal service or
8 certified mail, notice may be given by publication in the
9 manner provided in subsection 4.

11 2. Notice to tenant. Notice shall be given to any tenant
12 in the same manner notice is given to the owner of the property.

13 3. Notice to the affected municipality. Notice shall be
14 given to the municipality in which the property to be acquired is
15 located in the same manner notice is given to the owner of the
16 property and shall be addressed to the municipal officers.

17 4. Hearing. The authority shall hold a public hearing on
18 the advisability of the proposed exercise of the right of eminent
19 domain. Notice of the hearing shall be made by publication in a
20 newspaper of general circulation in the area of the taking and
21 shall be given once a week for 2 successive weeks, the last
22 publication to be at least 2 weeks prior to the time appointed in
23 the hearing. The hearing notice shall include:

- 24 A. The time and place of the hearing;
- 25 B. A description of the land or easement taken; and
- 26 C. The name of the owners, if known.

27 **SUBCHAPTER III**

28 **FEES AND BUDGETS**

29 **§2131. Fees and other charges**

30 The authority shall establish, by rule, fees and other
31 charges sufficient to fund the costs of all solid waste disposal
32 activities required by this chapter, including sufficient
33 reserves to cover the costs of operation, including debt payment,
34 closing and post-closure monitoring of the facility and any cost
35 of reasonably foreseeable remedial activity. All users of a
36 solid waste disposal facility shall be assessed a user fee. The
37 authority may design its fee structure to provide incentives for
38 recycling and waste reduction.

1 §2132. Obligations of the authority; use of revenue

3 1. Payment. All expenses incurred in carrying out this
4 chapter shall be paid solely from funds provided in accordance
5 with this chapter and no obligation may be incurred beyond the
6 extent to which money has been provided in accordance with this
7 chapter.

9 2. Limitation on expenditures. Expenditure of all revenues
10 received by the authority shall be limited to the purposes of
11 this chapter.

13 §2133. Grants

15 The authority may accept and expend for any of the purposes
16 of this chapter grants or donations of money, equipment,
17 supplies, materials and services from the United States or a
18 political subdivision of the United States, this State or a
19 political subdivision of this State, any other state or a
20 political subdivision of any other state, any interstate agency
21 or any person.

23 §2134. Supplemental fee

25 Except for costs attributable to negligence by the authority
26 or its contractors, if the cost of post-closure care and
27 long-term institutional control, including mitigation of any
28 environmental problems that may develop at the site, exceeds the
29 available funds, including enforcement of a judgment, federal
30 assistance and the reserve for contingencies provided in section
31 2131, the authority may assess generators of solid waste a
32 supplemental fee to cover that cost, in proportion to the volume
33 of the waste generated by each generator which remains in the
34 waste stream. If any owner pays more than that owner's
35 proportional share of the costs under this subsection, that owner
36 shall have a cause of action to recover that excess from other
37 owners who paid less than their share.

39 §2135. Solid Waste Facility Fund

41 There is created a nonlapsing, revolving fund known as the
42 Solid Waste Facility Fund to be used to pay for the planning,
43 siting, construction, operation, maintenance, closure and
44 post-closure costs of facilities undertaken by the authority and
45 the administrative and operational costs of the authority.

47 1. Revenue deposited. Unless otherwise provided, all
48 revenue collected by the authority or the disposal facility to be
49 used for planning, siting, construction, operation, maintenance,
50 closure and post-closure costs of a disposal facility and
51 administrative and operational costs of the authority shall be
deposited in the Solid Waste Facility Fund. All other funds

1 received by the authority whether by grant, gift, appropriation
2 or other means shall also be deposited in the fund.

3
4 2. Expenditure of funds. Unless otherwise provided, all
5 activities described in this chapter, including administrative
6 and operational costs of the authority, shall be funded from the
7 Solid Waste Facility Fund. Expenditures from the fund shall not
8 require allocation by the Legislature.

9
10 3. Surplus revenues. Surplus revenues in the Solid Waste
11 Facility Fund shall be carried forward and used to reduce the
12 assessments or fees for the following year.

