

MAINE STATE LEGISLATURE

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L.D. 1985

(Filing No. H-814)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND SPECIAL SESSION

HOUSE AMENDMENT "*FF*" to H.P. 1402, L.D. 1985, Bill, "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of Law"

Amend the bill by inserting at the end before the emergency clause the following:

PART OO

Sec. OO-1. 2 MRSA §6, sub-§2, as amended by PL 1991, c. 579, §1 and affected by §19, is further amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Associate Commissioner for Institutional Management; and

~~Executive-Director,--Maine-Waste-Management-Agency,--and~~

Chair, State Harness Racing Commission.

2 Sec. OO-2. 2 MRSA §6, sub-§4, as repealed and replaced by PL
4 1991, c. 591, Pt. E, §1, is amended to read:

6 4. Range 88. The salaries of the following state officials
8 and employees are within salary range 88:

10 State Purchasing Agent;

12 Director of the Bureau of Parks and Recreation;

14 State Director of Alcoholic Beverages;

16 Director of Public Lands;

18 Director of Employee Relations;

20 Director, Bureau of Air Quality Control;

22 Director, Bureau of Land Quality Control;

24 Director, Bureau of Water Quality Control;

26 Director, Bureau of Oil and Hazardous Materials Control;

28 Director, Bureau of Administration; and

30 ~~Director,--Office-of-Planning;~~

32 ~~Director,--Office-of-Waste-Reduction-and-Recycling;~~

34 ~~Director,--Office-of-Siting-and-Disposal-Operations;--and~~

36 Executive Director, Board of Environmental Protection.

38 Sec. OO-3. 3 MRSA §927, sub-§9, ¶B, as repealed and replaced
40 by PL 1991, c. 376, §11, is amended to read:

42 B. Independent agencies:

44 (1) Maine Conservation School;

46 (2) Office of State Historian;

48 (3) Maine Arts Commission;

50 (4) Maine State Museum Commission;

 (5) Maine Historic Preservation Commission;

- 2 (6) Maine Health Care Finance Commission;
4 (7) Board of Occupational Therapy Practice;
6 (8) Board of Respiratory Care Practitioners;
8 (9) Radiologic Technology Board of Examiners;
10 (10) Maine Library Commission; and
12 ~~(11) --Maine-Waste-Management-Agency--and~~
14 ~~(12)~~ (11) Maine Court Facilities Authority.

16 Sec. OO-4. 5 MRSA §953-A, as enacted by PL 1989, c. 585, Pt. A, §4, is repealed.

18 Sec. OO-5. 5 MRSA §1812-D, as enacted by PL 1989, c. 585, Pt. C, §3, is amended to read:

20 §1812-D. Coordination of procurement information and policies
22

24 The Bureau of Purchases shall coordinate with the Department
26 of Transportation, the Department of Agriculture, Food and Rural
28 Resources, and the Department of Environmental Protection ~~and the~~
30 ~~Office of Waste Reduction and Recycling~~ to develop a central data
32 base of information including, but not limited to, procurement
policies, market information, technical data and demonstration
project results. This data shall must be compiled annually and
provided to local public agencies by the ~~Office of Waste~~
Reduction and Recycling Board of Environmental Protection.

34 Sec. OO-6. 5 MRSA §12004-D, sub-§4, as enacted by PL 1989, c. 585, Pt. A, §5, is repealed.

36 Sec. OO-7. 5 MRSA §12004-I, sub-§22, as repealed and replaced
38 by PL 1989, c. 585, Pt. A, §6, is repealed.

40 Sec. OO-8. 10 MRSA §1023-G, sub-§3, ¶D, as enacted by PL
1989, c. 878, Pt. A, §26, is amended to read:

42 D. The project will contribute to achieving the goals
44 identified in the state waste management and recycling plan
46 adopted under Title 38, chapter 24 and is determined by the
Maine-Waste-Management-Agency Department of Environmental
48 Protection to be consistent with that plan. Prior to
50 adopting the state waste management and recycling plan, the
fund may be used for projects that help achieve the goals
identified in the state recycling plan approved under former
Title 38, section 1310-M.

2 Sec. OO-9. 10 MRSA §1041, sub-§18, as enacted by PL 1989, c.
385, Pt. C. §11, is amended to read:

4
6 18. **Recycling and waste reduction.** Provide financial
7 assistance to businesses for recycling and waste reduction
8 projects that are consistent with the management goals and
9 objectives outlined in the state waste management and recycling
10 plan under Title 38, chapter 24. ~~The Maine--Waste--Management~~
11 ~~Agency Department of Environmental Protection~~ shall provide
12 assistance to the authority in determining consistency, technical
13 eligibility and merit of application for recycling loans.

14 Sec. OO-10. 10 MRSA §1063, sub-§2, ¶1-1, as enacted by PL 1989,
15 c. 585, Pt. C, §14, is amended to read:

16
17 I-1. In the case of recycling and waste reduction projects,
18 the proposed facility is consistent with and will contribute
19 to the management goals and objectives outlined in the state
20 waste management and recycling plan under Title 38, chapter
21 24 and will reduce the amount of solid or hazardous waste
22 requiring disposal. ~~The Maine--Waste--Management--Agency~~
23 ~~Department of Environmental Protection~~ shall provide
24 assistance to the authority in determining consistency,
25 technical eligibility and merit of applications for
26 assistance under this subchapter.

27 Sec. OO-11. 32 MRSA §1726, as enacted by PL 1989, c. 585,
28 Pt. C, §16, is amended to read:

29 §1726. Rules and enforcement

30
31 ~~The Maine--Waste--Management--Agency--Office of Waste--Reduction~~
32 ~~and--Recycling Board of Environmental Protection~~ shall adopt and
33 enforce rules implementing the provisions of this chapter,
34 including, but not limited to, criteria for labeling containers
35 made of more than one plastic resin. In adopting rules, the
36 ~~office board~~ shall consult with the ~~Waste--Management--Advisory~~
37 ~~Council~~, the Department of Agriculture, Food and Rural Resources,
38 plastic container manufacturers and distributors, and the
39 recycling industry. Rules shall ~~shall~~ must be adopted in accordance
40 with ~~the provisions of~~ Title 5, chapter 375.

41 Sec. OO-12. 32 MRSA §1732, sub-§1, as enacted by PL 1989, c.
42 849, §1, is repealed.

43 Sec. OO-13. 32 MRSA §1732, sub-§1-A is enacted to read:

44 I-A. Board. "Board" means the Board of Environmental
45 Protection.
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2 Sec. OO-14. 32 MRSA §1734, sub-§2, as amended by PL 1991, c.
177, §1 and affected by §2, is further amended to read:

4 2. Health and safety requirements; feasibility;
6 post-consumer materials. The manufacturer, supplier or
8 distributor petitions the agency board for an exemption for a
particular package or packaging component and the agency board
grants an exemption for one or more of the following reasons.

10 A. The package or packaging component contains lead,
12 cadmium, mercury or hexavalent chromium added in the
14 manufacturing, forming, printing or distribution process in
order to comply with health or safety requirements of state
or federal law.

16 B. There is no feasible alternative to the use of lead,
18 cadmium, mercury or hexavalent chromium in the package or
20 packaging component. For the purposes of this section, "no
feasible alternative" means a use in which the regulated
substance is essential to the protection, safe handling or
function of the package's contents.

22 C. The addition of post-consumer materials causes the
24 package or packaging component to exceed the maximum
26 concentration levels set forth in section 1733, subsection 3.

28 For packages or packaging components exempted under paragraph A
or B, a 2-year exemption may be granted and that exemption may be
renewed for an additional 2 years. An exemption granted under
paragraph C expires ~~4 years after the effective date of this~~
chapter April 1, 1996; or

30 Sec. OO-15. 32 MRSA §§1735, 1737 and 1738, as enacted by PL
32 1989, c. 849, §1, are amended to read:

34 **§1735. Certificate of compliance**

36 A certificate of compliance is a document developed by a
38 manufacturer and filed with the agency board that attests that
40 one or more packages or packaging components meets meet the
42 standards established in section 1733 or is are exempt under the
provisions of section 1734. If compliance is achieved under the
44 exemptions provided in section 1734, the certificate must state
the specific basis upon which the exemption is claimed. A
46 certificate of compliance must be signed by an authorized
official of the manufacturer. A certificate of compliance may
48 cover more than one type of package or packaging component as
long as they are separately identified.

