

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
THIRD SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 822

S.P. 988 - L.D. 2443

AN ACT to Impose a Moratorium on the
Licensing of Commercial Landfills for
the Disposal of Solid Waste.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the surface and ground waters of the State are precious natural resources upon which the people of this State vitally depend for their drinking water, and which support recreational and other valuable land uses on which the economy and welfare of many communities of the State depend; and

Whereas, plans for increasing development of commercial solid waste landfills within this State place these vital natural resources at risk; and

Whereas, currently available regulatory programs and law enforcement resources are inadequate to protect against the risk that commercial landfills will become sites for unlicensed hazardous waste disposal, or will allow pollutants to escape into the State's air, land and waters; and

Whereas, current environmental and land use regulations are also inadequate to insure that commercial landfill projects internalize the full social and economic costs of such projects to the host and nearby communities, and do not adequately provide for the costs of accident or landfill failure; and

Whereas, a moratorium on new commercial solid waste landfill projects is necessary in order to allow the Legislature time to fully examine the institutional, economic and environmental issues involved and to develop a comprehensive solid waste management policy, including a coherent scheme for the licensing and regulatory supervision of commercial solid waste landfills, and in order to allow municipalities to plan for new commercial landfills in a manner consistent with existing land uses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preser-

vation of the public peace, health and safety; now, therefore,

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

Sec. 1. 30 MRSA §4962-B is enacted to read:

§4962-B. State policy relating to municipal commercial landfill facilities moratoria

It is the policy of this State, with respect to commercial landfill facilities:

1. State and municipal control. To affirm the importance of state and municipal control over the establishment of new commercial landfill facilities and over the substantial expansion of existing commercial landfill facilities; and

2. Recognition of home rule authority. To recognize that any municipality may, in the exercise of its home rule authority under section 1917 and the Constitution of Maine, Article VIII, Section 1, enact a moratorium on the issuance or processing of any municipal permit for a new commercial landfill facility or the substantial expansion of a commercial landfill facility, as defined by Title 38, section 1303, subsection 11-B.

Sec. 2. 38 MRSA §1303, sub-§1-C is enacted to read:

1-C. Commercial landfill facility. "Commercial landfill facility" means a privately-owned waste facility which accepts solid waste for a fee or other consideration, which is used for the burial of solid waste and which is used for the disposal of waste other than waste generated by its owners. "Commercial landfill facility" does not include a waste facility owned, controlled, operated or used exclusively by:

A. A public waste disposal corporation under section 1304-B, subsection 5;

B. A municipality under section 1305; or

C. A refuse disposal district under chapter 17.

Sec. 3. 38 MRSA §1303, sub-§11-B is enacted to read:

11-B. Substantial expansion of a commercial landfill facility. "Substantial expansion of a commercial landfill facility" means an expansion of an existing licensed commercial waste facility by more than 50%, as measured by either volume of waste or land area affected, whichever is more of its currently licensed operation. "Substantial expansion" does not include an expansion which is necessary, as determined by the board, to:

A. Dispose of municipal solid waste; or

B. Accomodate any commercial, industrial or residential development that requires site location of development approval.

Sec. 4. 38 MRSA §1304, sub-§8, ¶A, as enacted by PL 1979, c. 699, §12, is amended to read:

A. The board shall issue a license for a waste facility whenever it finds it will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance. Licenses shall be issued under the terms and conditions as the board may prescribe, and for a term not to exceed 5 years. The board may establish reasonable time schedules for compliance with this subchapter and regulations promulgated by the board. Prior to 91 days after the First Regular Session of the 113th Legislature adjourns, the department shall not process or act upon any application for, and the board shall not issue, a license for a new commercial landfill facility or the substantial expansion of a commercial landfill facility. In processing applications after the moratorium, priority shall be given to applications for commercial landfill facilities used for the disposal of solid waste which is generated by an energy recovery facility designed to reduce the volume or alter the physical characteristics of municipal solid waste and to produce electricity through incineration.

Sec. 5. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to any pending application for a license for a commercial landfill facility under the Maine Revised Statutes, Title 38, section 1304, subsection 8, or under municipal ordinance, or to any pending application for the substantial expansion of a licensed commercial landfill facility. This Act does not apply to any pending or future application to renew a license previously issued under the Maine Revised Statutes, Title 38, section 1304, subsection 8, or for

permission to proceed with the construction or operation of a previously licensed waste facility or previously licensed substantial expansion of an existing waste facility.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective October 23, 1986.

CHAPTER 823

H.P. 1771 - L.D. 2449

AN ACT to Clarify the Effect of an Appropriation to the Maine State Retirement System.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in the Second Regular Session of the 112th Maine Legislature, Public Law 1985, chapter 798, was enacted to provide retirement credit for certain state employees; and

Whereas, an appropriation necessary to provide these credits was inadvertently included with recodification legislation; and

Whereas, those funds are immediately necessary in order to provide those credits to employees who were previously receiving those credits; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. PL 1985, c. 801, §6 is repealed.