13
14 SUBCHAPTER IV

15
16 BONDING AUTHORITY

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19 2141. Authority bonds and notes

20
21 1. Authorization of bonds. Subject to the limitations in
22 subsection 10, the authority may provide by resolution of its
23 board of directors for the borrowing of money and the issuance,
24 from time to time, of bonds and notes for any of its corporate
25 purposes including, but not limited to:

26
27 A. Paying and refunding its indebtedness;

28
29 B. Paying any necessary expenses and liabilities incurred
30 under this chapter, including organizational and other
31 necessary expenses and liabilities incurred by the authority;

32
33 C. Paying costs directly or indirectly associated with
34 acquiring properties, paying damages, constructing,
35 maintaining and operating waste facilities, making renewals,
36 additions, extensions and improvements to the property or
37 facilities and covering interest payments during the period
38 of construction and for such period as the authority may
39 determine;

40
41 D. Providing the reserves for debt service, repairs and
42 replacements or other capital or current expenses that may
43 be required by a trust agreement or resolution securing
44 bonds or notes; or

45
46 E. Any combination of paragraphs A to D.

47
48 Bonds may be issued by the authority under this chapter as
49 general obligations of the authority or as special obligations
50 payable solely from particular funds. The principal, premium and
51 interest on all bonds shall be payable solely from the funds

1 provided for that purpose from revenues. All bonds issued by the
2 authority under this chapter shall be legal obligations of the
3 authority. Bonds may be issued under this chapter without
4 obtaining the consent of any commission, board, bureau or agency
5 of the State or of any municipality encompassed by the authority
6 and without other proceedings or the occurrence of other
7 conditions or things other than those proceedings, conditions or
8 things which are specifically required by this chapter. Except
9 as provided in this subchapter, bonds issued by the authority
10 under this chapter shall not constitute a debt or liability of
11 the State or of any municipality encompassed by the authority or
12 a pledge of the faith and credit of the State or any such
13 municipality. A statement to that effect shall be recited on the
14 face of the bonds.

15
16 2. Notes. The authority may also provide by resolution of
17 its board of directors for the issuance from time to time of
18 notes in anticipation of:

19 A. Bonds authorized under this chapter;

20 B. The revenues to be collected or received in any year; or

21
22 C. The receipt of federal or state grants or other aid. The
23 issuance of these notes shall be governed by the applicable
24 provisions of this chapter relating to the issuance of
25 bonds, provided that notes in anticipation of revenue must
26 mature no later than one year from their respective dates
27 and notes issued in anticipation of federal or state grants
28 or other aid and renewals thereof must mature no later than
29 the expected date, as determined by the board of directors,
30 of receipt of those grants or aid. The board of directors
31 may adjust the maturity date of notes issued in anticipation
32 of federal or state grants or other aid to reflect changes
33 in the expected date of receipt. Notes in anticipation of
34 revenue issued to mature less than one year from their dates
35 may be renewed from time to time by the issuance of other
36 notes, provided that the period from the date of an original
37 note to the maturity of any note issued to renew or pay the
38 note or the interest thereon may not exceed one year.

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41 The authority may enter into agreements with the State or the
42 United States, or any agency of either, or any municipality,
43 corporation, commission or board authorized to grant or loan
44 money or to otherwise assist in the financing of projects of the
45 type which the authority is authorized to carry out and to accept
46 grants and borrow money from any such government, agency,
47 municipality, corporation, commission or board as may be
48 necessary or desirable to accomplish the purposes of the
49 authority.

1 3. Maturity; interest; form; temporary bonds. The bonds
2 issued under this chapter shall be dated, mature at such time or
3 times not exceeding 40 years from their date or dates and bear
4 interest at such rate or rates as may be determined by the board
5 of directors or determined pursuant to a formula approved by the
6 board of directors or by a 3rd party rate-setting agent selected
7 by the board of directors and may be made redeemable before
8 maturity, at the option of the authority, at such price or prices
9 and under such terms and conditions as may be fixed by the board
10 of directors prior to the issuance of the bonds. The board of
11 directors shall determine the form of the bonds, including any
12 interest coupons to be attached, and the manner of execution of
13 the bonds, and shall fix the denomination or denominations of the
14 bonds and the place or places of payment of principal and
15 interest, which may be at any financial institution having trust
16 powers within or without the State. Bonds shall be executed in
17 the name of the authority by the manual or facsimile signature of
18 such officer or officers as may be authorized in the resolution
19 to execute the bonds, but at least one signature on each bond
20 shall be a manual signature. Coupons, if any, attached to the
21 bonds shall be executed with the facsimile signature of the chair
22 of the authority. In case the chair whose signature or facsimile
23 signature appears on any bonds or coupons ceases to hold that
24 office before the delivery of the bonds, the signature or its
25 facsimile shall nevertheless be valid and sufficient for all
26 purposes, as if the chair had remained in office until the
27 delivery. Notwithstanding any of the other provisions of this
28 chapter or any recitals in any bonds issued under this chapter,
29 all these bonds shall be deemed negotiable instruments under the
30 laws of this State. The bonds may be issued in coupon or
31 registered form, or both, as the board of directors may
32 determine, and provision may be made for the registration of any
33 coupon bonds as to principal alone and as to both principal and
34 interest, and for the reconversion into coupon bonds of any bonds
35 registered as to both principal and interest. The board of
36 directors may sell the bonds in the manner, either at public or
37 private sale, and for such price as they may determine to be for
38 the best interests of the authority. The proceeds of the bonds
39 of each issue shall be used solely for the purpose for which
40 those bonds have been authorized and disbursed in such manner and
41 under such restrictions as the board of directors may provide in
42 the resolution authorizing the issuance of the bonds or in the
43 trust agreement securing the bonds. The resolution providing for
44 the issuance of bonds, and any trust agreement securing the
45 bonds, may contain limitations upon the issuance of additional
46 bonds as the board of directors may deem proper and these
47 additional bonds shall be issued under restrictions and
48 limitations as may be prescribed by that resolution or trust
49 agreement. Prior to the preparation of definitive bonds, the
50 board of directors may, under like restrictions, issue interim
51 receipts or temporary bonds, with or without coupons,
 exchangeable for definitive bonds when those bonds are executed

