

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

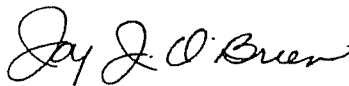
No. 2448

S.P. 985

In Senate, March 26, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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


JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLARK of Cumberland.

Cosponsored by Senator CAHILL of Sagadahoc, Representative SMALL of Bath and Representative PRIEST of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Authorize Refuse Disposal Districts to Handle Partial Waste Streams from Member Municipalities.

(EMERGENCY)
(AFTER DEADLINE)



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

Whereas, the Legislature has determined that immediate action must be taken to enable refuse disposal districts organized under Title 38, chapter 17 that have not developed systems for handling all residential and commercial wastes generated within their boundaries to undertake more limited waste disposal and recycling projects; and

Whereas, the authority of the refuse disposal districts to undertake these limited waste disposal and recycling projects is in question; and

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

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

38 MRSA §1726-A is enacted to read:

§1726-A. Agreement to provide limited services

1. Provision of limited waste disposal services. If for any reason the board of directors of a district organized under this chapter has not declared a disposal system operational for the disposal of all solid waste generated by the residential and commercial activities within the member municipalities, the district may contract with all or any of the member municipalities of the district, and any member municipality may contract with the district to provide a system for the disposal of any portion or type of residential, commercial or industrial waste generated within a member municipality on such terms and conditions as the district and the member municipality may agree. Notwithstanding any law, charter or ordinance provisions to the contrary, the powers to contract with a refuse disposal district conferred upon a municipality pursuant to this section may be exercised by the municipal officers as defined in Title 30-A, section 2001, including the assessors of a plantation, only when authorized, in the case of a municipality with a city or town council, by action of the council or, in the case of a municipality without such a council, by action of the town meeting.

2. Powers. Except as provided in this section, all of the provisions of this chapter apply to a district providing limited waste disposal services pursuant to this section, including, but not limited to, the authority to issue bonds and notes in

accordance with subchapter IV. The provisions of this section apply to all refuse disposal districts organized under this chapter, including refuse disposal districts organized prior to the effective date of this section.

3. Collection sites or systems. Each member municipality that enters into a contract with a district pursuant to this section is responsible for providing a collection site or system for the portion or type of solid waste generated within that member municipality and, subject to the contract with the district, for the transportation of that solid waste to a waste facility designated by the district, together with all incidental costs. The member municipality may contract with the district to provide collection and transportation services.

4. Municipal assessments. A district that proposes to provide limited waste disposal services may submit to the legal voters of the district a question with regard to granting the district assessment powers in substantially the form provided under section 1755. Authorized assessments must be shared by the member municipalities of the district under the same formula as guarantees are shared pursuant to section 1754. The directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are deemed to have withdrawn from the district as long as the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state that if the article is approved the assessments each year must be allocated among the municipalities that are then members of the district in proportion to the most recent state valuation of those municipalities in accordance with the formula established under section 1754. The ballot may not contain a specific fractional share of the assessment to be borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When the question is submitted prior to the issuance of any indebtedness by the district, and when 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the assessment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to constitute a district made up of the municipalities voting in favor of the article as a geographic unit. In that event, the board shall, immediately after making its findings, issue an amended certificate of organization in the name of the

district for a district composed only of the municipalities voting in favor of the assessment article. Upon the issuance of a certificate the municipalities not approving the assessment article are deemed to have withdrawn from the district. The original certificate must be delivered to the directors of the district and a copy of the certificate attested by the Commissioner of Environmental Protection must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the board is conclusive evidence of the lawful reorganization of the district. If the board determines that it is not feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively on the article, the district shall continue to exist with no assessment power and the municipalities that did not approve the assessment article remain members of the district.

5. Guaranteed bonds. If the district has been authorized to issue guaranteed notes and bonds pursuant to section 1754, a contract between the district and a member municipality pursuant to this section may authorize the district to issue notes and bonds that are guaranteed pro rata by that member municipality. In these cases, the pro rata share of liability of each member municipality authorizing the district to issue guaranteed notes and bonds must be established in accordance with a fraction, the numerator of which is the most recent state valuation of all property of the member municipality authorizing the district to issue the guaranteed notes and bonds and the denominator of which is the most recent state valuation of all property located within all the member municipalities authorizing the district to issue the guaranteed notes and bonds. A member municipality's fractional share of liability for guaranteed notes and bonds authorized pursuant to these contracts may be different from that member municipality's fractional share of liability for guaranteed notes and bonds calculated pursuant to section 1754. The guarantee provisions of this section apply to districts providing limited waste disposal services under this section that have authority to issue bonds and notes guaranteed by member municipalities. A member municipality may not be required to guarantee any portion of the indebtedness issued by a district providing limited waste disposal services under this section unless the municipality has entered into a contract providing for such a guarantee pursuant to this section.

6. General municipal powers. In addition to the powers granted to municipalities under this chapter, the provisions of section 1304-B apply to the member municipalities of a district providing limited waste disposal services pursuant to this section.

7. Relationship to other laws. The obligation of a municipality to pay any fees, assessments, contract costs or expenses, guaranteed amounts or any other payments in accordance

2 with any agreement or contract entered into pursuant to this
3 section does not constitute a debt or indebtedness of the
4 municipality within the meaning of any statutory, charter,
5 ordinance or other provision limiting the incurrence or the
6 amount of municipal indebtedness. The authorization or
7 incurrence of the obligation or any municipal action to raise
8 funds to meet the obligation does not require or is not subject
9 to any voter referendum or approval under any statutory, charter,
10 ordinance or other provision. No contract entered into in
11 accordance with this section may be deemed to be a contract in
12 restraint of trade or otherwise unlawful under Title 10, chapter
13 201.

14 **Emergency clause.** In view of the emergency cited in the
15 preamble, this Act takes effect when approved.

16 **STATEMENT OF FACT**

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18 The purpose of this bill is to enable refuse disposal
19 districts organized under the Maine Revised Statutes, Title 38,
20 chapter 17 to contract with member municipalities to undertake
21 waste disposal and recycling projects where the district has not
22 developed a system for handling all residential and commercial
23 waste generated within the district and to make necessary
24 provisions for the financing of these waste disposal and
25 recycling projects.
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