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Date: (Filing No. S-)

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 “ ” 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, if the total weight of the residue generated in a calendar year by an incineration facility, recycling facility or solid waste processing facility that is disposed of or otherwise placed in a solid waste landfill in that calendar year exceeds the total weight of the solid waste initially generated within the State that was incinerated or processed by that facility in that calendar year, any such excess residue generated by that facility is not considered waste generated within the State.

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.

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:

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- 1 (a) Reuse or recycle at least 15% of such debris through methods other than
- 2 placement in a solid waste landfill by January 1, 2022; ~~and~~
- 3 (b) Reuse or recycle at least 20% of such debris through methods other than
- 4 placement in a solid waste landfill by January 1, 2023;
- 5 (c) Reuse or recycle at least 30% of such debris through methods other than
- 6 placement in a solid waste landfill by January 1, 2024;
- 7 (d) Reuse or recycle at least 40% of such debris through methods other than
- 8 placement in a solid waste landfill by January 1, 2025; and
- 9 (e) Reuse or recycle at least 50% of such debris through methods other than
- 10 placement in a solid waste landfill by January 1, 2026.

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

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

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

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

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

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

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

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

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1 or recycle at least 30% of such debris through methods other than placement in a solid
2 waste landfill by January 1, 2024, at least 40% of such debris through methods other than
3 placement in a solid waste landfill by January 1, 2025 and at least 50% of such debris
4 through methods other than placement in a solid waste landfill by January 1, 2026. Like
5 the bill, the amendment also eliminates the provision of law that authorizes such facilities
6 to request a waiver from the Department of Environmental Protection from otherwise
7 applicable reuse and recycling requirements.

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

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

25 The amendment also adds an appropriations and allocations section.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**