1 and available for delivery. The board of directors may provide
2 for the replacement of any bond which is mutilated, destroyed or
3 lost.

4 4. Pledges and covenants; trust agreement. In the
5 discretion of the board of directors of the authority, each or
6 any issue of bonds may be secured by a trust agreement by and
7 between the authority and a corporate trustee which may be any
8 financial institution having trust powers within or without the
9 State.

10
11 The resolution of the directors authorizing the issuance of the
12 bonds or the trust agreement may pledge or assign, in whole or in
13 part, the revenues and other money held or to be received by the
14 authority and any accounts and contracts or other rights to
15 receive the revenues or money, whether then existing or
16 hereafter coming into existence and whether then held or
17 hereafter acquired by the authority, and the proceeds thereof,
18 and may convey or mortgage the waste facilities or any other
19 properties of the authority. The resolution may also contain
20 provisions for protecting and enforcing the rights and remedies
21 of the bondholders, including, but not limited to, covenants
22 setting forth the duties of the authority and the board of
23 directors in relation to the acquisition, construction,
24 reconstruction, improvement, repair, maintenance, operation and
25 insurance of its waste facilities or any of its other properties;
26 the fixing and revising of rates, tolls, assessments, rents,
27 tipping fees and transportation charges and other charges; the
28 application of the proceeds of bonds; the custody, safeguarding
29 and application of revenues; and the definition of defaults and
30 provision for remedies in the event of default, which may include
31 the acceleration of maturities, the establishment of reserves and
32 the making and amending of contracts. The resolution or trust
33 agreement may set forth the rights and remedies of the
34 bondholders and of the trustee, if any, and may restrict the
35 individual right of action by bondholders as customary in trust
36 agreements or trust indentures securing bonds or debentures of
37 corporations. The resolution or trust agreement may contain
38 other provisions as the board of directors may deem reasonable
39 and proper for the security of the bondholders, including means
40 by which the resolution or trust agreement may be amended. All
41 expenses incurred in carrying out the resolution or trust
42 agreement may be treated as a part of the cost of operation. The
43 pledge by any such resolution or trust agreement shall be valid
44 and binding and deemed continuously perfected for the purposes of
45 the Uniform Commercial Code, Title 11, from the time when the
46 pledge is made. All revenues, money, rights and proceeds so
47 pledged and thereafter received by the authority shall
48 immediately be subject to the lien of the pledge without any
49 physical delivery or segregation thereof or further action under
50 the Uniform Commercial Code or otherwise and the lien of the
51 pledge shall be valid and binding against all parties having

1 claims of any kind in tort, contract or otherwise against the
2 authority regardless of whether those parties have notice thereof.

3
4 The resolution authorizing the issuance of bonds under this
5 chapter or any trust agreement securing those bonds may provide
6 that all or a sufficient amount of revenues and assessments,
7 after providing for the payment of the cost of repair,
8 maintenance and operation and reserves therefor as may be
9 provided in the resolution or trust agreement, shall be set aside
10 at regular intervals as may be provided in the resolution or
11 trust agreement and deposited in the credit of a fund for the
12 payment of the interest on and the principal of bonds issued
13 under this chapter as the bonds shall become due and the
14 redemption price or purchase price of bonds retired by call or
15 purchase. The use and disposition of money in or to the credit
16 of the fund shall be subject to regulations as may be provided in
17 the resolution authorizing the issuance of the bonds or in the
18 trust agreement securing the bonds and, except as may otherwise
19 be provided in the resolution or trust agreement, the fund shall
20 be a fund for the benefit of all bonds without distinction or
21 priority of one over another.

