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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, 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

1 At least 50% of the waste that a solid waste processing facility characterizes as
2 recycled under this subparagraph must have been reused or recycled by the facility
3 through methods other than placement of the waste in a solid waste landfill, except
4 that a solid waste processing facility that was in operation during calendar year
5 2018, that accepts exclusively construction and demolition debris and that accepted
6 more than 200,000 tons of such debris in calendar year 2018 shall:

7 (a) Reuse or recycle at least 15% of such debris through methods other than
8 placement in a solid waste landfill by January 1, 2022; ~~and~~

9 (b) Reuse or recycle at least 20% of such debris through methods other than
10 placement in a solid waste landfill by January 1, 2023; and

11 (c) Reuse or recycle at least 25% of such debris through methods other than
12 placement in a solid waste landfill by January 1, 2024.

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

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

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

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

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

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

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

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

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.

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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:

COMMITTEE AMENDMENT

- 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.

1 **Sec. 6. Department of Administrative and Financial Services, Bureau of**
2 **General Services to evaluate options for renegotiation of operating services**
3 **agreement governing operation of state-owned landfill.** The Department of
4 Administrative and Financial Services, Bureau of General Services shall evaluate options
5 for the renegotiation of the operating services agreement of February 5, 2004, as amended,
6 governing the operation of the state-owned solid waste landfill in Old Town for the purpose
7 of ensuring that existing capacity at that landfill is prioritized for management of waste
8 initially generated within the State within the meaning of the Maine Revised Statutes, Title
9 38, section 1303-C, subsection 40-A, paragraph A.

10 By January 15, 2023, the Department of Administrative and Financial Services, Bureau
11 of General Services shall report to the joint standing committee of the Legislature having
12 jurisdiction over environment and natural resources matters the results of its evaluation
13 under this section and shall provide any recommendations for legislative action necessary
14 to ensure that existing capacity at the state-owned solid waste landfill in Old Town is
15 prioritized for management of waste initially generated within the State. After receiving
16 the report, the joint standing committee may report out legislation to implement any such
17 recommendations to the 131st Legislature in 2023.'

18 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
19 number to read consecutively.

20 **SUMMARY**

21 This amendment, which is the majority report of the committee, replaces the bill and
22 makes the following changes to the solid waste management laws.

23 1. It amends the definition of "waste generated within the State" to provide that if the
24 total weight of the residue generated in a calendar year by an incineration facility, recycling
25 facility or solid waste processing facility that is disposed of or otherwise placed in a solid
26 waste landfill in that calendar year exceeds the total weight of the solid waste initially
27 generated within the State that was incinerated or processed by that facility in that calendar
28 year, any such excess residue generated by that facility is not considered waste generated
29 within the State.

30 2. It provides that certain solid waste processing facilities that were in operation during
31 calendar year 2018 and accept exclusively construction and demolition debris must reuse
32 or recycle at least 30% of such debris through methods other than placement in a solid
33 waste landfill by January 1, 2024, at least 40% of such debris through methods other than
34 placement in a solid waste landfill by January 1, 2025 and at least 50% of such debris
35 through methods other than placement in a solid waste landfill by January 1, 2026. Like
36 the bill, the amendment also eliminates the provision of law that authorizes such facilities
37 to request a waiver from the Department of Environmental Protection from otherwise
38 applicable reuse and recycling requirements.

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

42 The amendment also directs the Department of Administrative and Financial Services,
43 Bureau of General Services to evaluate options for the renegotiation of the operating

COMMITTEE AMENDMENT

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