1. **New or reformulated packaging.** If the manufacturer reformulates or creates a new package or packaging component, the manufacturer shall provide the agency board with an amended or new certificate of compliance for the reformulated or new package or packaging component.

2. **Presentation of certificates.** Each manufacturer shall furnish the agency board with an original certificate of compliance and each manufacturer or supplier shall furnish, at the agency's board's request, copies of a certificate of compliance for distribution to the public.

§1737. Rules

The agency board shall adopt rules implementing the provisions of this chapter in consultation with the Department of Agriculture, Food and Rural Resources. Rules must be adopted in accordance with the Maine Administrative Procedure Act. No rule adopted pursuant to this chapter may add or remove prohibitions on packaging or packaging components.

§1738. Public access

A citizen of the State may request in writing from the agency board a copy of the certificate of compliance for a package or packaging component found in use or for sale in the State.

Sec. OO-16. 32 MRSA §1866-A, sub-§§2 and 3, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, are amended to read:

2. **Unclaimed deposits.** Each deposit initiator shall pay to the Treasurer of State on or before the 20th day of March, June, September and December an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator. The remaining unclaimed minimum deposits, any other unclaimed deposits and any income earned on deposits become the property of the distributor on the day payment is made to the Treasurer of State. Funds received by the Treasurer of State under this subsection become the property of the State and must be deposited in the Maine Solid-Waste-Management-Fund-established-in-Title-38,-section-2201 General Fund.

3. **Over-redemption of beverage container deposits.** When a deposit initiator pays out more in refund values than it collects in deposits during the course of a calendar year, the deposit initiator may apply to the Treasurer of State for a reimbursement from the Maine-Solid-Waste-Management-Fund General Fund equal to

2 the amount of over-redeemed minimum deposits. The Treasurer of
State shall reimburse documented claims of over-redeemed minimum
deposits.

4
6 **Sec. OO-17. 32 MRSA §1871**, as amended by PL 1991, c. 591,
Pt. R, §6, is further amended to read:

8 **§1871. Rules**

10 The commissioner shall, in accordance with the
12 ~~Administrative-Code~~ Maine Administrative Procedure Act and after
a public hearing, adopt, amend and repeal such reasonable rules
14 and ~~regulations~~ as ~~it~~ the commissioner deems necessary to carry
out and interpret the provisions, purposes and intent of this
16 chapter. The department shall ~~have~~ has the authority to establish
~~regulations~~ rules governing local redemption centers which ~~that~~
18 receive beverage containers from dealers supplied by distributors
other than the distributors servicing the ~~area~~ areas in which the
local redemption center ~~is~~ centers are located in order to
20 prevent the distributors servicing the ~~area~~ areas within which
the redemption center ~~is~~ centers are located from being unfairly
22 penalized.

24 In accordance with the Maine Administrative Procedure Act,
the Treasurer of State shall, with the assistance of the
26 commissioner ~~and the Maine Waste Management Agency~~, adopt rules
to implement the provisions of section 1866, subsection 7 and
28 section 1866-A. The Treasurer of State may also adopt rules
pursuant to section 1869, subsection 3.

30
32 **Sec. OO-18. 36 MRSA §2526, sub-§3**, as enacted by PL 1989, c.
927, §1, is amended to read:

34 3. **Eligible machinery and equipment.** Purchases eligible
for the credit allowed under this section include structures,
36 machinery, equipment and devices used to reduce, reuse or recycle
solid waste, at least 90% of which is generated within the
38 State. A certificate that the structures, machinery, equipment
and devices qualify for the credit provided for in this section
40 from the ~~Maine---Waste---Management---Agency~~ Department of
Environmental Protection is required before the tax credit may be
42 taken. Machinery and equipment associated with the separation of
wastes prior to incineration are eligible when the ~~Maine-Waste~~
44 ~~Management---Agency~~ Department of Environmental Protection
certifies that the separated wastes are being recycled.

46
48 **Sec. OO-19. 36 MRSA §4833, last ¶**, as amended by PL 1989, c.
927, §5, is repealed and the following enacted in its place:

2 All fees levied under this chapter accrue to the General
Fund. Any balance remaining in the Maine Solid Waste Management
Fund on July 1, 1992 lapses to the General Fund.

4
6 Sec. OO-20. 36 MRSA §5219-D, sub-§3, as enacted by PL 1989,
c. 927, §5, is amended to read:

8 3. Eligible machinery and equipment. Purchases eligible
for the credit allowed under this section include structures,
10 machinery, equipment and devices used to reduce, reuse or recycle
solid waste, at least 90% of which is generated within the
12 State. A certificate that the structures, machinery, equipment
and devices qualify for the credit provided for in this section
14 from the Maine---Waste---Management---Agency Department of
Environmental Protection is required before the tax credit may be
16 taken. Machinery and equipment associated with the separation of
wastes prior to incineration are eligible when the Maine-Waste
18 Management---Agency Department of Environmental Protection
certifies that the separated wastes are being recycled.

20 Sec. OO-21. 38 MRSA §1303-C, sub-§1, as enacted by PL 1989,
22 c. 585, Pt. E, §4, is repealed.

24 Sec. OO-22. 38 MRSA §1303-C, sub-§7, ¶D, as amended by PL
1991, c. 220, §6, is repealed.

26 Sec. OO-23. 38 MRSA §1303-C, sub-§35, as enacted by PL 1989,
28 c. 585, Pt. E, §4, is amended to read:

30 35. State waste management and recycling plan. "State
waste management and recycling plan" means the plan adopted by
32 the agency board pursuant to chapter 24, subchapter II, and may
also be referred to as the "state plan."

34
36 Sec. OO-24. 38 MRSA §1310-N, sub-§3, as affected by PL 1989,
c. 890, Pt. A, §40 and amended by Pt. B, §242, is repealed and
38 the following enacted in its place:

40 3. Public benefit determination. The board shall find that
a facility provides a substantial public benefit when the
42 applicant demonstrates that the proposed facility is designed
and located and will be operated so that it is consistent with
44 the recycling provisions of the state plan adopted under section
2122 and meets the capacity needs identified in that state plan.

46 Sec. OO-25. 38 MRSA §1310-R, sub-§2, ¶B, as affected by PL
48 1989, c. 890, Pt. A, §40 and amended by Pt. B, §246, is repealed.

2 Sec. OO-26. 38 MRSA §1310-R, sub-§3, ¶¶A-1 and C, as affected
by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §247, are
repealed.

4 Sec. OO-27. 38 MRSA §1310-R, sub-§4, as affected by PL 1989,
6 c. 890, Pt. A, §40 and amended by Pt. B, §248, is repealed.

8 Sec. OO-28. 38 MRSA §1310-S, sub-§1, as affected by PL 1989,
c. 890, Pt. A, §40 and amended by Pt. B, §249, is further amended
10 to read:

12 1. **Notification.** A person applying for a license under
this article or giving notice to the commissioner pursuant to
14 section 485-A, shall give, at the same time, written notice to
the ~~agency~~ and to the municipal officers of the municipality in
16 which the proposed facility may be located and shall publish
notice of the application in a newspaper of general circulation
18 in the area.

20 Sec. OO-29. 38 MRSA §1310-U, first ¶, as repealed and replaced
by PL 1989, c. 585, Pt. E, §33, is amended to read:

22 Municipalities are prohibited from enacting stricter
24 standards than those contained in this chapter and in the solid
waste management rules adopted pursuant to this chapter governing
26 the hydrogeological criteria for siting or designing solid waste
disposal facilities or governing the engineering criteria related
28 to waste handling and disposal areas of a solid waste disposal
facility. ~~Except as provided in section 2173, municipalities are~~
30 ~~further prohibited from enacting or applying ordinances that~~
~~regulate solid waste disposal facilities owned by the agency or a~~
32 ~~regional association.~~

34 Sec. OO-30. 38 MRSA §1310-X, sub-§§1 to 3, as repealed and
replaced by PL 1991, c. 297, §1, are amended to read:

36 1. **New facilities.** Notwithstanding Title 1, section 302,
38 the department may not approve an application for a new
commercial ~~solid waste or~~ biomedical waste disposal facility
40 after September 30, 1989, including any applications pending
before the department on or after September 30, 1989.