22
23 5. Trust funds. Notwithstanding any other provision of
24 law, all money set aside for payment of the bonds, or other
25 purposes pursuant to the provisions of any trust agreement
26 securing the bonds, shall be deemed to be trust funds to be held
27 and applied as provided by the trust agreement, provided that
28 investment or deposit of those funds shall be subject to the
29 provisions applicable to municipal funds under Title 30-A,
30 chapter 223, subchapter III-A. The resolution authorizing the
31 issuance of bonds or the trust agreement securing the bonds shall
32 provide that any officer, bank, trust company or other financial
33 institution, or fiscal agent to which money shall be paid shall
34 act as trustee of the money and shall hold and apply the money
35 for the purposes hereof, subject to regulations provided in the
36 resolution or trust agreement or required by this chapter.

37
38 6. Remedies. Any holder of bonds issued under this chapter
39 or of any coupons appertaining to those bonds and the trustee
40 under any trust agreement, except to the extent the rights given
41 may be restricted by the resolution authorizing the issuance of
42 those bonds or trust agreement, may protect and enforce, either
43 at law or in equity, by suit, action, mandamus or other
44 proceeding, including proceedings for the appointment of a
45 receiver to take possession and control of the properties of the
46 authority, any and all rights under the laws of the State, this
47 chapter or the resolution or trust agreement and may enforce and
48 compel the performance of all duties required by this chapter or
49 by the resolution or trust agreement to be performed by the
50 authority or by any officer of the authority, including the
51 fixing, charging and collecting of rates, fees and charges for
the use of or for the services and facilities furnished by the

1 authority or, if applicable, the making of any assessments
2 against member municipalities under section 1756.

3
4 7. Refunding bonds. The authority by resolution of its
5 board of directors may issue refunding bonds for the purpose of
6 paying any of its bonds at maturity or upon acceleration or
7 redemption. The refunding bonds may be issued at such time prior
8 to the maturity or redemption of the refunded bonds as the board
9 of directors deems to be in the public interest. The refunding
10 bonds may be issued in sufficient amounts to pay or provide the
11 principal of the bonds being refunded, together with any
12 redemption premium on those bonds, any interest accrued or to
13 accrue to the date of payment of those bonds, the expenses of
14 issuance of the refunding bonds, the expenses of redeeming the
15 bonds being refunded and such reserves for debt service or other
16 capital or current expenses from the proceeds of the refunding
17 bonds as may be required by a trust agreement or resolution
18 securing bonds. The issuance of refunding bonds, the maturities
19 and other details thereof, the security for the bonds, the rights
20 of the holders of the bonds, and the rights, duties and
21 obligations of the authority in respect of the same shall be
22 governed by the applicable provisions of this chapter relating to
23 the issuance of bonds.

24
25 8. Tax exemption. All bonds, notes or other evidences of
26 indebtedness issued under this chapter, and their transfer and
27 the income therefrom, including any profit made on the sale
28 thereof, shall at all times be free from taxation within the
29 State.

30
31 9. Bonds declared legal investments. Bonds and notes
32 issued by the authority under this chapter are made securities in
33 which all public officers and public bodies of the State and its
34 political subdivisions, all insurance companies and associations
35 and other persons carrying on an insurance business, trust
36 companies, banks, bankers, banking associations, savings banks
37 and savings associations, including savings and loan
38 associations, credit unions, building and loan associations,
39 investment companies, executors, administrators, trustees and
40 other fiduciaries, pension, profit-sharing and retirement funds
41 and other persons carrying on a banking business, and all other
42 persons who are now, or may hereafter be, authorized to invest in
43 bonds or other obligations of the State, may properly and legally
44 invest funds, including capital in their control or belonging to
45 them. The bonds and notes are made securities which may properly
46 and legally be deposited with and received by any state,
47 municipal or public officer or any agency or political
48 subdivision of the State, for any purpose for which the deposit
49 of bonds or other obligations of the State is now or may
50 hereafter be authorized by law.

- 1 C. Coordination of related departmental plans;
- 3 D. Intergovernmental coordination of related planning
activities;
- 5 E. Preparation of regulatory and administrative measures in
7 support of paragraphs A to D; and
- 9 F. Continuing analysis of the economy of the State in
conjunction with the Department of Economic and Community
11 Development, ; and
- 13 G. Interdepartmental coordination of solid waste management
planning.

