

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1549

H.P. 1116

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 TOWNSEND of Eastport.  
Cosponsored by Representative MOHOLLAND of Princeton.

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STATE OF MAINE

---

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

---

An Act to Establish Regional State-owned Waste Disposal Facilities.

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

3 **Sec. 1. 4 MRSA §152, sub-§6, ¶¶R and S,** as repealed and  
5 replaced by PL 1987, c. 737, Pt. C, §§2 and 106, and as amended  
by PL 1989, cc. 6 and 9, are further amended to read:

7 R. The site location of development laws, Title 38,  
sections 481 to 485 and 488 to 490; and

9  
11 S. The oil discharge prevention and pollution control laws,  
Title 38, sections 543, 545 and 560+; and

13 **Sec. 2. 4 MRSA §152, sub-§6, ¶Z** is enacted to read:

15 Z. Laws pertaining to the Maine Solid Waste Authority,  
17 Title 38, chapter 15-A.

19 **Sec. 3. 5 MRSA §12004-F, sub-§14** is enacted to read:

21 14. Maine Solid Waste Authority                      \$100 Per                      38 MRSA §1571  
Day and  
23 Expenses

25 **Sec. 4. 38 MRSA c. 15-A** is enacted to read:

27 CHAPTER 15-A

29 MAINE SOLID WASTE AUTHORITY

31 §1571. Scope

33 1. Scope. This chapter establishes the Maine Solid Waste  
Authority to:

35 A. Promote maximum resource recovery from solid waste and  
37 maximum recycling and reuse of resources to protect,  
preserve and enhance the environment;

39 B. Implement solid waste disposal and resource recovery  
41 facilities and projects either by the State or under state  
auspices;

43 C. Provide appropriate governmental structure, processes  
45 and support so that effective state systems and facilities  
47 for solid waste management and large-scale resource recovery  
may be developed, financed, planned, designed, constructed  
and operated for the benefit of the people, municipalities  
49 and counties of the State;

51 D. Utilize private industry to the maximum extent feasible  
to perform planning, design, management, collection,  
construction, operation, manufacturing and marketing

1 functions related to solid waste disposal and resource  
3 recovery and assist in the development of industrial  
4 enterprises based upon resource recovery, recycling and  
5 reuse;

6 E. Negotiate long-term contracts between the State and  
7 persons and business entities which may be utilized as an  
8 incentive for the development of industrial and commercial  
9 enterprise based on resource recovery within the State;

10 F. Provide for solid waste collection and disposal services  
11 for municipal and regional authorities and persons in the  
12 State, at reasonable cost, by state systems and facilities  
13 where these services are considered necessary and desirable  
14 in accordance with the state solid waste management plan;  
15

16 G. Coordinate the planning, research and development and  
17 appropriate innovation in the design, management and  
18 operation of the State's systems and facilities for solid  
19 waste management, in order to permit continuing improvement  
20 and provide adequate incentives and processes for lowering  
21 operation costs and other expenses;  
22

23 H. Take responsibility for implementing solid waste  
24 disposal and resource recovery systems and facilities, and  
25 solid waste management services where necessary and  
26 desirable throughout the State in accordance with a state  
27 solid waste management plan and applicable laws and rules;  
28 and  
29

30 I. Undertake other actions and activities to assure  
31 conformity with the state solid waste management plan.  
32

### 33 §1572. Definitions

34 As used in this chapter, unless the context otherwise  
35 indicates, the following terms have the following meanings.  
36

37 1. Authority. "Authority" means the Maine Solid Waste  
38 Authority.  
39

40 2. Costs. "Costs" means the cost or fair market value or  
41 the value, as determined by the authority, of construction, real  
42 property, property rights, utility extensions, disposal  
43 facilities, access roads, easements, franchises, financing  
44 charges, interest, labor, materials, machinery and equipment,  
45 engineering and legal services, plans, specifications, surveys,  
46 cost estimates, studies, transportation and other expenses  
47 necessary or incidental to the design, development, construction,  
48 financing, management and operation and maintenance of a waste  
49 management project, and other costs or expenses of the authority  
50 necessary or incidental to the purposes of the authority,  
51

1 including administrative and operating costs, research and  
2 development and operating capital, including fees, charges,  
3 loans, insurance and the expense of purchasing real and personal  
4 property, including waste management projects.

5  
6 3. Department. "Department" means the Department of  
7 Environmental Protection.

8  
9 4. Facility. "Facility" means any solid waste disposal  
10 site, system or process and its respective operations, including  
11 personnel, equipment and buildings.

12  
13 5. Ground water. "Ground water" means any water naturally  
14 found under the surface of the earth.

15  
16 6. Industrial solid waste. "Industrial solid waste" means  
17 solid waste produced by or resulting from industrial  
18 applications, processes or operations.

19  
20 7. Person. "Person" means any individual, partnership,  
21 corporation, association, institution, cooperative enterprise,  
22 municipality, commission, political subdivision or other duly  
23 established legal entity.

24  
25 8. Resource recovery. "Resource recovery" means the  
26 recovery of materials from solid wastes in a salable form which  
27 will allow their reuse in specific market applications.

28  
29 9. Resource recovery systems. "Resource recovery systems"  
30 means systems specifically designed for recycling solid wastes  
31 into energy and materials.

32  
33 10. Revenues. "Revenues" means all revenues to the  
34 authority, including those generated through user charges and the  
35 sale of recycling products through resource recovery systems and  
36 facilities.

37  
38 11. Solid waste. "Solid waste" means any garbage; refuse;  
39 sludge from a waste treatment plant, water supply treatment plant  
40 or air pollution control facility; and other discarded material,  
41 including solid, liquid, semisolid or contained gaseous material  
42 resulting from industrial, commercial, mining and agricultural  
43 operations and from community activities, but does not include  
44 solid or dissolved material in domestic sewage; solid or  
45 dissolved material in irrigation return flows; industrial  
46 discharges which are point sources subject to permits under the  
47 United States Water Pollution Control Act, Public Law 92-500,  
48 Section 402; or source, special nuclear or by-product material as  
49 defined by the United States Atomic Energy Act of 1954, Public  
50 Law 83-703.

1           12. Solid waste management services. "Solid waste  
management services" includes the collection, transportation,  
3 storage, transfer, processing, recycling or disposal of solid  
wastes.

5           13. Surface water. "Surface water" means water occurring  
7 generally on the surface of the earth.

9           14. Users. "Users" means any person who delivers or  
deposits solid waste at a facility for subsequent processing,  
11 disposal or recycling.

13           15. Volume reduction. "Volume reduction" means a system or  
process for physically or chemically reducing the volume of solid  
15 waste. This term does not include the combustion or incineration  
of solid waste or any material derived from solid waste.

17           §1573. Establishment; organization

19           1. Members. The Maine Solid Waste Authority, as  
21 established by Title 5, section 12004-F, subsection 14, shall  
consist of 7 voting members, all of whom shall be residents of  
23 the State and qualified to vote in the State. The Governor shall  
appoint the members with the advice and consent of the Senate.  
25 The Governor shall designate a member as chair who shall serve at  
the pleasure of the Governor. Authority members registered in  
27 one major political party shall not exceed the other major  
political party by more than one. The terms of the original  
29 members, excluding the chair, shall be as follows: Two members  
shall serve for one year; 2 members shall serve for 2 years; and  
31 2 members shall serve for 3 years. Upon the expiration of the  
terms of the original members, excluding the chair, the term of  
33 each member appointed shall be 3 years. The Commissioner of  
Environmental Protection shall serve as an ex officio nonvoting  
35 member.

