

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1515

S.P. 507

In Senate, April 2, 2003

An Act To Promote and Monitor Competition in the Solid Waste Industry

Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
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 MARTIN of Aroostook.
Cosponsored by Representative KOFFMAN of Bar Harbor.

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

4 **Sec. 1. 38 MRSA §2101**, as enacted by PL 1989, c. 585, Pt. A,
§7, is amended to read:

6 **§2101. Solid waste management hierarchy; competition**

8 **1. Priorities.** It is the policy of the State to plan for
and implement an integrated approach to solid waste management,
10 which shall be based on the following order of priority:

12 A. Reduction of waste generated at the source, including
both amount and toxicity of the waste;

14 B. Reuse of waste;

16 C. Recycling of waste;

18 D. Composting of biodegradable waste;

20 E. Waste processing which reduces the volume of waste
22 needing land disposal, including incineration; and

24 F. Land disposal of waste.

26 **2. Competition.** It is the policy of the State to ensure
that municipalities and businesses enjoy reasonable, competitive
28 options for the management and disposal of solid waste.

30 **Sec. 2. 38 MRSA §2112** is enacted to read:

32 **§2112. Small container contract restrictions**

34 **1. Definitions.** As used in this section, unless the
context otherwise indicates, the following terms have the
36 following meanings.

38 A. "Small containerized solid waste hauling service" means
providing solid waste hauling service to customers by
40 providing the customer with a small container or dumpster
that is picked up and emptied mechanically using a
42 front-loading or rear-loading truck. "Small containerized
solid waste hauling service" does not include hand pickup
44 service or service using a compactor that is attached to or
part of a small container.

46 B. "Small container" means a 2- to 10-cubic-yard container
48 or dumpster.

2 C. "Solid waste hauling service" means the collection,
4 removal and transportation to a solid waste transfer station
6 or disposal site of trash and garbage. As used in this
8 paragraph, trash and garbage do not include construction and
10 demolition debris, medical waste, hazardous waste, organic
12 waste, special waste such as contaminated soil or sludge or
14 recyclable materials.

16 2. Contracts. All contracts for the provision of small
18 containerized solid waste hauling service to customers located in
20 this State must:

22 A. Permit customers to terminate such contracts by
24 providing no more than 30 days' notice prior to termination
26 by any reasonable method, including, at a minimum, mail,
28 electronically transmitted facsimile and e-mail; and

30 B. Limit the financial charge for early termination of the
32 contract to: \$75, 2 times the current monthly charge or 2
34 times the average monthly charge during the most recent
36 6-month period, whichever is least.

38 3. Exception. Notwithstanding the provisions of subsection
40 2, a contract for the provision of small containerized solid
42 waste hauling service to a customer located in this State may
44 contain contract terms that do not conform to the requirements of
46 subsection 2 if those alternative terms are specified in a bona
48 fide request for proposals or request for bids initiated by the
customer.

4. Information regarding prices and terms. A contract for
the provision of small containerized solid waste hauling service
to a customer located in this State may not require the customer
to inform a contractor concerning prices or other terms offered
by competitors or require the customer to afford the contractor
an opportunity to match or respond to a competitor's offer.

5. Effect on existing contracts. Provisions in contracts
in force on the effective date of this section that do not
conform to the requirements of this section are unenforceable.

Sec. 3. 38 MRSA §2124-A, as enacted by PL 1995, c. 588, §4,
is amended by adding at the end a new paragraph to read:

The report must include an analysis of how changes in
available disposal capacity have affected or are likely to affect
disposal prices. When the office determines that a decline in
available landfill capacity has generated or has the potential to
generate supracompetitive prices, it shall include this finding

2 in its report and shall include recommendations for legislative
3 or regulatory changes as necessary.

4 **Sec. 4. 38 MRSA §2231, sub-§1-A** is enacted to read:

6 1-A. Landfill facility. "Landfill facility" means a
7 facility that accepts solid waste and disposes of the waste
8 through landfilling or processes the waste for reuse.

10 **Sec. 5. 38 MRSA §2232**, as amended by PL 1999, c. 657, §27, is
11 further amended to read:

12 **§2232. Reporting**

14 An incineration facility and landfill facility shall submit
16 an annual report to the office no later than 90 days after the
17 end of the ~~incineration~~ facility's fiscal year. For reasonable
18 cause shown and upon written application by an incineration
19 facility or landfill facility, the office may grant an extension
20 of the 90-day period. The report must be certified by an
21 appropriate executive officer of the ~~incineration~~ facility as
22 being complete and accurate. The office may prescribe the form
23 of the annual report and the number of copies that must be
24 submitted. The report must include the following information:

26 **1. Waste.** The total weight in tons of all solid waste
27 received by the incineration facility or landfill facility in the
28 last completed fiscal year and each month of that year and a
29 breakdown of these totals according to the waste sources types
30 and waste source categories, including both in-state and
31 out-of-state as specified by the office;

32 **2. Tipping fee.** A schedule of various tipping fees imposed
34 by the incineration facility or landfill facility on the
35 ~~incineration~~ facility's municipal and commercial customers over
36 the last completed fiscal year including an identification of all
37 changes in those fees and a similar schedule of fees to be
38 imposed on municipal and commercial customers for the next fiscal
39 year. The tipping fees for commercial customers must be set out
40 separately by each rate charged to each category of commercial
41 customer;

42 **3. Revenue.** The total revenue of the incineration facility
44 or landfill facility from all sources for the last completed
45 fiscal year and each month of that year. Revenue figures must
46 identify revenues from each revenue source, including, but not
47 limited to, revenues from disposal fees, disaggregated by waste
48 type and waste source category as specified by the office,
49 tipping fees and any revenue from sales of electricity to
50 transmission and distribution utilities;

2 **4. Expenditures.** The total expenditures of the
incineration facility or landfill facility during the last
4 completed fiscal year including details of those expenditures as
required by the office; and

6
 5. Other information. Any other information required by
8 the office to comply with its obligations under this chapter.

10
12

SUMMARY

 This bill imposes restrictions on the use of so-called
14 "evergreen" contract clauses in small container commercial trash
hauling contracts. The bill declares that it is the policy of
16 the State to ensure that municipalities and businesses enjoy
reasonable, competitive options for the management and disposal
18 of solid waste and broadens the data collection and reporting
responsibilities of the Executive Department, State Planning
20 Office.