

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

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Legislative Document

No. 693

H.P. 522

House of Representatives, February 23, 2011

An Act Concerning Solid Waste Facility Citizen Advisory Committees

Received by the Clerk of the House on February 18, 2011. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative DUCHESNE of Hudson.

Cosponsored by Representatives: DILL of Old Town, WALSH INNES of Yarmouth, KNAPP of Gorham, MITCHELL of the Penobscot Nation, Senator: SCHNEIDER of Penobscot.

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

2 **Sec. 1. 38 MRSA §2171**, as amended by PL 2007, c. 598, §15, is further amended
3 to read:

4 **§2171. Citizen advisory committee**

5 The municipal officers of each municipality identified by the Facility Siting Board as
6 a potential site for a waste disposal facility and each contiguous municipality that may be
7 affected by the construction or operation of that facility shall jointly establish a single
8 citizen advisory committee. The committee must be established within 60 days of
9 notification pursuant to section 2155 and must continue to exist during the development
10 and operation and through closure of the facility.

11 **1. Membership.** The committee must be comprised of citizens from each affected
12 municipality, appointed by the municipal officers, including, but not limited to: a local
13 health officer; a municipal officer; and at least 3 additional residents of the municipality,
14 including abutting property owners and residents potentially affected by pollution from
15 the facility. In addition, each committee may include members representing any of the
16 following interests: environmental and community groups; labor groups; professionals
17 with expertise relating to landfills or incinerators; experts in the areas of chemistry,
18 epidemiology, hydrogeology and biology; and legal experts.

19 **2. Meetings.** The committee shall meet as soon as practical following appointment
20 of its members and shall select a chair from among its members. The committee shall
21 establish procedures for the conduct of meetings.

22 **3. Responsibilities.** Each committee established under this section may:

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

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

28 C. Provide the project developer and department with any alternative contract
29 provisions, permit conditions, plans or procedures it considers appropriate; ~~and~~

30 D. Serve as a liaison between the community and the project developer or the
31 commissioner to facilitate communications during the development and operation of
32 the facility, and provide residents with updated information about the project,
33 including providing explanations of any technical terms-;

34 E. Appeal a license or permit decision made by the commissioner or the board and
35 intervene in proceedings relating to licensing or permitting of the facility if the
36 disposition of the proceedings could impair the ability of the committee to carry out
37 its responsibilities under this subsection; and

38 F. Report committee findings and recommendations concerning the facility to the
39 municipal officers of each affected municipality.

1 **4. Unincorporated townships and plantations.** For the purposes of this
2 subchapter, county commissioners shall act as municipal officers for unincorporated
3 townships and assessors of plantations shall act as municipal officers for plantations.

4 **5. Municipal members; intervention.** Affected municipalities that appoint
5 members to a committee established under this section may appeal a license or permit
6 decision made by the commissioner or the board and may intervene in proceedings
7 relating to licensing or permitting of the facility.

8 **Sec. 2. 38 MRSA §2176, sub-§3,** as amended by PL 2007, c. 406, §6, is further
9 amended to read:

10 **3. Monitoring.** Financial support for on-site, municipally employed personnel or for
11 other means determined necessary to enable the municipality to monitor the facility's
12 compliance with state and local requirements; ~~and~~

13 **Sec. 3. 38 MRSA §2176, sub-§4,** as enacted by PL 2007, c. 406, §7, is amended
14 to read:

15 **4. Other issues.** Other issues determined on a case-specific basis by the applicant
16 and office to be appropriate given the nature of the proposed facility-; and

17 **Sec. 4. 38 MRSA §2176, sub-§5** is enacted to read:

18 **5. Support for citizen advisory committee.** Financial and administrative support
19 for a citizen advisory committee established under section 2171.

