

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 301

H.P. 245

House of Representatives, January 19, 2007

An Act Relating to Alternate Directors for Public Waste Disposal Corporations

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative AUSTIN of Gray.
Cosponsored by Senator TURNER of Cumberland and
Representatives: BROWNE of Vassalboro, FITTS of Pittsfield, FLOOD of Winthrop,
HAMPER of Oxford, PLUMMER of Windham, PRESCOTT of Topsham, RICHARDSON of
Warren, ROBINSON of Raymond.

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

2 **Sec. 1. 38 MRSA §1304-B, sub-§5**, as amended by PL 1995, c. 81, §1, is further
3 amended to read:

4 **5. Public waste disposal corporations.** Notwithstanding any law, charter,
5 ordinance provision or limitation to the contrary, pursuant to ~~any~~ an interlocal agreement
6 entered into in accordance with Title 30-A, chapter 115, ~~any~~ 2 or more municipalities
7 may organize or cause to be organized or may participate in one or more corporations
8 organized as nonprofit corporations under Title 13, chapter 81; or Title 13-B for the
9 purpose, among other permissible purposes, of owning or operating ~~any~~ one or more
10 waste facilities described in subsection 4, paragraph A; ~~and a.~~ A subscribing municipality
11 may agree in ~~any such~~ an interlocal agreement to pay fees, assessments or other payments
12 as described in subsection 4, paragraph B; for such a term of years and on such other
13 terms as the interlocal agreement may provide and may pledge the full faith and credit of
14 the municipality to the same extent provided in subsection 4, paragraph C. The
15 applicable interlocal agreement or the articles of incorporation or the bylaws of the
16 corporation may provide that the municipal officers of a municipality participating in the
17 corporation may appoint an alternate director or alternate directors, or may delegate to a
18 municipal official the authority for the appointment, to act as the municipality's
19 representative to the corporation's board of directors in the absence of the director or
20 directors elected by the municipal officers. A corporation described in this subsection is
21 a public municipal corporation as that term is used in Title 36, section 651, subsection 1,
22 paragraph D, and its real and personal property located in subscribing, participating and
23 associate member municipalities is exempt from municipal property taxation to the extent
24 provided by Title 36, section 651, subsection 1, paragraph D. The applicable interlocal
25 agreement or the articles of incorporation or bylaws of the corporation must provide that:

- 26 A. The corporation must be organized and continuously thereafter operated as a
27 nonprofit corporation, no part of the net earnings of which may inure to the benefit of
28 any member, director, officer or other private person;
- 29 B. The directors of the corporation must be elected by the municipal officers of the
30 municipalities participating in the corporation; and
- 31 C. Upon dissolution or liquidation of the corporation, title to all of its property vests
32 in one or more of the municipalities participating in the corporation.

33 Any interlocal agreement complying with the requirements of this subsection and
34 subsection 6 must be a properly authorized, legal, valid, binding and enforceable
35 obligation of the municipality, regardless of whether the agreement was authorized,
36 executed or delivered prior to or after the effective date of this subsection. Any
37 corporation organized in a manner that satisfies the requirements set forth in this
38 subsection and subsection 6, whether organized prior to or after the effective date of this
39 subsection, is deemed for all purposes as organized pursuant to this subsection. If so
40 provided in the applicable interlocal agreement, any such corporation has the power, in
41 addition to any other powers that may be delegated under Title 30-A, chapter 115, to
42 issue, on behalf of one or more of the municipalities participating in the corporation, in
43 order to finance the facilities, revenue obligation securities issued in accordance with

1 Title 10, chapter 110, subchapter ~~IV~~, 4 and any other bonds, notes or debt obligations that
2 municipalities are authorized to issue by applicable law. For these purposes, the term
3 "municipal officers" as used in Title 10, chapter 110, subchapter ~~IV~~, 4 means the board of
4 directors of any corporation described in this subsection. Title 10, section 1064,
5 subsection 6; may not be construed to prohibit the assignment or pledge as collateral
6 security of any contract of a municipality authorized by this section or of any or all of the
7 payments under this section, regardless of whether the provisions of subsection 4,
8 paragraph C; are applicable to the contract or payments. The provisions of Title 10,
9 sections 1063 and 1064, subsection 1, paragraph A and paragraph C, subparagraph (4) do
10 not apply to revenue obligation securities issued by any public waste disposal corporation
11 described in this subsection.

12

SUMMARY

13 This bill allows a municipality participating in a public waste disposal corporation to
14 elect one or more alternate directors to serve in the absence of the director elected by the
15 municipal officers.