15 Sec. 2. 5 MRSA §§3308 and 3309 are enacted to read:

17 §3308. Comprehensive solid waste planning and management

19 1. Interdepartmental coordination. There is established the
21 Interdepartmental Council on Waste Management, referred to in
23 this chapter as the "council." The council shall consist of the
25 Commissioner of Environmental Protection, the Commissioner of
27 Economic and Community Development, the Chair of the Maine Solid
Waste Authority and the Director of the State Planning Office who
shall serve as the chair of the council.

29 2. Council responsibilities. The council is responsible for
31 conducting ongoing and comprehensive planning to meet the State's
33 solid, special and hazardous waste needs including, without
35 limitation, waste reduction, recycling and disposal capacity
needs.

37 3. Agency responsibilities. The respective member agencies
39 of the council shall undertake the following responsibilities.

41 A. The State Planning Office is responsible for
43 coordinating all solid, special and hazardous waste planning
45 and management programs undertaken by the member agencies
47 and shall provide staff support to the council.

49 B. The Department of Environmental Protection is
51 responsible for the regulation of the environmental aspects
of solid, special and hazardous waste management but shall
have no responsibility for waste facility development or
solid waste disposal.

C. The Department of Economic and Community Development
through the Division of Waste Reduction and Recycling is
responsible for all technical and financial assistance
programs promoting waste reduction and recycling.

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D. The Maine Solid Waste Authority is responsible for providing adequate disposal capacity for all domestic and commercial solid waste and may provide disposal capacity for industrial and special waste.

4. Report. The council shall report annually by January 1st to the Governor and to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

§3309. State solid waste planning and management

The council shall complete and adopt by rule, by January 1, 1990, a solid waste management plan for the State.

1. Waste reduction and recycling component. In consultation with the Recycling Advisory Council, municipalities, regional councils and the private sector, the council shall develop and incorporate into the state plan an assessment of waste reduction and recycling opportunities. The council shall revise the plan or components of the plan as necessary, but in no case less than once every 5 years. The Division of Waste Reduction and Recycling, referred to in this chapter as the "division," is responsible for the necessary data collection and analysis.

A. The plan shall include investigation and assessment of the following elements:

(1) The current level of public recycling efforts, including the quantities and categories of waste currently recycled;

(2) The current market structure of the recycling industry in the State and in those areas receiving recycled materials from the State. This element shall include identification of the existing private and public recycling operations, recycling capacity and the quantities and categories of materials currently recycled;

(3) The potential for recycling in various regions of the State, including estimates of the types and quantities of waste available for recycling and an analysis of the economic and institutional obstacles to increased recycling;

(4) The categories of industrial waste which present opportunities for reuse; and

(5) Opportunities to reduce waste quantities by reducing generation at the source.

1 B. The state recycling plan shall also include the
2 development of the following program elements in the form of
3 specific recommendations, including, when necessary,
4 additional legislative authority for implementation and for
5 estimated staff, operating and capital costs.

7 (1) The division shall design a program of public
8 education in support of the state recycling plan to
9 promote waste reduction, source separation and feasible
10 recycling efforts at the individual, local, regional
11 and state level.

13 (2) The division shall design a market development
14 strategy consistent with the state recycling plan which
15 shall include, without limitation, the following
16 elements:

17 (a) Methods of collecting and marketing of
18 recyclable materials, including those with a
19 direct state role, to achieve necessary economies
20 of scale and product quality specifications. The
21 strategy shall include a plan for source
22 separation of recyclable materials at the
23 household, municipal, regional or state level, as
24 appropriate;

27 (b) An incentive program to encourage end users
28 of recyclable materials to locate or expand their
29 operations within the State. The division shall
30 consult with the Finance Authority of Maine in
31 developing this element;

33 (c) A program for facilitating the marketing of
34 recyclable materials consistent with this
35 paragraph. The program may include a
36 clearinghouse of information for municipalities
37 and recycling businesses to improve the flow of
38 recyclable materials in the market, as well as
39 direct state involvement in marketing recyclable
40 materials where private sector capacity is
41 inadequate; and

43 (d) The establishment of an industrial materials
44 exchange to promote the reuse of industrial waste
45 which may be suitable raw materials for other
46 processes. The division shall coordinate those
47 efforts with other waste exchanges in the
48 northeastern United States.

49 (3) The division shall develop a program of assistance
50 for municipalities, groups of municipalities and
51 other interested parties.

