

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
107TH LEGISLATURE

(Filing No. H-754)

COMMITTEE AMENDMENT "A" to H.P. 1471, L.D. 1803,  
Bill, "AN ACT Creating the Maine Energy Authority."

Amend said Bill by striking out everything after the  
enacting clause and inserting in place thereof the  
following:

'Sec. 1. 35 MRSA Pt. 8 is enacted to read:

PART 8

ELECTRIC POWER

CHAPTER 301

MAINE ENERGY AUTHORITY

§3341. Maine Energy Authority created

In order to provide an adequate and reliable supply of low-  
cost electric power to the people and businesses of Maine in a  
manner consistent with sound utility practices; for the purposes  
of developing the natural resources of the State in line with  
the need to protect and enhance the environment; <sup>for</sup> providing a  
vehicle for research and development programs; <sup>for</sup> stimulating the  
agricultural, recreational, general economic and industrial  
growth of the State and thereby promoting the general health  
and welfare of the people of the State, there is created the  
Maine Energy Authority with the powers and duties set forth in  
this chapter.

§3342. Definitions

As used in this chapter, the following words and terms shall  
have the following meanings, unless the context shall indicate

another or different meaning or intent:

1. Authority. "Authority" shall mean the Maine Energy Authority.

2. Bonds. "Bonds" or the words "revenue bonds" shall mean revenue bonds or refunding revenue bonds and notes, certificates of indebtedness or any other evidences of indebtedness issued by the authority under this chapter.

3. Electrical company. "Electrical company" means an electrical company as defined in Title 34, section 15.

4. MEA. "MEA" shall mean the Maine Energy Authority created by this chapter.

5. State. "State" shall mean the State of Maine.

§3343. Creation of the MEA; status, membership, terms of office

There is created a public body, corporate and politic, and an instrumentality of the State, to be known as the "Maine Energy Authority". The exercise by the authority of the power conferred by this chapter shall be deemed and held to be the performance of an essential governmental function.

The authority shall consist of 5 members. The Governor shall appoint the members of the authority, subject to approval of the Executive Council. At the time of his appointment, and subject

to approval of the Executive Council, the Governor shall designate one member as the chairman of the authority. The chairman shall serve as the full-time director of the authority. The Governor shall establish the salary of the director of the authority, subject to the approval of the Executive Council.

Each member shall, at the time of his appointment, be a resident of the State of Maine. The chairman shall continue to be a resident of the State of Maine throughout his tenure in office. After the initial appointments, each member shall be appointed for a term of 6 years. Of those first appointed, ~~the~~ only the chairman shall be appointed for 6 years. The Governor shall, at the time of his appointment, set the term of each other member  $\leftarrow$   $\rightarrow$  at anywhere from one to 5 years provided that no (two) of the originally appointed members may be appointed for the same number of years. Any member may be reappointed once. Members shall continue in office beyond their specified terms until a successor shall have been appointed and approved. Any successor, whether appointed to fill a vacancy created by the expiration of his predecessor's term or by the death, resignation or removal of his predecessor, shall be appointed and approved as herein prescribed and shall serve for a full term of (six) years from the date of his approval.

Each member of the MEA may be removed by the Governor and Council for cause, but only after reasonable notice and public hearing, unless the same are expressly waived in writing. Each member of the MEA, before entering upon his duties, shall take an oath before the Governor and Council to administer the duties of his office faithfully and impartially, and a record of such oaths shall be filed in the office of the Secretary of State. Violation of said oath shall be a cause for removal.

The chairman and director shall be authorized to act in the name of the authority to perform all of the powers and duties of the authority enumerated in this chapter, provided ,  
→ that before the chairman undertakes any act authorized by section 3344, subsections 1,5,6,11 or 12, a majority of the members must approve such act by vote recorded in the minutes of the authority. The members, by bylaw or regulation, may place such other restrictions on the powers of the chairman as may from time to time be necessary and appropriate.