42 2. **Relicense or transfer of license.** The department may
44 relicense or approve a transfer of license for a commercial ~~solid~~
waste ~~or~~ biomedical waste disposal facility after September 30,
46 1989, if the facility had been previously licensed by the
department prior to October 6, 1989, and all other provisions of
48 law have been satisfied.

3. Expansion of facilities. The department may license an expansion of a commercial solid--waste--or biomedical waste disposal facility after September 30, 1989 if:

A. The department has previously licensed the facility prior to October 6, 1989; and

B. The department determines that the proposed expansion is contiguous with the existing facility and is located on property owned by the licensee on September 30, 1989; and,

~~C. For a commercial solid waste disposal facility and prior to the adoption of the state plan and siting criteria under chapter 24, the department determines that the proposed expansion is consistent with the provisions of section 1310-B, subsection 3, paragraph A 1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met.~~

Sec. OO-31. 38 MRSA §1316-C, last ¶, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

Funds recovered under this section must be deposited into the Maine Solid-Waste-Management-Fund General Fund.

Sec. OO-32. 38 MRSA §1382, first ¶, as amended by PL 1991, c. 517, Pt. B, §2, is further amended to read:

Members of the board of trustees are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature. The board of trustees consists of 8 ¶ members as follows: one member from the Department of Environmental Protection; one member from the Department of Agriculture, Food and Rural Resources; ~~one member from the Maine Waste--Management--Agency;~~ one member from an environmental interest group; one member from the Maine Waste Water Control Association; one member from the Maine Municipal Association; one member representing users of sludge or residuals; and one member representing generators of sludge and residuals.

Sec. OO-33. 38 MRSA §1705, sub-§1-A, as enacted by PL 1989, c. 869, Pt. B, §1, is repealed.

Sec. OO-34. 38 MRSA §1721, sub-§§1 to 6, as repealed and replaced by PL 1991, c. 66, Pt. B, §8, are amended to read:

1. Application by municipal officers. The municipal officers of the municipality or municipalities that desire to

2 form a disposal district shall file an application with the
3 agency board, after notice and hearing in each municipality, on a
4 form or forms prepared by the agency board, setting forth the
5 name or names of the municipality or municipalities and
6 furnishing such other data as the agency board determines
7 necessary and proper. The application must contain, but is not
8 limited to, a description of the territory of the proposed
9 district, the name proposed for the district that includes the
10 words "disposal district," a statement showing the existence in
11 that territory of the conditions requisite for the creation of a
12 disposal district as prescribed in section 1702, and other
13 documents and materials required by the agency board. The agency
14 board may adopt rules under this chapter.

15
16 2. **Public hearing.** Upon receipt of the application, the
17 agency board shall hold a public hearing on the application
18 within 60 days of the date of receipt of the application, at some
19 convenient place within the boundaries of the proposed district.
20 At least 14 days prior to the date of the hearing, the agency
21 board shall publish notice of the hearing at least once in a
22 newspaper of general circulation in the area encompassed by the
23 proposed district.

24 3. **Approval of application.** After the public hearing, on
25 upon consideration of the evidence received, the agency board
26 shall, in accordance with section 1702 and rules adopted by the
27 agency board, make findings of fact and a determination of record
28 whether or not the conditions requisite for the creation of a
29 disposal district exist in the territory described in the
30 application. If the agency board finds that the conditions do
31 exist, it shall issue an order approving the proposed district as
32 conforming to the requirements of this chapter and designating
33 the name of the proposed district. The agency board shall give
34 notice to the municipal officers within the municipality or
35 municipalities involved of a date, time and place of a meeting of
36 the representative of the municipality or municipalities
37 involved. The municipal officers shall elect a representative to
38 attend the meeting who may represent the municipality in all
39 matters relating to the formation of the district. A return
40 receipt properly endorsed is evidence of the receipt of notice.
41 The notice must be mailed at least 10 days prior to the date set
42 for the meeting.

43
44 4. **Denial of application.** If the agency board determines
45 that the creation of a disposal district in the territory
46 described in the application is not warranted for any reason, it
47 shall make findings of fact and enter an order denying its
48 approval. The agency board shall give notice of the denial by
49 mailing certified copies of the decision and order to the
50 municipal officers of the municipality or municipalities

2 involved. An application for the creation of a disposal
3 district, consisting of exactly the same territory, may not be
4 entertained within one year after the date of the issuance of an
5 order denying approval of the formation of that disposal
6 district, but this provision does not preclude action on an
7 application for the creation of a disposal district embracing all
8 or part of the territory described in the original application,
9 provided that another municipality or fewer municipalities are
10 involved.

11
12 **5. Joint meeting.** The persons selected by the municipal
13 officers, to whom the notice described in subsection 3 is
14 directed, shall meet at the time and place appointed. When more
15 than one municipality is involved, they shall organize by
16 electing a chair and a secretary. An action may not be taken at
17 any such meeting unless, at the time of convening, there are is
18 present at least a majority of the total number of municipal
19 representatives eligible to attend and participate at the
20 meeting, other than to report to the agency board that a quorum
21 was not present and to request the agency board to issue a new
22 notice for another meeting. A quorum is a simple majority of
23 representatives eligible to attend the meeting. The purpose of
24 the meeting is to determine the number of directors, subject to
25 section 1724, to be appointed by and to represent each
26 participating municipality and to determine the duration of terms
27 to be served by the initial directors so that, in ensuing years,
28 1/3 of the directors and their alternates are appointed or
29 reappointed each year, to serve until their respective successors
30 are duly appointed and qualified. Subject to section 1724, the
31 number of directors to represent each municipality is subject for
32 negotiation among the municipal representatives. When a decision
33 has been reached on the number of directors and the number to
34 represent each municipality and the initial terms of the
35 directors, subject to the limitations provided, this decision
36 must be reduced to writing by the secretary and must be approved
37 by a 2/3 vote of those present. The vote so reduced to writing
38 and the record of the meeting must be signed by the chair,
39 attested by the secretary and filed with the agency board. Any
40 agreements among the municipal representatives that are
41 considered essential prerequisites to the formation of the
42 district, whether concerning payments in lieu of taxes to a
43 municipality in which a waste facility ~~is~~ will be located, or
44 any other matter, must be in writing and included in the record
45 filed with the agency board. Subsequent to district formation,
46 the board of directors of the district shall execute all
47 documents necessary to give full effect to the agreements reached
48 by the municipal representatives and filed with the agency
49 board. When a single municipality is involved, a copy of the
50 vote of the municipal officers, duly attested by the clerk of the
municipality, must be filed with the agency board.

2 6. **Submission.** When the record of the municipality, or the
3 record of the joint meeting, when municipalities are involved, is
4 received by the agency board and found to be in order, the agency
5 board shall order the question of the formation of the proposed
6 disposal district and other questions relating to the formation
7 to be submitted to the legal voters residing within the
8 municipalities, except as provided in subsection 7, in which case
9 the municipal officers may determine the questions. The order
10 must be directed to the municipal officers of the municipality or
11 municipalities that propose to form the disposal district,
12 directing them to call, within 60 days of the date of the order,
13 town meetings or city elections for the purpose of voting in
14 favor of or in opposition to each of the following articles or
15 questions, as applicable, in substantially the following form:

16 A. Whether the town (or city) of (name of town or city)
17 will vote to incorporate as a disposal district to be called
18 (name) Disposal District;

19 B. Whether the residents of (name of town or city) will
20 vote to join with the residents of the (name of town or
21 city) to incorporate as a disposal district to be called
22 (name) Disposal District: (legal description of the bounds
23 of the proposed disposal district). At a minimum, the
24 district must consist of (names of essential
25 municipalities); and

26 C. Whether the residents of (name of town or city) will
27 vote to approve the total number of directors and the
28 allocation of representation among the municipalities on the
29 board of directors, as determined by the municipal officers
30 and listed as follows: Total number of directors is
31 (number of directors) and the residents of (town or city)
32 are entitled to () directors. (The number of directors to
33 which each municipality is entitled must be listed.)

