

# MAINE STATE LEGISLATURE

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Date: 3/1/10

UTILITIES AND ENERGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1175, L.D. 1647, Bill, "An Act To Enhance Maine's Clean Energy Opportunities"

Amend the bill by striking out all of sections 1 to 3 and inserting the following:

Sec. 1. 35-A MRSA §3210-C, sub-§1, ¶F is enacted to read:

F. "Renewable energy credit" means a tradable instrument that represents an amount of electricity generated from eligible resources as defined in section 3210, subsection 2, paragraph B or renewable capacity resources.

Sec. 2. 35-A MRSA §3210-C, sub-§1, ¶G is enacted to read:

G. "Triennial plan" has the same meaning as in section 10102, subsection 9.

Sec. 3. 35-A MRSA §3210-C, sub-§3, as repealed and replaced by PL 2009, c. 415, Pt. A, §21, is amended to read:

3. **Commission authority.** The commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for:

A. Capacity resources; and

B. Any available energy associated with capacity resources contracted under paragraph A:

(1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

(2) If the commission determines appropriate for purposes of supplying or lowering the cost of standard-offer service or otherwise lowering the cost of electricity for the ratepayers in the State. Available energy contracted pursuant to this subparagraph may be sold into the wholesale electricity market in conjunction with solicitations for standard-offer supply bids; and

C. Any available renewable energy credits associated with capacity resources contracted under paragraph A to the extent the cost of the renewable energy credits is

COMMITTEE AMENDMENT

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1        below market value or the purchase of renewable energy credits adds value to the  
2        transaction.

3        If at any time after July 1, 2011 the commission determines that the assessments on  
4        transmission and distribution utilities under section 10110, subsections 4 and 5 will not  
5        provide sufficient funds to meet the energy efficiency program budget allocations  
6        articulated in the triennial plan approved by the commission pursuant to section 10104,  
7        subsection 4 or any annual update plan approved by the commission pursuant to section  
8        10104, subsection 6, the commission may, after providing notification to the joint  
9        standing committee of the Legislature having jurisdiction over utilities and energy  
10       matters, direct investor-owned transmission and distribution utilities to enter into long-  
11       term contracts for energy efficiency capacity resources and any available energy  
12       associated with such resources to the extent necessary to meet the energy efficiency  
13       program budget allocations articulated in the triennial plan or annual update plan.

14       The commission may direct investor-owned transmission and distribution utilities to enter  
15       into contracts under this subsection only as agents for their customers, only when such  
16       contracts are in the best interest of customers and only in accordance with this section.  
17       The commission may permit, but may not require, investor-owned transmission and  
18       distribution utilities to enter into contracts for differences that are designed and intended  
19       to buffer ratepayers in the State from potential negative impacts from transmission  
20       development. To the greatest extent possible, the commission shall develop procedures  
21       for long-term contracts for investor-owned transmission and distribution utilities under  
22       this subsection having the same legal and financial effect as the procedures used for  
23       standard-offer service pursuant to section 3212 for investor-owned transmission and  
24       distribution utilities.

25       The commission may enter into contracts for interruptible, demand response or energy  
26       efficiency capacity resources. These contracts are not subject to the rules of the State  
27       Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the  
28       commission shall allow transmission and distribution utilities to submit bids for  
29       interruptible; or demand response or energy efficiency capacity resources.

30       Capacity resources contracted under this subsection may not exceed the amount  
31       necessary to ensure the reliability of the electric grid of this State, to meet the energy  
32       efficiency program budget allocations articulated in the triennial plan as approved by the  
33       commission pursuant to section 10104, subsection 4 or any annual update plan approved  
34       by the commission pursuant to section 10104, subsection 6 or to lower customer costs as  
35       determined by the commission pursuant to rules adopted under subsection 10.

36       Unless the commission determines the public interest requires otherwise, a capacity  
37       resource may not be contracted under this subsection unless the commission determines  
38       that the capacity resource is recognized as a capacity resource for purposes of any  
39       regional or federal capacity requirements.

40       The commission shall ensure that any long-term contract authorized under this subsection  
41       is consistent with the State's goals for greenhouse gas reduction under Title 38, section  
42       576 and the regional greenhouse gas initiative as described in the state climate action plan  
43       required in Title 38, section 577.