One member of the authority shall be designated the secretary. The secretary shall keep or cause to be kept a reasonable record of the meetings of the authority as well as all books and records and documents and papers filed with the authority or otherwise necessary to record authority business. He shall have authority to cause copies to be made of all minutes and other

records and documents of the MEA and to give certificates under the official seal of the MEA to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

The members of the MEA shall hold public meetings at least 10 times during each calendar year. These meetings shall be scheduled according to the bylaws or otherwise publicized so as to give reasonable notice to all interested parties when such meetings may occur. The authority may only act after an affirmative vote of three members present and voting on any matter reserved by this section to the members. No vacancy in the membership of the MEA shall impair the right of three members to exercise all the rights and perform all the duties of the MEA.

Each member of the MEA shall receive \$50 per day and shall be reimbursed for all necessary travel and other expenses incurred by him in the discharge of his official duties.

§3344. General grant of powers

The Maine Energy Authority is hereby authorized and empowered:

Bylaws.

1. /To adopt bylaws, following a public hearing, for the regulation of its affairs and the conduct of its business;

Seal.

2. /To adopt an official seal and alter the same at pleasure;

Office.

3./ To maintain offices at such place or places as it may determine;

Power to sue.

4./ To sue and be sued in its own name, plead and be impleaded;

Facilities.

5./ To construct or acquire electric generating and transmission systems and facilities, provided  $\longleftrightarrow$  that the MEA may not construct an electric generating facility in a municipality without the prior approval of the governing body of said municipality. Said approval, once voted, may not be rescinded for a period of (four) years nor after construction of said facility has begun;

Bonding.

6./ To issue its revenue bonds, payable solely from revenues, and in anticipation of an issue of its revenue bonds to borrow money, all as hereinafter provided;

Real property.

7./ To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

Employment.

8./ To employ full-time or consulting engineers, accountants, attorneys, construction experts, financial experts, superintendents, managers and other employees and agents as may be necessary in its judgment and to fix their compensation; provided that all such expenses shall be payable solely from funds provided under the authority of this chapter;

Outside funding.

9. / To make application for, receive and accept from any federal agency grants for or aid of the planning, construction or financing of any project or any additional facility, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

Contracts.

10. / To make and enter into all contracts and agreements necessary and incidental to the performance of its duties and the execution of its powers under this chapter, including contracts for the purchase, sale, transmission or exchange of power and energy with the United States of America, with Canada and any of its provinces, and with electric utility systems, either privately, cooperatively or publicly owned, within and without the State, provided that the MEA shall give prior consideration to furnish the full power requirement of electrical companies, either privately, cooperatively or publicly owned within the State of Maine;

Rates.

11. / To fix, establish, revise, maintain, charge and collect rates or charges for electric power and energy and all other services, facilities and commodities sold, furnished or supplied by the MEA. The exercise of this power with respect to the sale of electric energy or capacity is subject to the approval of the Public Utilities Commission. Before giving such approval, the Public Utilities Commission must find that the proposed charges



are just, reasonable and nondiscriminatory and that they will not promote undue consumption at the time of the Maine or New England system peaks;

Eminent domain.

12./ To exercise the power of eminent domain, provided that the MEA may only exercise this power to the extent authorized and in the manner prescribed for electrical companies or electric power companies in Title 35, section 2306;

Other powers.

13./ To do all other acts or things necessary or convenient to carry out the powers expressly granted in this chapter.

#### §3345. Duties of the Maine Energy Authority

The MEA shall establish and operate a bulk power supply system to supply wholesale power to electrical companies throughout the State, to join the New England Power Pool and to establish interconnections and coordination agreements with electrical companies in any region, with a national grid, if one shall be established, and with electrical companies in Canada.

The MEA shall have as its primary purpose the provision of bulk power supply to the electrical companies of the State at the lowest possible cost consistent with sound utility practices and with the minimum adverse impact on the environment.

The MEA shall acquire, either through construction, purchase, lease or other procedure, power generation and transmission facilities as it finds necessary to meet the electric power needs of the State, including its responsibilities under interchange, coordination or interconnection agreements with any utility. In addition, the MEA may purchase electric power from any source as it determines is necessary to fulfill the purposes of this chapter and may enter into interconnections, exchanges and other power supply arrangements with any utility within or without the State.

The MEA shall contract to sell electric power to electrical companies in the State at the lowest possible rates which shall be consistent with sound business principles and the environmental protection requirements of this chapter, taking into account the charges necessary to pay the operating expenses of the MEA and to amortize the indebtedness of the MEA.