37           2. Vacancies. In the event of the death, permanent  
disability, resignation of a member or failure of a member to  
39 perform the member's duties, the Governor shall appoint an  
interim member to serve for a period not to exceed 6 months,  
41 unless that interim member is confirmed by the Senate, in which  
case the interim member shall complete the term of the member.  
43 If an interim member is not confirmed by the Senate within 6  
months of the date of appointment, the position of member shall  
45 remain vacant until an interim member is confirmed by the Senate  
or a member is selected to serve a new term. Except as otherwise  
47 set forth in this section, the appointment of interim members  
shall be subject to all other requirements regarding appointments  
49 of members.

51           3. Quorum. For purposes of conducting business of the  
authority, 5 members shall constitute a quorum. A majority vote

1 of members constituting the quorum shall be required for action  
3 on any matter before the authority. All votes on matters before  
5 the authority shall be conducted at meetings open to the public.  
7 The authority shall publish timely notice of these meetings in  
9 newspapers having general circulation throughout the State.

11 4. Reimbursement. Each member shall be entitled to  
13 reimbursement for actual and necessary expenses incurred during  
15 the performance of official duties.

17 5. Delegation of powers. The authority may delegate to one  
19 or more of its members, the manager, or its agents, powers and  
21 duties as it deems necessary and proper in conformity with this  
23 chapter.

25 6. Manager. The chair, with the approval of the members,  
27 shall select a manager of the authority who shall be an employee  
29 of the authority.

31 7. Duration. Subject to the provisions of section 1579,  
33 the authority shall continue until its existence is terminated by  
35 law, in which case all of its rights and properties shall pass to  
37 and be vested in the State.

39 8. Management plan. The authority, after notice and public  
41 hearing, shall adopt a state solid waste management plan and  
43 amend the plan as necessary. The plan shall provide explicit  
45 cost projections for waste disposal and seek to minimize  
47 statewide waste disposal costs.

49 9. Fees. The authority, after notice and public hearing,  
51 may adopt fee schedules, user charges or other charges for the  
53 use or operation of facilities under its jurisdiction and control.

55 10. Rules. The authority may adopt procedural rules to  
57 implement this chapter and, after notice and public hearing,  
59 adopt rules governing the use or operation of facilities under  
61 its jurisdiction and control and any other rules necessary to  
63 effectuate the powers, policies, purposes and functions set forth  
65 in this chapter.

67 §1574. Functions of authority

69 The functions of the authority shall include the following:

71 1. Solid waste disposal. The planning, design,  
73 construction, financing, management, ownership, operation and  
75 maintenance of solid waste disposal, volume reduction and  
77 resource recovery facilities and all related solid waste  
79 reception, transfer, storage, transportation and waste handling  
81 and general support facilities considered by the authority to be  
83 necessary, desirable, convenient or appropriate in carrying out

1 the statewide solid waste management plan and in establishing,  
3 managing and operating solid waste disposal and resource recovery  
5 systems and their component waste-processing facilities and  
7 equipment;

9 2. Services to municipalities. The provision of solid  
11 waste management services to municipalities, regions and persons  
13 within the State by receiving solid waste at authority  
15 facilities, pursuant to contracts between the authority and  
17 agencies, municipalities, persons, regions or business entities;  
19 the recovery of material and energy resources and resource values  
21 from solid wastes; and the production from services and resource  
23 recovery operations of revenues sufficient to provide for the  
25 support of the authority and its operations on a self-sustaining  
27 basis, with due allowance for the redistribution of any surplus  
29 revenues to reduce the costs of authority services to the users;

31 3. Private industry. The utilization, through contractual  
33 arrangements, of private industry for implementation of some or  
35 all of the requirements of the state solid waste management plan  
37 and for other activities considered necessary, desirable or  
39 convenient by the authority;

41 4. Coordination of efforts. Assistance with the  
43 coordination of efforts directed toward source separation for  
45 recycling purposes;

47 5. Development of recovery enterprises. Assistance in the  
49 development of industries and commercial enterprises within the  
51 State based upon resource recovery, recycling and reuse; and

53 6. Licensing. The development, implementation and  
55 supervision of a program requiring all persons who haul, convey  
57 or transport any solid waste in any container to obtain a license  
59 from the authority. The authority may enter into an  
61 administrative agreement with any county, municipality or other  
63 political subdivision under which this licensing program may be  
65 conducted by the county, municipality or other political  
67 subdivision pursuant to rules adopted by the authority which are  
69 applicable to the licensing program.

71 The objectives outlined in this section shall be considered  
73 operating responsibilities of the authority, in accordance with  
75 the state solid waste management plan, and shall be considered in  
77 all respects public purposes. It is the intention of this  
79 chapter that the authority be granted all powers necessary to  
81 fulfill these purposes and to carry out its assigned  
83 responsibilities and that this chapter is to be construed  
85 liberally in furtherance of this intention.



1       §1575. Manager and staff

3           1. Qualifications. The manager of the authority shall be a  
5           resident of the State, a registered professional engineer in the  
7           State and have at least a master's degree from an accredited  
9           college or university in either civil, mechanical or chemical  
          engineering. The manager shall have at least 10 years'  
          engineering experience, including at least 3 years' experience in  
          the field of solid waste management.

11          2. Chief executive. The manager shall be a member and  
          chief executive of the staff.

13          3. State employees. All members of the staff shall be  
15          employees of the authority and, except for the manager, the chief  
17          administrative aide and engineers who have graduated from an  
19          engineering curriculum of 4 years or more, shall be covered by  
          the state merit system as classified employees.

21          4. Organization; hiring. The manager shall be responsible  
23          for developing and recommending an organizational structure for  
25          implementing the functions undertaken by the authority. The  
          manager shall be responsible for recommending to the authority  
          persons to be hired as staff members. The authority shall  
          approve all hirings and organizational structures.

27          5. State retirement plan. All members of the staff shall  
29          be included under and subject to Title 5, Part 20.

31       §1576. Powers of authority

33           The authority shall have the power to:

35           1. Organizational structure. Approve and adopt an  
          organizational structure to implement this chapter;

37           2. Staff. Employ a staff to carry out the functions of the  
39           authority;

41           3. Offices. Establish offices where necessary in the State;

43           4. Advisors. Retain, by contract, legal counsel, auditors,  
45           engineers, private consultants, advisors or other contractual  
          services required by the authority;

47           5. Sue. Sue and be sued;

49           6. Seal. Have a seal and alter the seal at its pleasure;

51           7. Hearings. Conduct hearings, examinations and  
53           investigations necessary and appropriate to the conduct of its  
          operations and the fulfillment of its responsibilities;

1           8. Insurance. Procure and keep in force adequate insurance  
or otherwise provide for the adequate protection of its property,  
3           as well as indemnify and hold harmless the authority and its  
officers, agents or employees against loss or liability with  
5           respect to any risk to which it or they may be exposed in  
carrying out any function of the authority;

7  
9           9. Facilities. Design, construct, own and operate  
facilities;

11           10. Access to records. Obtain access to public records and  
apply for the process of subpoena, if necessary, to produce  
13           books, papers, records and other data;

15           11. Fees. Charge reasonable fees for services it performs  
and waive, suspend, reduce or otherwise modify those fees when  
17           deemed appropriate;

19           12. Property. Purchase, manage, lease or rent real and  
personal property as it deems necessary, convenient or desirable;

21           13. Necessary actions. Do all things necessary for the  
23           performance of its duties, the fulfillment of its obligations,  
the conduct of its operations and the conduct of a comprehensive  
25           program for solid waste disposal and resource recovery and for  
solid waste management services, in accordance with the state  
27           solid waste management plan, applicable laws and rules and the  
requirements of this chapter;

