

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2311

S.P. 897

In Senate, February 11, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DUTREMBLE of York

Cosponsored by Representative RICHARDS of Hampden, Senator ESTY of Cumberland and
Senator TITCOMB of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Amend Various Provisions of the Laws Governing Solid
Waste Disposal Facilities.**

(EMERGENCY)



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

4 Whereas, municipalities need a greater voice in the site
6 selection process for solid waste disposal facilities; and

8 Whereas, the siting criteria used by the Facility Siting
Board needs to be amended before these important siting decisions
10 are made; and

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

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

20 **Sec. 1. 38 MRSA §2153**, as enacted by PL 1989, c. 585, Pt. A,
§7, is amended to read:

22 **§2153. Siting criteria**

24 1. **Siting criteria.** By ~~May--1,--1990~~ July 1, 1992, the
26 Facility Siting Board shall ~~adopt-by-rule~~ amend its rules for
siting criteria for solid waste disposal facilities based on the
28 following factors.

30 ~~A. --To the extent possible, a site shall be located in~~
~~proximity to the entities that generate the wastes placed at~~
32 ~~the site.~~

34 A-1. Agency-owned sites for the disposal of special waste
may be located anywhere within the State and need not be in
36 proximity to the site of waste generation. To the extent
possible, preference must be given to sites in areas of
38 sparse population.

40 A-2. Agency-owned sites for the disposal of special waste
may not be located within a 5-mile radius of an existing
42 commercial special waste landfill or incinerator facility.

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

- 2 C. The capacity or size of a site must be consistent with
the projected demand as determined in the state plan.
- 4 D. A site and its considered use must be consistent with,
6 and actively support, other waste management objectives,
including waste reduction and recycling.
- 8 E. The projected price for site development, construction
10 and operation must be fair and reasonable.
- 12 F. A site must meet preliminary environmental standards
14 developed jointly by the department and the Maine Land Use
Regulation Commission, including ground water and geological
standards.
- 16 G. Existing uses on adjacent properties shall ~~may~~ not be in
18 significant conflict with or significantly jeopardized by
the use of a site.
- 20 H. A site may not be located within one mile of an intake
22 in a river, stream or great pond used as a municipal water
system.
- 24 I. A site may not be located within 600 feet of a great
26 pond, river or perennial stream.

28 **Sec. 2. 38 MRSA §2154, sub-§1**, as amended by PL 1991, c. 243,
§1, is further amended to read:

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

50 **Sec. 3. 38 MRSA §2154, sub-§3** is enacted to read:

2 **3. Municipal reimbursement.** At the conclusion of
4 proceedings before the Facility Siting Board conducted pursuant
6 to subsection 1, the agency shall reimburse municipalities for
8 direct expenses incurred as a result of their substantive
participation in those proceedings. The agency shall determine
allowable direct expenses in a manner consistent with section
1310-S, subsection 4.

10 **Sec. 4. 38 MRSA §2156, sub-§1,** as amended by PL 1991, c. 517,
12 Pt. C, §2, is further amended to read:

14 **1. State facility required.** ~~On or before January 1, 1995,~~
16 the The office shall develop facilities sufficient to meet the
18 projected needs for municipal solid waste identified in the
20 analysis conducted under ~~former section 1310-O and the state plan~~
22 section 2123, subsection 6 and to serve all geographic areas of
the State. ~~On or before January 1, 1995,~~ the The office may
develop facilities sufficient to meet the projected needs for
special waste identified in the analysis conducted under ~~former~~
~~section 1310-O and the state plan~~ section 2123, subsection 6 and
to serve all geographic areas of the State.

24 **Sec. 5. 38 MRSA §2175,** as enacted by PL 1989, c. 585, Pt. A,
26 §7, is amended to read:

28 **§2175. Property value offset**

30 Owners of property ~~contiguous--to~~ located or partially
32 located within a 2-mile radius of the boundary of an
34 agency-owned, operated---or---approved agency-operated or
36 agency-approved facility licensed under chapter 13 are eligible
38 for reimbursement for loss in property value directly
40 attributable to the construction and operation of the facility.
42 The agency shall issue rules to establish a formula and process
for reimbursement, including, without limitation, a definition of
the impact area, a process for establishing baseline real estate
values, a time frame within which the property value support
program will be in effect, a determination of the percentage of
property value to be reimbursed, an accounting of real estate
trends in the area and a determination of the reimbursement
mechanism.

44 **Sec. 6. Retroactivity.** Section 3 of this Act takes effect
46 retroactively to September 11, 1991.

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

2

STATEMENT OF FACT

4 This bill gives municipalities a greater voice in the site
selection process for solid waste disposal facilities undertaken
6 by the Maine Waste Management Agency.

8 The bill also requires the Facility Siting Board to amend
the criteria for determining where solid waste disposal
10 facilities should be located and stipulates how they should be
amended.

12 The bill amends the siting criteria by removing the
14 provision that states a preference for siting in proximity to a
generation facility and by establishing a preference for siting
16 agency-owned special waste disposal facilities in sparsely
populated areas.

18 The bill also expands the eligibility for property value
20 offset payments to owners of land located within 2 miles of the
boundary of a site.

22 The bill removes the statutory deadlines for the site
24 selection process and for agency development of disposal
facilities. In place of specific time frames in the siting laws,
26 the Maine Revised Statutes, Title 38, section 2123, subsection 6,
required as part of the state waste management and recycling
28 plan, will provide the necessary time frames. That subsection
requires the plan to identify the number, size and type of solid
30 waste facilities required to meet the capacity needs for which
the agency has assumed responsibility as described in the plan.

32 This bill establishes a method of reimbursing municipalities
34 for direct expenses incurred as a result of their substantive
participation in Facility Siting Board public hearings and
36 proceedings concerning identified potential sites. Reimbursement
must be determined in a manner consistent with the provisions
38 established for municipal intervenors in Title 38, section
1310-S, subsection 4. The effective date for allowable
40 reimbursements is September 11, 1991, thereby extending
eligibility for reimbursement to the municipalities affected by
42 the agency's recent site selection process.