The MEA is hereby authorized to acquire, either through construction, purchase, lease or other method, such transmission and generation facilities as are necessary to supply the power needs of all electrical companies within the State. Electrical companies are hereby authorized to sell or lease facilities to the MEA.

§3346. Negotiation of contracts

The MEA shall not provide special discounts or bonuses to promote increased use of peak time power. The MEA may encourage patterns of use designed to lower the peak demands on its system or to increase its system load factor.

§3347. New generating facilities

The MEA may lease any acquired or newly-constructed generating facility to any electrical company. Such new or expanded facilities shall be owned by the Maine Energy Authority, which may lease said generating facility or facilities to the utility company operating in the area of the State where such new or expanded generating facility is located. All leases and other agreements concerning new or expanded generating facilities under this section shall be subject to a public hearing and review by the Public Utilities Commission, to assure that they are consistent with the public convenience and necessity.

Construction of new or expanded generating facilities pursuant to this section may be initiated by proposal submitted, by a privately, publicly or cooperatively owned electrical company within the State, to the Maine Energy Authority or by the Maine Energy Authority.

The format, content and procedure for proposing construction under this section shall be determined by the Maine Energy Authority after a public hearing.

§3348. Revenue bonds

The MEA is authorized to issue and sell revenue bonds to assist in financing its activities and to refund such bonds, subject to such conditions, limitations and restrictions as may be set forth in the trust agreement, and to borrow money in anticipation of the issuance of such revenue bonds. Revenues, for purposes of this section, shall include all income, from whatever source derived, accruing to the MEA pursuant to any contract to provide electrical energy or technical assistance or other appropriate services to any authorized buyer. Revenues may also include any other income from whatever source derived, including interest on invested funds, except income from any person, firm, corporation, municipal, state or federal government or any subdivision, instrumentality or agency thereof which is received by the MEA in the form of restricted grants or appropriations.

The principal and interest on all bonds issued under  
↳ this chapter shall be payable solely from the  
funds provided therefor from revenues as herein provided. The  
bonds may be of one or more series but all bonds issued by  
the MEA shall be dated, shall bear interest at such rate or  
rates as the MEA shall determine, shall mature at such time or  
times not exceeding 50 years from their date as may be deter-

mined by the MEA and may be made redeemable before maturity at the option of the MEA at such price or prices and under such conditions as may be fixed by the authority prior to the issuance of the bonds. The MEA shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provisions of this chapter, or any recitals in any bonds issued under the provisions of this chapter, all such bonds shall be deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds or any bonds registered as to both principal and interest, and for the inter-change of coupon and registered bonds. The bonds may be sold at public or private sale.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which have become mutilated, destroyed or lost. Bonds may be issued by the authority under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

Revenue bonds or notes issued under this chapter shall not be deemed to constitute a debt of the State or of any political subdivision thereof, or a pledge of the faith and credit of the State or any political subdivision, but such bonds or notes shall be payable solely from the funds herein provided therefor from revenues, or, in the case of notes, from the proceeds of bonds as herein provided. All such revenue bonds or notes shall contain on the face thereof a statement to the effect that neither the authority nor the State, nor any political subdivision thereof, shall be obliged to pay the same or the interest thereon except from revenues or, in the case of notes, from the proceeds of bonds as herein provided and that neither the faith and credit nor the taxing power of the State, or any political subdivision thereof, is pledged to the payment of the principal of or the interest on such bonds or notes.

All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided under this chapter.

The bonds issued under this chapter shall be secured by a trust agreement by and between the authority and a corporate trustee, which shall be located within the State and shall be a trust company or bank having the powers of a trust company. The authority may appoint a financial advisor. In such case, such advisor shall be an individual, firm or corporation of established reputation in the field of finance and investment who, before any trust agreement is executed by the authority, shall certify in writing filed with the Commissioner of Finance and Administration and with the authority that such trust agreement fully protects the public interest affected by its provisions. In the absence of a financial advisor, the chairman of the authority shall so certify. Such trust agreement may pledge the revenues of the facilities on account of which the bonds secured by such trust agreement shall be issued, but shall not convey or mortgage any facility or any part thereof. Such trust agreement shall contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition or construction of any project and the

extension, enlargement, improvement, maintenance, operation, repair and insurance of the projects and the custody, safeguarding and application of all moneys and may contain provisions for the employment of consulting engineers in connection with any such construction and the operation of any such facilities. It shall be lawful for any bank or trust company incorporated under the laws of the State, which may act as depository of the proceeds of the bonds or of revenues, to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Such trust agreement shall set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, such trust agreement may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as an item of current expenses.