29  
31           14. Assume existing contracts. Assume, through contract or  
otherwise, any existing contract, grant or property right or  
33           interest held by any person, partnership, corporation,  
municipality, county, state agency, federal agency or other legal  
35           entity, pertaining to solid waste storage, collection,  
transportation, treatment, processing, disposal, recycling, reuse  
or any other use;

37  
39           15. Project evaluation. Determine the location and  
character of any project to be developed under this chapter,  
41           subject to the requirements of the state solid waste management  
plan;

43           16. Project support. Purchase, receive by gift or  
otherwise, lease, exchange or otherwise acquire and construct,  
45           reconstruct, improve, maintain, equip and furnish waste  
management projects as are called for by the state solid waste  
47           management plan;

49           17. Sale of projects. Sell or lease to any person all or  
any portion of a waste management project for consideration and  
51           upon terms as the authority determines reasonable;

1           18. Encumbrances. Mortgage or otherwise encumber all or  
2 any portion of a project whenever, in the opinion of the  
3 authority, the action is deemed to be in furtherance of the  
4 purposes of this chapter;

5           19. Purchase or lease. Grant options to purchase, or to  
6 renew a lease for, any authority waste management project on  
7 terms the authority determines reasonable;

8           20. Property acquisition. Acquire by purchase, gift,  
9 transfer or condemnation for public purposes, as well as manage,  
10 operate, hold and dispose of real property and, subject to  
11 agreements with lessors or lessees, develop or alter property by  
12 making improvements and betterments to enhance its value and  
13 usefulness;

14           21. Property plans. Make plans, surveys, studies and  
15 investigations necessary or desirable, in conformity with the  
16 state plan and with due consideration for local or regional  
17 plans, to carry out authority functions with respect to the  
18 acquisition, use and development of real property and the design  
19 and construction of systems and facilities;

20           22. Processing plans. Make short-range and long-range  
21 plans, consistent with the state solid waste management plan, for  
22 the storage, collection, transportation or processing and  
23 disposal of solid waste and recovered resources by the  
24 authority-owned facilities;

25           23. Facility design. Design or provide for the design of  
26 solid waste management facilities, including design for the  
27 alteration, reconstruction, improvement, enlargement or extension  
28 of existing facilities;

29           24. Project construction. Construct, erect, build,  
30 acquire, alter, reconstruct, improve, enlarge or extend waste  
31 management projects, including provision for their inspection and  
32 supervision and the engineering, architectural, legal, fiscal and  
33 economic investigations and studies, surveys, designs, plans,  
34 working drawings, specifications, procedures and any other  
35 actions incidental to the projects;

36           25. Project operation. Own, operate and maintain solid  
37 waste management projects and make provision for their management  
38 and for the manufacturing, processing and transportation  
39 operations necessary to derive recovered resources from solid  
40 waste and contracting for the sale of those resources;

41           26. Entry upon land. Enter upon lands and waters, as may  
42 be necessary, to make surveys, soundings, borings and  
43 examinations to accomplish the purposes of this chapter;

1           27. Contract for services. Contract with municipal, county  
2           and regional authorities, state agencies and persons to provide  
3           waste management services in accordance with this chapter and to  
4           plan, design, construct, manage, operate and maintain solid waste  
5           disposal and processing facilities on their behalf;

7           28. Alteration of property. Design and construct  
8           improvements or alterations on properties which it owns or which  
9           it operates by contract on behalf of municipal or regional  
10           authorities;

11           29. Professional and technical services. Contract for  
12           services in the performance of architectural and engineering  
13           design, the supervision of design and construction, system and  
14           facility management, for professional or technical services as  
15           required, and for other professional or technical services which  
16           require either prequalification of a contractor or the submission  
17           of a proposal by any person, firm or consortium or association of  
18           persons or firms in response to an official request for proposal  
19           or similar written communication of the authority, whenever these  
20           services, in the discretion of the authority, are deemed  
21           necessary, desirable or convenient in carrying out the purposes  
22           of the authority;

25           30. Contract for construction. Contract for the  
26           construction of solid waste facilities with individuals or firms  
27           or consortiums of individuals or firms, pursuant to applicable  
28           provisions of this chapter, the requirements of applicable rules  
29           and the state plan and in accordance with specifications, terms  
30           and conditions which the authority deems necessary or advisable;

31           31. Solid waste control. Control, through rulemaking or  
32           otherwise, the collection, transportation, storage and disposal  
33           of solid waste, including the diversion of solid waste within  
34           specified geographic areas to facilities owned, operated or  
35           controlled by the authority, provided that this power shall not  
36           extend to the collection, transportation, transfer and storage of  
37           hazardous waste as defined in section 1303; and

39           32. Financing. Issue bonds or notes in anticipation of the  
40           issuance of bonds, or otherwise, to finance any of the purposes  
41           of this chapter, lend the proceeds of these obligations to any  
42           person to effectuate any of the purposes of this chapter,  
43           contract with any person in any manner deemed advisable by the  
44           authority to secure the payment of these obligations and pledge  
45           contracts as security for the payment of these obligations.

47           Any contract for construction valued at over \$25,000 shall  
48           be let by the authority pursuant to the process of open or  
49           competitive bidding, provided that the authority may determine  
50           the format, contents and scope of any contract for a solid waste  
51           management project, the conditions under which bidding shall take

1 place and the schedule and stipulations for a contract award.  
2 The authority may select the contractor deemed to have submitted  
3 the most responsive bid when, in the judgment of the authority,  
4 price and other factors considered, the award is in the best  
5 interests of the State. The authority may in its discretion  
6 negotiate and enter into a contract or contracts with a single  
7 source when desirable.

9 §1577. Funds and transfers of interests

11 1. Gifts; revenue; loans. The authority shall have the  
12 power to:

13 A. Accept gifts, grants or loans of funds, property or  
14 services from any source, public or private, and comply,  
15 subject to this chapter, with their respective terms and  
16 conditions;

17 B. Receive funds from the sale of general bonds, revenue  
18 bonds or other obligations of municipal, county or regional  
19 authorities and from the sale of general bonds, revenue  
20 bonds or other obligations of the authority;

21 C. Receive funds or revenues from the sale of products,  
22 materials, fuels and energy in any form derived from the  
23 processing of solid waste by systems, facilities and  
24 equipment under its jurisdiction and receive revenues in the  
25 form of rents, user fees, user charges, licensing fees and  
26 other charges paid by units or agencies of state and local  
27 government and by persons and organizations to compensate  
28 the authority for the use of its facilities or the  
29 performance of its services;

30 D. Apply for and accept from a federal agency loans or  
31 grants for use in carrying out its purposes and enter into  
32 agreements with the agency respecting these loans or grants;  
33 and

34 E. Make loans to any municipal or regional authority or to  
35 any person for the planning, design, acquisition,  
36 construction, reconstruction, improvement, equipping and  
37 furnishing of a solid waste management project, to be  
38 secured by loan agreements, contracts or any other  
39 instruments or agreements with respect to the use of fees  
40 and charges, upon terms and conditions which the authority  
41 determines reasonable in connection with the loans,  
42 including provisions for the establishment and maintenance  
43 of reserve funds. In the exercise of powers granted in this  
44 section in connection with the project for any municipal or  
45 regional authority or person, the authority may require the  
46 inclusion in any contract, loan agreement or other  
47 instrument, of provisions for the construction, use,  
48   
49   
50   
51

