

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 968

H.P. 717

House of Representatives, March 22, 1993

An Act to Establish a Moratorium on the Search for a Maine Site for Low-level Radioactive Waste Disposal, to Impose Additional Duties on the Low-level Radioactive Waste Authority and to Provide for a Review of the State's Role in the Storage and Disposal of Low-level Radioactive Waste.

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FARNSWORTH of Hallowell.

Cosponsored by Representatives: GRAY of Sedgwick, HOLT of Bath, TRACY of Rome.

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

4
6 Whereas, the Maine Low-level Radioactive Waste Authority is
currently engaged in a site selection process that is surrounded
by controversy; and

8
10 Whereas, the State faces a deadline of January 1, 1993, the
implications of which are now unclear in light of the United
States Supreme Court recent ruling in New York v. United States,
12 et al., 112 S.Ct. 2408 (1992); and

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

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

22 **Sec. 1. 38 MRSA §1525-A is enacted to read:**

24 **§1525-A. Duties**

26 **1. Storage standards.** Pursuant to rules adopted in
accordance with the Maine Administrative Procedure Act, the
28 authority shall establish storage standards for generators,
including standards for packaging, structure, monitoring and
30 siting.

32 **2. Grant program.** The authority shall implement a grant
program to assist generators otherwise financially unable to meet
34 storage standards set by the authority. Pursuant to rules
adopted by the authority in accordance with the Maine
36 Administrative Procedure Act, the authority may assess fees on
generators to provide funds for the grant program.

38 **3. Waste reduction.** The authority shall establish
40 standards for the reduction of low-level radioactive waste and
shall provide technical assistance to generators to meet those
42 standards.

44 **4. Separation of waste.** Within 2 years after the effective
date of this subsection, the authority shall study methods of
46 separating low-level radioactive waste into short-lived waste and
long-lived waste. Based on the results of the study, the
48 authority shall establish feasible standards for that separation
of wastes by generators.

50

2 5. Annual report. The authority shall submit an annual
4 report by January 20th to the joint standing committee of the
 Legislature having jurisdiction over energy and natural resource
 matters concerning its activities during the prior calendar year.

6 **Sec. 2. Moratorium on siting activity.** The Maine Low-level
8 Radioactive Waste Authority, referred to in this Act as the
10 "authority," may not undertake any planning, site selection
12 activities, including site review, or any other activity in
14 furtherance of the establishment of a disposal facility as
 defined in the Maine Revised Statutes, Title 38, section 1521,
 subsection 5 for a period of 2 years from the effective date of
 this Act.

16 **Sec. 3. Review by Advisory Commission on Radioactive Waste.** In
18 addition to its duties under the Maine Revised Statutes, Title
20 38, section 1453, the Advisory Commission on Radioactive Waste,
22 referred to in this section as the "advisory commission," shall
24 review the following matters and submit a report of its findings,
 including any recommended changes in the law, to the Joint
 Standing Committee on Energy and Natural Resources by November 1,
 1993 for consideration by the Second Regular Session of the 116th
 Legislature.

26 1. The advisory commission shall review the process and
28 procedures of the authority to ensure that the high level of
30 public participation the authority currently has is maintained
32 and to ensure that the authority provides due process and normal
34 and reasonable standards of administrative procedure.
36 Specifically, the advisory commission shall consider and compare
38 procedures required in proceedings concerning solid waste and
40 special waste and make recommendations to ensure that the
42 authority's procedures provide due process in its decision-making
 by requiring, at a minimum, that announced, scheduled periods for
 public comment occur, even if later comment is allowed, and the
 opportunity for the cross-examination of witnesses takes place.
 The advisory commission shall also make recommendations to
 require that the authority's decisions be based on the record as
 a whole and that procedures are adequate and consistently applied
 in order to protect the integrity and enforceability of decisions
 of the authority.

44 2. The advisory commission shall review the structure and
46 composition of the authority. A goal of this review is to ensure
48 that the structure of the authority encourages full and
50 meaningful public participation and results in decisions that
 are solidly based on the record before the authority. The
 advisory commission shall determine whether the composition of
 the authority should be modified and, if so, in what manner. The
 advisory commission shall examine, as a potential model on which

2 the authority's siting procedures may be based, the siting
procedures established by statute and rule governing the Maine
Waste Management Authority.

4
3. The advisory commission shall examine the duties and
6 powers of the authority concerning disposal and the siting
process under existing law in light of federal law and New York
8 v. United States, et al., 112 S.Ct. 2408 (1992). This
examination must focus on the obligations of and options
10 available to the State, the cost-effectiveness of those options,
new or unresolved issues that may warrant modification of the law
12 and whether the siting process should be directed at the safest
site in the State or some lesser goal. The advisory commission
14 shall also review the relationship between state law relating to
disposal, including rules, and municipal ordinances.

16
4. The advisory commission shall review the time frame and
18 criteria for providing financial assistance to municipalities to
retain their own experts in matters concerning the authority and
20 the authority's jurisdiction.

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

24
26 **STATEMENT OF FACT**

28 This bill imposes a 2-year moratorium on the low-level
radioactive waste disposal facility siting process. During that
30 period, the Advisory Commission on Radioactive Waste is charged
with reviewing the State's role and policy in the siting process;
32 the structure and composition of, and the procedures used by, the
Maine Low-level Radioactive Waste Authority; and the existing
34 state law and its relationship with federal law, precedent and
municipal ordinances. The advisory commission shall submit its
36 findings in a report for consideration by the Second Regular
Session of the 116th Legislature.