1 regional councils. This program shall include, without
3 limitation, technical assistance and grants to:

5 (a) Study the feasibility of local or regional
7 recycling programs consistent with the state
9 recycling plan; and

11 (b) Implement the feasibility studies developed
13 under this section when the proposed activities
15 are consistent with the state recycling plan. The
17 division shall establish a preference for
19 proposals under this subparagraph from individual
21 municipalities or groups of municipalities which
23 have enacted mandatory recycling ordinances.

25 (4) The division, after consulting with the
27 Commissioner of Administration, shall assess the status
29 of recycling efforts undertaken directly by the State
31 for its own solid waste and shall develop a proposal
33 for a program of recycling to reduce the generation of
35 solid waste by the State. The program shall include,
37 without limitation, recycling of office papers,
39 cardboard, used motor oil, yard waste and other
41 materials used by the State for which recycling markets
43 exist or may be developed.

45 (5) The division shall develop, after reviewing waste
47 and source reduction programs in other countries and
49 states, a recommended waste reduction strategy for this
51 State.

C. The division shall coordinate its efforts with the
33 Department of Environmental Protection to ensure consistency
35 with the disposal capacity needs analysis developed pursuant
37 to this section and to ensure compatibility with state and
39 local environmental requirements. The Department of
41 Environmental Protection shall provide the office with any
43 information it possesses on the quantities of waste
45 materials recycled and any other relevant information
47 developed pursuant to this section. The division shall
49 develop the recycling plan, including the interim progress
51 report and any revisions to the plan, with the advice of the
Recycling Advisory Council.

2. Disposal capacity needs component. The council shall
45 develop and incorporate into the state plan an assessment of
47 disposal capacity needs. The council shall revise the plan as
49 necessary, but in no case less than once every 5 years.

A. The Department of Environmental Protection, which shall
51 be referred to as the "department," is responsible for the
necessary data collection and analysis. The department

1 shall develop and maintain a comprehensive data base on
2 solid waste generated or disposed of in the State. The
3 types of data collected shall include:

5 (1) The amount of solid, special and hazardous waste
6 generated, handled or transported within the State;

7
8 (2) The source of the waste;

9
10 (3) The type of waste;

11
12 (4) The costs and types of treatment or disposal
13 technologies currently employed, including, without
14 limitation, recycling, composting, landspreading,
15 incineration or landfilling;

16
17 (5) The capacity of existing licensed solid, special
18 and hazardous waste treatment and disposal facilities
19 receiving waste generated within the State;

20
21 (6) The costs of transporting solid, special and
22 hazardous waste to disposal facilities; and

23
24 (7) The extent to which the State relies on solid,
25 special and hazardous waste disposal capacity outside
26 its jurisdiction.

27
28 B. The council shall identify the need in the State for
29 current and future expansions of solid, special and
30 hazardous waste treatment and disposal capacity by type of
31 waste. The analysis shall include, but not be limited to:

32
33 (1) Identification of solid, special and hazardous
34 wastes by type which are capable of being reused or
35 recycled in an economically and environmentally sound
36 manner and the preferred technologies to be utilized;

37
38 (2) Estimation of waste generation by region and waste
39 type over the next 10-year and 20-year periods based on
40 the best available forecasts of population growth,
41 economic activity within the State, estimates provided
42 by the solid, special and hazardous waste generators
43 and other available information;

44
45 (3) Comparison of the projected waste generation levels
46 with existing capacity, including consideration of
47 expected facility closures under this chapter;

48
49 (4) Identification of the regional availability of
50 solid, special and hazardous waste disposal capacity,
51 including consideration of transportation costs; and

1 (5) Assessment of the level of competition in the
3 solid, special and hazardous waste disposal industry.

5 C. The council shall consult with industrial waste
7 generators, regional councils and municipal officials
9 concerning the specific needs of their locales. The council
11 shall identify areas of the State which are underserved with
13 regard to waste treatment or disposal capacity or which have
15 capacity in excess of regional needs. In determining
17 regional needs, the council may consider economic criteria,
 including disposal and transportation costs, population
 densities, regional differences in current industrial mix
 and the potential for economic growth, the level of
 competition in the solid, special and hazardous waste
 disposal industry and any other factors as the council deems
 relevant.