# COMMITTEE AMENDMENT

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**Sec. 4. 35-A MRSA §3210-C, sub-§6**, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

**6. Competitive solicitation process and contract negotiation.** ~~For~~ Except as provided in paragraph A, for purposes of selecting potential capacity resources for contracting pursuant to subsection 3, the commission shall conduct a competitive solicitation no less often than every 3 years if the commission determines that the likely benefits to ratepayers resulting from any contracts entered into as a result of the solicitation process will exceed the likely costs. Following review of bids, the commission may negotiate with one or more potential suppliers. When only one bid has been offered, the commission shall ensure that negotiations are based on full project cost disclosure by the potential supplier. The commission shall negotiate contracts that are commercially reasonable and that commit all parties to commercially reasonable behavior.

A. The commission shall, for purposes of selecting energy efficiency capacity resources and available energy associated with such resources for contracting pursuant to subsection 3, conduct a competitive solicitation in accordance with this subsection or contract with the Efficiency Maine Trust established in section 10103 to deliver those resources through a competitive solicitation process administered by the trust.

**Sec. 5. 35-A MRSA §3210-C, sub-§7**, as repealed and replaced by PL 2009, c. 415, Pt. A, §22, is amended to read:

**7. Disposition of resources.** An investor-owned transmission and distribution utility shall sell capacity resources ~~and~~ energy or renewable energy credits purchased pursuant to subsection 3 or take other action relative to such capacity resources ~~and~~ energy or renewable energy credits as directed by the commission.

**Sec. 6. 35-A MRSA §3210-C, sub-§9**, as enacted by PL 2005, c. 677, Pt. C, §1, is amended to read:

**9. Contract payments.** ~~Contracts~~ Except as provided in paragraphs A and B, contracts for capacity and resources, related energy or renewable energy credits entered into pursuant to this section must provide that payments will be made only after contracted amounts of capacity ~~and resources, related energy or renewable energy credits~~ have been provided.

A. Contracts with the Efficiency Maine Trust established in section 10103 for energy efficiency capacity resources and related energy entered into pursuant to this section may provide that up to 20% of the total payment be made at the start of the contract. Such contracts must provide that the remaining payments will be made only after the supplier has demonstrated, according to measurement and verification protocols specified in rules adopted by the Efficiency Maine Trust Board pursuant to section 10105, subsection 5, that physical installations have been completed and contracted amounts of capacity resources and related energy have been substantiated.

B. Contracts with any entity other than the Efficiency Maine Trust established in section 10103 for energy efficiency capacity resources and related energy must provide that payments will be made only after the supplier has demonstrated, according to measurement and verification protocols specified in rules adopted by the

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1 Efficiency Maine Trust Board pursuant to section 10105, subsection 5, that physical  
2 installations have been completed and contracted amounts of capacity resources and  
3 related energy have been substantiated.'

4 Amend the bill in section 5 in subsection 4 in the first paragraph by striking out all of  
5 the 2nd sentence from the end (page 3, lines 21 to 23 in L.D.) and inserting the following:  
6 'Beginning January 1, 2011, the triennial plan must specify the appropriate participation  
7 of the State in national and regional carbon markets.'

8 Amend the bill in section 5 in subsection 4 in paragraph F by striking out all of  
9 subparagraph (6) (page 5, lines 1 to 3 in L.D.) and inserting the following:

10 '(6) Saving residential and commercial heating consumers not less than \$3 for  
11 every \$1 of program funds invested by 2020 in cost-effective heating and cooling  
12 measures that cost less than conventional energy supply;'

13 Amend the bill by striking out all of section 6.

14 Amend the bill in section 8 in subsection 5 by striking out all of the last blocked  
15 paragraph (page 6, lines 13 to 30 in L.D.) and inserting the following:

