

# MAINE STATE LEGISLATURE

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R/S

L.D. 1626

DATE: 6-11-03

(Filing No. H-563)

MAJORITY  
NATURAL RESOURCES

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1205, L.D. 1626, "Resolve, To Authorize the State To Purchase a Landfill in the City of Old Town"

Amend the resolve by striking out everything after the title and before the summary and inserting in its place the following:

**Sec. 1. Acquisition of landfill authorized. Resolved:** That, notwithstanding anything in the Maine Revised Statutes, Title 5, section 1825-B, subsection 1, Title 38, section 1310-X and Title 38, chapter 24 to the contrary, the following provisions apply.

1. The Executive Department, State Planning Office, referred to in this section as "the office," may acquire, own and cause to be operated an existing, Department of Environmental Protection-licensed and generator-owned solid waste disposal facility in the City of Old Town known as the West Old Town Landfill, referred to in this resolve as "the disposal facility," under such terms and conditions as are revenue-neutral to the State and as the office determines are advisable and in the public interest. The acquisition may be subject to a possibility of reverter to the seller.

2. The office may establish the terms and conditions of, and execute and deliver, in the name of and on behalf of the State, all contracts the office determines are necessary or appropriate to effect the acquisition and operation of the disposal facility and to undertake all actions the office determines necessary or appropriate to fully perform all obligations established under the contracts. The acquisition agreement must provide that the current owner of the disposal

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facility is responsible for environmental liability associated with the operation of the disposal facility prior to acquisition by the office and that a baseline must be established by agreement of the current owner of the disposal facility and the office for determining the existing ground and surface water conditions surrounding the disposal facility as of the date of acquisition.

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3. Any agreement for the operation of the disposal facility must be established by the office through a competitive bidding process and must require the operator to indemnify the office for liabilities and costs associated with the acquisition, development and operation of the disposal facility. All persons submitting proposals in response to the request for proposals to operate the disposal facility are required to include with their bids up to a \$20,000 nonrefundable deposit, as determined by the office, to offset the office's costs associated with the transactions authorized under this resolve and the cost to the City of Old Town and the Town of Alton to establish a joint citizen advisory committee authorized under this resolve.

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4. Nothing in this resolve permits the abrogation of, abrogates or intends to abrogate the sovereign immunity of the State with respect to the acquisition agreement authorized under this resolve.

5. Notwithstanding the Maine Revised Statutes, Title 38, section 1310-U, the municipality in which the disposal facility is located may not regulate the operation, expansion or any other aspect of the disposal facility as provided in Title 38, section 2173 or by means of any municipal ordinances, regulations, licenses or permits. The municipal officers of the City of Old Town and the Town of Alton shall establish a joint citizen advisory committee consisting of 7 members, of which 5 must be from the City of Old Town and 2 from the Town of Alton. In appointing members to the committee, the municipal officers shall use Title 38, section 2171, subsection 1 as guidance. The committee shall meet as soon as practical following appointment of its members and shall select a chair from among its members. The committee shall establish procedures for the conduct of meetings. The committee may:

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A. Review proposed contracts, site analyses, applications and other documents relating to the construction, permitting and operation of the disposal facility;

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B. Hold periodic public meetings to solicit the opinions of residents concerning the disposal facility and any permit applications, contracts or other provisions relating to the disposal facility;

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- 2 C. Provide the disposal facility operator and office with  
any alternative contract provisions, permit conditions,  
4 plans or procedures the committee considers appropriate; and
- 6 D. Serve as a liaison between the communities and the  
disposal facility operator or the office to facilitate  
8 communications during the development and operation of the  
disposal facility and provide residents with updated  
10 information about the project, including providing  
explanations of any technical terms; and be it further

12 **Sec. 2. Report. Resolved:** That, by February 15, 2004, the  
14 Executive Department, State Planning Office shall submit a report  
to the Joint Standing Committee on Natural Resources on the  
16 acquisition of the disposal facility authorized under section 1  
and a review of the operations related to that disposal facility.'

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20 **SUMMARY**

22 This amendment replaces the resolve. It authorizes the  
Executive Department, State Planning Office to acquire, subject  
24 to a possibility of reverter to the seller, own and cause to be  
operated an existing, Department of Environmental  
26 Protection-licensed and generator-owned solid waste disposal  
facility located in Old Town under terms and conditions that are  
28 revenue-neutral to the State. The amendment authorizes the State  
Planning Office to enter into such contracts as the office  
30 determines are necessary or appropriate. The amendment requires  
that the acquisition agreement provide that the current owner is  
32 responsible for environmental liability associated with the  
operation of the disposal facility prior to acquisition by the  
34 office. The amendment requires that the agreement for the  
operation of the disposal facility be established through  
36 competitive bidding and that the operator must indemnify the  
office for liabilities and costs of the office resulting from the  
38 acquisition, development and operation of the disposal facility.  
The amendment requires the State Planning Office to require  
40 persons submitting proposals to submit a nonrefundable deposit to  
offset the office's costs associated with the transactions and  
42 the cost to the City of Old Town and the Town of Alton to  
establish a joint citizen advisory committee. The amendment  
44 provides that the resolve does not abrogate the sovereign  
immunity of the State with respect to the acquisition. The  
46 amendment provides that the City of Old Town may not regulate the  
disposal facility. However, the amendment requires the City of  
48 Old Town and the Town of Alton to establish a joint citizen  
advisory committee with the same host community responsibilities

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2 as currently provided in state law. The amendment also requires  
the State Planning Office to submit a report to the Joint  
4 Standing Committee on Natural Resources on the process of  
acquiring the disposal facility and reviewing the facility's  
6 operation.

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**FISCAL NOTE REQUIRED**  
(See attached)

# **COMMITTEE AMENDMENT**

121st Maine Legislature  
Office of Fiscal and Program Review



LD 1626

Resolve, To Authorize the State To Purchase a Landfill in the City of Old  
Town

LR 2164(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Natural Resources

Fiscal Note Required: Yes

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**Fiscal Note**

Minor cost increase - Other Special Revenue Funds

**Fiscal Detail and Notes**

The additional costs associated with negotiating the revenue neutral terms and conditions of the acquisition of the landfill as well as the report requirement can be absorbed by the State Planning Office utilizing existing budgeted resources.