

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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1989

3. Relationship to boundary established. Is within 100 feet of any property boundary and that the application includes a depiction of the distance between any crop-producing area under consideration and any property boundary within 100 feet that is sufficient to determine the impact of Title 7, section 56, subsection 1, on abutting land.

A review under this section must be completed by May 1st of the calendar year in which the application is made.

Sec. 3. Transition clause. Any person seeking to register land as farmland after the effective date of this Act must apply pursuant to the provisions of the Maine Revised Statutes, Title 7, chapter 2-B. The registration of all farmland registered in accordance with Title 7, chapter 2-A, shall lapse June 15, 1990, unless the owner applies for registration under Title 7, chapter 2-B, between June 1 and June 15, 1990. An application for registration in accordance with chapter 2-B shall cause a registration under chapter 2-A to remain effective until registration pursuant to chapter 2-B is approved or denied. Registration under chapter 2-A shall remain effective until final action on any proceedings initiated under chapter 2-B, section 54, subsection 1 or 3.

Sec. 4. Repeal. The Maine Revised Statutes, Title 7, chapter 2-A, is repealed June 15, 1990.

See title page for effective date.

CHAPTER 479

H.P. 595 - L.D. 813

An Act to Improve Public Access to and Participation in Decisions Made by Quasi-municipal Corporations

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

30-A MRSA §2357 is enacted to read:

§2357. Public access to quasi-municipal decisions

1. Public notice and hearing required. All quasi-municipal corporations or districts must provide reasonable public notice and hearing, as provided by Title 5, chapter 375, before adopting any regulation or expanding or creating any program.

2. Regulation or program void. Except in the case of emergency regulations of limited duration, bond issues, rate proceedings or actions relating to indebtedness, any regulation adopted or program created or expanded by a quasi-municipal corporation or district after December 30, 1989, is void unless the quasi-municipal corporation or district provided reasonable public notice and hearing as required by subsection 1 before adopting the regulation or creating or expanding the program.

See title page for effective date.

CHAPTER 480

S.P. 469 - L.D. 1266

An Act to Amend Certain Provisions of the Maine Low-level Radioactive Waste Authority Act

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

Whereas, the Maine Low-level Radioactive Waste Authority desires to amend certain portions of the Maine Low-level Radioactive Waste Authority Act; and

Whereas, in order to comply with federal regulations governing the disposal and storage of low-level radioactive waste, the authority has deemed it advisable to amend the Act to provide for the interim storage of low-level radioactive waste while it continues to proceed with the planning and siting of a disposal facility; 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. 38 MRSA §1502, as enacted by PL 1987, c. 530, §4, is amended to read:

§1502. Legislative findings and purpose

The United States Low-level Radioactive Waste Policy Act of 1980, Public Law 96-573, requires that states assume responsibility for providing the capacity for the disposal of low-level radioactive waste generated within their borders. The State has expressed its intent to develop, if necessary, a site for the location of a low-level radioactive waste disposal or storage facility within the State. The State is continuing to try to negotiate a compact or agreement for low-level radioactive waste disposal out of the State. The United States Low-level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240, establishes January 1, 1988, as the milestone date for states which are not members of a compact to develop a siting plan for a low-level radioactive waste disposal facility. To accomplish that task, it is necessary for the State to provide for planning, siting, construction, operation and maintenance, site closure and long-term, post-closure control of a low-level radioactive waste disposal facility or facilities. In order to protect public health, safety and the environment, federal regulations require the effective isolation of low-level radioactive waste for 500 years following disposal site closure, observation and maintenance of the closed site and long-term institutional control of the site leading to termination of the operating license.

If an application for a license to operate a disposal facility has not been filed by January 1, 1990, federal law

requires that the Governor provide written certification that the State is capable of providing for, and will provide for, the storage, disposal or management of low-level radioactive waste generated within the State. Thus, it is necessary for the State to either provide for planning, siting, construction, operation and maintenance, and site closure of a low-level radioactive waste storage facility or facilities or other management strategies for low-level radioactive waste, while the State continues to proceed with the planning, siting and construction of a low-level radioactive waste disposal facility.

