## MAINE STATE LEGISLATURE

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L.D. 879
Date: 3/13/12 (Filing No. H-775)
Date: 3/15/10 Minority (Filing No. H-775)
ENVIRONMENT AND NATURAL RESOURCES
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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION
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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 eommissioner 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.

1 2	<b>Sec. 3. 38 MRSA §1310-AA, sub-§3, ¶A,</b> as enacted by PL 1995, c. 465, Pt. A, §22 and affected by Pt. C, §2, is amended to read:
3 4 5 6 7 8 9	A. Meets immediate, short-term or long-term capacity needs of the State. For purposes of this paragraph, "immediate" means within the next 3 years, "short-term" means within the next 5 years and "long-term" means within the next 10 years. When evaluating whether a proposed facility meets the capacity needs of the State, the commissioner shall consider relevant local and regional needs as appropriate and the regional nature of the development and use of disposal capacity due to transportation distances and other factors;
10 11	<b>Sec. 4. 38 MRSA §1310-AA, sub-§3,</b> $\P$ <b>B,</b> as amended by PL 2007, c. 338, §3 and affected by §5, is further amended to read:
12 13 14 15	B. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, is consistent with the state waste management and recycling plan and promotes the solid waste management hierarchy as set out in section 2101;
16 17	Sec. 5. 38 MRSA §1310-AA, sub-§5, as enacted by PL 2007, c. 414, §5, is amended to read:
18 19 20 21 22 23 24 25	5. Modifications. Public benefit determinations may be revised by the department if the department finds that a material change in the underlying facts or circumstances upon which a public benefit determination was based has occurred or is proposed, including, but not limited to, a change related to disposal capacity or a change of the owner or operator of a facility. The department may require the holder of a public benefit determination to submit an application for modification of that determination if the department finds that a change in the underlying facts or circumstances has occurred or is proposed.
26	Sec. 6. 38 MRSA §1310-AA, sub-§7 is enacted to read:
27 28	7. Decision making. When making a decision on an application for a determination of public benefit, the commissioner:
29 30	A. May issue a full or partial approval of an application, with or without conditions; and
31 32 33 34	B. For an application related to a state-owned solid waste disposal facility, shall conduct a review that is in accordance with the provisions of this section and is independent of any other contract or agreement between the State and the facility operator or any other party concerning the operation or development of the facility.'
35	SUMMARY
36 37	This amendment is the minority report of the committee. The amendment strikes the provisions in the bill that authorize the expansion of commercial landfill facilities.
38 39	The amendment makes the same changes as the majority report to the laws governing public benefit determinations by:

- 1. Clarifying that waste used for daily cover, frost protection or stability must be used in accordance with all applicable rules and licenses;
- 2. Requiring the applicant instead of the Commissioner of Environmental Protection to provide public notice of the filing of an application for public benefit determination and requiring the Department of Environmental Protection to accept written public comment during the course of processing the application;
- 3. Requiring the commissioner to hold a public meeting on an application for a public benefit determination. Currently, the commissioner is authorized to hold a public meeting;
- 4. Defining "immediate," "short-term" and "long-term" for the purpose of determining whether the capacity needs of the State are met. It requires the commissioner, when evaluating whether proposed facilities meet capacity needs of the State, to consider relevant local and regional needs as appropriate and the regional nature of the development and use of disposal capacity due to transportation distances and other factors:
- 5. Adding as a standard for determining whether the facility will provide a substantial public benefit that the facility or expansion must promote the solid waste management hierarchy;
- 6. Specifically authorizing the commissioner to issue a full or partial approval of an application, with or without conditions;
- 7. Clarifying that the public benefit determination review of a state-owned facility is a review that is independent of other contracts that may have been entered into between the State and the facility operator or any other party; and
- 8. Specifying that the modification of a public benefit determination is authorized if 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.