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Legislative Document

No. 1911

S.P. 683

In Senate, April 5, 2012

**Resolve, Authorizing the Executive Department To Facilitate the
Closure of the Maine Energy Recovery Company Facility in
Biddeford by Negotiating the Transfer of the Juniper Ridge Landfill
and Requiring Other Actions To Improve Recycling**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator HOBBS of York.

Cosponsored by Representative CASAVANT of Biddeford and

Senators: BARTLETT of Cumberland, COURTNEY of York, SULLIVAN of York,

Representatives: BEAUDOIN of Biddeford, DRISCOLL of Westbrook, HOGAN of Old Orchard Beach, PEOPLES of Westbrook, PILON of Saco, ROCHELO of Biddeford, VALENTINO of Saco.

1 **Whereas**, the Maine Energy Recovery Company facility located in downtown
2 Biddeford has been for years a source of controversy in the City of Biddeford and the
3 neighboring City of Saco; and

4 **Whereas**, the cities of Biddeford and Saco have engaged in periodic negotiations
5 with the owner of the Maine Energy Recovery Company facility, Casella Waste Systems,
6 Inc., in an effort to close the Maine Energy Recovery Company facility; and

7 **Whereas**, the cities of Biddeford and Saco have long believed that the closure of the
8 Maine Energy Recovery Company facility would enhance economic development in the
9 cities and in southern Maine; and

10 **Whereas**, the City of Biddeford is interested in acquiring the Maine Energy
11 Recovery Company facility for the purpose of closing that facility; and

12 **Whereas**, in 2004, the State purchased the West Old Town Landfill, now the
13 Juniper Ridge Landfill, from Fort James Operating Company for \$26,400,000 using funds
14 provided by Casella Waste Systems, Inc.; and

15 **Whereas**, in 2004, Casella Waste Systems, Inc., paid the State \$26,400,000 as the
16 winning bidder to serve as the 30-year contractual operator of the landfill and has paid for
17 all capital improvements to the landfill and associated costs of its operation since 2004;
18 and

19 **Whereas**, Casella Waste Systems, Inc., is willing to sell the Maine Energy Recovery
20 Company facility to the City of Biddeford at a price set below its assessed value if the
21 State transfers ownership and licenses, including any public benefit determination, of the
22 Juniper Ridge Landfill to Casella Waste Systems, Inc., to be operated by Casella Waste
23 Systems, Inc., in compliance with the laws and rules applicable to a commercial solid
24 waste disposal facility with the ability to dispose of municipal solid waste; and

25 **Whereas**, as part of the transfer of the Maine Energy Recovery Company facility,
26 and as a means to maximize recycling rates, Casella Waste Systems, Inc., will provide the
27 City of Biddeford with a citywide residential, curbside zero-sort recycling program; and

28 **Whereas**, upon the transfer contemplated above, Casella Waste Systems, Inc., will
29 pay the higher per ton host fee to the City of Old Town for the disposal of all municipal
30 solid waste at a volume not to exceed the volume currently being accepted at the Maine
31 Energy Recovery Company facility as anticipated and provided for in the host community
32 compensation and facility oversight agreement between the City of Old Town, Casella
33 Waste Systems, Inc., and the State executed in 2005 or as amended; and

34 **Whereas**, Casella Waste Systems, Inc., is willing to accept at the Juniper Ridge
35 Landfill a restriction on out-of-state waste identical to the current limitation placed on the
36 State's other commercial landfill, the Crossroads Landfill owned by Waste Management,
37 Inc., in the Town of Norridgewock; and

1 **Whereas,** Casella Waste Systems, Inc., and the Penobscot Energy Recovery
2 Company are working collaboratively on a plan to establish a zero-sort recycling system
3 for the Penobscot Energy Recovery Company charter member communities in an effort to
4 maximize recycling and to ensure that the Penobscot Energy Recovery Company does not
5 experience shortfalls of municipal solid waste arising from this initiative; now, therefore,
6 be it

7 **Sec. 1. Transfer of landfill ownership and licenses authorized. Resolved:**
8 That, notwithstanding the Maine Revised Statutes, Title 5, section 1825-B, subsection 1,
9 Title 38, section 1310-X and Title 38, chapter 24, the following provisions apply.

