

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 2-25-98

(Filing No. H- 822)

UTILITIES AND ENERGY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1439, L.D. 2003, Bill, "An Act to Clarify and Enhance Certain Municipal Powers Regarding Solid Waste Disposal"

Amend the bill by striking out all of section 2 and inserting in its place the following:

Sec. 2. 38 MRSA §1304-B, sub-§5-A is enacted to read:

5-A. Other regional associations. Notwithstanding any law, charter, ordinance provision or limitation to the contrary, any 2 or more municipalities, counties, refuse disposal districts, public waste disposal corporations or other quasi-municipal corporations may organize or cause to be organized or may acquire membership in one or more regional associations for the purpose, among other permissible purposes, of facilitating the disposal of domestic and commercial solid waste generated within the geographic boundaries of each member of the regional association. In accordance with this subsection, a regional association may conduct business without an interlocal agreement.

A. The articles of incorporation or bylaws of the regional association must provide that:

(1) The regional association must be organized and continuously 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; the receipt, directing and application of money in accordance with paragraph E may not be considered to be part of the net earnings, income or profit of the regional association;

COMMITTEE AMENDMENT

2 (2) The directors of the regional association must be
3 elected by the municipal officers, the trustees or the
4 directors, as applicable, of the members of the
5 regional association; and

6 (3) Upon dissolution or liquidation of the corporation,
7 title to all of its property vests in one or more of
8 the municipalities participating in the regional
9 association.

10
11 B. Each member must enter into at least one solid waste
12 disposal agreement with the owners of at least one solid
13 waste disposal facility, including, but not limited to, a
14 solid waste disposal facility that is a qualifying facility
15 as defined in Title 35-A, section 3303.

16
17 C. Each member must be in good standing with the regional
18 association and abide by the bylaws of the regional
19 association.

20
21 D. Notwithstanding any limitation imposed by Title 30-A,
22 chapter 223, subchapter III-A, or any other limitation on
23 investments imposed on a member pursuant to state law, each
24 member may invest its funds in and participate in the
25 ownership of:

26 (1) One or more solid waste disposal facilities;

27
28 (2) An entity that owns one or more solid waste
29 disposal facilities;

30
31 (3) An electric utility or transmission and
32 distribution utility that has a power purchase
33 agreement with the owners of a solid waste disposal
34 facility that, in turn, has a solid waste disposal
35 contract with the member;

36
37 (4) An electric power generation company established
38 by a public utility whether or not it is regulated by
39 the Public Utilities Commission or a successor state
40 agency; and

41
42 (5) A subsidiary entity formed by an electric utility.

43
44 E. To the extent provided in its bylaws, a regional
45 association may perform the following functions, among
46 others, on behalf of its members:

47
48 (1) Receive and direct distributions of cash from and
49 ownership interests in the entities described in
50 the bylaws.

2 paragraph D as well as other revenues from activities
3 authorized under this subsection, including, but not
4 limited to:

6 (a) Distribution on behalf of members based on a
7 minimum tonnage guaranteed to be delivered or
8 actually delivered to solid waste disposal
9 facilities; and

10 (b) Earnings and other distributions from the
11 members' investments in and participation in the
12 entities described in paragraph D in the form of
13 capital stock, limited partnership interest,
14 warrants for equity interest or other equity
15 positions in entities;

16 (2) Manage assets of its members that are related to
17 the functions of the regional association, including,
18 but not limited to, functions related to the entities
19 described in paragraph D;

22 (3) Manage money or other value received on account of
23 members from any source;

24 (4) Determine the use and application of assets on
25 behalf of and for the benefit of its members, including
26 investment and reinvestment in the entities described
27 in paragraph D;

30 (5) Purchase, sell and otherwise deal with ownership
31 interests, including the authority to exercise warrants
32 for the purpose of making any purchase, in the entities
33 described in paragraph D; and

34 (6) Administer the solid waste disposal agreement
35 described in paragraph B and act as agent for its
36 members under and pursuant to and to the extent
37 provided by the solid waste disposal agreement,
38 including the authority to bind its members through
39 arbitration proceedings.

42 F. A regional association may receive, direct and apply
43 money as described in paragraph E without the need for
44 further action by any member by appropriation or otherwise
45 and, unless otherwise provided by a member in connection
46 with its participation in a regional association, that money
47 may not be taken into account for purposes of calculating
48 any limitation on the member's annual expenditures or
49 appropriations.

2 A regional association may not pledge the full faith and credit
3 of its members but it has all other powers necessary and
4 incidental to carry out the purposes of this chapter.
5 Notwithstanding any contrary provision in Title 13-B, a regional
6 association may have more than one class of members as prescribed
7 or established in its bylaws.'

8
9
10 **SUMMARY**

11 This amendment replaces section 2 of the bill. Among other
12 things it provides that:

13 1. A regional association must be operated as a nonprofit
14 organization;

15 2. The directors of the association must be elected by the
16 members of the association;

17 3. Upon dissolution of the association, title to the
18 association's property vests in member municipalities; and

19 4. An association may have more than one class of members,
20 if so provided in the bylaws.

21 The summary of the original bill indicated that the bill
22 permitted regional associations to aggregate the purchasing power
23 of association members for the purchase of electricity. This
24 description is in error. Neither the original bill nor this
25 amendment expressly grants such authority to regional
26 associations.
27
28
29
30
31
32