19 Sec. 3. 5 MRSA §12004-I, sub-§22, as enacted by PL 1987, c.
 786, §5, is repealed and the following enacted in its place:

21 22. Envi- Recycling Ad- Legislative 5 MRSA
23 ronment: Natural visory Council Per Diem §13077
 Resources

25 Sec. 4. 5 MRSA §§13076 to 13079 are enacted to read:

27 §13076. Program established; goals

29 The Division of Waste Reduction and Recycling, referred to as
31 the "division," is established in the Office of Community
33 Development to encourage the recycling of waste materials and the
35 reduction of waste volumes generated within the State to the
37 maximum extent possible to conserve the natural resources of the
39 State, reduce the detrimental effects of waste disposal on the
 environment, safeguard the public health and welfare, reduce the
 disposal costs incurred by municipalities and waste generators
 and reduce the amount of waste requiring incineration and
 landfilling.

41 §13077. Recycling Advisory Council

43 There is established a Recycling Advisory Council to provide
45 the division with information and advice concerning the recycling
 and waste reduction needs and opportunities of the State.

47 1. Membership; terms. The Governor shall appoint 12 members,
49 with 2 members each representing municipal governments, statewide
51 and local environmental organizations, the recycling industry and
 the waste disposal industry; one member representing industrial
 waste generators; and 3 members from the general public. The
 Commissioner of Environmental Protection shall serve as an ex
 officio member. All members, except the commissioner, shall be

1 appointed for a term of 3 years. For the initial appointments,
2 however, 4 members shall be appointed for terms of one year; 4
3 members shall be appointed for terms of 2 years; and 4 members
4 shall be appointed for terms of 3 years. A vacancy shall be
5 filled for the unexpired portion of the term.

7 2. Compensation. Members shall be compensated according to
8 Title 5, section 12004-I, subsection 22.

9
11 3. Quorum; actions. A quorum shall be a majority of the
12 members of the council. An affirmative vote of the majority of
13 the members present at a meeting shall be required for any
14 action. No action may be considered unless a quorum is present.

15 4. Meetings. The council shall meet at least 4 times per
16 year.

17
19 5. Annual report. The council shall report annually to the
20 Governor and to the Legislature on the status of the State's
21 recycling planning effort.

22 6. Staff support. The division shall provide the council
23 with all necessary staff support.

25 §13078. Technical and financial assistance

27 The division shall undertake a program of technical and
28 financial assistance to municipalities and private parties to
29 promote recycling and waste reduction efforts. All the
30 division's programs under this section shall be consistent with
31 the waste management plan adopted by the Interdepartmental
32 Council on Waste Management.

33
35 1. Recycling information clearinghouse. The division shall
36 establish and administer a clearinghouse on recycling markets
37 information. The division shall make its information on
38 recycling services available to municipalities and private solid
39 waste generators seeking markets or services for materials to be
40 recycled.

41 2. Recycling feasibility studies. The division shall provide
42 professional technical assistance to municipalities or groups of
43 municipalities in the planning and design of local and regional
44 recycling programs. The purpose of this assistance program is to
45 further the goals established in the state recycling plan. This
46 assistance shall include:

47
49 A. The assessment of economically feasible recycling potential
50 including the supply of materials which can be recycled,
51 probable markets for these materials and the avoided costs of
solid waste disposal;

1 B. The planning for the logistical, administrative and
3 financial management requirements of a recycling program;

5 C. The design of flow control or other ordinances necessary
7 for the implementation of a recycling program; and

9 D. The coordination of the proposed recycling program with
11 overall solid waste management.

13 3. Recycling capital investment grants. The division may make
15 grants to eligible municipalities and groups of municipalities
17 for the construction of public recycling facilities and the
19 purchase of recycling equipment. The division may establish
21 requirements for local cost sharing of up to 25% of the total
23 grant amount. The local share of costs may include in-kind
25 services provided by the grant recipient.

27 4. Technical assistance and special services. The division
29 shall develop a pilot program to provide grants for the
31 identification, design and development of tire and white goods
33 recycling and disposal facilities, including pickup of these
35 items, and stump and demolition debris disposal facilities by
37 municipalities, county governments and regional planning agencies.

39 Sec. 5. 38 MRSA §1303, sub-§3, as repealed and replaced by PL
41 1979, c. 383, §2, is amended to read:

43 3. Disposal. "Disposal" means the discharge, deposit,
45 combustion, burning, incineration, injection, dumping, spilling,
47 leaking or placing of any hazardous or solid waste, including any
49 material derived from waste for use as a fuel, or any sludge or
51 septage into or on any land or water or into the air so that the
hazardous or solid waste, sludge or septage or any constituent
thereof may enter the environment or be emitted into the air, or
discharged into any waters, including ground waters.

Sec. 6. 38 MRSA §1303, sub-§3-A, as enacted by PL 1981, c. 528,
§1, is repealed.

