

MAINE STATE LEGISLATURE

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Date:

4/11/22 Majority

L.D. 1969

(Filing No. H-971)

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LABOR AND HOUSING

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STATE OF MAINE

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HOUSE OF REPRESENTATIVES

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130TH LEGISLATURE

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SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1464, L.D. 1969, "An Act Concerning
Equity in Renewable Energy Projects and Workforce Development"

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Amend the bill by striking out everything after the enacting clause and inserting the
following:

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Sec. 1. 26 MRSA §3201, sub-§11-A is enacted to read:

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11-A. Historically marginalized community. "Historically marginalized
community" means a block group, as defined in Title 21-A, section 1202, subsection 2, or
a geographic area of the State determined by rule by the department using best available
existing data to have a high rate of poverty, unemployment or chronic unemployment as
well as a high number of individuals with barriers to employment, including individuals
who have been incarcerated or individuals from groups, such as women, indigenous people
and people of color, that are traditionally underrepresented in an apprenticeable occupation.

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Sec. 2. 26 MRSA §3201, sub-§15-A is enacted to read:

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15-A. Preapprentice. "Preapprentice" means an individual enrolled in a
preapprenticeship training program certified by the Maine Apprenticeship Program.

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Sec. 3. 26 MRSA §3201, sub-§15-B is enacted to read:

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15-B. Preapprenticeship graduate. "Preapprenticeship graduate" means an
individual who successfully completed a certified preapprenticeship training program.

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Sec. 4. 26 MRSA §3201, sub-§15-C is enacted to read:

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15-C. Preapprenticeship training program. "Preapprenticeship training program"
means a preapprenticeship training program certified under section 3213.

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Sec. 5. 26 MRSA §3209, sub-§4, ¶A, as enacted by PL 2011, c. 491, §13, is
amended to read:

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A. Developing, approving and registering new apprenticeship programs and certifying
preapprenticeship training programs;

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Sec. 6. 26 MRSA §3209, sub-§4, ¶J, as enacted by PL 2011, c. 491, §13, is amended to read:

J. Ensuring an annual report is provided by March 1st of each year to the Governor, the joint standing committee of the Legislature having jurisdiction over labor and economic development matters and the joint standing committee of the Legislature having jurisdiction over education and cultural affairs that includes the following:

- (1) The name and location of each sponsor of a registered apprenticeship program or a preapprenticeship training program;
- (2) The number of apprentices or preapprentices registered into and completing a registered apprenticeship program or a preapprenticeship training program; and
- (3) The return on investment of a registered apprenticeship program or a preapprenticeship training program.

Sec. 7. 26 MRSA §3213 is enacted to read:

§3213. Preapprenticeship training program

A preapprenticeship training program must conform to the provisions of this section to be eligible for certification by the Maine Apprenticeship Program, which shall oversee and support preapprenticeship training programs as set out in this section.

1. Application; eligibility. A sponsor may apply with the Maine Apprenticeship Program for review and certification of a preapprenticeship training program. To be eligible for certification, the preapprenticeship training program must meet the requirements of this section, must involve instruction and training in preparation for an apprenticeable occupation and must comply with state and federal law regarding equal employment opportunity in apprenticeship and training.

2. Requirements of preapprenticeship training program. To be eligible for certification, a preapprenticeship training program must include an educational program that includes both industry-based and job-related classroom instruction and that:

- A. Is designed to prepare individuals to enter into and succeed in a registered apprenticeship program;
- B. Has a demonstrated commitment to inclusion of individuals from an historically marginalized community; and
- C. Has a documented partnership with at least one registered apprenticeship program. The documented partnership with a sponsor of a registered apprenticeship program must include, at a minimum, 2 of the following characteristics:
 - (1) Mentored and paid work experience;
 - (2) A guaranteed apprenticeship employment interview for a preapprenticeship graduate;
 - (3) Advanced placement in a registered apprenticeship program, either in classroom training or on-the-job learning, for a preapprenticeship graduate who is hired; or
 - (4) Job shadow experience for preapprentices.

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3. Age. Preapprentices must be at least 16 years of age, except when a higher minimum age standard is otherwise fixed by law or the registered apprenticeship program sponsor.

