

MAINE STATE LEGISLATURE

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L.D. 313

Date: 3/30/16

(Filing No. H-616)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 207, L.D. 313, Bill, "An Act To Create a Sustainable Solution to the Handling, Management and Disposal of Solid Waste in the State"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 38 MRSA §2101-B is enacted to read:

§2101-B. Food recovery hierarchy

1. Priorities. It is the policy of the State to support the solid waste management hierarchy in section 2101 by preventing and diverting surplus food and food scraps from land disposal or incineration in accordance with the following order of priority:

- A. Reduction of the volume of surplus food generated at the source;
- B. Donation of surplus food to food banks, soup kitchens, shelters and other entities that will use surplus food to feed hungry people;
- C. Diversion of food scraps for use as animal feed;
- D. Utilization of waste oils for rendering and fuel conversion, utilization of food scraps for digestion to recover energy, other waste utilization technologies and creation of nutrient-rich soil amendments through the composting of food scraps; and
- E. Land disposal or incineration of food scraps.

2. Guiding principle. It is the policy of the State to use the order of priority in this section, in conjunction with the order of priority in section 2101, as a guiding principle in making decisions related to solid waste and organic materials management.

Sec. 2. 38 MRSA §2132, sub-§1, as amended by PL 2011, c. 655, Pt. GG, §32 and affected by §70, is further amended to read:

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1 **1. State recycling goal.** It is the goal of the State to recycle or compost, by January
2 1, ~~2014~~ 2021, 50% of the municipal solid waste tonnage generated each year within the
3 State.

4 **Sec. 3. 38 MRSA §2132, sub-§1-A**, as amended by PL 2011, c. 655, Pt. GG, §32
5 and affected by §70, is repealed.

6 **Sec. 4. 38 MRSA §2132, sub-§1-B** is enacted to read:

7 **1-B. State waste disposal reduction goal.** It is the goal of the State to reduce the
8 statewide per capita disposal rate of municipal solid waste tonnage to 0.55 tons disposed
9 per capita by January 1, 2019 and to further reduce the statewide per capita disposal rate
10 by an additional 5% every 5 years thereafter. The baseline for calculating this reduction
11 is the 2014 solid waste generation and disposal capacity data gathered by the department.

12 **Sec. 5. 38 MRSA §2132, sub-§2**, as amended by PL 2011, c. 655, Pt. GG, §32
13 and affected by §70, is further amended to read:

14 **2. Goal revision.** The department shall recommend revisions, if appropriate, to the
15 state recycling goal and waste disposal reduction goal established in this section. The
16 department shall submit its recommendations and any implementing legislation to the
17 joint standing committee of the Legislature having jurisdiction over natural resource
18 matters.

19 **Sec. 6. 38 MRSA §2201, 3rd ¶**, as amended by PL 2011, c. 655, Pt. GG, §64 and
20 affected by §70, is further amended to read:

21 Funds related to administration may be expended only in accordance with allocations
22 approved by the Legislature for administrative expenses directly related to the bureau's
23 and the department's programs, including actions by the department necessary to abate
24 threats to public health, safety and welfare posed by the disposal of solid waste. Funds
25 related to fees imposed on the disposal of construction and demolition debris and residue
26 from the processing of construction and demolition debris may be expended only for the
27 state cost share to municipalities under the closure and remediation cost-sharing program
28 for solid waste landfills established in section 1310-F. Funds related to fees imposed
29 under this article may be expended to provide grant funding in accordance with the Maine
30 Solid Waste Diversion Grant Program established in section 2201-B. The department
31 shall, on an annual basis, conduct a review of the revenues presently in the fund and the
32 revenues projected to be added to or disbursed from the fund in upcoming calendar years
33 and determine what amount of revenues, if any, are available to provide grant funding
34 under section 2201-B. If the department determines that there are revenues in the fund
35 available in the upcoming calendar year to provide grant funding under section 2201-B,
36 the department must ensure that such revenues are designated for use in accordance with
37 section 2201-B by the end of that calendar year. Funds related to operations may be
38 expended only in accordance with allocations approved by the Legislature and solely for
39 the development and operation of publicly owned facilities owned or approved by the
40 bureau and for the repayment of any obligations of the bureau incurred under article 3.
41 These allocations must be based on estimates of the actual costs necessary for the bureau
42 and the department to administer their programs, to provide financial assistance to
43 regional associations and to provide other financial assistance necessary to accomplish
44 the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and

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1 thereafter, the fund must annually transfer to the General Fund an amount necessary to
2 reimburse the costs of the Bureau of Revenue Services incurred in the administration of
3 Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other"
4 and "Capital Expenditures" associated with all bureau activities other than those included
5 in the operations account.