10 1. The State, through its executive branch departments, is authorized to negotiate the
11 terms, procedures, responsibilities and schedule of, and to consummate, the state
12 components of the contemplated transaction necessary to facilitate the closure of the
13 Maine Energy Recovery Company facility, significantly enhance zero-sort recycling and
14 institute other aspects of the contemplated transaction that must include the following
15 actions, each of which is a condition precedent to closing:

16 A. The transfer of the ownership and licenses of the Maine Energy Recovery
17 Company facility to the City of Biddeford;

18 B. The transfer of the ownership and licenses of the Juniper Ridge Landfill to
19 Casella Waste Systems, Inc., with the authorization to dispose of municipal solid
20 waste at the Juniper Ridge Landfill at a volume not to exceed that volume currently
21 being accepted for disposal at the Maine Energy Recovery Company facility and a
22 limitation on the amount of out-of-state waste that may be received at the Juniper
23 Ridge Landfill identical to the limitation placed on the other commercial landfill in
24 the State, the Crossroads Landfill owned by Waste Management, Inc., in the Town of
25 Norridgewock;

26 C. The termination of the operating services agreement between Casella Waste
27 Systems, Inc., and the State; and

28 D. The modification or transfer of the public benefit determination for the Juniper
29 Ridge Landfill expansion occasioned by the change in ownership of the Juniper
30 Ridge Landfill, as the landfill is described in Resolve 2003, chapter 93, which
31 authorized the State to acquire the landfill, to Casella Waste Systems, Inc., in
32 accordance with the terms and conditions of this resolve.

33 2. A required component of the contemplated transaction must be that the State,
34 through its executive branch departments, and Casella Waste Systems, Inc., pursue, and
35 Casella Waste Systems, Inc., execute if presented, an amendment to the host community
36 compensation and facility oversight agreement between the City of Old Town, Casella
37 Waste Systems, Inc., and the State authorizing continuation of the agreement under its
38 existing provisions, notwithstanding termination of the operating services agreement and
39 the Town of Alton community benefits agreement authorizing continuation of the
40 agreement under its existing provisions, notwithstanding termination of the operating
41 services agreement.

1 Notwithstanding Title 38, section 1310-N, subsection 9, an additional or new community
2 benefits agreement with the City of Old Town or Town of Alton may not be required
3 prior to the earlier of:

4 A. The expiration of the term of 30 years or term of 28 years, 4 months provided for
5 in the respective community benefits agreements existing at the time of adoption of
6 this resolve; and

7 B. After amendment of the respective community benefits agreements as
8 contemplated in this subsection, termination of the agreement by one or more of the
9 parties as provided in the agreement.

10 3. Notwithstanding the operation of the Juniper Ridge Landfill as a privately owned
11 commercial solid waste disposal facility, the joint citizen advisory committee shall
12 continue as provided in Resolve 2003, chapter 93, section 1, subsection 5, as amended by
13 Public Law 2005, chapter 341, section 2, and as provided in Title 38, section 1310-N,
14 subsection 12.

15 4. Notwithstanding any existing municipal ordinance provisions that differentiate
16 between a state-owned and privately owned landfill or pertain to transfer of a landfill
17 from state to private ownership, the authority of municipalities to regulate the operation
18 or any other aspect of the Juniper Ridge Landfill as a commercial solid waste disposal
19 facility continues as provided in Resolve 2003, chapter 93, section 1, subsection 5.

20 5. The tipping fees provided for the Fort James Operating Company, now known as
21 the Old Town Fuel and Fiber mill and the Lincoln Paper mill in the operating services
22 agreement must continue to apply to the Juniper Ridge Landfill as a commercial solid
23 waste disposal facility.

24 6. Nothing in this resolve permits the abrogation of, abrogates or intends to abrogate
25 the sovereign immunity of the State with respect to any agreement authorized under this
26 resolve; and be it further

27 **Sec. 2. Report. Resolved:** That, by February 15, 2013, the Executive
28 Department, State Planning Office or the Department of Economic and Community
29 Development shall submit a report to the joint standing committee of the Legislature
30 having jurisdiction over environment and natural resources matters on actions taken
31 pursuant to section 1.

32 SUMMARY

33 This resolve authorizes the State to take action to facilitate the transfer of the Maine
34 Energy Recovery Company facility to the City of Biddeford and the closure of this
35 facility. It also authorizes the State to transfer the ownership and licenses of the Juniper
36 Ridge Landfill in the City of Old Town to Casella Waste Systems, Inc. It specifies
37 requirements that must be met before the Maine Energy Recovery Company facility may
38 be closed, one of which is the transfer of the Juniper Ridge Landfill to Casella Waste
39 Systems, Inc.