The authority is authorized to issue refunding bonds for the purpose of paying bonds issued by it or on its behalf under this section, at maturity or upon acceleration or redemption. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other



capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds or notes. The issue of refunding bonds, the maturities and other details thereof, the security therefor and the rights of the holders thereof shall be governed by the provisions of this section relating to the issue of bonds other than refunding bonds insofar as the same may be applicable, but no bonds shall be refunded to a date later than the refunded bonds could have matured hereunder.

Revenue bonds issued under this chapter, their transfer and the income therefrom shall, at all times, be free from taxation within the State.

§3349. Siting studies and planning

The authority, in cooperation with electrical companies and interested state, regional and federal agencies with responsibility for environmental protection, shall, within the limits of available funds, conduct a regional generating facility and transmission line siting study for the purpose of designating optimum locations for generating facilities and transmission lines to insure availability of a low-cost and reliable supply of electricity from such facilities throughout the State, and to protect environmental assets, including land, water, recreation, scenic, ecological and historical values.

In carrying out such a study, the authority shall prepare a statewide inventory of sites suitable for generating facilities of various types, alone or in combination with other purposes.

1. Authority to make projections and collect data. The authority shall also:

A. Prepare projections for the State of the quantity of power-generating capacity which will be needed for the succeeding 20 years following the study, and update the study and inventory of sites every (five) years after the initial study is completed;

B. Complete the initial study called for in this section within a reasonable time after enactment of this chapter;

C. Collect and evaluate data on geological, hydrological, seismological, meteorological, geographical, radiological and any other scientific, technical or economic factors related to siting of generating facilities and transmission lines;

D. Collect and evaluate data on any potential hazards to public health and safety associated with the construction and operation of generating facilities at the sites studied and assess the costs associated with necessary protective measures or devices associated with particular sites.

2. Authority to develop a comprehensive power plan.

Following completion of the studies called for by this section, the authority shall within the limits of available funds develop and amend from time to time a comprehensive state generating facility and transmission line siting plan which shall be coordinated with general land use planning for the State, which shall include:

A. A summary of the findings resulting from the collection and evaluation of data pursuant to this section;

B. A report on the combination of sites which would best secure the purposes of this section, including an estimate of the maximum generating capacity which could be located at specific sites and an assessment of costs described in subsection 1, paragraph D;

C. A designation of the sites for generation facilities and routes for transmission lines which will be developed and utilized to secure the purposes of this chapter. In performing studies and planning under this chapter, the authority shall hold public hearings to receive comments from interested citizens, public officials or other persons. All material, studies, comments or data received or developed by the authority in performing the studies and planning called for by this chapter shall be open to public inspection.

§3350. Environmental protection

The authority shall be subject to all applicable federal and state environmental standards. The term "federal and state environmental standard" means a federal or state law or regulation prescribing a standard or limitation for the purpose of control or abatement of air or water pollution or for the purpose of some other aspect of environmental protection.

The authority shall obtain all federal and state permits and licenses required by law before constructing any facility.

The authority shall include all costs associated with environmental protection within the rates established by the authority.

§3351. Research and development

1. Authority to carry out a program of research and development. The authority shall carry out a program of research and development in the area of electric power generation and transmission. In carrying out such a program, the authority:

A. May conduct research and development activities directly or through contracts with any person or public agency;

B. Shall to the extent practicable coordinate its program with programs of other public agencies and private entities; and

C. Shall develop priorities for carrying out such program.

In developing priorities under this section, the authority shall give preference to environmental protection and land use research, including, but not limited to, underground high voltage transmission technology, sulfur oxide control and other technology to improve the performance of fossil fuel plants, development and demonstration of utility corridors, development and demonstration of improved methods for disposing of waste heat and development of alternative methods of electric power generation, including, but not limited to, solar and wind power, magnetohydrodynamics and fuel cells. In addition, the agency shall undertake research on problems relating to the energy needs of the State.