4. Curriculum. To be eligible for certification, a preapprenticeship training program must have organized, written standards containing:

A. A description of the instruction and training of preapprentices that aligns with industry skills and workplace expectations to prepare preapprentices with the education, training, competencies and awareness they need to enter registered apprenticeship programs, including, but not limited to:

- (1) Listening and communication skills;
- (2) Workplace safety training;
- (3) Job preparedness training, including workplace soft skills training;
- (4) Physical, technical and workplace skills; and
- (5) Resume and job interview preparation;

B. A description of how success in the preapprenticeship training program will be measured;

C. Provision for at least 120 hours of instruction and training; and

D. A description of what advanced placement or facilitated entry into a registered apprenticeship program will be provided to preapprenticeship graduates applying for or accepted into a registered apprenticeship program, including the number of classroom hours or on-the-job learning hours credited to preapprenticeship graduates upon registration as apprentices.

5. Equity, inclusion and accessibility. A certified preapprenticeship training program must provide services whenever possible to enable participation by individuals from historically marginalized communities, such as assistance with transportation, child care, probation officer advocacy, English as a new language and the cost of materials and supplies. A certified preapprenticeship training program must maintain an affirmative action program in compliance with 29 Code of Federal Regulations, Section 30.1 et seq.

6. Stipend. A certified preapprenticeship training program must provide a meaningful stipend for each day of instruction that enables individuals from historically marginalized communities to participate in the program. This subsection does not apply to individuals enrolled in a preapprenticeship training program that is part of a secondary education program or to individuals for whom the law does not allow payment. A certified preapprenticeship training program must ensure that, if training includes on-the-job work experience, preapprentices are paid at least the minimum wage rate under chapter 7, subchapter 3.

7. Review; certification. The Maine Apprenticeship Program shall review an application for certification of a preapprenticeship training program. A preapprenticeship training program that meets the standards for certification must be given provisional certification for a period of one year. The Maine Apprenticeship Program shall review a preapprenticeship training program for quality and conformity with the requirements of this section at the end of the first year after certification. A program that conforms to the

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requirements may have its certification made permanent or may continue to be provisionally certified through the first full training cycle.

8. Evaluation. The Maine Apprenticeship Program shall evaluate the performance of a certified preapprenticeship training program. The tools and factors to be used must include, but are not limited to:

A. Quality assurance assessments;

B. Equal employment opportunity compliance reviews;

C. Efforts to achieve equity goals for recruitment and training of preapprentices from historically marginalized communities;

D. Completion rates; and

E. Rates of enrollment in and successful completion of registered apprenticeship programs.

9. Investment system. The Maine Apprenticeship Program shall partner with the Maine Workforce Investment System under chapter 33 to use preapprenticeship graduates as a key element of a talent development approach that serves both workforce investment system participants and industry in the State.

10. Funding. The Maine Apprenticeship Program, through the department, shall seek available workforce development funds to support programs under this section. As funding permits, the Maine Apprenticeship Program shall provide preapprenticeship training grants to those certified preapprenticeship training programs that provide meaningful financial assistance to their participants to support the cost of participation, including, for example, supplies and materials, industry-based certifications, lost wages, transportation or child care. The Maine Apprenticeship Program shall determine awards to certified preapprenticeship training programs based on documented participant need, the provision of services under subsection 5 and the program's efforts to recruit and enroll participants from historically marginalized communities. Priority must be given to those certified preapprenticeship training programs demonstrating that a significant number of their participants have successfully completed the certified preapprenticeship training program and are subsequently enrolled in registered apprenticeship programs. The department, through the Maine Apprenticeship Program, shall implement, monitor and enforce the requirements of this subsection using existing resources.

11. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the provisions of this section.

Sec. 8. 26 MRS A c. 47 is enacted to read:

