

MAINE STATE LEGISLATURE

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Date: 3/13/12

L.D. 879

(Filing No. H-775)

Minority

ENVIRONMENT AND NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE

HOUSE OF REPRESENTATIVES

125TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 646, L.D. 879, Bill, "An Act To Ensure Adequate Landfill Capacity in the State for Solid Waste"

Amend the bill by striking out all of section 1 and inserting the following:

Sec. 1. 38 MRSA §1310-AA, sub-§1-A, ¶D, as enacted by PL 2007, c. 338, §3 and affected by §5, is amended to read:

D. For purposes of this subsection, "waste that is generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State; waste whether generated within the State or outside of the State used for daily cover, frost protection or stability in accordance with all applicable rules and licenses; and waste generated within 30 miles of the solid waste disposal facility.

Sec. 2. 38 MRSA §1310-AA, sub-§2, as amended by PL 2007, c. 338, §3 and affected by §5, is further amended to read:

2. Process. Determinations by the commissioner under this section are not subject to Title 5, chapter 375, subchapter 4. The ~~commissioner~~ applicant shall provide public notice of the filing of an application under this section ~~and in accordance with department rules. The department shall accept written public comment on during the course of processing the application for 20 days after the date of the notice.~~ In making the determination of whether the facility under subsection 1 or the acceptance of waste that is not generated within the State under subsection 1-A provides a substantial public benefit, the commissioner shall consider the state plan, written information submitted in support of the application and any other written information the commissioner considers relevant. The commissioner ~~may~~ shall hold a public meeting in the vicinity of the proposed facility under subsection 1 or the solid waste landfill under subsection 1-A to take public comments and shall consider those comments in making the determination. The commissioner shall issue a decision on the matter within 60 days of receipt of the application. The commissioner's decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section.

COMMITTEE AMENDMENT

1 1. Clarifying that waste used for daily cover, frost protection or stability must be
2 used in accordance with all applicable rules and licenses;

3 2. Requiring the applicant instead of the Commissioner of Environmental Protection
4 to provide public notice of the filing of an application for public benefit determination
5 and requiring the Department of Environmental Protection to accept written public
6 comment during the course of processing the application;

7 3. Requiring the commissioner to hold a public meeting on an application for a
8 public benefit determination. Currently, the commissioner is authorized to hold a public
9 meeting;

10 4. Defining "immediate," "short-term" and "long-term" for the purpose of
11 determining whether the capacity needs of the State are met. It requires the
12 commissioner, when evaluating whether proposed facilities meet capacity needs of the
13 State, to consider relevant local and regional needs as appropriate and the regional nature
14 of the development and use of disposal capacity due to transportation distances and other
15 factors;

16 5. Adding as a standard for determining whether the facility will provide a
17 substantial public benefit that the facility or expansion must promote the solid waste
18 management hierarchy;

19 6. Specifically authorizing the commissioner to issue a full or partial approval of an
20 application, with or without conditions;

21 7. Clarifying that the public benefit determination review of a state-owned facility is
22 a review that is independent of other contracts that may have been entered into between
23 the State and the facility operator or any other party; and

24 8. Specifying that the modification of a public benefit determination is authorized if
25 there has been a change in facility ownership or of the operator.

FISCAL NOTE REQUIRED
(See attached)



125th MAINE LEGISLATURE

LD 879

LR 1486(03)

An Act To Ensure Adequate Landfill Capacity in the State for Solid Waste

Fiscal Note for Bill as Amended by Committee Amendment "B" (H-775)

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

The bill prohibits the Department of Environmental Protection from acting on an application for a new or expanded solid waste disposal facility unless a substantial public interest determination has been made. The Department of Environmental Protection may incur a minor increase in costs due to an increase in required public meetings; these costs can be absorbed within existing budgeted resources.