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Legislative Document

No. 694

S.P. 243

In Senate, February 26, 2013

An Act To Clarify Solid Waste Policy

(EMERGENCY)

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

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DAREK M. GRANT Secretary of the Senate

Presented by Senator CAIN of Penobscot. Cosponsored by Representative DILL of Old Town and Senators: BOYLE of Cumberland, GRATWICK of Penobscot, YOUNGBLOOD of Penobscot, Representatives: PEAVEY HASKELL of Milford, TIPPING-SPITZ of Orono.

- 1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
- 3 **Whereas,** there may be applications for modifications to the type or volume of solid 4 waste accepted at existing solid waste facilities prior to the expiration of the 90-day 5 period; and
- 6 **Whereas,** in the judgment of the Legislature, these facts create an emergency within 7 the meaning of the Constitution of Maine and require the following legislation as 8 immediately necessary for the preservation of the public peace, health and safety; now, 9 therefore,
- 10 Be it enacted by the People of the State of Maine as follows:
- Sec. 1. 38 MRSA §1302, 3rd ¶, as repealed and replaced by PL 1989, c. 585, Pt.
 E, §2, is amended to read:

13 The Legislature finds that it is in the best interests of the State to prefer waste 14 management options with lower health and environmental risk and to ensure that such options are neither foreclosed nor limited by the State's commitment to disposal methods. 15 16 The Legislature declares that it is in the public interest to aggressively promote waste 17 reduction, reuse and recycling as the preferred methods of waste management. The Legislature further finds that the highest and best use of a state-owned solid waste facility 18 is for those permitted special wastes that cannot be handled by these preferred methods of 19 20 waste management.

Sec. 2. 38 MRSA §1310-N, first ¶, as repealed and replaced by PL 1993, c. 680,
 Pt. A, §37 and amended by PL 2011, c. 682, §38, is further amended to read:

No <u>A</u> person may <u>not</u> locate, establish, construct, expand the disposal capacity of, <u>change the type or volume of waste accepted by</u> or operate any solid waste facility unless approved by the department under the provisions of this chapter. When the proposed facility is located within the jurisdiction of the Maine Land Use Planning Commission, in addition to any other requirement, the department shall require compliance with existing standards of the commission.

- Sec. 3. 38 MRSA §1310-AA, sub-§1, as enacted by PL 1995, c. 465, Pt. A, §22
 and affected by Pt. C, §2, is amended to read:
- 31 **1. Application for public benefit determination.** Prior to submitting an application 32 under section 1310-N for a license for a new or expanded solid waste disposal facility, a 33 person must apply to the commissioner for a determination of whether the proposed 34 facility or the proposed modification to the type or volume of waste accepted provides a 35 substantial public benefit.
- 36 Sec. 4. 38 MRSA §1310-AA, sub-§5, as amended by PL 2011, c. 566, §6, is
 37 further amended to read:

1 5. Modifications. Public benefit determinations may be revised by the department if 2 the department finds that a material change in the underlying facts or circumstances upon 3 which a public benefit determination was based has occurred or is proposed, including, but not limited to, a change related to disposal capacity or, a change of the owner or 4 operator of a facility or a change in the type or volume of the waste accepted. The 5 department may require the holder of a public benefit determination to submit an 6 application for modification of that determination if the department finds that a change in 7 8 the underlying facts or circumstances has occurred or is proposed.

9 Sec. 5. 38 MRSA §1310-AA, sub-§6, as enacted by PL 2009, c. 348, §2 and 10 affected by §3, is amended to read:

6. Substantial public benefit. The department may not process or act upon any application for a new or expanded solid waste disposal facility <u>or for a proposed</u> modification to the type or volume of waste accepted by the solid waste disposal facility owned by the State pending before the department on or after January 15, 2009 unless the commissioner determines, in accordance with this section, that the proposed <u>facility or</u> the proposed modification to the type or volume of waste accepted provides a substantial public benefit.

- Sec. 6. Application. Notwithstanding the Maine Revised Statues, Title 1, section
 302, this Act applies to applications for licenses or permits pending on the effective date
 of this Act.
- 21 **Emergency clause.** In view of the emergency cited in the preamble, this 22 legislation takes effect when approved.
- 23 SUMMARY
- 24 This bill:

25 1. Amends the declaration of policy in the laws governing waste management to 26 provide that the Legislature finds that the highest and best use of a state-owned solid 27 waste facility is for those permitted special wastes that cannot be handled by waste 28 reduction, reuse and recycling, which are the preferred methods of waste management; 29 and

Provides that a change in the type or volume of waste accepted by a facility
 requires approval by the Department of Environmental Protection and a public benefit
 determination.