

# MAINE STATE LEGISLATURE

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L.D. 1639

Date: 4/11/22

(Filing No. S-495)

**REPORT B**  
**ENVIRONMENT AND NATURAL RESOURCES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE**  
**SENATE**  
**130TH LEGISLATURE**  
**SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 523, L.D. 1639, "An Act To Protect the Health and Welfare of Maine Communities and Reduce Harmful Solid Waste"

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

**Sec. 1. 38 MRSA §1303-C, sub-§40-A**, as enacted by PL 2019, c. 619, §3, is amended by enacting at the end a new first blocked paragraph to read:

Notwithstanding paragraphs B, C and E, beginning January 1, 2025, if the total weight of the waste material generated in a calendar year by an incineration facility, recycling facility or solid waste processing facility that is disposed of in a solid waste landfill in that calendar year exceeds the total weight of the waste material initially generated within the State that was incinerated or processed by that facility in that calendar year, any such excess waste material generated by that facility is not considered waste generated within the State. For the purposes of this exception, "disposed of in a solid waste landfill" does not include the placement in or use at a landfill of material for daily cover, frost protection or other operational or engineering-related purpose, including, but not limited to, landfill shaping or grading, as long as such use has been approved by the department under the landfill's license and the use complies with all applicable department rules and conditions of the landfill's license.

**Sec. 2. 38 MRSA §1310-N, sub-§5-A, ¶B**, as amended by PL 2019, c. 619, §4, is further amended by amending subparagraph (2) to read:

(2) A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the maximum extent practicable, but in no case at a rate less than 50%. For purposes of this subsection, "recycle" includes, but is not limited to, the reuse of waste generated within the State as defined in section 1303-C, subsection 40-A, paragraph C; the recovery of metals from waste; the use of waste or waste-derived product as material substitutes in construction; and the use of waste as boiler fuel substitutes.

**COMMITTEE AMENDMENT**

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At least 50% of the waste that a solid waste processing facility characterizes as recycled under this subparagraph must have been reused or recycled by the facility through methods other than placement of the waste in a solid waste landfill, except that a solid waste processing facility that was in operation during calendar year 2018, that accepts exclusively construction and demolition debris and that accepted more than 200,000 tons of such debris in calendar year 2018 shall:

- (a) Reuse or recycle at least 15% of such debris through methods other than placement in a solid waste landfill by January 1, 2022; ~~and~~
- (b) Reuse or recycle at least 20% of such debris through methods other than placement in a solid waste landfill by January 1, 2023; ~~and~~
- (c) Reuse or recycle at least 25% of such debris through methods other than placement in a solid waste landfill by January 1, 2024.

A solid waste processing facility that was in operation during calendar year 2018, that accepts exclusively construction and demolition debris and that accepted more than 200,000 tons of such debris in calendar year 2018 may request and the department may grant a waiver of the applicable provisions of this subparagraph for a specified period of time if the facility is able to demonstrate that compliance with the applicable provisions of this subparagraph would result in an unreasonable adverse impact on the facility. The demonstration may include results of a 3rd-party audit of the facility. In determining whether to grant such a waiver request, the department may consider trends in local, regional, national and international markets; the availability and cost of technologies and services; transportation and handling logistics; and overall costs that may be associated with various waste handling methods.

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

C. Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal; ~~and~~

**Sec. 4. 38 MRSA §1310-AA, sub-§3, ¶D**, as amended by PL 2007, c. 655, §10, is further amended to read:

D. For a determination of public benefit under subsection 1-A only, facilitates the operation of a solid waste disposal facility and the operation of that solid waste disposal facility would be precluded or significantly impaired if the waste is not accepted; ~~and~~

**Sec. 5. 38 MRSA §1310-AA, sub-§3, ¶E** is enacted to read:

E. For a proposed facility or the expansion of a facility, is not inconsistent with ensuring environmental justice for the community in which the facility or expansion is proposed.

As used in this paragraph, "environmental justice" means the right to be protected from environmental pollution and to live in and enjoy a clean and healthful environment regardless of ancestry, class, disability, ethnicity, income, national origin or religion. "Environmental justice" includes the equal protection and meaningful involvement of all people with respect to the development, implementation and enforcement of waste management laws, rules, regulations and licensing decisions.

# COMMITTEE AMENDMENT



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1 or recycle at least 25% of such debris through methods other than placement in a solid  
2 waste landfill by January 1, 2024.

3 3. Like the bill, it adds environmental justice to the public benefit determination  
4 standards for solid waste disposal facilities but it additionally provides a definition for  
5 "environmental justice."

6 The amendment also directs the Department of Administrative and Financial Services,  
7 Bureau of General Services to evaluate options for the renegotiation of the operating  
8 services agreement of February 5, 2004, as amended, governing the operation of the state-  
9 owned solid waste landfill in Old Town for the purpose of ensuring that existing capacity  
10 at that landfill is prioritized for management of waste initially generated within the State  
11 within the meaning of the Maine Revised Statutes, Title 38, section 1303-C, subsection  
12 40-A, paragraph A. The Department of Administrative and Financial Services, Bureau of  
13 General Services is directed to report by January 15, 2023 to the joint standing committee  
14 of the Legislature having jurisdiction over environment and natural resources matters the  
15 results of that evaluation and to provide any recommendations for legislative action  
16 necessary to ensure that existing capacity at the state-owned solid waste landfill in Old  
17 Town is prioritized for management of waste initially generated within the State. After  
18 receiving the report, the joint standing committee may report out legislation to implement  
19 any such recommendations.

20 The amendment also directs the Department of Environmental Protection to convene a  
21 stakeholder group to evaluate options and develop findings and recommendations for  
22 requiring the recycling or beneficial use of construction and demolition debris initially  
23 generated in the State prior to the disposal of the debris in a landfill or to otherwise increase  
24 the amount of the debris that is recycled or beneficially used prior to disposal in a landfill.  
25 The department is directed to submit by February 1, 2023 to the joint standing committee  
26 of the Legislature having jurisdiction over environment and natural resources matters a  
27 report outlining the findings and recommendations of the stakeholder group. After  
28 receiving the report, the joint standing committee may report out legislation to implement  
29 any such recommendations.

30 **FISCAL NOTE REQUIRED**

31 (See attached)

**COMMITTEE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 1639

LR 1260(03)

## An Act To Protect the Health and Welfare of Maine Communities and Reduce Harmful Solid Waste

Fiscal Note for Bill as Amended by Committee Amendment "B"(S-495)

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$0	\$0	(\$63,000)
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$0	\$0	(\$63,000)

#### Fiscal Detail and Notes

Currently, construction and demolition debris originating out-of-state is subject to a \$2 per ton fee and the proceeds are used to reimburse municipalities for the costs of landfill closure and remediation. This bill increases the percentage of construction and demolition debris that must be reused or recycled, reducing the amount of material subject to the fee beginning in January of 2025. The Department of Environmental Protection estimates that this will reduce Other Special Revenue Funds revenue by \$63,000 in fiscal year 2024-25 and by \$126,000 annually thereafter and the department will require corresponding deallocations in those years for the reduction in funding used to reimburse municipalities.

Additional costs to the Bureau of General Services in the Department of Administrative and Financial Services can be absorbed within existing budgeted resources.