

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

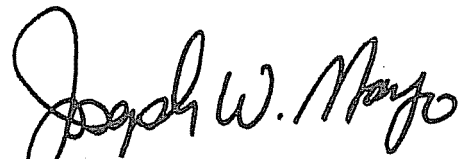
No. 16

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H.P. 9

House of Representatives, January 4, 1993

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

  
JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.  
Cosponsored by Senator LUDWIG of Aroostook.

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STATE OF MAINE

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

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**An Act to Authorize Financing of Solid Waste Districts on a Per Capita  
or a State Valuation Basis.**

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(EMERGENCY)



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

Whereas, methods of financing refuse districts that are flexible and that accommodate regional differences are necessary for effective municipal waste management; and

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

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

Sec. 1. 38 MRSA §1726-A, sub-§4, ¶A, as enacted by PL 1989, c. 861, is amended to read:

A. When the question is submitted prior to the issuance of any indebtedness by the district, the directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are no longer members of the district if the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state that ~~if the article is approved the assessments each year must be allocated among the municipalities that are then members of the district in proportion to the most recent state valuation of those municipalities in accordance with the formula established under section 1754~~ the method to be used to allocate assessments among the member municipalities if the article is approved. The ballot may not contain a specific fractional share of the assessment to be borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the assessment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to

2 constitute a district made up of the municipalities voting  
4 in favor of the article as a geographic unit. In that  
6 event, the board shall, immediately after making its  
8 findings, issue an amended certificate of organization in  
10 the name of the district for a district composed only of the  
12 municipalities voting in favor of the assessment article.  
14 Upon the issuance of a certificate the municipalities not  
16 approving the assessment article are no longer members of  
18 the district. The original of the amended certificate must  
20 be delivered to the directors of the district and a copy of  
22 the certificate attested by the Commissioner of  
Environmental Protection must be filed and recorded in the  
office of the Secretary of State. The issuance of the  
certificate by the board is conclusive evidence of the  
lawful reorganization of the district. If the board  
determines that it is not feasible or practical to  
constitute the district as a geographic unit composed of the  
municipalities voting affirmatively on the article, the  
district continues to exist with no assessment power and the  
municipalities that did not approve the assessment article  
remain members of the district.

24 **Sec. 2. MRSA §1726-A, sub-§5,** as enacted by PL 1989, c. 861,  
is amended to read:

26 **5. Guaranteed bonds.** If the district has been authorized  
28 to issue guaranteed notes and bonds pursuant to section 1754, a  
30 contract between the district and a member municipality pursuant  
32 to this section may authorize the district to issue notes and  
34 bonds that are guaranteed pro rata by that member municipality.  
36 In these cases If the district established the share of liability  
38 of each member municipality for guaranteed notes and bonds using  
40 the valuation method set forth in section 1754, subsection 4,  
42 paragraph A, the pro rata share of liability of each member  
44 municipality authorizing the district to issue guaranteed notes  
46 and bonds must be established in accordance with a fraction, the  
48 numerator of which is the most recent state valuation of all  
50 property of the member municipality authorizing the district to  
issue the guaranteed notes and bonds and the denominator of which  
is the most recent state valuation of all property located within  
all the member municipalities authorizing the district to issue  
the guaranteed notes and bonds. If the district established the  
share of liability of each member municipality for guaranteed  
notes and bonds using the per capita method set forth in section  
1754, subsection 4, paragraph B, the pro rata share of liability  
of each member municipality authorizing the district to issue  
guaranteed notes and bonds must be established in accordance with  
a fraction, the numerator of which is the most recent census of  
all residents of the member municipality authorizing the district  
to issue the guaranteed notes and bonds and the denominator of

2 which is the most recent census of all residents of all the  
3 member municipalities authorizing the district to issue the  
4 guaranteed notes and bonds. A member municipality's fractional  
5 share of liability for guaranteed notes and bonds authorized  
6 pursuant to these contracts may be different from that member  
7 municipality's fractional share of liability for guaranteed notes  
8 and bonds calculated pursuant to section 1754. The guarantee  
9 provisions of this section apply to districts providing limited  
10 waste disposal services under this section that have authority to  
11 issue bonds and notes guaranteed by member municipalities. A  
12 member municipality may not be required to guarantee any portion  
13 of the indebtedness issued by a district providing limited waste  
14 disposal services under this section unless the municipality has  
15 entered into a contract providing for such a guarantee pursuant  
16 to this section.