CHAPTER 47

EQUITY IN RENEWABLE ENERGY PROJECTS AND WORKFORCE DEVELOPMENT

§3701. Equity in renewable energy projects

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

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- 1 A. "Agency of the State" includes, but is not limited to, the Efficiency Maine Trust as
2 established in Title 35-A, chapter 97 and the Public Utilities Commission as established
3 in Title 35-A, Part 1.
- 4 B. "Assisted project" means a construction project for which requests for bids or
5 proposals are initiated after August 1, 2022, including requests for bids or proposals
6 that supplement a process started on or before August 1, 2022:
- 7 (1) With a nameplate capacity of 2 megawatts or more that involves a renewable
8 energy project or a project for the production of energy, including all phases of site
9 preparation, construction, retrofitting and demolition work; and
- 10 (2) For which the State or an agency of the State provides certifications that entitle
11 the generator to renewable energy credits or provides other economic assistance,
12 including, but not limited to, payments pursuant to power purchase agreements,
13 rebates, grants, loans, commitments of funds or other assistance.
- 14 C. "Commissioner" means the Commissioner of Labor.
- 15 D. "Facilitated entry agreement" means an agreement between a registered
16 apprenticeship program and a certified preapprenticeship training program that enables
17 individuals who have successfully completed the certified preapprenticeship training
18 program to enter directly into the registered apprenticeship program.
- 19 E. "Preapprenticeship training program" means a preapprenticeship training program
20 certified under section 3213.
- 21 F. "Registered apprenticeship program" means an apprenticeship program that:
- 22 (1) Is registered with and approved by the United States Department of Labor or
23 the Maine Apprenticeship Program under section 3202; and
- 24 (2) Actively trains employees, uses functioning training facilities and is regularly
25 graduating apprentices to journeyman status.
- 26 G. "Renewable energy project" means a project to construct a source of electrical
27 generation that relies on one or more of the following:
- 28 (1) Fuel cells;
29 (2) Tidal power;
30 (3) Solar arrays and installations;
31 (4) Wind power installations;
32 (5) Geothermal installations;
33 (6) Hydroelectric generators;
34 (7) Biomass generators that are fueled by wood or wood waste, landfill gas or
35 anaerobic digestion of agricultural products, by-products or wastes; or
36 (8) Generators fueled by municipal solid waste in conjunction with recycling.
- 37 **2. Labor and project performance standards.** The following requirements apply to
38 an assisted project.
- 39 A. Beginning January 1, 2024, a contractor or subcontractor working on an assisted
40 project shall pay all construction workers working on the assisted project no less than

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the prevailing rate for wages and benefits, as determined by the Bureau of Labor Standards, except that a worker may be hired at the rate recognized for apprentices working in the pertinent classification if:

- (1) The worker is a participant in a registered apprenticeship program;
- (2) The registered apprenticeship program from which the apprentice is hired maintains a facilitated entry agreement with a certified preapprenticeship training program; and
- (3) The registered apprenticeship program from which the apprentice is hired has been registered for at least one year and provides a minimum of 3,000 hours of on-the-job learning and 216 hours of related instruction.

B. An entity responsible for an assisted project shall take reasonable steps to ensure that all contractors and subcontractors working on the assisted project meet the requirements of this subsection. The contractor or subcontractor shall provide proof within 7 days of a request from the Department of Labor that any apprenticeship program used for the project meets all the requirements of a registered apprenticeship program.

C. The requirements of this subsection do not apply if the entity responsible for the assisted project has entered into or has ensured that the entity directly responsible for the construction of the assisted project has entered into a project labor agreement consistent with the requirements of Title 35-A, section 3210-G, subsection 1, paragraph C, subparagraph (2), division (h).

For purposes of this subsection, "entity responsible" includes any recipient of assistance for the assisted project and any corporations, joint ventures, partnerships or other persons and their successors or assigns that hire contractors or construction managers to perform work on the assisted project.

3. Recordkeeping and reporting. The entity receiving economic assistance for an assisted project shall ensure that all contractors and subcontractors keep wage records in accordance with section 1311. Reporting for entities on assisted projects must be in accordance with section 1311. The agency of the State providing the economic assistance to the assisted project must be treated as the public authority letting the contract for the purposes of reporting under section 1311.

4. Enforcement, penalties and sanctions. When the Department of Labor notifies the agency of the State providing economic assistance to the entity responsible for an assisted project that there has been a violation of chapter 15, the entity is subject to enforcement and penalties for a violation in accordance with section 1312. Failure of an entity that receives economic assistance for an assisted project to comply with chapter 15 constitutes a material breach of the agreement, grant, loan, commitment of funds or other instrument pursuant to which economic assistance is provided. Upon finding a violation of chapter 15, the relevant agency of the State may impose any available and appropriate penalties for that breach, including, but not limited to, fines, penalties authorized under Title 35-A, section 1508-A, an end to the assistance and recoupment of all or part of any assistance already provided for the assisted project or directing that, in order for the entity to receive continued assistance, the entity meet the requirements of chapter 15 and pay

COMMITTEE AMENDMENT

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remedial compensation to any employees who were not paid at least the prevailing rate for wages and benefits.

5. Application. This section does not apply to a project:

A. For which the Public Utilities Commission approved a term sheet or contract or otherwise provided project-specific authorization or approval pursuant to Title 35-A on or before June 29, 2021; or

B. That is participating in net energy billing and that meets the requirements of Title 35-A, section 3209-A, subsection 7 or Title 35-A, section 3209-B.

