

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 803

S.P. 282

In Senate, February 20, 2003

**An Act To Ensure the Rights of Host Communities Regarding the  
Construction and Operation of State-owned Solid Waste Disposal  
Facilities**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HATCH of Somerset.  
Cosponsored by Representative HATCH of Skowhegan and  
Representative: CARR of Lincoln.

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

2  
3       **Sec. 1. 38 MRSA §1310-N, sub-§9**, as enacted by PL 1995, c.  
4 465, Pt. A, §16 and affected by Pt. C, §2, is amended to read:

6       **9. Host community agreements.** The following provisions  
7 apply to an application for a license for a commercial solid  
8 waste disposal facility.

10       A. The department may not issue a license for a commercial  
11 solid waste disposal facility unless the applicant has  
12 demonstrated that it has:

14           (1) Complied with municipal ordinances requiring host  
15 community benefits;

16           (2) Negotiated in good faith, as determined by a  
17 neutral arbitrator agreeable to both sides who has been  
18 present during the negotiations, with the municipality  
19 in which the facility is proposed to be located to  
20 formulate a host community agreement;

22           (3) Developed and will implement a host community  
23 agreement; or

24           (4) Renegotiated, if appropriate, the terms of an  
25 existing host community agreement.

28       B. Based upon the nature, size and projected impacts of the  
29 proposed facility, host community agreements must, when  
30 applicable, include provisions regarding:

32           (1) Improvement, maintenance and repair of local roads  
33 directly affected by traffic to and from the facility  
34 and of other infrastructural elements directly affected  
35 by the facility;

36           (2) Development and maintenance of adequate local  
37 emergency response capacity to accommodate the facility;

38           (3) Financial support to the municipality in the form  
39 of tipping fees in the amount equal to the fees charged  
40 by the department in chapter 24, subchapter 7, article  
41 2 to be placed in a trust fund established by the  
42 municipality, of which 50% of the proceeds must be used  
43 for environmental testing and monitoring, including for  
44 personnel or other means to provide technical  
45 assistance to the municipality in testing, monitoring  
46 or interpreting data and to advise the municipality on  
47 other technical issues concerning the facility and  
48 and

2 administrative costs related to the application for and  
3 presence of a solid waste disposal facility located  
4 within the municipality. The balance of the proceeds  
5 in trust must be kept as a reserve in case of a  
6 potential accident or failure of the solid waste  
7 disposal facility; and

8 (4) Other issues determined on a case-specific basis  
9 by the applicant and municipality to be appropriate  
10 given the nature of the proposed facility.

11 The department shall adopt rules concerning the expenditure  
12 of funds made available to a municipality under the  
13 provisions of subparagraph (3) ~~to ensure that funds are used~~  
14 ~~to provide direct technical support to the municipality~~  
15 ~~necessary for the conduct of municipal planning and decision~~  
16 ~~making.~~

17 **Sec. 2. 38 MRSA §2156-A, sub-§2,** as amended by PL 1999, c.  
18 736, §1, is further amended to read:

19 **2. Recommendation for development.** When the office finds  
20 that the licensed and available disposal capacity within the  
21 State for municipal solid waste or special waste resides  
22 primarily in one facility or that 4 years or less of licensed and  
23 available disposal capacity for municipal solid waste or special  
24 waste remains within the State, it shall submit a report  
25 recommending the construction and operation of a state-owned  
26 solid waste disposal facility for the disposal of the type of  
27 waste for which capacity is needed to the joint standing  
28 committee of the Legislature having jurisdiction over natural  
29 resource matters. The report must recommend which state agency  
30 or department will own the facility and how it will be operated.  
31 The report must also include a review of disposal options outside  
32 of the State; a review of existing efforts to reduce, reuse,  
33 recycle, compost and incinerate the affected municipal solid  
34 waste and special waste streams and the impact of these efforts  
35 on capacity requirements; a thorough economic analysis of the  
36 facility's expected costs; and commitments from entities to  
37 utilize the facility and projected revenues. It is the intent of  
38 the Legislature that the facility be operated by a private  
39 contractor. A state-owned solid waste disposal facility may not  
40 be constructed or operated unless authorized by legislation  
41 pursuant to subsection 3.

42 **Sec. 3. State Planning Office search and report.** The Executive  
43 Department, State Planning Office shall search for geographically  
44 suitable sites in the State, in addition to the Carpenter Ridge  
45 facility, for additional capacity for disposal of municipal solid  
46 waste or special waste that do not adversely

2 affect local communities. The State Planning Office shall submit  
a report of its search and recommendations to the Joint Standing  
4 Committee on Natural Resources within 180 days of the effective  
date of this legislation.

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### SUMMARY

10 This bill does the following:

12 1. Requires that host community agreements between  
municipalities and solid waste facility operators be monitored  
for good faith by a neutral arbitrator;

14 2. Requires that host community agreements provide for  
16 tipping fees to be paid to the municipality into a trust fund to  
help pay for monitoring, testing and administrative costs of  
18 solid waste facilities and in case of accidents or failures with  
the facility;

20 3. Requires the Executive Department, State Planning Office  
22 to report to the Legislature when there is only one facility in  
the State to handle the required disposal demand or when the  
24 available capacity will be used up within 4 years; and

26 4. Requires the State Planning Office to conduct a search  
and report on other suitable disposal sites in the State.