17 **Sec. 3. MRSAs §1754, sub-§1, as enacted by PL 1983, c. 820, §2,**  
18 **is amended to read:**

19 **1. Guarantee of bonds and notes.** Subject to approval by a  
20 vote of the inhabitants of the district, as provided in  
21 subsection 2 or 3, the district board of directors may provide by  
22 resolution for the issuance, at one time or from time to time, of  
23 guaranteed notes and bonds of the district for any purpose for  
24 which the district may issue debt. Except as otherwise provided,  
25 notes and bonds issued by the district, in accordance with this  
26 section, shall must be authorized, issued and sold in the same  
27 manner as, and shall be subject to the other provisions of, this  
28 subchapter relating to notes and bonds. The principal, premiums,  
29 if any, and interest on notes and bonds issued under this section  
30 shall must be guaranteed by the member municipalities of the  
31 district, and the full faith and credit of the member  
32 municipalities shall must be pledged for the guarantee provided  
33 in this section. The share of liability of each member  
34 municipality for the guaranteed notes and bonds shall must be  
35 established in accordance with ~~a fraction, the numerator of which~~  
36 ~~is the most recent state valuation of all property within the~~  
37 ~~member municipality, and the denominator of which is the most~~  
38 ~~recent total state valuation of all property located within the~~  
39 ~~member municipalities of the district~~ either the valuation method  
40 established under subsection 4, paragraph A or the per capita  
41 method established under subsection 4, paragraph B.

42 **Sec. 4. 38 MRSAs §1754, sub-§2, ¶C is enacted to read:**

43 C. To see if the residents of the town (or city) of (name  
44 of town or city) will authorize the board of directors of  
45 (name of district or proposed district) to proportionally  
46 allocate liability for notes (or bonds) of the district

2 based on the (most recent state valuation of property, or  
3 the most recent census of residents) of (name of town or  
4 city).

6 **Sec. 5. 38 MRSA §1754, sub-§4** is enacted to read:

8 **4. Establishing share of liability among members.** A  
9 district shall establish the share of liability of each member  
10 municipality for guaranteed notes and bonds issued under this  
11 section as either:

12 A. A fraction, the numerator of which is the most recent  
13 state valuation of all property within the member  
14 municipality and the denominator of which is the most recent  
15 state valuation of all property located within the member  
16 municipalities of the district; or

18 B. A fraction, the numerator of which is the most recent  
19 census of all residents of the member municipality and the  
20 denominator of which is the most recent census of all  
21 residents of the member municipalities of the district.

22 The fractional method used to establish the share of liability  
23 for guaranteed notes and bonds must be the same for all of the  
24 district's member municipalities.

26 **Sec. 6. Application.** An article authorizing a district to  
27 issue guaranteed notes or bonds approved by the inhabitants of  
28 that district may be amended to change the method used by the  
29 district to allocate liability for those bonds and notes only by  
30 submitting the question to the inhabitants of the district in  
31 much the same manner as that prescribed under the Maine Revised  
32 Statutes, Title 38, section 1754.

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

38 **STATEMENT OF FACT**

40 Current law requires refuse disposal districts to  
41 proportionally allocate assessments and liability for notes and  
42 bonds among member municipalities based on the most recent state  
43 valuation of property within each member municipality. This bill  
44 retains the valuation method as an option for allocating  
45 assessments and liability, but adds a 2nd method of proportioning  
46 assessments and liability based on the most recent census of  
47 residents of each member municipality.

2 Current law also requires that a district's powers of  
assessment and powers to issue notes and bonds be approved at  
4 referendum by a simple majority of the votes cast by the  
inhabitants of the district. This bill requires that the  
6 district's method of proportionally allocating liability for  
notes and bonds, on either a valuation or a per capita basis, be  
approved by the voters of the district in the same manner.

8  
10 Existing refuse districts may change from a valuation based  
allocation method to a per capita based valuation method by  
12 resubmitting the question to the inhabitants of the district in  
the manner prescribed by current law.