

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2311

(Filing No. S-642 )

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 897, L.D. 2311, Bill, "An Act to Amend Various Provisions of the Laws Governing Solid Waste Disposal Facilities"

Amend the bill by striking out all of sections 1 to 3 and inserting in their place the following:

'Sec. 1. 38 MRSA §1310-S, sub-§4, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §249, is further amended to read:

**4. Financial assistance.** The commissioner shall reimburse or make assistance grants for the direct expenses of intervention of any party granted intervenor status under subsection 3, not to exceed \$50,000. The board shall adopt rules governing the award and management of intervenor assistance grants and reimbursement of expenses to ensure that the funds are used in support of direct, substantive participation in the proceedings before the department. Allowable expenses include, without limitation, hydrogeological studies, waste generation and recycling studies, traffic analyses, the retention of expert witnesses and attorneys and other related items. Expenses not used in support of direct, substantive participation in the proceedings before the department, including attorney's fees related to court appeals, are not eligible for reimbursement under this subsection. Expenses otherwise eligible under this section that are incurred by the municipality after notification pursuant to subsection 1, are eligible for reimbursement under this subsection only if a completed application is accepted by the department. The board shall also establish rules governing:

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2 A. The process by which an intervenor under subsection 3  
may gain entry to the proposed facility site for purposes of  
4 reasonable inspection and site investigations under the  
auspices of the department; and

6 B. The reduction in the maximum level of reimbursable costs  
to the extent the municipality establishes by local  
8 ordinance any substantially similar financial requirements  
of the applicant.

10 **Sec. 2. 38 MRSA §2153**, as enacted by PL 1989, c. 585, Pt. A,  
12 §7, is amended to read:

14 **§2153. Siting criteria**

16 1. **Siting criteria.** By ~~May 1, 1990~~ September 1, 1992, the  
18 Facility Siting Board shall ~~adopt by rule~~ amend its rules for  
siting criteria for solid waste disposal facilities based on the  
following factors.

20 A. ~~To the extent possible, a~~ A site shall ~~may~~ may be located  
22 anywhere within the State and need not be in proximity to  
the entities that generate the wastes placed at the site of  
24 waste generation.

26 A-1. Agency-owned sites for the disposal of special waste  
may not be located within a 5-mile radius of an existing  
28 commercial special waste landfill or a commercial  
incineration facility.

30 B. To the extent possible, a site shall must be located in  
32 proximity to the transportation systems, including existing  
or potential railroad systems, that are used to convey waste  
34 to the site or to convey residuals and materials to be  
recycled from the site.

36 C. The capacity or size of a site must be consistent with  
38 the projected demand as determined in the state plan.

40 D. A site and its considered use must be consistent with,  
and actively support, other waste management objectives,  
42 including waste reduction and recycling.

44 E. The projected price for site development, construction  
and operation must be fair and reasonable.

46 F. A site must meet preliminary environmental standards  
48 developed jointly by the department and the Maine Land Use  
Regulation Commission, including ground water and standards.

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geological standards and standards to protect public drinking water supplies.

G. Existing uses on adjacent properties shall, including public or private schools, may not be in significant conflict with or significantly jeopardized by the use of a site.

Sec. 3. 38 MRSa §2154, sub-§1, as amended by PL 1991, c. 243, §1, is further amended to read:

1. Initial site screening. The Facility Siting Board shall ~~complete~~ conduct a site screening and selection process ~~en-or before March 1, 1992,~~ to identify solid waste disposal capacity sufficient to meet the projected needs ~~through the year 1995 identified in the analysis conducted under former section 1310-G and the needs that have been~~ identified in the state planning process under ~~subchapter II~~ section 2123, subsection 6. The Facility Siting Board shall consider the need for geographic distribution of facilities to adequately serve all regions of the State. The Facility Siting Board also shall consider in its site selection process the need for landfill capacity to dispose of incinerator ash resulting from the combustion of domestic and commercial solid waste generated within its jurisdiction. Prior to recommending a site, the Facility Siting Board shall hold a public hearing in every municipality or plantation identified in the screening process as a potential site. For potential sites within an unincorporated township, the Facility Siting Board shall hold a public hearing within the vicinity of the proposed site. Prior to submitting a recommended site to the department for review, the Facility Siting Board shall find that the recommended site meets the standards adopted under section 2153.