1 operation and maintenance and payment of operating and other  
3 costs of a project which the authority deems necessary or  
5 desirable and, in connection with the making of these loans,  
7 the authority may purchase, acquire and take assignments and  
9 the notes and bonds of municipal or regional authorities and  
11 persons and receive other forms of security and evidences of  
13 indebtedness. In furtherance of the purposes of this  
15 chapter and to assure the payment of the principal and  
17 interest of the loans and in order to assure the payment of  
19 the principal and interest on bonds or notes of the  
21 authority issued to provide funding for the loans, the  
23 authority may attach, seize, purchase, acquire, accept or  
25 take title by conveyance to any project and may sell, lease  
27 or rent any project for a use specified in this chapter.  
29 Any municipality is authorized to issue general obligation  
31 bonds to the authority, to which the full faith and credit  
33 of that municipality are pledged, in an amount determined by  
35 the municipality without regard to any debt or other limit  
37 provided in any charter, special act or general act  
39 pertaining to the municipality. These bonds may be issued  
41 and delivered upon negotiation with the authority and the  
43 consideration for the bonds may be the provision by the  
45 authority of solid waste and disposal resource recovery  
facilities for the use and benefit of the municipality.  
These bonds may be pledged by the authority as security for  
bonds issued by the authority to provide facilities for the  
benefit of these municipalities. Any municipality may  
unconditionally guarantee the punctual payment of the  
principal of and interest on any bonds of the authority,  
including the satisfaction of mandatory sinking fund  
requirements as provided in any resolution, trust indenture  
or other documents securing the bonds. Any guarantee of  
bonds of the authority made pursuant to this section shall  
be evidenced by the authority's endorsement on the bonds  
executed in the name of the municipality and on its behalf  
by the appropriate officer, as designated in the resolution  
authorizing the guarantee, and the municipality shall then  
be obligated to pay the principal of and interest on the  
bonds in the same manner and to the same extent as in the  
case of bonds issued by it. The obligations imposed by the  
guarantee shall not be subject to any limitation respecting  
the incurrence of debt or the issuance of obligations of the  
municipality contained in any charter, special act or  
general act.

47 2. Segregation and redistribution of revenues. The members  
49 of the authority by resolution, in accordance with the provisions  
51 and stipulations of this chapter and the authority's general and  
other bond resolutions, may authorize segregation of any  
authority revenues, as may at any time be adjudged by the members  
to be surplus to the needs of the authority to meet its  
contractual and other obligations and to provide for its

1 operations or other business purposes, and the equitable  
3 redistribution of these segregated surplus revenues to some or  
5 all of the users of the system in accordance with applicable  
7 provisions of the state solid waste management plan.

9 **§1578. Private contractors**

11 The authority may utilize private industry, by contract, to  
13 carry out the business, design, operation, management, marketing,  
15 planning and research and development functions of the authority,  
17 or the authority may determine that it is in the public interest  
19 to adopt another course of action. The authority may enter into  
21 long-term contracts with persons for the performance of any of  
23 these functions of the authority which, in the opinion of the  
25 authority, can desirably and conveniently be carried out by a  
27 person under contract, provided that any contract contains terms  
29 and conditions which will enable the authority to retain overall  
31 supervision and control of the business, design, operation,  
33 management, transportation, marketing, planning and research and  
35 development functions to be carried out or performed by any  
37 persons pursuant to the contract. Contracts may be entered into  
39 either on a negotiated or an open-bid basis and the authority in  
41 its discretion may select the type of contract it deems most  
43 prudent to utilize, considering the scope of work, the management  
45 complexities associated with the work, the extent of current and  
47 future technological development requirements and the best  
49 interests of the State. In exercising the contracting powers set  
51 forth in this section, the authority shall not give any  
preference to public versus private parties.

31 **§1579. Covenant with bondholders**

33 The State covenants and agrees with the holders of any  
35 bonds, securities or obligations or contractual obligations of  
37 the authority, assumed, issued or incurred by it and as security  
39 for which there may or may not be pledged the fees and revenues  
41 of any part of any facility or other project, that the State may  
43 not, as long as any of these bonds, other obligations or  
45 contractual obligations remain outstanding and unpaid, diminish  
47 or impair the power of the authority to establish, levy and  
49 collect fees and other charges in connection with those  
obligations or terminate the authority or authorize any other  
authority or facility to undertake or assume the functions of the  
authority, unless adequate provision is made by law for the  
protection of those advancing money or providing services with  
respect to those obligations.

49 **§1580. Securities investments**

51 Notwithstanding the fact that the bonds may be payable from  
a special fund, if they are otherwise of the form and character  
of negotiable instruments under the terms of the Uniform

1 Commercial Code, Title 11, the bonds shall be made negotiable  
3 instruments and securities within the meaning of and for all the  
5 purposes of the Uniform Commercial Code. All banks, bankers,  
7 trust companies, savings banks, building and loan associations,  
9 savings and loan associations, investment companies and other  
11 persons carrying on a banking business, all insurance companies,  
13 insurance associations and other persons carrying on an insurance  
15 business and all administrators, executors, guardians, trustees  
and other fiduciaries and all other persons who are authorized to  
invest in bonds or other obligations may properly and legally  
invest any funds, including capital belonging to them or within  
their control and these obligations are made securities which may  
properly and legally be deposited with and shall be received by  
the authority for any purpose for which the deposit of bonds or  
other obligations is authorized.

17 **§1581. Tax status**

19 The powers and functions exercised by the authority under  
21 this chapter are and shall be in all respects for the benefit of  
23 the people of the State and for the protection of their health  
25 and welfare. To this end, the authority shall be regarded as  
27 performing essential governmental functions in exercising its  
29 powers and functions and in carrying out this chapter and shall  
31 not be required to pay any taxes or assessments of any character,  
33 levied either by the State or a political subdivision on any of  
35 the property used by it for its purposes, or on any income or  
37 revenue from the property, including any profit from a sale or  
39 exchange. The bonds or other securities or obligations issued by  
41 the authority, their transfer and the interest paid on or the  
income from these bonds, including any profit from a sale or  
exchange, shall at all times be free from the State or any  
subdivision of the State. The authority may enter into  
agreements with any person, other than a municipality, leasing a  
project from the authority or operating or managing a project to  
make of payments in lieu of taxes to any municipality within  
which the project is located of an amount which may be equal to  
the taxes on real and personal property which the person would  
have been required to pay had it been the owner of the property  
during the period for which payment is made or any lesser amount  
as agreed upon by the person and the authority.

43 **§1582. No pledge of credit; exception**

45 The authority shall have no power to pledge the credit or to  
47 create any debt or liability of the State, or of any other agency  
49 or of any political subdivision, except that bonds, loan  
51 agreements or service agreements, all of which may be supported  
by the full faith and credit of a municipality, may be pledged as  
security for bonds or other obligations of the authority.



1        §1583. Local cooperation

3            All municipalities, political subdivisions and departments,  
4            agencies or public bodies of the State are authorized and  
5            empowered to aid, assist and cooperate with the authority in  
6            effectuating this chapter without regard to any law, public or  
7            private, or charter that regulates the issuance of debt or other  
8            obligations or governs the issuance of bonds.

9  
10        §1584. Depositories

11            All banks, bankers, trust companies, savings banks and other  
12            persons carrying on a banking business under the laws of the  
13            State are authorized to give security for the safekeeping and  
14            prompt payment of funds of the authority deposited by it with  
15            them in the manner and form required and approved by the  
16            authority. The security may consist of a good and sufficient  
17            undertaking with sureties which may be approved by the authority,  
18            or may consist of the deposit, with the authority or other  
19            depository approved by the authority, as collateral of any  
20            securities which the authority may approve.

21  
22        §1585. Reports and audits

23            1. Annual reports. The authority shall make annual reports  
24            to the Governor and the Legislature setting forth in detail its  
25            operations and transactions and may make additional reports from  
26            time to time to the Governor and Legislature as it deems  
27            desirable.

28            2. Independent audit. The authority shall cause, at least  
29            annually, an independent audit of its fiscal affairs to be made  
30            and shall furnish a copy of the audit report, together with any  
31            additional information or data with respect to its affairs as it  
32            deems desirable, to the Governor and Legislature.