6 **Sec. 7. 38 MRS §2201-B** is enacted to read:

7 **§2201-B. Maine Solid Waste Diversion Grant Program**

8 **1. Establishment.** The Maine Solid Waste Diversion Grant Program, referred to in
9 this section as "the program," is established to provide grants to public and private entities
10 to assist in the development, implementation or improvement of programs, projects,
11 initiatives or activities designed to increase the diversion of solid waste from disposal in
12 the State.

13 **2. Administration.** The department shall administer the program and may dispense
14 revenue from the Maine Solid Waste Management Fund established under section 2201
15 for the purposes of the program based on approved grant requests from public and private
16 applicants. The department may provide grants for the documented costs of application
17 proposals in accordance with the priorities in subsection 5. Costs incurred by the
18 department in the development and administration of the program may be paid with
19 revenue in the Maine Solid Waste Management Fund in a manner consistent with section
20 2201.

21 **3. Audit.** Revenue from the Maine Solid Waste Management Fund established
22 under section 2201 disbursed by the program is subject to audit as determined by the
23 department, and the recipient of any such funding must agree to be subject to audit and to
24 cooperate with the auditor as a condition of receiving funding.

25 **4. Eligibility criteria.** The department may disburse grants under the program to
26 any public or private entity demonstrating that a proposed program, project, initiative or
27 activity is, in the department's determination, likely to increase the diversion of solid
28 waste from disposal within a particular community, municipality or region or the State,
29 including, but not limited to, municipal or regional composting, organics recovery or
30 recycling programs, including the establishment of such programs or the purchase of
31 infrastructure, equipment or other items necessary to implement such programs or
32 improve existing programs; programs designed to provide equipment for or otherwise
33 support residential composting and recycling; programs or business models designed to
34 collect, transport for processing or process organic or recyclable materials; pilot programs
35 designed to evaluate the feasibility of targeted composting, organics recovery, recycling
36 or other waste management programs or initiatives; and initiatives or programs designed
37 to educate certain categories of individuals or the general public about composting,
38 organics recovery or recycling or to otherwise improve individual or community waste
39 management practices.

40 **5. Priorities.** The department shall give highest priority in the awarding of funds
41 under this section to programs, projects, initiatives or activities proposed by municipal or
42 regional association applicants that otherwise meet the department's eligibility criteria.
43 The department shall also give priority to applicants proposing programs, projects,
44 initiatives or activities that are likely to increase the removal and recycling of organic

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1 materials from municipal waste streams. The awarding of funds under this section must
2 be consistent with the solid waste management hierarchy established under section 2101
3 and the food recovery hierarchy established under section 2101-B and must be prioritized
4 to provide the most benefit to the State in terms of increasing the diversion of solid waste
5 from disposal.

6 **6. Conditions of approval.** The department may require, as a condition of grant
7 approval, that an applicant demonstrate its ability to provide in-kind contributions relating
8 to the grant applied for or to provide a certain level of matching funding to supplement
9 the grant applied for.

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

13 **Sec. 8. 38 MRSA §2203-A, sub-§1,** as amended by PL 2011, c. 544, §3, is
14 further amended to read:

15 **1. Fees.** Fees Unless otherwise provided by rule adopted in accordance with
16 subsection 3, fees are imposed in the following amounts to be levied for solid waste that
17 is disposed of at commercial, municipal, state-owned and regional association landfills.

18	Asbestos	\$5 per cubic yard
19		
20	Oil-contaminated soil, gravel, brick,	\$25 per ton
21	concrete and other aggregate	
22		
23	Waste water facility sludge	\$5 per ton
24		
25	Ash, coal and oil	\$5 per ton
26		
27	Paper mill sludge	\$5 per ton
28		
29	Industrial waste	\$5 per ton
30		
31	Sandblast grit	\$5 per ton
32		
33	All other special waste	\$5 per ton
34		
35	Municipal solid waste ash	\$1 per ton
36		
37	Front end process residue (FEPR)	\$1 per ton
38		
39	Beginning January 1, 2013 and ending	\$1 per ton
40	December 31, 2013, construction and	
41	demolition debris and residue from the	
42	processing of construction and demolition	
43	debris	

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~~Beginning January 1, 2014, construction~~ \$2 per ton
Construction and demolition debris and
residue from the processing of
construction and demolition debris

Sec. 9. 38 MRSA §2203-A, sub-§3 is enacted to read:

3. Rules. The department may adopt rules imposing per ton or per cubic yard fees on any of the types of waste listed in subsection 1 disposed of at a commercial, municipal, regional association or state-owned solid waste landfill. Fees imposed pursuant to this subsection must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 10. 38 MRSA §2204, first ¶, as amended by PL 1999, c. 385, §8, is further amended to read:

~~The~~ Unless otherwise provided by rule adopted in accordance with subsection 4, the department shall impose a fee of \$2 per ton on any municipal solid waste disposed of at a commercial, municipal or regional association or state-owned landfill, except that there is no fee on municipal solid waste generated by a municipality that owns the landfill accepting it or that has entered into a contract with a term longer than 9 months for disposal of municipal solid waste in that landfill facility.