34 Directors must be chosen to represent municipalities in the
35 manner provided in section 1725.

36 Sec. OO-35. 38 MRSA §1722, as repealed and replaced by PL
37 1991, c. 66, Pt. B, §9, is amended to read:

38 **§1722. Approval and organization**

39 When the residents of the municipality, or each municipality
40 when more than one is involved, or the municipal officers, as the
41 case may be, have voted upon the formation of a proposed disposal
42 district and all of the other questions submitted, the clerk of
43 each of the municipalities shall make a return to the agency
44

2 board in such form as the agency board may determine. If the
3 agency board finds from the returns that each of the
4 municipalities involved, voting on each of the articles and
5 questions submitted to them, has voted in the affirmative, and
6 that the municipalities have appointed the necessary directors
7 and listed the names of the directors to represent each
8 municipality, and that all other steps in the formation of the
9 proposed disposal district are in order and in conformity with
10 law, the agency board shall make a finding to that effect and
11 record the finding upon its records. When 3 or more
12 municipalities are concerned in the voting, and at least 2 have
13 voted to approve each of the articles and questions submitted,
14 appointed the necessary directors and listed the names of the
15 directors to represent each municipality, rejection of the
16 proposed disposal district by one or more does not defeat the
17 creation of a district composed of the municipalities voting
18 affirmatively on the question, if the agency board determines and
19 issues an order stating that it is feasible or practical to
20 constitute the district as a geographic unit composed of the
21 municipalities voting affirmatively, unless the vote submitted to
22 the municipalities provided that specific participants or a
23 minimum number of participants must approve the formation of the
24 district.

25
26 The agency board shall, immediately after making its
27 findings, issue a certificate of organization in the name of the
28 disposal district in such form as the agency board determines.
29 The original certificate must be delivered to the directors on
30 the day that they are directed to organize and a copy of the
31 certificate duly attested by the ~~executive-director~~ chair of the
32 agency board must be filed and recorded in the office of the
33 Secretary of State. The issuance of the certificate by the
34 agency board is conclusive evidence of the lawful organization of
35 the disposal district. The disposal district is not operative
36 until the date set by the directors under section 1726.

37
38 **Sec. OO-36. 38 MRSA §1725, first ¶, as repealed and replaced by
PL 1991, c. 66, Pt. B, §10, is amended to read:**

39
40 Directors are appointed by the municipal officers of the
41 municipality they represent. Alternate directors may be
42 appointed by the municipal officers to act in the absence of a
43 director. To the extent possible, the board of directors must
44 include a mix of individuals with sufficient managerial,
45 technical, financial or business experience to execute their
46 duties efficiently and effectively. Appointments must be by vote
47 of the municipal officers, attested to by the municipal clerk and
48 presented to the clerk of the district. The municipal officers,
49 by majority vote, may remove their appointed representatives
50 during their term for stated reasons, but directors may not be

2 removed except for neglect of duty, misconduct or other acts that
3 indicate an unfitness to serve. Upon receipt of the names of all
4 the directors, the agency board shall set a time, place and date
5 for the first meeting of the directors, and notice of the meeting
6 to be must be given to the directors by certified or registered
7 mail, return receipt requested, and mailed at least 10 days prior
8 to the date set for the meeting.

9
10 **Sec. OO-37. 38 MRSA §1727, as repealed and replaced by PL**
11 **1991, c. 66, Pt. B, §11, is amended to read:**

12 **§1727. Admission of new member municipalities**

13
14 The board of directors may authorize the inclusion of
15 additional member municipalities in the district upon the terms
16 and conditions as the board of directors, in its sole discretion,
17 determines to be fair, reasonable and in the best interest of the
18 district, except that on proper application any municipality that
19 is host to a waste facility of the district shall must be
20 admitted on equal terms with existing members, provided that the
21 new member municipality assumes or becomes responsible for a
22 proportionate share of liabilities of the district in a manner
23 similar to that of existing municipalities. The legislative body
24 of any nonmember municipality that desires to be admitted to the
25 district shall make application for admission to the board of
26 directors of the district. The directors shall determine the
27 effects and impacts that are likely to occur if the municipality
28 is admitted and shall either grant or deny authority for
29 admission of the petitioning municipality. If the directors
30 grant the authority, they shall also specify any terms and
31 conditions, including, but not limited to, financial obligations
32 upon which the admission is predicated. The petitioning
33 municipality shall comply with the voting procedures specified in
34 section 1721. The vote, if in the affirmative, must be certified
35 by the clerk of that municipality to the board of directors and
36 to the agency board. Upon satisfactory performance of the terms
37 and conditions of admission, the municipality shall by resolution
38 of the board of directors become and thereafter be a member
39 municipality of the district. The clerk of the district shall
40 promptly certify to the agency board and the Secretary of State
41 that the municipality has become a member of the district. The
42 certification is conclusive evidence that the municipality is a
43 lawful member of the district. Upon admission of a municipality
44 to a district, the provisions of section 1724 determine the
45 number of votes to be cast by the director or directors
46 representing that municipality.

47
48 **Sec. OO-38. 38 MRSA c. 24, first 5 lines are repealed and the**
49 **following enacted in their place:**

50

CHAPTER 24
STATE WASTE MANAGEMENT PLAN

SUBCHAPTER I
STATE WASTE MANAGEMENT GOALS

2
4
6
8 Sec. OO-39. 38 MRSA §2102, as enacted by PL 1989, c. 585,
Pt. A, §7, is repealed.

10 Sec. OO-40. 38 MRSA §2103, as amended by PL 1991, c. 517,
Pt. B, §§5 and 6, is repealed.

12 Sec. OO-41. 38 MRSA §§2105 to 2110, as enacted by PL 1989, c.
14 585, Pt. A, §7, are repealed.

16 Sec. OO-42. 38 MRSA c. 24, sub-c. II, first 2 lines are repealed and
the following enacted in their place:

18
20 SUBCHAPTER II
WASTE AND RECYCLING PLANNING

22 Sec. OO-43. 38 MRSA §2121, as enacted by PL 1989, c. 585,
Pt. A, §7, is repealed.

24 Sec. OO-44. 38 MRSA §2122, as amended by PL 1991, c. 591,
26 Pt. E, §40, is further amended to read:

28 **§2122. Recycling and management plan; schedule coordination**

30 The office board shall prepare and adopt, by rule, an
32 analysis of, and plan for, the management, reduction and
recycling of solid waste for the State by March 1, 1990. The
34 plan shall must be based on the priorities and recycling goals
established in sections 2101 and 2132. The plan shall must
36 provide guidance and direction to the ~~agency and~~ municipalities
in planning and implementing waste management and recycling
38 programs at the state, regional and local level. To the extent
that commercial entities continue to have a role in developing
waste management and recycling facilities in the State, the plan
40 shall must provide guidance to those entities.

42 ~~1. Consultation.--In developing the plan, the office shall~~
~~consult with the Department of Environmental Protection, the~~
44 ~~Office of Siting and Disposal Operations and the Office of Waste~~
~~Reduction and Recycling, and shall submit its draft plan to that~~
46 ~~department and these offices for review and written comment~~
~~before the agency publishes the plan as a proposed rule.--The~~
48 ~~office shall solicit public input and shall hold hearings in~~
~~different regions of the State.--The office shall also seek~~

~~comment and advice on its draft plan from the Waste Management
Advisory Council established under section 2104.~~

2
4 2. **Revisions.** The ~~office~~ board shall revise the analysis
6 at least every 2 years to incorporate changes in the waste
8 generation trends, changes in waste recycling and disposal
10 technologies, the development of new waste generating activities
12 and other factors affecting solid waste management as the ~~office~~
board finds appropriate. If the ~~agency~~ board finds that rapidly
14 changing conditions necessitate more timely revisions of the
analysis, it may make those revisions pursuant to the rule-making
provisions of Title 5, chapter 375, subchapter II, including
emergency rulemaking, if necessary.