Sec. 4. 38 MRSa §2154, sub-§3 is enacted to read:

3. Municipal reimbursement. At the conclusion of proceedings before the Facility Siting Board conducted pursuant to subsection 1, the agency shall reimburse a municipality for eligible expenses incurred as a result of that municipality's direct, substantive participation in proceedings before the Facility Siting Board. The amount reimbursed under this subsection may not exceed \$50,000 for any municipality. For the purposes of this subsection, "eligible expenses" has the same meaning as "expenses eligible for reimbursement" under section 1310-S, subsection 4, and any rules adopted by the Board of Environmental Protection pursuant to that section.'

Further amend the bill by striking out all of sections 5 and 6 and inserting in their place the following:

**COMMITTEE AMENDMENT**

2 'Sec. 5. 38 MRSA §2175, as enacted by PL 1989, c. 585, Pt. A,  
§7, is repealed.

4 Sec. 6. 38 MRSA §2175-A is enacted to read:

6 §2175-A. Property value offset

8 Owners of property whose value has been affected by an  
10 agency-operated or agency-approved facility licensed under  
12 chapter 13 are eligible for reimbursement for loss in property  
14 value directly attributable to the construction and operation of  
16 the facility. The agency shall adopt rules to establish the  
18 formula and procedure for reimbursement, including, without  
limitation, definition of the impact area, a process for  
establishing baseline real estate values, a time frame within  
which the property value offset program will be in effect and an  
accounting of real estate trends in the area.

20 **Sec. 7. Regulatory agenda.** Notwithstanding the Maine Revised  
22 Statutes, Title 5, section 8064, the Maine Waste Management  
Agency may adopt rules necessary to implement this Act prior to  
the submission of the agency's next regulatory agenda.

24 **Sec. 8. Retroactivity.** The Maine Waste Management Agency shall  
26 reimburse the towns of Alton, Arundel, Biddeford, Benton, Buxton,  
Hampden and Hermon for eligible expenses under the Maine Revised  
28 Statutes, Title 38, section 2154, subsection 3 incurred by those  
towns prior to the effective date of this Act. Notwithstanding  
the Maine Revised Statutes, Title 38, section 2154, subsection 3,  
30 the \$50,000 expense reimbursement limit does not apply to  
expenses reimbursed under this section.'

32 Further amend the bill by renumbering the sections to read  
34 consecutively.

36 Further amend the bill by inserting at the end before the  
statement of fact the following:

38 **FISCAL NOTE**

40 Costs associated with this bill including reimbursing  
42 municipalities for expenses incurred in participating in Facility  
Siting Board proceedings and adopting rules governing  
44 reimbursement of certain property owners can be absorbed by the  
Maine Waste Management Agency within its existing budgeted  
46 resources.'

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R. of S.

STATEMENT OF FACT

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This amendment changes the waste disposal facility siting criteria by removing the provision that requires a disposal facility to be located proximal to the source or sources generating the waste. The amendment also adds public drinking water protection standards to the list of standards that the Facility Siting Board must consider when siting a solid waste disposal facility and repeals the requirement that the board complete the site selection process by March 1, 1992. A provision is added to the site screening procedures of the Facility Siting Board that requires the board to make a finding that any site submitted to the Department of Environmental Protection for review conforms to the Facility Siting Board's siting standards, including ground water protection standards, geological standards and standards to protect public drinking water supplies.

The municipal reimbursement provisions in the bill are amended to clarify that costs not directly associated with procedures before the Facility Siting Board or the Board of Environmental Protection, including attorney's fees for judicial appeals, are not eligible for reimbursement.

The law governing reimbursement of property owners whose property values are affected by an agency-owned or agency-operated solid waste landfill site is amended to require the agency to adopt rules that establish the reimbursement formula and procedure, that define the impact area and that establish baseline real estate values, time lines and real estate trends.

The retroactivity clause is amended to require the Maine Waste Management Agency to reimburse the 7 municipalities selected by the Facility Siting Board on September 11, 1991 as potential disposal sites for eligible expenses incurred prior to the effective date of this Act.

The amendment also adds a fiscal note to the bill.

Reported by Senator Baldacci for the Committee on Energy and Natural Resources. Reproduced and Distributed Pursuant to Senate Rule 12.

(3/18/92)

(Filing No. S-642)