Sec. 11. 38 MRSA §2204, sub-§4 is enacted to read:

4. Rules. The department may adopt rules imposing per ton fees on any municipal solid waste disposed of or received for processing at a commercial, municipal, regional association or state-owned solid waste disposal facility, solid waste processing facility, incineration facility or solid waste landfill. Fees imposed pursuant to this subsection must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 12. Department of Environmental Protection; food scraps composting pilot program. The Department of Environmental Protection, referred to in this section as "the department," shall develop, implement and administer a food scraps composting pilot program as described in this section.

- 1. The department shall invite municipalities to voluntarily participate in the pilot program and shall select as participants at least one municipality from each of the 3 following groups of counties:
 - A. Androscoggin, Cumberland, Lincoln, Sagadahoc and York;
 - B. Franklin, Kennebec, Knox, Oxford and Waldo; and
 - C. Aroostook, Hancock, Penobscot, Piscataquis, Somerset and Washington.

1 2. The department shall invite educational programs to voluntarily participate in the
2 pilot program and shall select as participants at least one educational program from each
3 of the 3 following categories:

4 A. A public or private educational program providing kindergarten to grade 12
5 education with an enrollment of 500 students or less, as measured during the 2014-
6 2015 school year;

7 B. A public or private educational program providing kindergarten to grade 12
8 education with an enrollment of more than 500 students, as measured during the
9 2014-2015 school year; and

10 C. A public or private postsecondary educational program providing undergraduate
11 and graduate education.

12 3. The department shall invite and shall select as additional voluntary participants in
13 the pilot program at least one entity from each of the 3 following categories:

14 A. A correctional facility;

15 B. A hospital; and

16 C. A commercial restaurant that generates, on average, 1/2 ton or more of food
17 scraps per week.

18 4. The Department of Administrative and Financial Services, Bureau of General
19 Services shall, in consultation with the Legislative Council, participate in the pilot
20 program with respect to the State House and Burton M. Cross State Office Building
21 facilities.

22 5. The department shall provide technical assistance, and may provide financial
23 assistance consistent with the Maine Solid Waste Diversion Grant Program established
24 under the Maine Revised Statutes, Title 38, section 2201-B to each participating entity to
25 develop and implement a food scraps composting program or to improve or expand a
26 participating entity's existing food scraps composting program. A food scraps composting
27 program implemented under this section may involve the establishment of a traditional
28 aerobic composting system or an anaerobic digestion system or implementation of other
29 food scraps processing or organics recovery technology approved by the department, or
30 may, subject to the approval of the department, involve coordination by a participating
31 entity with a food scraps composting program or business for the collection and delivery
32 of the participating entity's food scraps to the program or business for processing or
33 recovery. Each participating entity shall collect data on the amount of food scraps
34 diverted from the waste stream by the program, the related cost savings realized by the
35 participating entity and any problems encountered in implementing the program. Each
36 participating entity shall compile this information into a report and transmit the report to
37 the department on or before a date determined by the department.

38 6. The department shall analyze the reports submitted by the participating entities
39 pursuant to subsection 5 and, by January 15, 2019, shall submit a report to the joint
40 standing committee of the Legislature having jurisdiction over environmental and natural
41 resources matters detailing the data collected by each participating entity and any
42 additional findings and including any recommendations for legislation to implement
43 permanent food scraps composting programs or requirements at the state, regional,

COMMITTEE AMENDMENT

1 municipal or local level or to otherwise increase the diversion rate for organic materials in
2 the State. After receiving the report, the joint standing committee may report out a bill
3 relating to the report to the First Regular Session of the 129th Legislature.

4 **Sec. 13. Appropriations and allocations.** The following appropriations and
5 allocations are made.

6 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

7 **Public Improvements - Planning/Construction - Administration 0057**

8 Initiative: Provides funds to establish a food waste composting pilot program.

9	GENERAL FUND	2015-16	2016-17
10	All Other	\$0	\$40,000
11			
12	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$40,000</u>
13			

14 **SUMMARY**

15 This amendment strikes and replaces the bill, which is a concept draft, and amends
16 the State's solid waste management laws as follows.