20 **Sec. 5. Resolve 2003, c. 93, §1, sub-§5,** as amended by PL 2005, c. 341, §2, is
21 further amended to read:

22 5. Notwithstanding the Maine Revised Statutes, Title 38, section 1310-U, the
23 municipality in which the disposal facility is located may not regulate the operation or
24 any other aspect of the disposal facility as provided in Title 38, section 2173 or by means
25 of any municipal ordinances, regulations, licenses or permits, except that the municipality
26 may enact ordinances with respect to the operation of any expansion of the disposal
27 facility, including any expansion of the type of waste the facility is licensed to accept,
28 that contain standards the municipality finds reasonable, including, without limitation,
29 standards concerning conformance with federal and state solid waste rules; fire safety;
30 traffic safety; levels of noise heard outside the facility; the distance from existing
31 residential, commercial or institutional uses; groundwater protection; surface water
32 protection; erosion and sedimentation control; and compatibility of the disposal facility
33 with local zoning and land use controls, as long as the standards are not more strict than
34 those contained in Title 38, chapter 3, subchapter 1, articles 5-A and 6 and Title 38,
35 chapter 13 and the rules adopted under those chapters. The municipality is prohibited
36 from enacting stricter standards than those contained in Title 38, chapter 13 governing the
37 hydrogeological criteria for siting or designing the expansion of or the governing of the
38 engineering criteria related to waste handling and disposal areas of the expanded disposal
39 facility. Such municipal ordinances must use definitions consistent with those adopted by
40 the Department of Environmental Protection, Board of Environmental Protection. The

1 municipal officers of the City of Old Town and the Town of Alton shall establish a joint
2 citizen advisory committee consisting of 8 members, of which 5 must be from the City of
3 Old Town, 2 from the Town of Alton and one from the Penobscot Nation. In appointing
4 members to the committee, the municipal officers shall use Title 38, section 2171,
5 subsection 1 as guidance. The Penobscot Nation shall appoint one member of the
6 committee. The committee shall meet as soon as practical following appointment of its
7 members and shall select a chair from among its members. The committee shall establish
8 procedures for the conduct of meetings. The committee shall continue to exist through
9 closure of the facility. The committee may:

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

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

15 C. Provide the disposal facility operator and office with any alternative contract
16 provisions, permit conditions, plans or procedures the committee considers
17 appropriate;

18 D. Serve as a liaison between the communities and the disposal facility operator or
19 the office to facilitate communications during the development and operation of the
20 disposal facility and provide residents with updated information about the project,
21 including providing explanations of any technical terms; ~~and~~

22 E. Serve as a liaison between the Penobscot Nation and the disposal facility operator
23 or the office to facilitate communications during the development and operation of
24 the disposal facility and provide members of the Penobscot Nation with updated
25 information about the project, including providing explanations of any technical
26 terms; ~~and be it further~~

27 F. Appeal a license or permit decision made by the commissioner or the board and
28 intervene in proceedings relating to licensing of the disposal facility if the disposition
29 of the proceedings could impair the ability of the committee to carry out its
30 responsibilities under this subsection; and

31 G. Report committee findings and recommendations concerning the disposal facility
32 to the City of Old Town and the Town of Alton.

33 **Sec. 6. Resolve 2003, c. 93, §1, sub-§6** is enacted to read:

34 6. The City of Old Town and the Town of Alton may appeal a license or permit
35 decision made by the commissioner or the board and intervene in proceedings relating to
36 licensing or permitting of the disposal facility.

37 **Sec. 7. Resolve 2003, c. 93, §1, sub-§7** is enacted to read:

38 7. The office shall provide financial and administrative support for the joint citizen
39 advisory committee established pursuant to subsection 5; and be it further

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SUMMARY

2 This bill clarifies that a solid waste facility citizen advisory committee is to continue
3 through the closure of the facility. It authorizes a citizen advisory committee to appeal
4 licensing and permitting decisions and intervene in licensing and permitting proceedings
5 if the disposition of the proceedings could impair the ability of the committee to carry out
6 its responsibilities. It authorizes municipalities that appoint members to a citizen
7 advisory committee to appeal licensing and permitting decisions and intervene in
8 licensing and permitting proceedings. It directs the Executive Department, State
9 Planning Office to provide financial and administrative support for citizen advisory
10 committees. The bill also makes these provisions applicable to the citizen advisory
11 committee established in connection with the Juniper Ridge landfill in Old Town and
12 Alton.