33  
34        §1586. Sanctions

35            1. Penalties. Any person who violates a rule or a license  
36            condition shall be subject to the following sanctions.

37            A. A violation constitutes a civil violation for which a  
38            forfeiture of not less than \$100 and not more than \$1,000  
39            may be adjudged. If a violation continues for a number of  
40            days, each day of the violation shall be considered a  
41            separate violation.

42            B. If the violation is continuous or there is a substantial  
43            likelihood that it will reoccur, the authority may seek a  
44            temporary restraining order, preliminary injunction,  
45            permanent injunction or other equitable relief.

1 Original jurisdiction of lawsuits under this subsection shall be  
3 in any District Court, concurrent with that of the Superior Court.

5 2. Revocation. Any licensee who violates a rule or license  
7 condition shall be subject to revocation of the license or  
9 suspension of the license for a period to be determined by the  
11 authority. The procedure to be followed regarding any revocation  
13 or suspension of license is as follows.

15 A. The authority shall notify the licensee of the alleged  
17 violation by registered or certified mail, return receipt  
19 requested, at least 20 days in advance of the time set for  
21 hearing on the violation.

23 B. A hearing shall be held on the violation at which time  
25 the manager of the authority shall present evidence in  
27 support of the alleged violation.

29 C. The licensee may appear personally or by counsel at the  
31 hearing and produce any competent evidence in the licensee's  
33 behalf.

35 D. Upon request of the manager or an alleged violator, the  
37 chair of the authority shall issue a subpoena requiring the  
39 testimony of witnesses and production of books, records or  
41 other documents relevant to any matter involved in the  
43 hearing. In case of contumacy or refusal to obey a subpoena  
45 issued under this paragraph, the District Court in the  
47 division or the Superior Court in the county in which the  
49 hearing is held shall have jurisdiction upon application of  
the chair to issue an order requiring that person to appear  
and testify or produce books, records or other documents  
requested.

E. All testimony at the hearing shall be taken under oath.  
The chair shall administer oaths and all directors shall be  
entitled to examine witnesses. A verbatim transcript of  
testimony at the hearing shall be prepared and, along with  
the exhibits introduced into evidence, shall constitute the  
record.

F. Decisions regarding revocation or suspension of a  
license shall be made by majority vote of members  
constituting the quorum. If the members render a decision  
that revokes or suspends a license, the chair shall make  
findings of fact based on the record supporting the decision  
and state the reasons for rendering the decision. Any  
member who takes exception to the decision may submit a  
dissenting opinion which shall set forth the reasons of that  
exception. Dissenting opinions shall be attached to and

1 constitute a part of the decision of the authority.  
2 Deliberations on decisions regarding revocations or  
3 suspensions of licenses shall be held in executive sessions  
4 which shall be closed to the public. If a decision is  
5 rendered that revokes or suspends a license, the authority  
6 may impose conditions for reapplication for a license or for  
7 continued operation of the violator under the license.

9 G. The authority shall notify the alleged violator by  
10 registered or certified mail, return receipt requested, of  
11 any decision reached under this subsection.

13 3. Appeal. Any person whose license is revoked or  
14 suspended may appeal the decision of the authority to the  
15 Superior Court in and for the county in which the hearing was  
16 held in accordance with the Maine Rules of Civil Procedure, Rule  
17 80-C. Those appeals shall be made within 30 days of the date of  
18 receipt of notification of the authority's decision. Appeals  
19 shall be on the record. If the court finds that additional  
20 evidence should be taken, the court may remand the matter to the  
21 authority for completion of the record. No appeal will  
22 automatically stay any decision of the authority but, upon  
23 application and for good cause, the authority or the Superior  
24 Court may stay the decision pending disposition of the appeal.

25 4. Direct legal action. The authority, through its legal  
26 counsel, shall be entitled to take direct legal action pursuant  
27 to subsection 1 without resort to conciliation or administrative  
28 remedies. The authority may delegate to its manager the  
29 authority to file suit on behalf of the authority.

31 **§1587. Bonds of authority**

33 1. Issuance; refunds. The authority may issue from time to  
34 time its negotiable bonds for any of its corporate purposes,  
35 including incidental expenses, and to secure the payment of the  
36 same by a lien or pledge covering all or part of its property,  
37 contracts, earnings or revenues. The authority, from time to  
38 time whenever it deems refunding expedient, may refund any bonds  
39 by the issuance of new bonds, whether the bonds to be refunded  
40 have or have not matured, or are subject to redemption, and may  
41 issue bonds to refund bonds then outstanding and for any of its  
42 corporate purposes. Refunding bonds may be issued in amounts  
43 sufficient to provide:

45 A. The principal amount of the obligations being refunded;

47 B. Any applicable redemption premiums on the bonds;

49 C. Unpaid interest on the obligations to the date of  
50 delivery of the refunding bonds and interest to accrue on  
51 those obligations being refunded from the date of delivery  
52 of the refunding bonds to the first or any subsequently  
53 of the refunding bonds to the first or any subsequently

1 available redemption date or dates selected by the  
2 authority; and

3  
4 D. Any expenses, including bond discount, deemed by the  
5 authority to be necessary for the issuance of the refunding  
6 bonds.

7  
8 2. Proceeds. The proceeds of the sale of any refunding  
9 bonds shall be applied as follows:

10  
11 A. To the immediate payment and retirement of the  
12 obligations being refunded; or

13  
14 B. If not required for the immediate payment of the  
15 obligations being refunded, the proceeds shall be deposited  
16 in trust to provide for the payment and retirement of the  
17 obligations being refunded, but provisions may be made for  
18 the pledging and disposition of any amount in excess of the  
19 amounts required for these purposes, including a provision  
20 for the pledging of any excess amounts to the payment of the  
21 principal of and interest on any portion of the refunding  
22 bonds or series of the refunding bonds issued for the  
23 purpose of providing amounts in addition to the principal  
24 amount and premium payable with respect to the outstanding  
25 obligations to be refunded.

26  
27 3. Form. The bonds shall be authorized by resolution of  
28 the authority and shall bear a date, mature at a time not  
29 exceeding 40 years from their respective dates, bear interest at  
30 a rate yearly as may be determined by the authority, be in  
31 certain denominations, be in form either coupon or registered,  
32 carry registration privileges, be executed in such manner, be  
33 payable in lawful money of the United States at such place and be  
34 subject to the terms of redemption as the resolution or  
35 resolutions may provide. Bonds of the authority shall be sold  
36 either at public or private sale at a place and at interest rates  
37 to be determined by the authority.

38  
39 4. Provisions. Any resolution authorizing any bonds or any  
40 trust indenture securing any issue of bonds may contain  
41 provisions, which shall be a part of the contract with the  
42 holders of the bonds authorized by the resolution, as to:

43  
44 A. Pledging all or any part of the earnings, income and  
45 revenues derived from all or any part of the properties of  
46 the authority to secure the payment of the bonds or of any  
47 issue of the bonds subject to those agreements with  
48 bondholders as may then exist;

49  
50 B. The rates, rentals, fees and other charges to be fixed  
51 and collected and the amounts to be raised in each year by

1           these charges and the use and disposition of the earnings  
2           and other revenues;

3

4           C. The setting aside of reserves and the creation of  
5           sinking funds and their regulation and disposition;

6

7           D. Limitations on the right of the authority to restrict  
8           and regulate the use of the properties in connection with  
9           which the bonds are issued;

10

11           E. Limitations on the purposes to which and the manner in  
12           which the proceeds of sale of any issue of bonds may be  
13           applied;

14

15           F. Limitations on the issuance of additional bonds, the  
16           terms upon which additional bonds may be issued and secured  
17           and the refunding of outstanding bonds or other bonds;