The purpose of this chapter is to establish the Maine Low-level Radioactive Waste Authority with the responsibility, if necessary, to coordinate and oversee the planning, siting, construction, operation, maintenance, closure, post-closure observation and maintenance and long-term institutional control of a facility or facilities with sufficient capacity to dispose of ~~only~~ or to store the low-level radioactive waste generated within this State and for which this State is responsible and to provide for termination of the license for the facility or facilities.

Sec. 2. 38 MRSA §1503, sub-§§6-A and 7-A are enacted to read:

6-A. Low-level radioactive waste storage facility. “Low-level radioactive waste storage facility” or “storage facility” means a parcel of land, together with the structures, equipment and improvements on or attached to the land, for the storage of all low-level radioactive waste generated within the State and for which the State is responsible, except for on-site low-level radioactive waste storage.

7-A. On-site low-level radioactive waste storage. “On-site low-level radioactive waste storage” or “on-site storage” means temporary storage located on the parcel of land on which the waste is generated.

Sec. 3. 38 MRSA §1516, sub-§1, as enacted by PL 1987, c. 530, §4, is amended to read:

1. Justification report; evaluation and analysis. For purposes of the Maine Sunset Act, Title 3, chapter 23, the authority shall be considered an independent agency, with its first justification report in accordance with Title 3, section 504, due no later than October 31, 1996, and the evaluation and analysis in accordance with Title 3, section 505, by the joint standing committee of the Legislature having jurisdiction over audit and program review due no later than December 31, 1997, but notwithstanding Title 3, sections 506 and 507, the authority shall not terminate; ~~except as provided in this chapter.~~

Sec. 4. 38 MRSA §1516, sub-§§2 and 3, as enacted by PL 1987, c. 530, §4, are repealed.

Sec. 5. 38 MRSA §1521, sub-§4, as enacted by PL 1987, c. 530, §4, is amended to read:

4. Rules. Promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, all rules necessary to carry out its responsibilities under this chapter,

including procedural rules, rules for operation of a disposal or storage facility and other rules;

Sec. 6. 38 MRSA §1521, sub-§§5-A and 5-B are enacted to read:

5-A. On-site storage. If the authority determines that permanent disposal arrangements will not be ready by 1996, then the authority shall require generators that do not have adequate on-site storage capacity to:

A. Apply to the appropriate licensing authority for timely licensure for on-site storage of low-level radioactive waste from 1996 to 2001;

B. Upon approval under paragraph A, construct a facility for on-site storage of low-level radioactive waste, with sufficient capacity to store on-site waste generated from 1996 to 2001, together with any waste accumulated on the site as of 1996, that meets the licensing requirements for storage facilities of the Nuclear Regulatory Commission; and

C. Store low-level radioactive waste in an on-site storage facility in accordance with the terms of any license, if the appropriate licensing authority approves licensure.

The authority shall adopt rules, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, consistent with federal law to implement this subsection.

5-B. Storage facility. If disposal capacity cannot be provided by 1996, then the authority may commence, on January 1, 1993, the planning, siting and construction of a low-level radioactive waste storage facility or facilities with sufficient capacity to store all low-level radioactive waste generated within this State and for which the State is responsible, and commence the operation of any storage facility or facilities on January 1, 1996, provided that, on January 1, 1996, on-site storage is not available for storing all low-level radioactive waste generated within this State and for which the State is responsible. The authority shall maintain, close and provide for termination of the license of any low-level radioactive waste storage facility or facilities.

Sec. 7. 38 MRSA §1523, sub-§2, as enacted by PL 1987, c. 530, §4, is amended to read:

2. Approval. Contracts and agreements for more than \$10,000 relating to the construction, operation, maintenance, closure and post-closure monitoring of a disposal or storage facility shall be awarded only after competitive bid and approval by the authority.

Sec. 8. 38 MRSA §1524, sub-§§2 and 3, as enacted by PL 1987, c. 530, §4, are amended to read:

2. Public health and safety. Any person who commits a violation as described in subsection 1 which endangers the health and safety of the public or of the employees of the disposal or storage facility shall be subject to a civil penalty not to exceed \$5,000 to be recovered in a

civil action. Each day of violation shall be considered a separate offense.

