

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 818

S.P. 254

In Senate, February 14, 2019

An Act To Reduce Greenhouse Gas Emissions

(EMERGENCY)

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator SANBORN, L. of Cumberland.
Cosponsored by Representative FAY of Raymond and
Senators: CARSON of Cumberland, CHENETTE of York, CHIPMAN of Cumberland,
SANBORN, H. of Cumberland, Representatives: CAIAZZO of Scarborough, TUCKER of
Brunswick.

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,** this Act requires the Department of Environmental Protection, with input
4 from stakeholders, to update the State's climate action plan by December 1, 2019; and

5 **Whereas,** the department must begin its work before the 90-day period expires to
6 complete the update by December 1, 2019; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

11 **Be it enacted by the People of the State of Maine as follows:**

12 **Sec. 1. 2 MRSA §9, sub-§3, ¶C,** as amended by PL 2013, c. 541, §1, is further
13 amended to read:

14 C. In consultation with the Efficiency Maine Trust Board, established in Title 5,
15 section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy
16 plan to the Governor and the Legislature by January 15, 2009 and submit an updated
17 plan every 2 years thereafter. Within the comprehensive state energy plan, the
18 director shall identify opportunities to lower the total cost of energy to consumers in
19 this State and transmission capacity and infrastructure needs and recommend
20 appropriate actions to lower the total cost of energy to consumers in this State and
21 facilitate the development and integration of new renewable energy generation within
22 the State and support the State's renewable resource portfolio requirements specified
23 in Title 35-A, section 3210 and wind energy development goals specified in Title
24 35-A, section 3404. The comprehensive state energy plan must include a section that
25 specifies the State's progress in meeting the oil dependence reduction targets in
26 subsection 5. The office shall make recommendations, if needed, for additional
27 legislative and administrative actions to ensure that the State can meet the reduction
28 targets in subsection 5. The recommendations must include a cost and resource
29 estimate for technology development needed to meet the reduction targets.

30 (1) ~~Beginning in 2015, the~~ The update to the plan must:

31 (a) Be submitted to the joint standing committee of the Legislature having
32 jurisdiction over utilities and energy matters and the joint standing committee
33 of the Legislature having jurisdiction over natural resources matters;

34 (b) Address the association between energy planning and meeting the
35 greenhouse gas reduction ~~goals in the state climate action plan pursuant to~~
36 levels in Title 38, section ~~577~~ 576-A. The director shall consult with the
37 Department of Environmental Protection in developing this portion of the
38 plan;

39 (c) Include a section devoted to wind energy development, including:

- 1 (i) The State's progress toward meeting the wind energy development
2 goals established in Title 35-A, section 3404, subsection 2, including an
3 assessment of the likelihood of achieving the goals and any
4 recommended changes to the goals;
- 5 (ii) Examination of the permitting process and any recommended
6 changes to the permitting process;
- 7 (iii) Identified successes in implementing the recommendations
8 contained in the February 2008 final report of the Governor's Task Force
9 on Wind Power Development created by executive order issued May 8,
10 2007;
- 11 (iv) A summary of tangible benefits provided by expedited wind energy
12 developments, including, but not limited to, documentation of
13 community benefits packages and community benefit agreement
14 payments provided;
- 15 (v) A review of the community benefits package requirement under Title
16 35-A, section 3454, subsection 2, the actual amount of negotiated
17 community benefits packages relative to the statutorily required
18 minimum amount and any recommended changes to community benefits
19 package policies;
- 20 (vi) Projections of wind energy developers' plans, as well as technology
21 trends and their state policy implications; and
- 22 (vii) Recommendations, including, but not limited to, identification of
23 places within the State's unorganized and deorganized areas for inclusion
24 in the expedited permitting area established pursuant to Title 35-A,
25 chapter 34-A and the creation of an independent siting authority to
26 consider wind energy development applications;
- 27 (d) Include a description of activities undertaken pursuant to paragraph H;
28 and
- 29 (e) Include a description of the State's activities relating to the expansion of
30 natural gas service, any actions taken by the office to expand access to
31 natural gas in the State and any recommendations for actions by the
32 Legislature to expand access to natural gas in the State.

33 The joint standing committee of the Legislature having jurisdiction over utilities and
34 energy matters may report out legislation by February 1st of each odd-numbered year
35 relating to the content of the plan. The joint standing committee of the Legislature
36 having jurisdiction over natural resources matters may make recommendations
37 regarding that legislation to the joint standing committee of the Legislature having
38 jurisdiction over energy matters.