18

19           G. The procedure, if any, by which the terms of any  
20           contract with bondholders may be amended or abrogated, the  
21           amount of bonds the holders shall consent to the amendment  
22           or abrogation and the manner in which that consent may be  
23           given;

24

25           H. The creation of special funds into which any earnings or  
26           revenues of the authority may be deposited;

27

28           I. The terms and provisions of any mortgage or trust deed  
29           or indenture which secures the bonds or under which bonds  
30           may be issued;

31

32           J. Vesting in a trustee those properties, rights, powers  
33           and duties in trust, as the authority may determine, which  
34           may include any or all of the rights, powers and duties of a  
35           trustee appointed by the bondholders pursuant to section  
36           1588 and limiting or abrogating the right of the bondholders  
37           to appoint a trustee under that section or limiting the  
38           rights, duties and powers of the trustee;

39

40           K. Defining the acts or omissions to act that shall  
41           constitute a default in the obligations and duties of the  
42           authority to the bondholders and providing the rights and  
43           remedies of the bondholders in the event of a default,  
44           including as a matter of right the appointment of a  
45           receiver, provided that these rights and remedies shall not  
46           be inconsistent with the laws of this State and other  
47           provisions of this chapter;

48

49           L. Limitations on the power of the authority to sell or  
50           otherwise dispose of its properties;

51

1           M. Any other matters of like or different character which  
2           in any way affect the security or protection of the bonds;

3           N. Limitations on the amount of money derived from the  
4           properties to be expended for operating, administrative or  
5           other expenses of the authority;

6           O. The protection and enforcement of the rights and  
7           remedies of the bondholders;

8           P. The obligations of the authority in relation to the  
9           construction, maintenance, operation, repairs and insurance  
10           of the properties, and the safeguarding and application of  
11           all money and as to the requirements for the supervision and  
12           approval of consulting engineers in connection with  
13           construction, reconstruction and operation;

14           Q. The payment of the proceeds of bonds and revenues of the  
15           properties to a trustee or other depository and for the  
16           method of disbursement of the proceeds with safeguards and  
17           restrictions as the authority determines; and

18           R. Any other matter or course of conduct which by recital  
19           in the resolution or resolutions is declared to further  
20           secure the payment of the principal of or interest on the  
21           bonds.

22           5. Pledges. It is the intention of the Legislature that  
23           any pledge of earnings, revenues or other money made by the  
24           authority shall be valid and binding from the time when the  
25           pledge is made; that the earnings, revenues or other money so  
26           pledged and received by the authority shall immediately be  
27           subject to the lien of that pledge without any physical delivery  
28           or further act; and that the lien of that pledge shall be valid  
29           and binding against all parties having claims of any kind in  
30           tort, contract or otherwise against the authority, irrespective  
31           of whether the parties have notice of the pledge. Neither the  
32           resolution nor any other instrument by which a pledge is created  
33           need be recorded.

34           6. Liability. Neither the members of the authority nor any  
35           person executing the bonds or other obligations may be liable  
36           personally on the bonds or other obligations or be subject to any  
37           personal liability or accountability by reason of their issuance.

38           7. Purchase of bonds. The authority shall have power to  
39           purchase, as distinguished from the power of redemption provided  
40           in subsection 1, out of any funds available, any bonds issued by  
41           the authority or which may be assumed by the authority at a price  
42           of not more than the principal amount of the bonds and their  
43           accrued interest and upon that purchase these bonds shall be  
44           cancelled.

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8. Trust indenture. In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. This trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable, proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the properties and the custody, safeguarding and application of all money and may provide that the properties be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by the trust indenture for the payment of the proceeds of the bonds and the revenues of the properties to the trustee under the trust indenture or other depository and for the method of disbursement of the proceeds, with safeguards and restrictions as it may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the cost of maintenance, operation and repair of the properties. If the bonds are secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them. Notwithstanding any other provisions of this chapter, any resolution authorizing bonds or notes of the authority shall contain a covenant by the authority that it will at all times maintain rates, fees, rentals or other charges sufficient to pay, and that any contracts entered into by the authority for the receipt and treatment or disposal of solid waste shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties and the principal of and interest on any obligations issued pursuant to a resolution as they severally become due and payable, and maintain any reserves or other funds required by the terms of the resolution.

**§1588. Remedies of bondholders**

1. Default. If the authority defaults in the payment of principal of or interest on any issue of bonds after they become due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days or if the authority fails or refuses to comply with this chapter or defaults in any agreement made with the holders of any issue of bonds, the trustee appointed by the authority or, if none has been appointed, the trustee who may be appointed by the holders of 25% in aggregate principal amount of the bonds of that issue then outstanding by instrument or instruments filed in the office of the registry of deeds of the county in which the project is located and proved or acknowledged in the same manner as a deed to be recorded shall represent the holders of the bonds for the purposes of this section.

1  
2. Suit; other actions. The trustee may, and upon written  
3 request of the holders of 25% in principal amount of the bonds  
then outstanding shall, in the trustee's own name:

5  
6 A. By mandamus or any other suit, action or proceeding at  
7 law or in equity, enforce all rights of the bondholders,  
8 including the right to require the authority to collect  
9 revenues, rates, rentals, fees and other charges adequate to  
10 carry out any agreement as to, or pledge of, revenues,  
11 rates, rentals, fees and other charges and to require the  
12 authority to carry out any other agreements with the holders  
13 of those bonds and to perform its duties under this chapter;

15 B. Bring suit upon the bonds;

17 C. By action or suit in equity, require the authority to  
18 account as if it were the trustee of an express trust for  
19 the holders of the bonds;

21 D. By action or suit in equity, enjoin any acts or  
22 omissions which may be unlawful or in violation of the  
23 rights of the holders of the bonds; and

25 E. Declare all bonds due and payable and if all defaults  
26 are be made good, then, with the consent of the holders of  
27 25% of the principal amount of the bonds then outstanding,  
28 annul the declaration and its consequences.

29  
30 3. Jurisdiction. Any suit, action or proceeding by the  
31 trustee on behalf of bondholders shall be heard or maintained in  
a court of competent jurisdiction.

33  
34 4. Notice. Before declaring the bond principal to be due  
35 and payable, the trustee shall first give 30 days' notice in  
writing to the authority.

37  
38 5. Receiver; duties. Any trustee, whether or not the issue  
39 of bonds represented by the trustee has been declared due and  
payable, is entitled to the appointment of a receiver of any part  
41 of the properties of which the revenues are pledged for the  
security of the bonds of that issue and the receiver may enter  
43 and take possession of part of the properties and, subject to any  
pledge or agreement with bondholders, take possession of all  
45 money and other property derived from that part of the  
properties. The receiver shall proceed with any construction or  
47 acquisition of any property, real or personal, in connection with  
the properties to meet the obligations of the authority, and to  
49 operate, maintain and reconstruct that part of the properties and  
collect and receive all revenues arising from the properties,  
51 subject to any pledge or agreement with bondholders, and perform  
the public duties and carry out the agreements and obligations of



1 the authority under the direction of the court. In any suit,  
2 action or proceeding by the trustee, the fees, counsel fees and  
3 expenses of the trustee and of the receiver, if any, shall  
4 constitute taxable disbursements and all costs and disbursements  
5 allowed by the court shall be a first charge on any revenues  
6 derived from the properties.

7  
8 6. Other powers. The trustees shall have and possess all  
9 of the powers necessary and appropriate for the exercise of any  
10 functions specifically set forth in this section or incident to  
11 the general representation of bondholders in the enforcement and  
12 protection of their rights.

