

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2005

H.P. 1502

House of Representatives, December 26, 2001

An Act to Ensure the Public Benefits of Solid Waste Facilities.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 19, 2001. Referred to the Committee on Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative CUMMINGS of Portland.

Cosponsored by Representatives: DAVIS of Falmouth, DUNLAP of Old Town, McDONOUGH of Portland, NORBERT of Portland, NORTON of Bangor, SNOWE-MELLO of Poland, TOBIN of Dexter.

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

2
3 **Sec. 1. 38 MRSA §1310-N, sub-§3-A, ¶B,** as enacted by PL 1995,
4 c. 465, Pt. A, §15 and affected by Pt. C, §2, is amended to read:

6 B. For all other facilities, the ~~commissioner~~ office shall
7 make the determination of public benefit in accordance with
8 section 1310-AA, and the ~~commissioner's~~ office's
9 determination under that section is not subject to review by
10 the department or the board as part of the licensing process
11 under this section.

12 **Sec. 2. 38 MRSA §1310-AA, sub-§1,** as enacted by PL 1995, c.
13 465, Pt. A, §22 and affected by Pt. C, §2, is repealed and the
14 following enacted in its place:

15 1. Application for public benefit determination. Prior to
16 submitting an application under section 1310-N for a license for
17 the following facilities, a person must apply to the office for a
18 determination of whether the proposed facility provides a
19 substantial public benefit:

20 A. A new or expanded solid waste disposal facility; and

21 B. Any other new or expanded solid waste facility except
22 for a facility that only handles solid waste generated
23 within:

24 (1) The municipality in which the facility is located;

25 (2) A regional association that includes the
26 municipality where the facility is located; or

27 (3) Two or more municipalities that have entered into
28 an interlocal agreement for handling solid waste at the
29 facility in accordance with Title 30-A, chapter 115,
30 and the facility is located in one such municipality.

31 For purposes of this subsection, an application that seeks
32 authority to handle or dispose of solid waste at an existing
33 disposal facility that is different in type or volume from the
34 solid waste that is already authorized to be handled or disposed
35 of at the disposal facility is considered an application for a
36 license of a new or expanded solid waste disposal facility.

37 **Sec. 3. 38 MRSA §1310-AA, sub-§§2 and 3,** as enacted by PL
38 1995, c. 465, Pt. A, §22 and affected by Pt. C, §2, are amended
39 to read:

2. **Process.** Determinations by the commissioner office under this section are not subject to Title 5, chapter 375, subchapter IV. The commissioner office shall provide public notice of the filing of an application under this section and shall accept written public comment on the application for 20 days after the date of the notice. In making the determination of whether the facility provides a substantial public benefit, the commissioner office shall consider the state plan, written information submitted in support of the application and any other written information the commissioner office considers relevant. The commissioner office may hold a public meeting in the vicinity of the proposed facility to take public comments and shall consider those comments in making the determination. The commissioner office shall issue a decision on the matter within 60 days of receipt of the application. The commissioner's office's decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section.

3. Standards for determination. The ~~commissioner~~ office shall find that the proposed facility provides a substantial public benefit if the applicant demonstrates to the ~~commissioner~~ office that the proposed facility:

A. Meets immediate, short-term or long-term capacity needs of the State;

B. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, is consistent with the state waste management and recycling plan; and

C. Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal.

SUMMARY

This bill proposes that any new or expanded solid waste disposal facility or any new or expanded solid waste facility that will be used for waste generated outside of the municipality in which the proposed facility is located, or outside of municipalities that have formed a regional association or have entered into an interlocal agreement for the handling of solid waste at the proposed facility, is required to obtain a determination from the State Planning Office that the proposed facility provides a substantial public benefit. The bill also eliminates the current requirement for such a determination from the Commissioner of Environmental Protection for all solid waste facilities proposed for disposal of solid waste. This bill also

2 clarifies that an application seeking authority to dispose of different solid waste at an existing disposal facility is considered an application for a new or expanded facility.