39 **Sec. 2. 2 MRSA §9, sub-§5, ¶D**, as enacted by PL 2011, c. 400, §2, is amended
40 to read:

41 D. Draw on existing state data and studies rather than new analyses, including, but
42 not limited to, analyses and data from the ~~State's~~ climate action plan developed by the

1 Department of Environmental Protection pursuant to Title 38, section 577 and the
2 progress updates to the climate action plan evaluations of the State's progress toward
3 meeting greenhouse gas emissions levels under Title 38, section 578, the
4 comprehensive state energy plan pursuant to subsection 3, paragraph C, the
5 Efficiency Maine Trust's triennial plan pursuant to Title 35-A, section 10104,
6 subsection 4 and analyses completed by the Federal Government, nonprofit
7 organizations and other stakeholders.

8 **Sec. 3. 35-A MRSA §3210-C, sub-§3**, as amended by PL 2017, c. 134, §2, is
9 further amended to read:

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

- 12 A. Capacity resources;
- 13 B. Any available energy associated with capacity resources contracted under
14 paragraph A:

- 15 (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or
- 16 (2) If the commission determines appropriate for purposes of supplying or
17 lowering the cost of standard-offer service or otherwise lowering the cost of
18 electricity for the ratepayers in the State. Available energy contracted pursuant to
19 this subparagraph may be sold into the wholesale electricity market in
20 conjunction with solicitations for standard-offer supply bids;

21 C. Any available renewable energy credits associated with capacity resources
22 contracted under paragraph A. The price paid by the investor-owned transmission
23 and distribution utility for the renewable energy credits must be lower than the price
24 received for those renewable energy credits at the time they are sold by the
25 investor-owned transmission and distribution utility; and

26 D. Transmission capacity, capacity resources, energy or renewable energy credits
27 pursuant to a regional procurement process in conjunction with other states.

28 The commission may permit, but may not require, investor-owned transmission and
29 distribution utilities to enter into contracts for differences that are designed and intended
30 to buffer ratepayers in the State from potential negative impacts from transmission
31 development. To the greatest extent possible, the commission shall develop procedures
32 for long-term contracts for investor-owned transmission and distribution utilities under
33 this subsection having the same legal and financial effect as the procedures used for
34 standard-offer service pursuant to section 3212 for investor-owned transmission and
35 distribution utilities.

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

41 Capacity resources contracted under this subsection may not exceed the amount
42 necessary to ensure the reliability of the electric grid of this State, to meet the energy

1 efficiency program budget allocations articulated in the triennial plan as approved by the
2 commission pursuant to section 10104, subsection 4 or any annual update plan approved
3 by the commission pursuant to section 10104, subsection 6 or to lower customer costs as
4 determined by the commission pursuant to rules adopted under subsection 10.

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

9 The commission shall ensure that any long-term contract authorized under this subsection
10 is consistent with the ~~State's goals for greenhouse gas reduction levels~~ under Title 38,
11 section ~~576~~ 576-A and the regional greenhouse gas initiative as described in ~~the state~~
12 ~~climate action plan required in~~ Title 38, section ~~577~~ 579.

13 By January 1st of each year, the commission shall submit a report to the joint standing
14 committee of the Legislature having jurisdiction over energy and utilities matters on the
15 procurement of transmission capacity, capacity resources, energy and renewable energy
16 credits in the preceding 12 months under this subsection, the Community-based
17 Renewable Energy Act and deep-water offshore wind energy pilot projects under Public
18 Law 2009, chapter 615, Part A, section 6, as amended by Public Law 2013, chapter 369,
19 Part H, sections 1 and 2 and chapter 378, sections 4 to 6. The report must contain
20 information including, but not limited to, the number of requests for proposals by the
21 commission for long-term contracts, the number of responses to requests for proposals
22 pursuant to which a contract has been finalized, the number of executed term sheets or
23 contracts resulting from the requests for proposals, the commission's initial estimates of
24 ratepayer costs or savings associated with any approved term sheet, actual ratepayer costs
25 or savings for the previous year associated with any procurement, the total ratepayer costs
26 or savings at the time of the report and the megawatt-hours, renewable energy credits or
27 capacity produced or procured through contracts. The report must also include a plan for
28 the succeeding 12 months pertaining to the procurement of capacity resources, energy
29 and renewable energy credits, including dates for requests for proposals, and types of
30 resources to be procured.