3. Suspension of access. Any person who commits a violation as described in subsections 1 and 2 may, in addition to the penalties provided in subsections 1 and 2, have access to a disposal or storage facility suspended by the authority for up to one year. That suspension may be renewed until the violator demonstrates the ability to remedy the situation for which the penalty was assessed.

The authority shall enforce this section in the Superior Court for Kennebec County or for the county in which the violation occurs.

Sec. 9. 38 MRSA §1525, as amended by PL 1987, c. 544, is further amended to read:

§1525. Low-level radioactive waste management plan

The authority shall promulgate by rule, following public hearing, a plan for the management of the State's low-level radioactive waste. The plan shall guide the State's activities in disposing of the State's low-level radioactive waste. The plan shall be adopted by January 1, 1988, and shall be updated annually. The first plan is intended to meet the January 1, 1988, milestone date for the development of a siting plan required by the United States Code, Title 42, Section 5(e)(1)(B), of the United States Low-level Radioactive Policy Amendments Act of 1985, Public Law 99-240. The plan, as updated, shall also include a provision for the State's activities in licensing and operating a low-level radioactive waste storage facility prior to permanent disposal, unless the authority determines that planning for a storage facility is unnecessary.

Sec. 10. 38 MRSA §1527, sub-§1, as enacted by PL 1987, c. 530, §4, is amended to read:

1. State facility required. The authority shall develop or provide for the development of, if necessary, in accordance with a schedule designed to meet the State's obligations under federal law, a facility or facilities for disposal or storage of all low-level radioactive waste generated in the State and for which the State is legally responsible, except to the extent that a generator, prior to construction of the state facility or facilities, informs the authority that it will not need disposal or storage capacity in the state facility.

Sec. 11. 38 MRSA §1528, as enacted by PL 1987, c. 530, §4, is amended to read:

§1528. Records

Following commencement of operation of any low-level radioactive waste disposal or storage facility in this State—~~The~~ the authority shall keep, or cause to be kept, detailed records of all waste disposed of or stored at the facility.

Sec. 12. 38 MRSA §1531, as enacted by PL 1987, c. 530, §4, is amended to read:

§1531. Fees and other charges

The authority shall establish, by rule, fees and other charges sufficient to fund the costs of all low-level radioactive waste disposal and storage activities required by this chapter, including sufficient reserves to cover unforeseen contingencies in the construction phase, the operational phase and the closure and long-term care phase.

Sec. 13. 38 MRSA §1534, as enacted by PL 1987, c. 530, §4, is amended to read:

§1534. Low-level Radioactive Waste Facility Fund

There is created a nonlapsing, revolving fund known as the Low-level Radioactive Waste Facility Fund to be used to pay for the planning, siting, construction, operation, maintenance, closure and post-closure costs of a disposal or storage facility and the administrative and operational costs of the authority.

1. Revenue deposited. Unless otherwise provided, all revenue collected by the authority or the disposal or storage facility to be used for planning, siting, construction, operation, maintenance, closure and post-closure costs of a disposal or storage facility and administrative and operational costs of the authority shall be deposited in the Low-level Radioactive Waste Facility Fund.

2. Expenditure of funds. Unless otherwise provided, all the activities described in this chapter, including administrative and operational costs of the authority, shall be funded from the Low-level Radioactive Waste Facility Fund.

3. Surplus revenues. Surplus revenues in the Low-level Radioactive Waste Facility Fund shall be carried forward and used to reduce the assessments or fees raised in accordance with section 1534-A the following year.

Sec. 14. 38 MRSA §1534-A, as enacted by PL 1987, c. 530, §4, is amended to read:

§1534-A. Administrative costs

1. Assessment. Funds to pay the administrative and operational costs of the authority shall be raised by an assessment of a service fee on each generator of low-level radioactive waste generated in this State. The authority shall annually on June 30th, beginning in ~~1988~~ 1989, assess a service fee calculated in accordance with this subsection in an amount equal to \$200,000 not to exceed \$400,000 less any balance carried forward under section 1534, subsection 3. Each generator shall pay the service fee within 30 days, except that any generator may choose to make quarterly payments instead. The revenue from this service fee shall be deposited in the ~~Low-Level~~ Low-level Radioactive Waste Facility Fund. The authority shall promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, concerning the calculation of the fee which shall be based 50% on the volume and 50% on the radioactivity of the waste generated in the previous year.