13 §1589. Contracts

14  
15 1. Contract. The authority and any municipality may enter  
16 into a contract providing for or relating to the collection or  
17 treatment and disposal of garbage, solid wastes and refuse  
18 originating in the municipality and the cost and expense of the  
19 collection or treatment and disposal.

20  
21 2. Payment. Any contract under subsection 1 may provide  
22 for the payment to the authority by the municipality, annually or  
23 otherwise, of a sum of money, computed as the contract may  
24 provide, and the sum may include provisions for all or any part  
25 or a share of the amounts necessary:

26  
27 A. To pay or provide for the expenses of operation and  
28 maintenance of the garbage and solid waste disposal system,  
29 including any processing fees or other payments required to  
30 be paid to a private entity under a service agreement for a  
31 solid waste disposal, transfer station, electric and steam  
32 generating facility, insurance, extensions, betterments and  
33 replacements and the principal and interest on any bonds;

34  
35 B. To provide for any deficits resulting from failure to  
36 receive sums payable to the authority by the municipality  
37 and any other municipality, or any person, or from any other  
38 cause; and

39  
40 C. To maintain reserves or sinking funds for any of the  
41 foregoing as may be required by the terms of any contract of  
42 the authority or as may be deemed necessary or desirable by  
43 the authority.

44  
45 3. Service charges. The contract may provide that the sum  
46 so payable to the authority shall be in lieu of all or any part  
47 of the service charges which would otherwise be charged and  
48 collected by the authority with regard to persons or real  
49 property within the municipality.

1           4. Expenses. The contract may also provide for the  
2 financing and payment of expenses to be incurred by the authority  
3 and determined by it to be necessary for its purposes prior to  
4 the placing in operation of the garbage and solid waste disposal  
5 system and may also provide for the payment by the municipality  
6 to the authority by application for expenses or indebtedness a  
7 certain sum of money, not in the aggregate exceeding an amount  
8 stated or otherwise limited in the contract, plus interest, as  
9 the contract may provide and as the governing body of the  
10 municipality shall determine, by virtue of its authorization of  
11 and entry into the contract, to be necessary for the purposes of  
12 the authority.

13           5. Other conditions. The contract may be made for a  
14 specified or an unlimited time and on any terms and conditions  
15 which may be approved by the municipality and agreed to by the  
16 authority in conformity with its contracts with the holders of  
17 any bonds. The contract shall be valid whether or not an  
18 appropriation with respect to the contract is made by the  
19 municipality prior to authorization or execution of the  
20 contract. Subject to contracts with the holders of bonds, the  
21 municipality is authorized and directed to do and perform any  
22 acts necessary, convenient or desirable to carry out and perform  
23 every contract and to provide for the payment or discharge of any  
24 contract obligation in the same manner as other obligations of  
25 the municipality and, in accordance with the contract, to waive,  
26 modify, suspend or reduce the service charges which would  
27 otherwise be charged and collected by the authority with regard  
28 to persons or real property within the municipality.

29           6. Additional charges. Nothing in this section prevents  
30 the authority from collecting additional fees and charges from  
31 the owners or occupants of all parcels of real estate served by  
32 it within the municipality if for any reason the additional fees  
33 or charges are necessary in order for the authority to pay all  
34 operating expenses, debt service and other payments required  
35 pursuant to contracts with bondholders or to pay all processing  
36 fees or other payments required pursuant to service agreements  
37 with private entities owning or operating solid waste disposal,  
38 transfer station, electric and steam generating facilities.  
39 Notwithstanding contracts with the municipalities, the authority  
40 shall at all times have power and be obligated to collect  
41 sufficient additional fees and charges whenever necessary to pay  
42 all operating costs, debt service and all other payments required  
43 by contracts with bondholders and whenever necessary to pay all  
44 processing fees or other payments required pursuant to service  
45 agreements with private entities owning or operating solid waste  
46 disposal, transfer station, electric and steam generating  
47 facilities.

48           7. Contracts for collection or disposal. Nothing in this  
49 section may be deemed to imply or direct that any contracts under  
50

1 subsection 1 shall provide for both the collection and disposal  
2 of garbage and solid waste and the authority may, by agreement  
3 and parallel ordinances, and the municipality may, by ordinance,  
4 engage in either collection of solid waste or disposal of solid  
5 waste or both. These contracts shall be full faith and credit  
6 obligations of the municipality and shall not be subject to any  
7 law regulating the issuance of debt or the making of contracts or  
8 other related matters.

9  
10 **§1590. Public bodies to pay service charges**

11  
12 Each county, city, town or other public body shall promptly  
13 pay to the authority all service charges and other sums which the  
14 authority may charge to it, as owner or occupant of any facility,  
15 and shall provide for payment in the same manner as other  
16 obligations of the county, city, town or other public body.

17  
18 **§1591. Powers respecting garbage and solid waste disposal**  
19 **limited after creation of authority; use of services**

20  
21 1. Prohibited activities. The authority, by regulation,  
22 may provide that a municipality shall not have power to engage  
23 in, grant any license or permit for, or enter into any contract  
24 for, the collection or treatment and disposal of garbage, refuse  
25 and solid waste, and a municipality or any person, firm,  
26 corporation or association shall not engage in any activities  
27 within the municipality which would be competitive with the  
28 purposes of the authority as provided in this chapter, provided  
29 that these prohibitions are not applicable to any activity in  
30 which the authority determines not to engage.

31  
32 2. Use of facilities. The facilities and services of the  
33 authority shall be used by the owners or occupants of all lands,  
34 buildings and premises within the State and the authority, by  
35 rule, may require the owners or occupants of all lands, buildings  
36 and premises to use the services and facilities of the authority  
37 under rules which the authority shall fix and establish. This  
38 section shall not be construed to affect or impair any contract  
39 entered into prior to July 15, 1990.

40  
41 **§1592. Construction of chapter**

42  
43 This chapter and the rules promulgated under this chapter  
44 shall be construed liberally to effectuate the legislative intent  
45 and shall be considered complete authority for the performance of  
46 each and every act authorized in this chapter.

47  
48 **§1593. Cooperation with federal agencies**

49  
50 The authority shall adopt all necessary rules, procedures  
51 and plans to comply with the objectives of the United States  
Resource Conservation and Recovery Act of 1976 and the United

1 States Solid Waste Disposal Act, Public Law 94-580, and may make  
3 application to any federal agency or instrumentality for  
5 financial assistance to develop and implement the purposes of  
7 this chapter.

9 §1594. Conflict of interest

11 No member may be entitled to vote on any matter before the  
13 authority if the member knowingly has a financial interest in the  
15 outcome of that matter. If a member knowingly has a financial  
17 interest, the member shall indicate to the chair the nature of  
19 the interest and the chair shall note for the record that the  
21 member did not vote by reason of conflict of interest. In  
23 situations in which a member does not vote by reason of conflict  
of interest, the matter pending before the authority shall be  
decided on the basis of a majority vote of the remaining members  
present who do not have a conflict of interest. A member having  
a conflict of interest as set forth in this section shall be  
counted for purposes of establishing a quorum, provided that  
member is present at the meeting. The fact that a member has not  
voted by reason of conflict of interest shall in no way affect  
the validity of an act or actions taken regarding the matter  
before the authority.

25 §1595. Indemnification of member

27 1. Circumstances. The State shall indemnify a member who  
29 is a party or who may be made a party to any suit or proceeding,  
31 whether civil, criminal, administrative or investigative, by  
33 reason of membership in the authority, against expenses,  
35 including attorney's fees, judgments, fines and amounts paid in  
37 connection with the action, suit or proceeding, if the member  
acted in good faith and in a manner the member believed to be in  
the best interest of the authority and, with respect to a  
criminal action or proceeding, had no reasonable cause to believe  
the conduct was unlawful.