31 **Sec. 4. 35-A MRSA §3402, sub-§1, ¶A**, as amended by PL 2009, c. 615, Pt. A,
32 §2, is further amended to read:

33 A. Wind energy is an economically feasible, large-scale energy resource that does
34 not rely on fossil fuel combustion or nuclear fission, thereby displacing electrical
35 energy provided by these other sources and avoiding air pollution, waste disposal
36 problems and hazards to human health from emissions, waste and by-products;
37 consequently, wind energy development may address energy needs while making a
38 significant contribution to achievement of the State's renewable energy and
39 greenhouse gas reduction objectives, including those in Title 38, section ~~576~~ 576-A;

40 **Sec. 5. 35-A MRSA §10104, sub-§4, ¶F**, as repealed and replaced by PL 2013,
41 c. 369, Pt. A, §13, is amended to read:

42 F. It is an objective of the triennial plan to design, coordinate and integrate sustained
43 energy efficiency and weatherization programs that are available to all energy

1 consumers in the State and to users of all fuel types. The plan must set forth the costs
2 and benefits of energy efficiency programs that advance the following goals, and
3 funding necessary to meet those goals:

- 4 (1) Reducing energy costs, including residential heating costs;
- 5 (2) Weatherizing substantially all homes whose owners or occupants are willing
6 to participate in and share the costs of cost-effective home weatherization to a
7 minimum standard of weatherization, as defined by the trust, by 2030;
- 8 (3) Reducing peak-load demand for electricity through trust programs by 300
9 megawatts by 2020;
- 10 (4) By 2020, achieving electricity and natural gas program savings of at least
11 20% and heating fuel savings of at least 20%, as defined in and determined
12 pursuant to the measures of performance approved by the commission under
13 section 10120;
- 14 (5) Creating stable private sector jobs providing alternative energy and energy
15 efficiency products and services in the State by 2020; and
- 16 (6) Reducing greenhouse gas emissions from the heating and cooling of buildings
17 in the State by amounts consistent with the ~~State's goals~~ reduction levels
18 established in Title 38, section ~~576~~ 576-A.

19 The trust shall preserve when possible and appropriate the opportunity for carbon
20 emission reductions to be monetized and sold into a voluntary carbon market. Any
21 program of the trust that supports weatherization of buildings must be voluntary and
22 may not constitute a mandate that would prevent the sale of emission reductions
23 generated through weatherization measures into a voluntary carbon market.

24 Except when specifically provided in the individual goals under this paragraph, the
25 trust may consider expected savings from market effects not attributable to the trust
26 as well as efforts by other organizations, including but not limited to federally funded
27 low-income weatherization programs.

28 As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or
29 #2 heating oil, but does not include fuels when used for industrial or manufacturing
30 processes.

31 **Sec. 6. 38 MRSA §574, sub-§§1-A, 1-B and 1-C** are enacted to read:

32 **1-A. Climate action plan.** "Climate action plan" means the state plan adopted in
33 2004 by the department under this chapter to address greenhouse gas emissions
34 reductions in each sector in cost-effective ways.

35 **1-B. Gross annual greenhouse gas emissions.** "Gross annual greenhouse gas
36 emissions" means the total amount of greenhouse gases emitted by all sources within the
37 State each year.

38 **1-C. Net annual greenhouse gas emissions.** "Net annual greenhouse gas
39 emissions" means gross annual greenhouse gas emissions less the total amount of
40 greenhouse gases absorbed each year by trees, crops, soil and wetlands within the State.

1 **Sec. 7. 38 MRSA §576**, as enacted by PL 2003, c. 237, §1, is repealed.

2 **Sec. 8. 38 MRSA §576-A** is enacted to read:

3 **§576-A. Greenhouse gas emissions reductions**

4 **1. 2030 annual emissions level.** By January 1, 2030, the State shall reduce net
5 annual greenhouse gas emissions to at least 80% below the 1990 net annual greenhouse
6 gas emissions level.

7 **2. Interim emissions levels.** The department shall adopt rules establishing interim
8 net annual greenhouse gas emissions levels. The interim net annual greenhouse gas
9 emissions levels must maximize the State's ability to meet the 2030 net annual
10 greenhouse gas emissions level.

11 **Sec. 9. 38 MRSA §577**, as enacted by PL 2003, c. 237, §1, is repealed and the
12 following enacted in its place:

13 **§577. Action plan; long-term goal**

14 **1. Long-term reduction goal.** The State's long-term reduction goal is to reduce net
15 annual greenhouse gas emissions to an extent sufficient to minimize harmful effects of
16 climate change. To accomplish this goal, reducing net annual greenhouse gas emissions
17 to zero by 2050 may be necessary.

