

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

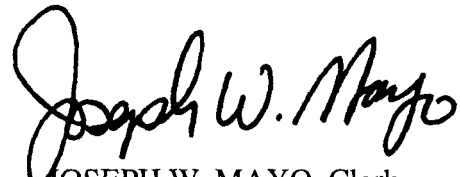
No. 390

H.P. 286

House of Representatives, February 6, 1995

**An Act to Clarify the Tax-exempt Status of Municipally Owned Solid
Waste Disposal Facilities.**

Reference to the Committee on Taxation suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DiPIETRO of South Portland.
Cosponsored by Representatives: CAMERON of Rumford, FARNUM of South Berwick,
LEMONT of Kittery, MURPHY of Berwick, POULIOT of Lewiston.

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

Sec. 1. 38 MRSA §1304-B, sub-§5, as amended by PL 1989, c. 869, Pt. C, §10, is further amended to read:

5. **Public waste disposal corporations.** Notwithstanding any law, charter, ordinance provision or limitation to the contrary, pursuant to any interlocal agreement entered into in accordance with Title 30-A, chapter 115, any 2 or more municipalities may organize or cause to be organized or may participate in one or more corporations organized as nonprofit corporations under Title 13, chapter 81, or Title 13-B for the purpose, among other permissible purposes, of owning or operating any one or more waste facilities described in subsection 4, paragraph A, and a subscribing municipality may agree in any such interlocal agreement to pay fees, assessments or other payments as described in subsection 4, paragraph B, for such term of years and on such other terms as the interlocal agreement may provide and may pledge the full faith and credit of the municipality to the same extent provided in subsection 4, paragraph C. The real and personal property of a corporation described in this subsection is exempt from municipal property taxation. The applicable interlocal agreement or the articles of incorporation or bylaws of the corporation must provide that:

A. The corporation ~~shall~~ must be organized and continuously thereafter operated as a nonprofit corporation, no part of the net earnings of which may inure to the benefit of any member, director, officer or other private person;

B. The directors of the corporation ~~shall~~ must be elected by the municipal officers of the municipalities participating in the corporation; and

C. Upon dissolution or liquidation of the corporation, title to all of its property ~~shall-vest~~ vests in one or more of the municipalities participating in the corporation.

Any interlocal agreement complying with the requirements of this subsection and subsection 6 must be a properly authorized, legal, valid, binding and enforceable obligation of the municipality, regardless of whether the agreement was authorized, executed or delivered prior to or after the effective date of this subsection. Any corporation organized in a manner that satisfies the requirements set forth in this subsection and subsection 6, whether organized prior to or after the effective date of this subsection, ~~shall-be~~ is deemed for all purposes as organized pursuant to this subsection. If so provided in the applicable interlocal agreement, any such corporation ~~shall-have~~ has the power, in addition to any other powers that may be delegated

2 under Title 30-A, chapter 115, to issue, on behalf of one or more
of the municipalities participating in the corporation, in order
4 to finance the facilities, revenue obligation securities issued
in accordance with Title 10, chapter 110, subchapter IV, and any
6 other bonds, notes or debt obligations ~~which~~ that municipalities
are authorized to issue by applicable law. For these purposes,
8 the term "municipal officers" as used in Title 10, chapter 110,
subchapter IV, means the board of directors of any corporation
described in this subsection. Title 10, section 1064, subsection
10 6, may not be construed to prohibit the assignment or pledge as
collateral security of any contract of a municipality authorized
12 by this section or of any or all of the payments under this
section, regardless of whether the provisions of subsection 4,
14 paragraph C, are applicable to the contract or payments. The
provisions of Title 10, sections 1063 and 1064, subsection 1,
16 paragraph A and paragraph C, subparagraph (4) do not apply to
revenue obligation securities issued by any public waste disposal
18 corporation described in this subsection.

20 22 **STATEMENT OF FACT**

24 This bill clarifies that municipally owned solid waste
disposal facilities are exempt from municipal property taxation.