16 **Sec. OO-45. 38 MRSA §2123, sub-§1,** as enacted by PL 1989, c.
18 585, Pt. A, §7, is amended by amending the first paragraph to
read:

20 1. **Data collection.** The ~~office~~ commissioner shall develop
22 and maintain a comprehensive data base on solid waste generated
or disposed of in the State. Data collected shall must include,
but is not be limited to:

24 **Sec. OO-46. 38 MRSA §2123, sub-§2,** as enacted by PL 1989, c.
26 585, Pt. A, §7, is amended by amending the first paragraph to
read:

28 2. **Determination of existing and potential disposal**
30 **capacity.** The ~~office~~ commissioner shall identify existing solid
32 waste disposal and management capacity within the State, and the
potential for expansion of that capacity. The analysis shall
must include, but is not be limited to:

34 **Sec. OO-47. 38 MRSA §2123, sub-§§4 and 5,** as enacted by PL
36 1989, c. 585, Pt. A, §7, are amended to read:

38 4. **Projected demand for capacity.** The ~~office~~ board shall
40 identify the need in the State for current and future solid waste
disposal capacity by type of solid waste. The analysis shall
must include, but is not be limited to:

42 A. Estimation of waste generation by region and waste type
44 over the next 5-year, 10-year and 20-year periods based on
the best available forecasts of population growth, economic
46 activity within the State, tourism, estimates provided by
solid waste generators and other available information;

48 B. Estimation of the reduction in the waste stream needing
50 disposal capacity as a result of public and private
recycling efforts identified in subsection 3;

2 C. Comparison of the projected waste generation levels with
4 existing and potential capacity as identified in subsection
2; and

6 D. Identification of regional differences in available
8 disposal capacity and recycling facilities. The ~~effice~~
board shall identify regions ~~which~~ that are underserved with
10 regard to recycling, management or disposal capacity or
12 ~~which~~ have capacity in excess of regional needs. In
14 determining regional needs, the ~~effice~~ board may consider
16 economic criteria, including disposal and transportation
costs, population densities, regional differences in current
industrial mix and potential for economic growth, the level
of competition in the solid waste disposal industry and any
other factors the ~~effice~~ board considers relevant.

18 5. State management strategies. Based on the provisions of
20 section 2101 and the information and analysis developed in
22 subsections 1 to 4, the ~~effice~~ board shall examine various waste
24 management options for dealing with the projected waste stream,
available or anticipated disposal capacity and waste reduction
and recycling activities. The ~~agency~~ board shall establish:

26 A. Strategies that promote, throughout the State, the
28 maximum reduction of waste, the maximum feasible recycling
of waste and the environmentally sound and cost-effective
30 management and disposal of those wastes that remain.
Management and disposal alternatives ~~shall--be--preferred~~
32 ~~which~~ that do not foreclose the future ability of the State
to reduce, reuse and recycle waste must be given preference;
and

34 B. Strategies to promote waste reduction and utilization
36 research and initiatives, innovative pilot recycling or
38 utilization programs, development of recycling-related
businesses and public understanding and participation in
recycling.

40 Sec. OO-48. 38 MRSA §2123, sub-§6, as amended by PL 1991, c.
42 517, Pt. C, §1, is further amended to read:

44 6. Facility needs. The plan must identify the number, size
46 and type of solid waste facilities required to meet the capacity
needs for all municipal solid wastes and for ~~these~~ special wastes
48 ~~for which the agency has assumed responsibility as described in~~
~~the plan. The agency shall include a time schedule and program~~
~~for--planning,--design,--siting,--construction,--operation,--and~~
~~closure-of-each-proposed-facility.~~

50

2 Sec. OO-49. 38 MRSA §2123, sub-§7, as enacted by PL 1989, c.
3 585, Pt. A, §7, is repealed and the following enacted in its
4 place:

5 7. Transition. The board shall administer the state
6 recycling and management plan developed by the former Maine Waste
7 Management Agency until the board revises the plan as it
8 determines necessary or as required in this subchapter.

10 Sec. OO-50. 38 MRSA §2124, as enacted by PL 1989, c. 585,
11 Pt. A, §7, is amended to read:

12 **§2124. Reports**

13 The agency board shall submit the adopted plan and
14 subsequent revisions to the Governor, ~~the department~~ and the
15 joint standing committee of the Legislature having jurisdiction
16 over natural resource matters.

18 Sec. OO-51. 38 MRSA c. 24, sub-c. III, first 2 lines are repealed
19 and the following enacted in their place:

20 SUBCHAPTER III
21 WASTE REDUCTION AND RECYCLING

22 Sec. OO-52. 38 MRSA §2131, as enacted by PL 1989, c. 585,
23 Pt. A, §7, is repealed.

24 Sec. OO-53. 38 MRSA §2132, sub-§2, as amended by PL 1991, c.
25 517, Pt. B, §7, is further amended to read:

26 2. Goal revision. The agency board shall recommend
27 revisions, if appropriate, to the state recycling goal and shall
28 establish a waste reduction goal. The agency board shall submit
29 its recommendations and any implementing legislation to the joint
30 standing committee of the Legislature having jurisdiction over
31 natural resource matters by January 1, 1993.

32 Sec. OO-54. 38 MRSA §2133, as amended by PL 1991, c. 517,
33 Pt. B, §§8 to 11, is further amended to read:

34 **§2133. Municipal recycling**

35 1. Technical and financial assistance program. The effice
36 commissioner shall develop a program of technical and financial
37 support to assist municipalities in achieving the recycling goal
38 of section 2132. The effice commissioner shall develop a
39 priority system for use in allocating available financial and
40 technical resources available under this section to

2 municipalities and regions. The priority system shall must
address the following:

- 4 A. The type and number of materials to be recycled and
6 composted, and the resulting reduction of the municipal
waste stream;
- 8 B. Measures, including ordinances and incentives, to ~~insure~~
10 ensure source separation and local participation in the
recycling program;
- 12 C. The existence of an established recycling program;
- 14 D. The planning for logistical, administrative and
16 financial management;
- 18 E. Marketing agreements or the identification of markets
for materials to be recycled;
- 20 F. Utilization of any regional economies of scale;
- 22 G. Coordination of the recycling program with overall waste
24 management;
- 26 H. Consistency with the state plan, when adopted; and
- 28 I. Composting of organic fractions of the municipal solid
waste stream.

30 2. Recycling feasibility studies. The ~~effiee~~ commissioner
32 shall provide professional technical assistance to municipalities
or regional associations in the planning and design of recycling
34 programs. The ~~effiee~~ commissioner may contract with regional
councils, individual municipalities and regional associations to
36 provide services under this subsection. Assistance shall must
include:

- 38 A. The assessment of economically feasible recycling
40 potential, including the supply of materials that can be
recycled, probable markets for these materials and the
42 avoided costs of solid waste disposal;
- 44 B. The planning for the logistical, administrative and
financial management requirements of a recycling program;
- 46 C. The design of any flow-control or other ordinances
48 necessary for the implementation of a recycling program;
- 50 D. The coordination of the proposed recycling program with
overall solid waste management; and

2 E. The assessment of the advantages of participation in a
4 regional recycling effort versus a local recycling program.

6 3. **Recycling capital investment grants.** The effice
8 commissioner may make grants to eligible municipalities, regional
10 associations, sanitary districts and sewer districts for the
12 construction of public recycling facilities and the purchase of
14 recycling equipment. The effice commissioner may establish
16 requirements for local cost sharing of up to 25% of the total
18 grant amount. The effice commissioner shall give preference to
20 recycling programs that require the participation of the waste
22 generators served.

24 4. **Recycling incentives.** The effice commissioner shall
26 develop and implement a program of incentives to encourage public
28 recycling programs to reach maximum feasible levels of recycling
30 and to meet the recycling goal of section 2132.

32 A. The effice commissioner shall ~~adept,--by--rule,~~ develop
34 municipal waste stream assessment models to assist
36 municipalities in estimating the volume or weight of
municipal solid waste being generated and disposed, and the
levels of reduction resulting from public recycling
programs, including programs that deny access to waste
disposal facilities for any category of recyclable
materials. The models shall must make use of best available
information, including, without limitation, data from state
reports, municipalities, and public and private operators of
waste handling services, and shall must consider
geographical and population differences, including seasonal
population variations, in waste composition and amount. The
models may be modified on a case-by-case basis when actual
waste data is documented by a municipality. The models
shall must provide the basis for determining levels of
reduction achieved.

38 B. The incentive program shall must include bonus grants to
40 municipalities which that by January 1, 1992 meet or exceed
42 the interim recycling goal of section 2132 to the extent
44 that such funding is not required pursuant to subsections 2
and 3. After January 1, 1995, incentive grants shall may be
awarded only if funds are available after the requirements
of subsections 2 and 3 are met.