18 **2. Climate action plan update.** By December 1, 2019, the department, with input
19 from stakeholders, shall update the State's climate action plan to meet the reduction levels
20 in section 576-A. In updating the climate action plan, the department shall conduct a
21 study examining pathways to reduce net annual greenhouse gas emissions consistent with
22 the levels in section 576-A and with the long-term goal in subsection 1. The department
23 shall analyze and report on the technical feasibility and cost-effectiveness of each
24 pathway. The department shall submit the study to the joint standing committee of the
25 Legislature having jurisdiction over natural resources matters, which is authorized to
26 report out legislation related to the study. In identifying the preferred pathways to
27 include in the updated climate action plan, the department shall give consideration to the
28 following objectives:

29 A. Lowering the total economic cost of energy to residents of and businesses in the
30 State, including the economic cost of energy imports;

31 B. Effectively using natural solutions to reduce net annual greenhouse gas emissions,
32 such as using forests and agricultural lands in the State; and

33 C. Ensuring that all sectors and regions of the State and the broadest group of
34 residents benefit from reaching the levels in section 576-A and the long-term goal in
35 subsection 1, with consideration to economic, quality-of-life and public health
36 benefits.

37 **Sec. 10. 38 MRSA §577-A** is enacted to read:

1 **§577-A. Emission standards**

2 By January 1, 2020, the board shall establish by rule emission standards limiting and
3 regulating in a just and equitable manner the amount of greenhouse gases that may be
4 emitted to the air. The emission standards must be designed to achieve and maintain the
5 reduction levels in section 576-A.

6 Prior to the establishment of emission standards under this section, the board shall
7 hold a public hearing in accordance with Title 5, chapter 375. The board shall solicit and
8 consider all available information concerning the existing greenhouse gas emissions and
9 their nature, amount and sources; the effect of the emissions upon the climate; the
10 availability, effectiveness and cost of control apparatus to prevent and control such
11 emissions; and such other evidence as in the board's judgment will enable it to determine
12 and establish emission standards that will achieve and maintain the reduction goals
13 specified in section 576-A.

14 To achieve the emission standards, the board shall by rule, or by air emission license
15 conditions, establish limits on the amount of greenhouse gas emissions for individual
16 sources or for source categories. The rule or license condition must state the date upon
17 which the limit becomes effective. In establishing the date, the board shall consider the
18 degree of existing greenhouse gas emissions, the length of time necessary to inform
19 persons affected by the limit, the time needed by the board to implement effective
20 controls and the time needed by persons affected to design and install emission control
21 apparatus to comply with the limit.

22 Rules adopted pursuant to this section are major substantive rules as defined in Title
23 5, chapter 375, subchapter 2-A.

24 **Sec. 11. 38 MRSA §578**, as amended by PL 2013, c. 415, §5, is further amended
25 to read:

26 **§578. Progress evaluation**

27 ~~By January 1, 2006 and by that date every 2 years thereafter, the~~ The department
28 shall evaluate the State's progress toward meeting the reduction goals levels specified in
29 section 576, review the cost-effectiveness of the actions taken toward meeting the
30 reduction goals and shall amend the action plan as necessary to ensure that the State can
31 meet the reduction goals 576-A and in rules adopted pursuant to section 576-A,
32 subsection 2, the effectiveness of emission standards established pursuant to section
33 577-A and the State's progress toward implementing the climate action plan in section
34 577. The department shall submit a report of its evaluation to the joint standing
35 committee of the Legislature having jurisdiction over natural resources matters and the
36 joint standing committee of the Legislature having jurisdiction over utilities and energy
37 matters by January 1, ~~2016~~ 2022 and by that date every 2 years thereafter. The joint
38 standing committee of the Legislature having jurisdiction over natural resources matters
39 is authorized to report out legislation relating to the evaluation to the second regular
40 session of any Legislature. The joint standing committee of the Legislature having
41 jurisdiction over utilities and energy matters may make recommendations to the joint
42 standing committee of the Legislature having jurisdiction over natural resources matters

1 regarding that legislation. ~~Starting no earlier than January 1, 2008, the department may~~
2 ~~recommend to the joint standing committee of the Legislature having jurisdiction over~~
3 ~~natural resources matters that the reduction goals specified in section 576 be increased or~~
4 ~~decreased.~~

5 **Emergency clause.** In view of the emergency cited in the preamble, this
6 legislation takes effect when approved.

7 **SUMMARY**

8 This bill provides that by January 1, 2030 the State must reduce net annual
9 greenhouse gas emissions to at least 80% below the 1990 net annual greenhouse gas
10 emissions level. It directs the Department of Environmental Protection to establish
11 interim net annual emissions levels and to monitor and report on gross and net annual
12 greenhouse gas emissions. It directs the department to update the State's climate action
13 plan and evaluate the State's progress toward meeting the reduction levels. It requires the
14 Board of Environmental Protection to establish greenhouse gas emission standards for
15 individual sources or categories of sources.