§3352. Prohibition of promotional advertising

The authority shall not engage in any advertising or public relations efforts designed to encourage increased consumption of electricity or designed to otherwise promote its services.

The authority may disseminate information designed to encourage energy conservation or to educate the public regarding the efficient use of electricity.

§3353. Payments in lieu of taxes

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the State, for the improvement of their health and living conditions and, as the operation and maintenance of the facilities by the authority will constitute the performance of essential governmental functions,

the authority shall not be required to pay any taxes or assessments upon any facility or any property acquired or used by the authority under this chapter or upon the income therefrom.

The authority shall make payment to the State a sum equal to 10% of its annual net revenue to be allocated among the subdivisions of the State as the Legislature shall determine.

The authority shall also pay to any municipality in which it may own an electrical generating facility a payment in lieu of taxes, based on its valuation in accordance with standards applied to other commercial or industrial property within the municipality, which payment shall equal what the authority would otherwise have paid in local property taxes.

§3354. Conflict of interest

No member of the authority nor any employee thereof may own more than 1% of the common stock of any electrical company nor be employed by an electrical power company during his tenure with the authority or for one year thereafter, nor may such person sell land directly or through an agent or intermediary to the authority or to another person for resale to the authority during the same time period.

No member of the authority nor any member of his immediate family shall benefit directly or indirectly from any contract voted by the authority.

Violation of this section shall constitute a misdemeanor and shall be grounds for removal from office.

§3355. Public access to records

All records of the MEA other than those pertaining to matters currently under negotiation or litigation shall be open for inspection by members of the public in the offices of the MEA during reasonable business hours.

§3356. Reports

The authority shall report annually to the Governor and to the Legislature concerning its operations.

§3357. Inconsistent law inapplicable

All other general or special laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this chapter.

§3358. Act liberally construed

This chapter, being necessary to the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

§3359. Constitutional construction

The provisions of this chapter are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Maine Energy Authority the sum of \$228,200 for the biennium to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
MAINE ENERGY AUTHORITY		
Personal Services (4)	\$48,000	(6) \$ 75,000
All other	42,600	62,600
	<u>\$90,600</u>	<u>\$137,600</u>

Sec. 3. Referendum; effective date. This Act shall take effect 90 days after the adjournment of the Legislature, only for the purpose of presenting it to the legal voters of the State of Maine at the next general or special state-wide election.

The aldermen of cities, the selectmen of towns and the assessors of the several plantations of this State are empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives at the next general or special state-wide election to give in their votes upon the acceptance or rejection of the foregoing Act, and the questions shall be:



"Shall 'AN ACT Creating / <sup>the</sup> Maine Energy Authority', passed by the 107th Legislature, become law?"

The inhabitants of said cities, towns and plantations shall indicate by a cross or check mark placed within a square upon their ballots their opinion of the same, those in favor of acceptance voting "Yes" and those opposed to acceptance voting "No" and the ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the office of the Secretary of State in the same manner as votes for Governor and Members of the Legislature, and the Governor and Council shall review the same and if it shall appear that a majority of the inhabitants voting on the question are in favor of said Act, the Governor shall forthwith make known the fact by his proclamation and the Act shall thereupon become effective January 1, 1977.

Secretary of State shall prepare ballots. The Secretary of State shall prepare and furnish to the several cities, towns and plantations ballots and blank returns in conformity with the foregoing Act, accompanied by a copy thereof.'

#### Statement of Fact

The purpose of this amendment is to create a Maine Energy Authority which will assure the citizens, businesses and industries of Maine of an adequate supply of electricity at the lowest cost consistent with sound utility practices, provide better economic opportunities for Maine people, help develop a

comprehensive energy policy for Maine and improve our environment. This amendment also provides that this Act shall be submitted to the voters for approval in a referendum.

Reported by the Majority of the Committee on State Government.

Reproduced and distributed under the direction of the Clerk of the House.  
6/16/75

(Filing No. H-754)