Sec. 7. 38 MRSA §1303, sub-§10-A, as enacted by PL 1981, c. 528,
§1, is repealed.

Sec. 8. 38 MRSA §1303, sub-§11-B, as enacted by PL 1985, c. 822,
§3, is repealed.

Sec. 9. 38 MRSA §1304, sub-§4, as amended by PL 1987, c. 883,
§1, is repealed.

Sec. 10. 38 MRSA §1304, sub-§5, as repealed and replaced by PL
1979, c. 383, §7, is repealed.

1 **Sec. 11. 38 MRSA §1304, sub-§15,** as enacted by PL 1987, c. 517,
2 §12, is repealed.

3 **Sec. 12. 38 MRSA §1305, sub-§1,** as enacted by PL 1973, c. 387,
4 is amended to read:

5 **1. Disposal facilities.** Each municipality shall provide a
6 ~~solid-waste-disposal-facility~~ for the management of domestic and
7 commercial solid waste generated within the municipality and may
8 provide such a facility for the management of industrial wastes
9 and sewage treatment plant sludge.

10 **Sec. 13. 38 MRSA §1310-D, sub-§5** is enacted to read:

11 **5. Closure prior to available alternatives.** The board shall
12 not order the closure of a municipal solid waste landfill until
13 the Maine Solid Waste Authority, under chapter 25, has made an
14 offer of disposal services to the municipalities currently using
15 the landfill.

16 **Sec. 14. 38 MRSA §1310-J,** as enacted by PL 1987, c. 517, §25,
17 is repealed.

18 **Sec. 15. 38 MRSA §1310-K,** as amended by PL 1987, c. 752, §§1
19 and 2, is repealed.

20 **Sec. 16. 38 MRSA §1310-L,** as amended by PL 1987, c. 769, Pt. A,
21 §182, is repealed.

22 **Sec. 17. 38 MRSA §1310-O,** as enacted by PL 1987, c. 517, §25,
23 is repealed.

24 **STATEMENT OF FACT**

25 The purpose of this bill is to establish a Maine Solid Waste
26 Authority with responsibility for siting and operating all future
27 landfill capacity for municipal and commercial solid waste and
28 establish an effective coordinating mechanism in the State
29 Planning Office for developing and coordinating all state
30 government programs in the area of solid waste planning and
31 management.

32 The 2 most critical solid waste issues in Maine are the need
33 for adequate, environmentally sound landfill capacity to allow
34 closure of leaking municipal landfills and the need for
35 comprehensive and coordinated planning for and management of
36 waste disposal. This bill differs from other proposals in that
37 the planning, policy development and community assistance
38 responsibilities are kept in the executive branch. The proposed,
39 independent Maine Solid Waste Authority will be able to focus
40 solely on providing the landfill capacity the State needs as soon
41 as possible without the additional responsibilities of planning

1 and community assistance. The bill also minimizes red tape and
2 avoids elaborate new bureaucracies.

3
4 The Maine Solid Waste Authority is charged with identifying
5 and developing suitable solid waste disposal sites. The
6 authority will own and operate all future disposal capacity for
7 municipal solid waste and other solid waste not handled at
8 generator-owned disposal facilities. The authority is also
9 directed to develop special waste disposal capacity to meet Maine
10 needs not met by generator-owned facilities. The authority may
11 also develop recycling facilities. Further development of
12 commercial landfill capacity for solid and special waste is
13 prohibited.

14
15 The State Planning Office is charged with coordinating an
16 interdepartmental effort to plan for solid waste management.
17 Individual agencies, including the Department of Environmental
18 Protection, the new Maine Solid Waste Authority and the Division
19 of Waste Reduction and Recycling, are charged with developing
20 various analyses of recycling opportunities and disposal capacity
21 needs. These analytical efforts will be incorporated into a
22 state waste management plan under the direction of the State
23 Planning Office.

24
25 All technical and financial assistance programs for recycling
26 and the disposal of problematic materials, such as tires and
27 white goods, are properly based in the Division of Waste
28 Reduction and Recycling within the Department of Economic and
29 Community Development.

30
31 Other than participation in planning, the role of the
32 Department of Environmental Protection is strictly limited to the
33 regulation of the environmental aspects of the solid waste
34 management. This limitation is imposed to remove the current
35 conflict in the department's mission to protect the environment
36 while at the same time promoting various waste disposal
37 technologies.

38
39 The bill also provides that existing municipal landfills not
40 be closed until alternatives are provided by the Maine Solid
41 Waste Authority.