39 2. Determination of indemnification. Any indemnification  
41 under this section shall be authorized upon a determination that  
43 indemnification of the member is proper in the circumstances  
45 because the member has met the applicable standard of conduct set  
47 forth in subsection 1. That determination shall be made by the  
Attorney General or a designee within 15 days of the date of  
receipt of a request for a determination. If the Attorney  
General fails to make the determination within the time frame  
specified, the requested indemnification shall be deemed to be  
granted.

49 3. Expenses. Expenses incurred in defending any suit or  
51 proceeding referred to in this section may be paid in advance of  
the final disposition of the suit or proceeding upon submission

1 of documentation to the members regarding the validity of the  
2 expenses.

3  
4 4. Amount. Under no circumstances may the indemnification  
5 provided in this section exceed \$3,000,000 for all eligible  
6 members. If the known claim exceeds that amount, the claims of  
7 each member shall be prorated in the same proportion that each  
8 individual claim bears to the total claims.

9  
10 5. Subrogation of State. No payment under this section may  
11 be made unless the member seeking the payment agrees that the  
12 State be subrogated, to the extent of the payment, to all rights  
13 of recovery of the member and agrees to execute all papers  
14 required and do everything that may be necessary to secure  
15 recovery rights, including the execution of documents necessary  
16 to enable the State to bring suit effectively in the name of the  
17 State.

18  
19 6. Written request. Any eligible member seeking  
20 indemnification under this section shall file a written request  
21 for determination with the Attorney General setting forth in full  
22 the circumstances supporting the claim for indemnification.

23  
24 7. Application. The indemnification provided in this  
25 section shall apply only to acts or omissions occurring  
26 subsequent to July 15, 1990. If expenses covered by the  
27 indemnity set forth in this section are payable under a valid and  
28 enforceable commercial insurance policy maintained by or for the  
29 benefit of the members, this indemnity shall not apply to  
30 expenses subject to recovery pursuant to that insurance coverage.

31 **§1596. Industrial solid waste**

32  
33  
34 1. Acceptance. The authority may determine to accept or to  
35 cease accepting industrial solid waste at any one or more of its  
36 facilities.

37  
38 2. Departmental approval. The authority shall require any  
39 person seeking to dispose of industrial solid waste at any of its  
40 facilities to obtain the approval of the Department of  
41 Environmental Protection prior to commencing or continuing  
42 disposal.

43  
44 3. Right to refuse. The manager, or a designee, may elect  
45 not to accept any particular industrial solid waste or type of  
46 industrial solid waste if the manager or designee determines that  
47 the waste or the quantity of waste will have an adverse effect on  
48 the facility or the operation of the facility, if an effective  
49 means of risk and cost allocation cannot be achieved, or for any  
50 other reasons the authority may identify in the state solid waste  
51 management plan.

1           4. Surcharge. In addition to other fees and charges that  
3 it imposes, the authority may impose an industrial solid waste  
5 disposal surcharge to compensate the authority for the risks  
7 associated with accepting industrial solid waste, specifically or  
9 by classes, and for the additional costs, including  
11 administrative expenses and overhead, associated with the  
13 disposal. The industrial solid waste disposal surcharge shall be  
set by the manager or a designee, without notice and public  
hearing, and may be set on a case-by-case basis. In setting the  
surcharge, the manager shall take into consideration the volume  
of waste to be disposed of, the degree of risk associated with  
the disposal, the additional administrative expenses and overhead  
incurred by the authority and any other relevant factors.

15           5. Liability. Any person causing or allowing industrial  
17 solid waste to be delivered to a facility operated by or on  
19 behalf of the authority shall be deemed to have agreed to  
21 indemnify and hold harmless the authority from any liability  
23 arising from the disposal of the industrial solid waste and to  
25 have agreed to reimburse the authority for any costs reasonably  
incurred to protect against or reduce any risk resulting from the  
disposal, provided that the person, if the person has not caused  
or allowed the delivery of hazardous waste, hazardous materials  
or toxic substances, shall not be liable under this subsection to  
the authority for harm or damage caused by the negligence of the  
authority.

27           6. Review. Any person seeking to have industrial solid  
29 waste disposed of at a facility operated by or on behalf of the  
31 authority, who is aggrieved by a determination of the manager or  
33 designee under this section with regard to that effort, may seek  
35 review by the members of the authority by filing a request for  
review with the manager within 15 days of learning of the  
determination and by complying with each of the following  
provisions.

37           A. At least 15 days' notice of the time set forth for  
39 hearing by the members of the request for review shall be  
41 sent by registered or certified mail, return receipt  
requested, to the person filing the request for review who  
bears the burden of proof in the proceeding.

43           B. The person filing for the request for review may appear  
45 personally or by counsel at the hearing and produce any  
competent evidence in that person's behalf.

47           C. Upon request of the manager or the person filing the  
49 request for review, the chair of the authority shall issue a  
51 subpoena requiring the testimony of witnesses and production  
of books, records or other documents relevant to any matter  
involved in the hearing. In case of contumacy or refusal to  
obey a subpoena issued under this paragraph, the District

1 Court in the division or the Superior Court in the county in  
2 which the hearing is held shall have jurisdiction upon  
3 application of the chair to issue an order requiring the  
4 person to appear and testify or produce books, records or  
5 other documents requested.

7 D. All testimony at the hearing shall be taken under oath.  
8 The chair shall administer oaths and all members are  
9 entitled to examine witnesses.

11 E. The hearing may be held as part of a regular meeting or  
12 at a special meeting of the authority. Deliberations on  
13 requests for review under this section shall be held in  
14 executive sessions which shall be closed to the public.

16 F. The decision of the members of the authority shall be in  
17 writing and shall be sent to the person filing the request  
18 for review by registered mail.

19 **Sec. 5. Transition clause.** The Department of Environmental  
20 Protection shall commence a study, culminating in a written  
21 report with implementing legislation.

22 **1. Study.** The study shall identify and resolve the areas of  
23 conflict, inconsistencies or overlap between this Act and  
24 existing law, including the following:

26 **A.** All powers, duties and responsibilities currently vested  
27 in the department and the Board of Environmental Protection  
28 with respect to the disposal of nonhazardous solid waste  
29 under the Maine Revised Statutes, Title 38, chapters 13 and  
30 17, and any other provision of law, which are to be assumed  
31 by the authority;

32 **B.** All public and private funds, all contractual rights and  
33 obligations and any other vested interest in or applying to  
34 the department for the purpose of planning and implementing  
35 nonhazardous waste management activities and waste  
36 facilities which are to be transferred, conveyed to or  
37 assumed by the authority; and

38 **C.** Any other area in which this Act may overlap, repeal by  
39 implication or be inconsistent or in conflict with existing  
40 law.

41 **2. Report; date.** The written report under subsection 1,  
42 together with implementing legislation, shall be submitted to the  
43 114th Legislature by February 1, 1990.

44

1

3

## STATEMENT OF FACT

5 This bill, which is modeled after the current Delaware law,  
7 establishes the Maine Solid Waste Authority to develop and  
9 implement a state solid waste management plan. Local governments  
11 currently responsible for providing waste disposal services are  
13 becoming hard pressed to provide adequate services at reasonable  
15 costs, making large-scale processing of solid waste necessary in  
17 order to achieve maximum environmental and economic benefits for  
the people of the State. The use of state governmental powers  
and capabilities would supply valuable assistance to local  
efforts for solid waste management and would coordinate the  
variety of existing operations into a unified program. The  
authority would have the power to contract with private industry  
to assist it in establishing and implementing its management plan.

19 This bill also requires the Department of Environmental  
21 Protection to commence a study, culminating in a written report  
with implementing legislation to be submitted to the Legislature  
by November 1, 1989, identifying and resolving any conflicts  
between this bill and existing law.