6. Powers of the commissioner. The commissioner shall implement and administer this chapter and may adopt rules consistent with the requirements of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 9. 35-A MRSA §3209-A, sub-§7, as enacted by PL 2021, c. 370, §1 and reallocated by RR 2021, c. 1, Pt. A, §37, is reallocated to 35-A MRSA §3209-A, sub-§8.

Sec. 10. 35-A MRSA §3210-G, sub-§1, as enacted by PL 2019, c. 477, §2, is amended to read:

1. Competitive procurement. The commission shall conduct 2 competitive solicitations in order to select Class IA resources for contracts under this section.

A. Through competitive solicitations under this section, the commission shall procure an amount of energy or renewable energy credits from Class IA resources that is equal to 14% of retail electricity sales in this State for the period from January 1, 2018 to December 31, 2018, as determined by the commission.

(1) The commission shall initiate a first competitive solicitation and ensure that solicitation results in the approval of contracts by December 31, 2020 for energy or renewable energy credits equal to at least 7% of retail electricity sales for the period from January 1, 2018 to December 31, 2018, as determined by the commission. If the commission determines that contracts for an amount greater than 7% of retail electricity sales will provide financial benefits to ratepayers, it may approve contracts by December 31, 2020 for up to 10% of retail electricity sales.

(2) No later than January 15, 2021, the commission shall initiate a 2nd competitive solicitation for an amount of energy or renewable energy credits equal to the difference between 14% of retail electricity sales and the amount approved in contracts by December 31, 2020.

B. To the extent sufficient resources are available, 75% of the energy or renewable energy credits contracted under this section must come from Class IA resources that begin commercial operations after June 30, 2019 and 25% must come from Class IA resources that began commercial operations on or prior to June 30, 2019.

C. In conducting a solicitation and selecting Class IA resources for contracts under this section, the commission shall weigh the benefits to ratepayers and the benefits to the State's economy as follows:

(1) A weight of 70% must be given to the benefits to ratepayers; and

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(2) A weight of 30% must be given to benefits to the economy, which may include, but are not limited to:

- (a) Capital investments by the Class IA resource to improve long-term viability of an existing facility;
- (b) Payments by the Class IA resource for the harvest of wood fuel;
- (c) Employment resulting from the Class IA resource;
- (d) Payments by the Class IA resource to a host community, whether or not required by law or rule;
- (e) Excise, income, property and sales taxes paid by the Class IA resource;
- (f) Purchases of goods and services by the Class IA resource; and
- (g) Avoided emissions resulting from the operation of the Class IA resource;
- (h) For an assisted project, with respect to requests for bids or proposals initiated by the commission pursuant to this section for energy or renewable energy credits after August 1, 2022 or requests for bids or proposals that supplement a process started on or before August 1, 2022, whether the Class IA resource has entered into a project labor agreement with a labor organization to supply construction workers in all areas needed for the assisted project where the assisted project is located. For purposes of this division, a project labor agreement must contain provisions that:

- (i) Bind all contractors and subcontractors on the assisted project to the project labor agreement through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;
- (ii) Allow all contractors and subcontractors to compete for contracts and subcontracts on the assisted project without regard to whether they are otherwise parties to collective bargaining agreements;
- (iii) Establish uniform terms and conditions of employment for all craft workers employed on the assisted project;
- (iv) Contain guarantees against strikes, lockouts and similar job disruptions; and
- (v) Set forth effective, prompt and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement; and
- (i) Whether an entity is employee-owned, including but not limited to an entity that offers employee stock ownership plans or is structured as a worker cooperative.

For the purposes of this subparagraph, "labor organization" means an organization that is not a company union and that is constituted for the purpose, in whole or in part, of engaging in collective bargaining, dealing with employers concerning employee grievances or terms or conditions of employment or providing other employee aid or protection. "Labor organization" includes, but is not limited to, a bona fide labor organization that is certified or recognized as the organization of jurisdiction representing the relevant workers and a bona fide building and

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construction trades council or district council or state or local labor federation composed of local unions certified or recognized as the representative of the relevant workers. For the purposes of this subparagraph, "assisted project" has the same meaning as in Title 26, section 3701, subsection 1, paragraph B. For purposes of this subparagraph, "craft worker" has the same meaning as in Title 26, section 1304, subsection 3-A.

D. The commission shall, in accordance with this paragraph, allow energy storage systems to participate in solicitations or be awarded contracts under this section.