17 1. It establishes a food recovery hierarchy to be used in conjunction with the State's
18 solid waste management hierarchy as a guiding principle in making decisions related to
19 solid waste and organic materials management.

20 2. It updates the State's recycling goal. Current statute sets a goal of recycling or
21 composting 50% of the municipal solid waste tonnage generated each year within the
22 State by January 1, 2014. This amendment extends that goal deadline to January 1, 2021.

23 3. It repeals the state waste reduction goal, which focused on the reduction of
24 municipal solid waste generated in the State, and establishes a state waste disposal
25 reduction goal focused instead on the statewide per capita reduction of waste disposed of
26 in the State.

27 4. It provides that revenues collected through the assessment of statutory solid waste
28 fees may be expended by the Department of Environmental Protection to provide grant
29 funding in accordance with the Maine Solid Waste Diversion Grant Program, which is
30 established by this amendment. The department is directed to annually review current
31 revenues in the Maine Solid Waste Management Fund established in the Maine Revised
32 Statutes, Title 38, section 2201, as well as revenue projections for upcoming years, to
33 determine whether additional revenues are available in the upcoming year to provide
34 grant funding under the grant program and, if funds are available, to designate them for
35 use in accordance with the program.

36 5. It establishes the Maine Solid Waste Diversion Grant Program to provide grants to
37 public and private entities to assist in the development, implementation or improvement
38 of programs, projects, initiatives and activities designed to increase the diversion of solid
39 waste from disposal in the State. Under the program, priority in the awarding of grants is
40 given to municipal and regional association applicants and to applicants seeking to

1 establish programs, projects, initiatives or activities likely to increase the removal and
2 recycling of organic materials from municipal waste streams.

3 6. It provides authority for, but does not require, the Department of Environmental
4 Protection to adopt rules imposing fees on the disposal or processing of municipal solid
5 waste and on the disposal of certain types of wastes. Rules adopted pursuant to this
6 authority are major substantive rules and must be consistent with the State's solid waste
7 management hierarchy and food recovery hierarchy. Current waste disposal fees under
8 Title 38, sections 2203-A and 2204 remain unchanged and will continue to be assessed
9 until the department finally adopts rules imposing different waste disposal fees. The
10 amendment also makes some technical edits to section 2203-A to remove outdated
11 statutory language.

12 7. It directs the Department of Environmental Protection to develop, implement and
13 administer a food scraps composting pilot program and provides funds to the Department
14 of Administrative and Financial Services to establish such a pilot program. The
15 Department of Environmental Protection is required to collect data from participating
16 entities and by January 15, 2019 submit a report to the joint standing committee of the
17 Legislature having jurisdiction over environmental and natural resources matters detailing
18 the data collected by each participating entity and any additional findings and including
19 any recommendations for legislation to implement permanent food scraps composting
20 programs or requirements at the state, regional, municipal or local level or to otherwise
21 increase the diversion rate for organic materials in the State. After receiving the report,
22 the committee may report out a bill relating to the report to the First Regular Session of
23 the 129th Legislature.

24 **FISCAL NOTE REQUIRED**

25 **(See attached)**



127th MAINE LEGISLATURE

LD 313

LR 36(02)

An Act To Create a Sustainable Solution to the Handling, Management and Disposal of Solid Waste in the State

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-616)

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue increase - Other Special Revenue Funds

Minor cost increase - Other Special Revenue Funds

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$0	\$40,000	\$40,000	\$40,000
Appropriations/Allocations				
General Fund	\$0	\$40,000	\$40,000	\$40,000

Fiscal Detail and Notes

The bill establishes the Maine Solid Waste Diversion Grant Program for the purpose of providing grants to entities increasing the diversion of solid waste from disposal in the State. DEP is required to provide funding from the Maine Solid Waste Management Fund for these grants if it determines there are sufficient balances within the fund to make disbursements. There is no estimate on the amount of grants that will be disbursed to eligible entities. The bill also allows DEP to conduct rulemaking to change fees related to certain solid waste disposal, resulting in an estimated potential increase in Other Special Revenue Funds revenue to the Maine Solid Waste Management Fund. This bill also requires DEP to establish a food scraps composting pilot program with costs expected to be absorbed within existing budgeted resources.

This bill includes a General Fund appropriation of \$40,000 in fiscal year 2016-17 for the Department of Administrative and Financial Services to establish a food waste composting pilot program. Any additional costs to the Legislature to participate in the pilot program are expected to be minor and can be absorbed within existing budgeted resources.