46 ~~5. Access to state waste disposal services.--A municipality~~
48 ~~that fails to provide recycling opportunities to its residents~~
50 ~~may not deliver, directly or indirectly, municipal solid waste,~~
~~including residual waste, to a state-owned solid waste disposal~~
~~facility.~~

2 Sec. OO-55. 38 MRSA §2134, as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

4 **§2134. Market development and assistance**

6 The effiee commissioner shall design and implement a market
8 development strategy, consistent with the recycling component of
the state plan, which shall must include, without limitation, the
10 following elements:

12 1. **Collection.** Methods of collecting and marketing
recyclable materials that achieve necessary economies of scale
14 and product quality specifications. The strategy shall must
include a model plan for source separation of materials to be
16 recycled at the household, municipal, regional or state level, as
appropriate;

18 2. **Incentive program.** An incentive program to encourage
20 end users of materials to be recycled to locate or expand their
operations within the State. The effiee commissioner shall
22 consult with the Finance Authority of Maine and the Department of
Economic and Community Development in developing this element;

24 3. **Information clearinghouse.** An information clearinghouse
26 on recycling markets to improve the marketing of materials to be
recycled. The effiee commissioner shall maintain a current list
28 of recycling programs, together with a description of the
recyclable materials available through the programs. The effiee
30 commissioner shall also maintain listings of brokers, handlers,
processors, transporters and other persons providing services and
32 potential markets for recyclable materials. The effiee
commissioner shall actively promote the services of the
34 clearinghouse and shall seek to match programs with appropriate
recycling businesses. The effiee commissioner shall make its
36 information on recycling services available to private solid
waste generators seeking markets or services for recyclable
38 materials. The effiee commissioner shall make its technical
reports and planning documents available to municipalities and
40 regional associations on a timely basis;

42 4. **Brokering service.** Direct marketing and brokering
services for materials included in the state marketing plan when
44 municipal and regional association efforts to market the material
and the information clearinghouse are inadequate;

46 5. **Marketing development plan.** Based on the state plan, a
48 market development and marketing plan by January 1, 1990,--which
that includes:

50

2 A. Potential opportunities to increase demand for and use of
materials generated by recycling programs;

4 B. Market opportunities in Canada and other export markets;

6 C. Recommendations for specific actions to increase and
8 stabilize the demand for materials generated by recycling
programs, including, but not limited to, proposed
legislation, if necessary; and

10 D. Specific recommendations on markets for recycled
12 materials from the various areas of the State; and

14 6. Reuse of waste. Assisting industries in promoting the
16 reuse of industrial wastes that are suitable raw materials for
other processes. The ~~office~~ commissioner shall coordinate those
18 efforts with waste exchanges in the northeastern United States.

20 Sec. OO-56. 38 MRSA §2135, as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

22 **§2135. Special services**

24 The ~~office~~ commissioner shall develop a program to provide
26 municipalities, regional associations and regional councils
grants to identify, design and develop tire and white goods
28 recycling and disposal facilities, including pickup of these
items, and stump and demolition debris disposal facilities.

30 Sec. OO-57. 38 MRSA §2135-A, as enacted by PL 1991, c. 517,
32 Pt. A, §3, is amended to read:

34 **§2135-A. Tire management program**

36 Subject to available funding, the ~~office~~ commissioner shall
develop a waste tire management incentive program to reduce
38 existing tire stockpiles and to promote waste tire recycling
through a financial assistance program. The program must:

40 1. **Abatement.** Be consistent with the abatement program
42 administered by the department to remove waste tires through
proper processing, disposal or recycling; and

44 2. **Incentives.** Provide financial incentives to enhance
46 markets for waste tires and to partially reimburse businesses or
municipalities for utilizing waste tires for processing, energy
48 recovery and other end uses. The ~~office~~ board shall adopt rules
to implement the incentive programs, including, but not limited
50 to, the types of management options eligible for reimbursement
and the amount of reimbursement.

2 Sec. OO-58. 38 MRSA §2136, as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

4 **§2136. Scrap metal transportation cost subsidy**

6 The ~~office~~ commissioner may enter into annual agreements
8 with a municipality or regional association to reimburse a
portion of the direct costs of transporting material to a
10 recycling facility for intermediate processing or final use. The
~~office~~ commissioner shall base grants on the value of the scrap
12 metal, the distance to acceptable scrap metal recycling
facilities and the availability of funding. The ~~office~~ board
14 shall adopt rules, ~~in consultation with the Waste Management~~
~~Advisory Council,~~ necessary for the implementation of this
16 section.

18 Sec. OO-59. 38 MRSA §2137, first ¶, as enacted by PL 1989, c.
585, Pt. A, §7, is amended to read:

20 The ~~office~~ commissioner, in cooperation with the Department
22 of Administration, shall assess the status of recycling efforts
undertaken directly by the State for its own solid waste and
24 shall evaluate existing programs and develop necessary new
programs for recycling to reduce the generation of solid waste by
26 the State. The programs shall must include, without limitation,
recycling of office papers, cardboard, used motor oil, yard waste
28 and other materials produced by the State for which recycling
markets exist or may be developed.

30 Sec. OO-60. 38 MRSA §2137, sub-§§1 and 5, as enacted by PL
32 1989, c. 585, Pt. A, §7, are amended to read:

34 1. **Waste reduction and recycling plan.** Each state agency
shall prepare a waste reduction and recycling plan addressing the
36 requirements of subsections 3 and 4. The plan shall must be
submitted to the ~~Office of Waste Reduction and Recycling~~
38 commissioner on or before July 1, 1990, for approval as
consistent with the goals and guidelines of this section and with
40 the state waste management and recycling plan. The plan shall
must be updated on a biennial basis to increase the amount of
42 material recycled by taking advantage of any changed
circumstances. Each department shall complete an analysis of
44 additional materials to determine recycling potential, and shall
incorporate these materials into plan updates. Updated plans
46 shall must be submitted to the ~~office~~ commissioner for approval
prior to adoption.

48 5. **University of Maine System.** The following provisions
50 shall apply to the University of Maine System.

2 A. Each campus of the University of Maine System shall
4 prepare a waste reduction, recycling and composting plan
6 addressing the requirements of paragraphs B to D. The plan
8 shall must be submitted to the ~~Office of Waste Reduction and~~
10 ~~Recycling~~ commissioner on or before July 1, 1990, for
12 approval as consistent with the goals and guidelines of this
14 chapter and with the state waste management and recycling
plan. Each campus shall complete an analysis of additional
materials to determine recycling potential, and shall
incorporate these materials into annual plan updates.

Updated plans shall must be submitted to the ~~office~~
commissioner for approval prior to adoption.

16 B. By January 1, 1991, each campus of the University of
18 Maine System shall establish and implement a source
20 separation and collection program for recyclable materials,
22 including, at a minimum, high grade paper, corrugated paper
24 and glass. The source separation and collection program
26 shall must include procedures for collecting and storing
recyclable materials, bins or containers for storing
materials and contractual and other arrangements with
buyers. Each campus shall appoint a recycling coordinator
and shall conduct educational programs for students and
employees on the recycling program.

28 C. By January 1, 1991, each campus of the University of
30 Maine System shall establish and implement a waste reduction
32 program for materials used in the course of its operations.
The program shall must be designed and implemented to
achieve the maximum feasible reduction of waste.

34 D. By January 1, 1991, each campus of the University of
36 Maine System shall establish a leaf composting program.

38 **Sec. OO-61. 38 MRSA §2138, as amended by PL 1991, c. 442,**
§4, is further amended to read:

40 **§2138. Business recycling and waste reduction program**

42 1. **Office paper recycling mandated.** Any person employing
44 15 or more people at a site within the State shall implement an
46 office paper and corrugated cardboard recycling program according
to the following schedule:

48 A. By July 1, 1991, when employing 200 or more persons at a
site;

2 B. By July 1, 1992, when employing 50 or more persons at a
site; and

4 C. By July 1, 1993, when employing 15 or more persons at a
6 site.

8 The ~~office~~ commissioner shall provide technical and market
development assistance and direction to entities within the State
10 to assist in meeting this schedule. Municipalities and regional
associations may assist employers in attaining the objectives of
12 this section.

14 2. Office paper. For the purposes of this section, "office
paper" includes, but is not limited to, ledger, computer and bond
16 paper.

