

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1483

S.P. 545

In Senate, April 30, 2013

An Act To Promote and Enhance State Policy To Preserve and Support Existing Methods of Disposal of Municipal Solid Waste

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CAIN of Penobscot.
Cosponsored by Representative STANLEY of Medway and
Senators: GRATWICK of Penobscot, HAMPER of Oxford, Representative: Speaker EVES of North Berwick.

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

2 **Sec. 1. 38 MRSA §2124-A**, as amended by PL 2011, c. 655, Pt. GG, §31 and
3 affected by §70, is further amended by adding after the 4th paragraph a new paragraph to
4 read:

5 Beginning on January 1, 2015 and every odd-numbered year thereafter, the report
6 submitted under this section must include an analysis of the solid waste stabilization
7 assessment funds collected pursuant to section 2204-A and disbursed pursuant to section
8 2201-B and any department recommendations regarding changes to the established levels
9 of per ton assessment and per ton disbursement.

10 **Sec. 2. 38 MRSA §2201, first ¶**, as amended by PL 2011, c. 655, Pt. GG, §64
11 and affected by §70, is further amended to read:

12 The Maine Solid Waste Management Fund, referred to in this section as the "fund," is
13 established as a nonlapsing fund to support programs administered by the bureau and the
14 Department of Environmental Protection. The fund must be segregated into 2 3
15 subsidiary accounts. The first subsidiary account, called operations, receives all fees
16 established and received under article 1. The 2nd subsidiary account, called
17 administration, receives all fees established under this article and under Title 36, chapter
18 719 and all funds recovered by the department as reimbursement for departmental
19 expenses incurred to abate imminent threats to public health, safety and welfare posed by
20 the illegal disposal of solid waste. The 3rd subsidiary account, called solid waste
21 stabilization, receives funds from the solid waste stabilization assessment under section
22 2204-A; disbursement of funds from the solid waste stabilization account must be in
23 accordance with section 2201-B.

24 **Sec. 3. 38 MRSA §2201-B** is enacted to read:

25 **§2201-B. Solid waste stabilization account**

26 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
27 following terms have the following meanings.

28 A. "Licensed landfill" means a commercial, municipal, regional or state-owned
29 landfill licensed in the State.

30 B. "Tipping fee" means any fee, rate, toll or other charge that a licensed landfill or a
31 waste processing facility certified under subsection 5 charges for disposal of solid
32 waste from customers.

33 **2. Funds.** The department shall deposit solid waste stabilization assessment funds
34 assessed and collected pursuant to section 2204-A in the Maine Solid Waste Management
35 Fund, solid waste stabilization account, referred to in this section as "the account."

36 **3. Funds disbursed.** The department shall disburse the funds from the account
37 through periodic payments to municipalities and recycling and composting programs
38 qualified under subsection 4 and located in the State in accordance with this subsection.

1 A. The department shall calculate the amount of disbursements to be made to each
2 municipality and recycling and composting program qualified under subsection 4 by
3 determining the difference in the weighted average of the tipping fees paid per ton of
4 solid waste to all licensed landfills in the State and the weighted average of the
5 tipping fees paid to all waste processing facilities certified under subsection 5 during
6 the preceding calendar year, as determined by the department pursuant to section
7 2204-A, multiplied by the number of tons of waste processed by each certified waste
8 processing facility during the same reporting period. Notwithstanding this paragraph,
9 the amount of disbursement may not be less than \$30 per ton.

10 B. At least annually, the department shall make disbursements to municipalities and
11 recycling and composting programs, or their designated agents, that qualify for
12 reimbursement under subsection 4. Any funds remaining after the annual
13 disbursement must be retained in the account and carried forward to the following
14 year. If the department determines there are sufficient excess funds carried forward
15 in the account, the department may make a downward adjustment in a future
16 assessment calculation.

17 **4. Application for disbursement.** In order to qualify for disbursement under this
18 section, a municipality or recycling or composting program, or its designated agent, must
19 apply using forms developed and provided by the department. The application must
20 include satisfactory evidence of the amount of tipping fees paid by the municipality or
21 recycling or composting program, or its designated agent, to a waste processing facility
22 certified under subsection 5 and the total number of tons of solid waste that were
23 transported to that certified waste processing facility during the applicable reporting
24 period.

25 **5. Certification of waste processing facility.** In order for a waste processing
26 facility to be certified under this section, the waste processing facility must:

27 A. Provide satisfactory evidence to the department that it does not have in
28 operational effect a long-term power purchase agreement with a large, investor-
29 owned transmission and distribution utility as defined in Title 35-A, section 3201,
30 subsection 12 obtained under the United States Public Utilities Regulatory Policies
31 Act of 1978, 16 United States Code, Section 2601 et seq. and that any funds
32 previously generated and held as a result of any such power purchase agreement have
33 been either disbursed to the appropriate municipalities and other interested parties to
34 the agreements or otherwise used or encumbered for future use by the waste
35 processing facility as a maintenance reserve or similar operational reserve; and

36 B. Provide satisfactory evidence to the department that it processes solid waste in a
37 manner that generates energy and reduces solid waste by an amount equal to at least
38 80% by volume and 65% by weight.

39 **6. Expenses.** The department may retain and use an annual amount equal to 2% of
40 the funds it collects and deposits in the account to pay for operational and administrative
41 expenses incurred in administering the account.

1 **7. Rules.** The department shall adopt rules to implement this section. Rules adopted
2 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
3 subchapter 2-A.

4 **Sec. 4. 38 MRSA §2204-A** is enacted to read:

5 **§2204-A. Solid waste stabilization assessment**

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Certified waste processing facility" means a waste processing facility in the State
9 certified under section 2201-B, subsection 5.

10 B. "Licensed landfill" means a commercial, municipal, regional or state-owned
11 landfill licensed in the State.

12 C. "Tipping fee" means any fee, rate, toll or other charge that a licensed landfill or a
13 certified waste processing facility charges for disposal of solid waste from customers.

14 **2. Assessment established.** The department shall impose on each licensed landfill a
15 solid waste stabilization assessment on all solid waste, including, but not limited to,
16 household and commercially sourced solid waste and all other material deposited at the
17 licensed landfill.

18 **3. Credit.** When determining the amount of an assessment under this section, the
19 department shall give a credit for solid waste that is deposited in a licensed landfill and
20 that is removed within 18 months from that landfill and processed at a certified waste
21 processing facility.

22 **4. Exemption.** Solid waste that originates from a source that has an agreement with
23 the State for the disposal of solid waste is exempt from the assessment required under this
24 section.

25 **5. Amount of assessment.** The amount of the assessment under this section is
26 determined in accordance with this subsection.

27 A. The department shall determine the total weighted average of the tipping fees paid
28 to each licensed landfill and the total weighted average of the tipping fees paid to
29 each certified waste processing facility.

30 B. The assessment is calculated by multiplying the difference between the total
31 weighted averages of the tipping fees determined pursuant to paragraph A by the total
32 annual capacity of all the certified waste processing facilities and dividing that result
33 by the total number of tons of solid waste deposited in all licensed landfills during
34 that same time period, except that, until 2017, the assessment may not be less than
35 \$10 per ton, and beginning in 2017, the assessment may not be less than \$14 per ton.

36 **6. Waste management account.** The assessment collected by the department
37 pursuant to this section must be deposited in the solid waste stabilization account of the
38 Maine Solid Waste Management Fund established under section 2201.