2. Reports. The authority shall report annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over natural resources on the income to and expenditures from the ~~Low-Level~~ Low-level Radioactive Waste Facility Fund for administrative costs for the previous fiscal year and on the budget for the coming year. Those reports shall include total fees received from each generator and line item detail on expenditures, including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for ~~both the commission and the department~~ authority.

Sec. 15. 38 MRSA §1535, sub-§1, as amended by PL 1987, c. 769, Pt. A, §183, is further amended to read:

1. Assessment. The authority shall assess any nuclear plant within the State for the full cost of planning, siting, licensing and construction of a low-level radioactive waste disposal or storage facility, including reasonable reserves for unforeseen contingencies. The initial assessment shall not exceed \$10,000,000 and shall be assessed as follows: \$1,500,000 on March 1, 1988; \$2,500,000 on March 1, 1989; \$2,000,000 on March 1, 1990; \$2,000,000 on March 1, 1991; and \$2,000,000 on March 1, 1992. As reliable cost estimates become available, additional costs associated with any low-level radioactive waste disposal and storage facilities shall be assessed any nuclear plant within the State following legislative enactment. The amount assessed shall be paid within 30 days of assessment. This assessment shall be deposited in the Low-level Radioactive Waste Facility Fund.

Sec. 16. 38 MRSA §1536, sub-§1, as enacted by PL 1987, c. 530, §4, is amended to read:

1. User fees. All users of a low-level radioactive waste disposal facility shall be assessed a user fee calculated in accordance with subsections 2 and 3. User fees established under this section shall be designed to raise \$1,000,000 per year. Fees shall not be collected in excess of that amount or, if collected, shall be returned to the users within 15 days of receipt. All users of a low-level radioactive waste storage facility operated by the authority shall be assessed a user fee to cover the costs of operation, maintenance, closure and post-closure of the facility. The authority shall establish, by rule, a schedule of fees to be paid by all users of a low-level radioactive waste disposal or storage facility.

Sec. 17. 38 MRSA §1540, sub-§§1, 3 and 4, as enacted by PL 1987, c. 530, §4, are amended to read:

1. Strict liability. Notwithstanding any provision of law to the contrary, any person, including the authority, engaged in low-level radioactive waste disposal or storage activities provided in this chapter, shall be subject to liability without fault for property damage, bodily injury or death resulting from those activities. Any defendant in an action under this subsection may be jointly and severally liable for actual damages only.

3. State liability. If all other sources of funds, including enforcement of a judgment under subsection 1, federal assistance, the reserve for unforeseen contingencies

provided in sections 1535 and 1536, and supplemental fees provided in section 1542, are insufficient to compensate injured persons, the State shall provide compensation for property damage, bodily injury or death resulting from the low-level radioactive waste disposal or storage activities provided in this chapter.

4. Insurance. The authority shall purchase, or require any of its contractors to purchase, insurance or other financial protection, including a self-insurance fund, against the site failure sufficient to cover any foreseeable problems during the life of the facility plus a reasonable reserve for unforeseen contingencies. The cost of insurance purchased by the authority shall be included in the assessment and fees charged by the facility under sections 1535 and 1536.

Sec. 18. 38 MRSA §1541, as enacted by PL 1987, c. 530, §4, is amended to read:

§1541. Delivery of low-level radioactive waste required

Unless otherwise authorized by the authority, when the low-level radioactive waste disposal or storage facility is in operation, in-state generators of low-level radioactive waste for which the State is responsible shall dispose of or store that waste at the disposal or storage facility.

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

Effective June 27, 1989.

CHAPTER 481

S.P. 511 - L.D. 1399

An Act to Amend Certain Motor Vehicle Laws

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

Whereas, certain amendments to the motor vehicle laws are scheduled to take effect July 1, 1989; and

Whereas, the intent of this legislation is to repeal those amendments before they take effect; 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:

PART A

Sec. 1. 29 MRSA §1, sub-§1-J is enacted to read:

1-J. Antique motorcycle. "Antique motorcycle" means any motorcycle manufactured on or after model year