18 3. Certification of tax credit. The ~~office~~ commissioner,
in cooperation with the State Tax Assessor, shall assist in the
administration of tax credits for the purchase of machinery and
20 equipment used by businesses in new or expanded waste reduction,
reuse or recycling programs pursuant to Title 36, section ~~5219-C~~
22 2526 or 5219-D by certifying that the machinery and equipment are
eligible for the credit.

24 4. Technical and financial assistance programs. The ~~office~~ commissioner
26 shall administer other financial assistance programs
for projects that reduce the waste stream or increase recycling
28 that the ~~agency~~ commissioner determines appropriate, including
technology transfer to businesses and assisting the Finance
30 Authority of Maine in determining eligible projects for
low-interest loans.

32 5. Industrial waste reduction. The ~~office~~ commissioner
34 shall consult with the Maine Sludge and Residuals Utilization
Research Foundation and the private sector to identify and
36 examine solutions to the problems of reducing the volume and
toxicity of industrial waste.

38 6. Beneficial use of office paper. Any person subject to
40 the requirements of this section may use any office paper or
corrugated cardboard as fuel in industrial boilers for the
42 generation of heat, steam or electricity if these materials would
otherwise be placed in a landfill, the ~~office~~ commissioner
44 determines that there is no reasonably available market in the
State for recycling those materials and ~~if~~ the materials are
46 incinerated as a substitute for, or supplement to, fossil or
biomass fuels that constitute the primary fuels incinerated in
48 the industrial ~~boiler~~ boilers.

2 Sec. OO-62. 38 MRSA §2139, as amended by PL 1989, c. 700,
Pt. A, §170, is further amended to read:

4 **§2139. Public education**

6 The ~~office~~ commissioner shall design a program of public
education in support of the state recycling goals to promote
8 waste reduction, source separation and recycling efforts at the
individual, local, regional and state levels.

10 1. **Media campaign.** The ~~office~~ commissioner shall develop
12 and disseminate educational material designed to establish broad
public understanding and compliance with the State's recycling
14 and waste reduction goals.

16 2. **Kindergarten to grade 12 curriculum.** In cooperation
with the Department of Education, the ~~office~~ commissioner shall
18 develop a curriculum suitable for use in programs from
kindergarten through high school.

20 Sec. OO-63. 38 MRSA §2140, as enacted by PL 1989, c. 585,
22 Pt. A, §7, is amended to read:

24 **§2140. Interstate and national initiatives**

26 The ~~office~~ commissioner shall participate in interstate and
national initiatives to adopt uniform state laws when
28 practicable, and to enter into compacts between the State and
other states for the improved management, recycling and reduction
30 of solid waste.

32 Sec. OO-64. 38 MRSA §2141, as enacted by PL 1991, c. 463, is
amended to read:

34 **§2141. Waste reduction and recycling labeling program**

36 By February 1, 1992, the agency board shall adopt rules
38 establishing a waste reduction and recycling labeling program:
The rules must include recycling emblems, standards for the use
40 of the recycling emblems and standards for the use of the terms
"reusable," "recyclable," "recycled" and "recycled content." To
42 the fullest extent possible, emblems and standards adopted by the
agency board under this section must be consistent with emblems
44 and standards adopted by the Northeast Recycling Council of the
Council of State Governments and standards adopted by other
46 northeastern states.

48 1. **Applicability.** After July 1, 1992, a person may not use
the recycling emblem or the terms "reusable," "recyclable,"
50 "recycled" and "recycled content" on a package or product that is

2 sold or offered for sale, or in the promotion or advertisement of
a package or product, unless that package or product conforms to
4 the standards in the labeling program adopted by the agency board
under this section.

6 2. **Statement of fact.** A person may use the term
"reusable," "recyclable," "recycled" or "recycled content" on a
8 package or product that does not meet the standards adopted by
the agency board if the term is used in a properly qualified
10 statement of fact for the purpose of conveying accurate
information to consumers about the package or product and the
12 term is displayed no more prominently than the other words in the
statement of fact.

14 3. **Penalty.** A violation of this section is a violation of
16 Title 5, chapter 10, the Maine Unfair Trade Practices Act.

18 Sec. OO-65. 38 MRSA c. 24, sub-cc. IV and V, as amended, are
repealed.

20 Sec. OO-66. 38 MRSA c. 24, sub-c. VII, art. 1, as amended, is
22 repealed.

24 Sec. OO-67. 38 MRSA c. 24, sub-c. VII, art. 2, first 2 lines are
repealed and the following enacted in their place:

26
28 Article 2
Fees; Hearings and Appeals

30 Sec. OO-68. 38 MRSA §2201, as amended by PL 1991, c. 517,
Pt. B, §15 and c. 591, Pt. R, §§12 and 13, is repealed.

32 Sec. OO-69. 38 MRSA §2201-A, as enacted by PL 1989, c. 927,
34 §8, is repealed.

36 Sec. OO-70. 38 MRSA §2202, as enacted by PL 1989, c. 585,
Pt. A, §7, is repealed and the following enacted in its place:

38 §2202. Fees accrue to General Fund

40 All fees levied under this subchapter accrue to the General
42 Fund. Any balance remaining in the Maine Solid Waste Management
44 Fund on July 1, 1992 lapses to the General Fund.

46 Sec. OO-71. 38 MRSA §2204, as repealed and replaced by PL
1991, c. 517, Pt. B, §17, is amended to read:

48 §2204. Municipal disposal surcharge; recycling and import fees

50 The agency commissioner shall impose the following fees.

2 1. **Landfill surcharge.** A disposal surcharge of \$4 per ton
4 is assessed on any municipal solid waste disposed of at a
commercial landfill facility.

6 2. **Recycling progress.** Any municipality that fails to make
8 reasonable progress, as determined by the agency commissioner,
toward the state recycling goals shall pay a \$1.50 per ton fee on:

10 A. Any solid waste generated within its jurisdiction that
12 is exported from the State; and

14 B. Any solid waste generated within its jurisdiction that
16 is delivered to a commercial solid waste facility or to a
solid waste disposal facility owned by ~~the--agency--or~~ a
regional association.

18 3. **Imported municipal solid waste.** To support those
20 regulatory and administrative costs associated with imported
municipal solid wastes, an administrative fee of \$4 per ton is
22 assessed on any municipal solid waste originating outside the
State and delivered to a commercial solid waste facility or solid
24 waste disposal facility owned by ~~the--agency--or~~ a regional
association for disposal.

26 **Sec. OO-72. 38 MRSA §2205**, as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

28 **§2205. Fee payments**

30 Each operator of a solid waste disposal facility shall make
32 the fee payment quarterly. The fee shall must be paid to the
agency commissioner on or before the 20th day of April, July,
34 October and January for the 3 months ending the last day of
March, June, September and December.

36 1. **Quarterly reports.** Each fee payment shall must be
38 accompanied by a form prepared and furnished by the agency
commissioner and completed by the operator. The form shall must
40 state the total weight or volume of solid waste disposed of at
the facility during the payment period and provide any other
42 aggregate information deemed necessary by the agency commissioner
to carry out the purposes of this chapter. The form shall must
44 be signed by the operator.

46 2. **Timeliness of payment.** The operator shall ~~be~~ is deemed
48 to have made a timely payment of the fee if the operator complies
with all of the following+.

2 A. The enclosed payment is for the full amount owed
pursuant to this section and no further agency action by the
4 commissioner is required for collection.

6 B. The payment is accompanied by the required form and the
form is complete and accurate, and.

8 C. The letter transmitting the payment that is received by
10 the agency commissioner is postmarked by the United States
Postal Service on or prior to the final day on which the
12 payment is ~~to be received~~ due.

14 3. **Discount.** Any operator that makes a timely payment of
the fee as provided in this section ~~shall be entitled to~~ may
16 apply against the fee payable a discount of 1% of the amount of
the fee collected.

18 4. **Refunds.** Any operator who believes the fee was overpaid
by the operator may file a petition for refund to the agency
20 commissioner. If the agency commissioner determines that the
operator has overpaid the fee, the agency commissioner shall
22 refund to the operator the amount due the operator, together with
interest at a rate established by the agency commissioner.

24 5. **Alternative proof of payment.** For purposes of this
26 section, presentation of a receipt indicating that the payment
was mailed by registered or certified mail on or before the due
28 date ~~shall be~~ is evidence of timely payment.