(1) The commission shall permit an energy storage system to bid on solicitations or to be contracted under this section only if the energy storage system is connected to the State's electricity grid, paired as a complementary resource with a Class IA resource and either:

(a) Colocated with the Class IA resource, whether metered jointly with or separately from the Class IA resource; or

(b) Located at a different location from the Class IA resource and the commission finds that inclusion of the energy storage system would result in a reduction in greenhouse gas emissions.

(2) A bid under this section that includes an energy storage system must include 2 separate bid proposals, one with the energy storage system and one without. The commission shall assess the bid proposals based on the benefits to ratepayers, which may include, but are not limited to:

- (a) Reduction in costs;
- (b) Decrease in peak electricity demand;
- (c) Deferral of investments in the transmission and distribution system;
- (d) Deferral of capital investments in new generating capacity;
- (e) Increase in the electricity grid's overall flexibility, reliability and resiliency;
- and
- (f) Reduction in greenhouse gas emissions.

(3) An energy storage system that is not colocated with a Class IA resource may receive renewable energy credits only for stored energy generated from a Class IA resource.

(4) If chosen for a contract under this section, an energy storage system must remain stationary and under the same ownership throughout the contract term.

(5) The commission may permit an energy storage system to be paired with and added to a Class IA resource after that resource has been awarded a contract.

For the purposes of this paragraph, "energy storage system" means a commercially available technology that uses mechanical, chemical or thermal processes for absorbing energy and storing it for a period of time for use at a later time.'

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

COMMITTEE AMENDMENT

ROS

SUMMARY

2 This amendment is the majority report of the committee. The amendment does the
3 following.

4 1. It sets standards for certification and evaluation of preapprenticeship training
5 programs by the Maine Apprenticeship Program, as well as minimum curriculum
6 requirements. The amendment focuses on equity, inclusion and access to certified
7 preapprenticeship training programs, requiring them to provide certain services to ensure
8 participation by individuals from historically marginalized communities and to implement
9 affirmative action programs. It requires the payment of a meaningful stipend to participants
10 and prioritizes state grants to those program sponsors that provide services that reduce
11 barriers to entry for traditionally underrepresented groups and demonstrate that a
12 significant number of their participants subsequently enrolled in registered apprenticeship
13 programs.

14 2. It requires that the annual report from the Maine Apprenticeship Council include
15 preapprenticeship data relating to the preapprenticeship training programs.

16 3. It requires projects involving the construction of renewable energy generating
17 systems that are at least 2 megawatts in size and that receive state assistance to meet certain
18 workforce requirements. It defines such projects as "assisted projects." Specifically,
19 contractors and subcontractors working on an assisted project are required to pay
20 construction workers at least the prevailing rate for wages and benefits, except that they
21 may pay the apprentice rate to apprentices on the project if those apprentices participate in
22 a registered apprenticeship program that is regularly graduating apprentices to journeyman
23 status and the program has a facilitated entry agreement with a certified preapprenticeship
24 training program. This requirement does not apply, however, if the entity responsible for
25 the project or the entity directly responsible for the construction of the project has entered
26 into a project labor agreement that meets certain requirements.

27 4. The amendment specifies that, after August 1, 2022, if the Public Utilities
28 Commission engages in additional procurement of energy or renewable energy credits
29 pursuant to the Maine Revised Statutes, Title 35-A, section 3210-G, the commission, in
30 determining benefits to the State's economy, is required to consider whether the Class IA
31 resource has secured a project labor agreement with a labor organization to supply
32 construction workers in all areas needed for the assisted project where the assisted project
33 is located. It specifies that it also includes requests for bids or proposals that supplement a
34 process started on or before the effective date of this legislation. The bill established
35 January 1, 2023 as the beginning date for this requirement.

36 5. It directs the Public Utilities Commission, in conducting a solicitation and selecting
37 Class IA resources for contracts pursuant to statutory provisions governing renewable
38 portfolio standard procurement, to consider whether an entity is employee-owned,
39 including but not limited to an entity that offers employee stock ownership plans.

40 6. The amendment also corrects a conflict created by Public Law 2021, chapter 390
41 and Revisor's Report 2021, chapter 1, which affected the same provision of law, by
42 reallocating the provision reallocated by Revisor's Report 2021, chapter 1.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 1969

LR 2473(02)

An Act Concerning Equity in Renewable Energy Projects and Workforce Development

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Labor and Housing

Fiscal Note Required: Yes

A (H-971)

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Department of Labor, the Public Utilities Commission and the Efficiency Maine Trust as a result of the provisions in this bill are anticipated to be minor and can be absorbed within existing budgeted resources.