16 'For the purposes of this subsection, "gross operating revenue" means revenue derived  
17 from filed rates, except from sales for resale. The commission may correct any errors in  
18 the assessments under this subsection by means of a credit or debit to the following year's  
19 assessment rather than reassessing all utilities in the current year. The commission shall  
20 determine the assessments under this subsection annually prior to May June 1st and  
21 assess each utility for its pro rata share for expenditure, including funds for energy  
22 conservation programs, during the fiscal year beginning July 1st. The commission may  
23 not ~~charge~~ increase any assessment under this subsection until the Legislature has  
24 approved the ~~commission's~~ Efficiency Maine Trust's budget ~~in accordance with section~~  
25 ~~116. The Following~~ the commission's approval of the triennial plan pursuant to section  
26 10104, subsection 4 or any update plan pursuant to section 10104, subsection 6, the  
27 commission shall separately identify present any recommended increase in the  
28 assessment under this subsection in its presentation of budget recommendations contained  
29 in any current services budget legislation and any supplemental budget legislation to the  
30 joint standing committee of the Legislature having jurisdiction over public utilities  
31 matters pursuant to section 116. Each utility shall pay the assessment charged to that  
32 utility under this subsection on the same schedule that payment of assessments under  
33 subsection 4 is required.'

34 Amend the bill by striking out all of section 9.

35 Amend the bill by inserting after section 10 the following:

36 '**Sec. 11. Review of long-term contracting.** By January 15, 2012, the Public  
37 Utilities Commission shall report to the joint standing committee of the Legislature  
38 having jurisdiction over utilities and energy matters regarding long-term contracts  
39 implemented pursuant to the Maine Revised Statutes, Title 35-A, section 3210-C,  
40 including the number, types and lengths of contracts. After review of the commission's  
41 report, the joint standing committee of the Legislature having jurisdiction over utilities  
42 and energy matters may submit a bill regarding long-term contracts to the Second  
43 Regular Session of the 125th Legislature.



1 amounts of capacity and energy are provided. The amendment allows contracts with the  
2 Efficiency Maine Trust for energy efficiency capacity resources and related energy to  
3 provide a 20% up-front payment at the start of the contract, but otherwise requires  
4 payments only after contracted amounts of capacity and energy have been substantiated.

5 5. It removes the requirement in the bill that the triennial plan include an examination  
6 of national and regional carbon markets and instead requires that the plan specify the  
7 appropriate participation of the State in those carbon markets.

8 6. It removes the provision of the bill that eliminated the \$3 to \$1 savings target for  
9 cost-effective heating and cooling measures in the triennial plan of the Efficiency Maine  
10 Trust.

11 7. It removes the provision of the bill that authorizes the Efficiency Maine Trust to  
12 consult with or retain independent legal counsel.

13 8. It amends the provision of the bill regarding the imposition and review of  
14 additional assessments on transmission and distribution utilities to realize energy  
15 efficiency and demand response resources. The amendment specifies that the commission  
16 may not increase these assessments until the Legislature has approved the budget of the  
17 Efficiency Maine Trust and requires the commission to present any recommended  
18 increases in the assessment after its approval of the triennial plan or any annual update  
19 plan.

20 9. It replaces the provision of the bill regarding participation of electricity customers  
21 receiving service at transmission and subtransmission voltage levels in new conservation  
22 programs with a directive to the Efficiency Maine Trust to convene a working group to  
23 examine options regarding the participation of such customers in conservation programs  
24 and to submit a report to the joint standing committee of the Legislature having  
25 jurisdiction over utilities and energy matters by January 31, 2011 on this subject. The  
26 committee is authorized to submit a bill.

27 10. It adds a provision that requires the Public Utilities Commission to report, by  
28 January 15, 2012, on long-term contracts for capacity resources, including the number,  
29 types and lengths of contracts.

FISCAL NOTE REQUIRED  
(See attached)



# 124th MAINE LEGISLATURE

LD 1647

LR 2478(02)

**An Act To Enhance Maine's Clean Energy Opportunities**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Utilities and Energy**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Requiring the Public Utilities Commission (PUC) to report on long-term contracts for capacity resources, to participate in a working group, and solicit competitive bids for energy efficiency capacity resources or contract with the Efficiency Maine Trust to deliver those resources, as well as potentially requiring the PUC to direct transmission and distribution utilities to enter into certain long-term contracts for energy efficiency capacity resources, will result in minor costs which can be absorbed within existing budgeted resources. The Efficiency Maine Trust and the Office of the Public Advocate can participate in the working group and otherwise meet their commitments under this bill within existing budgeted resources.