30 6. **Interest.** If an operator fails to make a timely payment
of the fee, the operator shall pay interest on the unpaid amount
32 due at the rate established by the agency commissioner, from the
last day for timely payment to the date paid.

34 7. **Additional penalty.** In addition to the interest
36 provided in subsection 6, if an operator fails to make timely
payment of the fee, 5% of the amount of the fee shall must be
38 added to the amount actually due if the failure to file a timely
payment is for not more than one month, with an additional 5% for
40 each additional month, or fraction of a month, during which the
failure continues, not exceeding 25% in the aggregate.

42 8. **Assessment notice.** If the agency commissioner
44 determines that any operator has not made a timely payment of the
fee, the agency ~~will~~ commissioner shall send the operator a
46 written notice of the amount of the deficiency, within 30 days of
determining the deficiency. When the operator has not provided a
48 complete and accurate statement of the weight or volume of waste
received at the facility for the payment period, the agency
50 commissioner may estimate the weight or volume in the notice.

2 The operator charged with the deficiency shall have has 30 days
4 to pay the deficiency in full or, if the operator wishes to
6 contest the deficiency, forward the amount of the deficiency to
8 the agency commissioner for placement in an escrow account with
10 the Treasurer of State or any bank in the State, or post an
12 appeal bond in the amount of the deficiency. The bond shall must
be executed by a surety licensed to do business in the State and
must be satisfactory to the agency commissioner. Failure to
forward the money or appeal bond to the agency commissioner
within 30 days shall--result results in a waiver of all legal
rights to contest the deficiency.

14 If, through the administrative or judicial review of the
16 deficiency, it is determined that the amount of deficiency shall
18 must be reduced, the agency commissioner shall within 30 days
remit the appropriate amount to the operator, with any interest
accumulated by the escrow deposit.

20 The amount determined after administrative hearing or after
22 waiver of administrative hearing shall--be is payable to the
agency commissioner and shall-be is collectible.

24 If any amount due under this subsection remains unpaid 30 days
26 after receipt of notice of the deficiency, the agency
28 commissioner may order the operator of the facility to cease
receiving any solid waste until the amount of the deficiency is
completely paid.

30 9. **Filing of appeals.** Notwithstanding any other provision
32 of law, all appeals of final agency actions of the commissioner
34 concerning the fee shall must be filed with the agency
commissioner pursuant to section 2206.

36 Sec. OO-73. 38 MRSA §2206, as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

38 **§2206. Hearings and appeals**

40 The agency commissioner shall establish rules governing
42 procedures for hearings and appeals under this article consistent
with Title 5, chapter 375.

44 Sec. OO-74. 38 MRSA c. 24, sub-c. VII, art. 3, as amended, is
46 repealed.

48 Sec. OO-75. 38 MRSA §2310, sub-§1, ¶D, as enacted by PL 1989,
c. 929, §7, is amended to read:

2 D. The Commissioner of Environmental Protection, the
Commissioner of Labor, and the Director of the Maine
4 Emergency Management Agency ~~and the Executive Director of~~
~~the Maine Waste Management Agency~~ shall serve as ex officio
6 members and do not vote on committee matters.

8 **Sec. OO-76. Department of Environmental Protection assumption of**
planning and recycling responsibilities; transition. All existing
10 positions at the Maine Waste Management Agency are terminated on
the effective date of this Part, except those positions the
12 Commissioner of Environmental Protection determines necessary for
the assumption of the planning and recycling responsibilities
14 transferred to the Department of Environmental Protection and
subject to the limitations of section 49 of this Part.

16 The department shall administer all rules adopted by the
former Maine Waste Management Agency until the rules have been
18 amended or repealed by the Board of Environmental Protection.
Certifications issued by the former Maine Waste Management Agency
20 under the Maine Revised Statutes, Title 36, section 2526,
subsection 3 or section 5219-D, subsection 3 remain valid.

22 **Sec. OO-77. Appropriation.** The following funds are
24 appropriated from the General Fund to carry out the purposes of
this Part.

26
28 1992-93

30 **EXECUTIVE DEPARTMENT**

32 **Office of Planning, Recycling
and Waste Reduction**

34	Positions	(2)
36	Personal Services	\$84,738
	All Other	415,262
38	Total	<u>\$500,000</u>

40 Provides funds for a program manager and a
clerk typist II to administer financial and
42 technical assistance to municipalities
licensed grants for recycling and waste
44 reduction.

46 **ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

48 **Administrative - Environmental**

Protection

2 All Other \$500,000

4 Provides for the appropriation of funds to
6 the Department of Environmental Protection
8 to carry out the recycling duties of the
Maine Waste Management Agency abolished in
this Part.

10 Sec. OO-78. Allocation. The following funds are allocated
12 from Other Special Revenue to carry out the purposes of this Act.

14 1992-93

16 MAINE WASTE MANAGEMENT AGENCY

18 Administration - Office of the
Executive Director

20 Positions (-3)
22 Personal Services (\$164,204)
All Other (95,696)
24
26 Total (\$259,900)

28 Provides for the deallocation of funds due
to the abolishment of the Office of the
Executive Director.

30 OFFICE OF PLANNING

32 Positions (-4)
34 Personal Services (\$212,374)
All Other (104,263)
36
38 Total (\$316,637)

40 Provides for the deallocation of funds due
to the abolishment of the Office of Planning.

42 OFFICE OF SITING AND
DISPOSAL OPERATIONS

44 Positions (-4)
46 Personal Services (\$229,298)
All Other (1,548,383)
48
50 Total (\$1,777,681)

2 Provides for the deallocation of funds due
to the abolishment of the Office of Siting
and Disposal Operations.

4
6 **OFFICE OF WASTE REDUCTION
AND RECYCLING**

8
10 Positions (-5)
Personal Services (\$235,961)
All Other (617,035)
12
14 Total (\$852,996)

16 Provides for a deallocation of funds due to
the abolishment of the Office of Waste
Reduction and Recycling.

18
20 **MAINE WASTE MANAGEMENT AGENCY
TOTAL**

(\$3,207,214)

22 Sec. OO-79. Effective date. This Part takes effect on July 1,
1992.'

24 Further amend the bill by relettering the Parts to read
26 consecutively.

28 **FISCAL NOTE**

30
32 This legislation provides a General Fund appropriation of
\$500,000 for fiscal year 1992-93 to establish an Office of
34 Planning, Recycling and Waste Reduction, deallocates \$3,207,214
for fiscal year 1992-93 due to the elimination of the Waste
36 Management Agency effective June 30, 1992 and undedicates the
Maine Solid Waste Management Fund. This undedication could
38 result in an increase in General Fund revenue of \$2,850,000 for
fiscal year 1992-93 depending upon the outcome of current
40 litigation dealing with the recovery of unclaimed deposits. This
procedure is being challenged by some portions of the beverage
42 industry and the realization of the unclaimed deposit revenue
depends on the outcome of this case.

44 This legislation directs General Fund savings from the
abolishment of the Maine Waste Management Agency to be split
46 between General Purpose Aid and State-municipal Revenue Sharing.
The exact amount of savings can not be determined at this time.
48

2 STATEMENT OF FACT

4 This amendment abolishes the Maine Waste Management Agency
6 and transfers its planning, recycling and waste reduction
8 responsibilities to the Department of Environmental Protection.
10 Effective July 1, 1992, the Maine Waste Management Agency, the
12 associated siting board and advisory council and all of the
14 agency's responsibilities for siting and developing new, publicly
16 owned disposal capacity are repealed. All provisions related to
18 the current prohibition on new commercial solid waste disposal
20 facilities are repealed. The solid waste siting laws currently
administered by the Department of Environmental Protection are
adjusted to accommodate the repeal of the Maine Waste Management
Agency without otherwise changing the regulatory standard. All
references to the Maine Waste Management Agency throughout the
statutes are replaced with reference to the Board of
Environmental Protection or the Commissioner of Environmental
Protection, as appropriate.

22 The amendment also appropriates \$500,000 in fiscal year
24 1992-93 to the Department of Environmental Protection to carry
out the recycling responsibilities transferred from the Maine
Waste Management Agency.

26
Filed by Rep. Richards of Hampden
Reproduced and distributed under the direction of the Clerk
of the House.

12/18 /91

(Filing No. H-814)