

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 1803

H. P. 1471

House of Representatives, April 8, 1975

On Motion of Mr. Cooney of Sabattus referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Davies of Orono.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT Creating the Maine Energy Authority.

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

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; providing a vehicle for research and development programs; 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 and refunding revenue bonds and notes, certificates of indebtedness or any other evidences of indebtedness issued by the commission under this chapter;

3. MEA. "MEA" shall mean the Maine Energy Authority created by this chapter or, if the MEA shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof, or upon whom the powers given by this chapter to the MEA shall be conferred by law;

4. 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 agency 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 7 members, all of whom shall be appointed by the Governor and Council, and shall be residents of the State. Not more than 4 of such members shall be of the same political party, and no member shall have financial interest in any electric utility corporation. At least one member shall be a bona fide representative of an environmental protection organization.

Members of the MEA shall be appointed for terms of 6 years, except that the terms of office of the members first appointed shall expire as designated by the Governor and Council at the time of appointment, 3 at the end of the 2nd year, 3 at the end of the 4th year and one at the end of the 6th year after such date, or until a successor is appointed and has qualified. A successor to a member of the MEA shall be appointed in the same manner as the original member and shall have a term of office expiring 6 years from the date of the expiration of the term for which his predecessor was appointed. No member may be appointed for all or part of more than 2 terms.

Each member of the MEA may be removed by the Governor and Council for cause, but only after reasonable notice and a 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.

The members of the MEA shall designate one of their number as chairman of the MEA, who shall serve as such chairman during his term of office as a member. Upon the expiration of the term of office of any such chairman, the members shall designate one of the members as chairman as provided above. The MEA shall annually elect one of its members as vice-chairman and shall also elect a secretary-treasurer, who need not be a member of the MEA.

The secretary-treasurer shall keep a record of the proceedings of the MEA and shall be custodian of all books, documents and papers filed with the MEA

and of the minute book or journal of the MEA and its official seal. 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.

Four members of the MEA shall constitute a quorum and the affirmative vote of 4 members shall be necessary for any action taken by the MEA. No generating facilities of 200 megawatts or more may be constructed without the additional affirmative approval of the Governor and Council and the city council or board of selectmen of the city or town in which the facility is to be constructed. No vacancy in the membership of the MEA shall impair the right of a quorum to exercise all the rights and perform all the duties of the MEA.

Before the issuance of any revenue bonds under the provisions of this chapter, the secretary-treasurer of the MEA shall execute a surety bond in the penal sum of \$100,000, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State.

Each member of the MEA shall receive \$50 per diem 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:

1. To adopt bylaws, following a public hearing, for the regulation of its affairs and the conduct of its business;
2. To adopt an official seal and alter the same at pleasure;
3. To maintain offices at such place or places as it may determine;
4. To sue and be sued in its own name, plead and be impleaded;
5. To construct or acquire electric generating and transmission systems and facilities;
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;
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;
8. To employ 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. Maine Energy Authority employees shall be considered to be state employees and are subject to the State Personnel Law;

9. To make application for, receive and accept from any federal agency grants for or in 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;

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 electric utility systems, either privately, cooperatively or publicly owned within the State of Maine;

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, subject to review by the Public Utilities Commission;

12. To acquire only through authority of the Legislature, power generational facilities by eminent domain. The MEA shall not acquire power generational facilities by use of the powers of eminent domain unless such action is specifically authorized by majority vote of the entire elected membership of each body of the Legislature.

The MEA is authorized and empowered to exercise the same powers of eminent domain granted to electric power companies organized under Title 35, section 2301 and corporations chartered by special Acts of the Legislature for the purpose of making, generating, selling, distributing and supplying electricity for lighting, heating or other public purposes.

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 utilities throughout the State, to join the New England Power Pool, and to establish interconnections, and coordination agreements, with utilities in any region, with a national grid if one shall be established, and with utilities in Canada.

The MEA shall have as its primary purpose the provision of bulk power supply to the utilities 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 engage in research and development of new sources of power, new siting techniques and ways to meet consumer, business and industrial needs with the least possible construction of facilities and generation of electricity.

The MEA shall acquire, either through construction, purchase, lease, condemnation as provided in this chapter, 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 outside the State.

The MEA shall contract to sell electric power to utilities 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, condemnation as provided in this chapter, or other method, such transmission capacity or generation facilities as is necessary to supply the power needs of all electric utilities within the State. Utilities are hereby authorized to sell or lease facilities to the MEA.

#### § 3346. Negotiation of contracts

The MEA may include in any contract for the sale of power such terms and conditions, including any term or condition which it finds necessary to maintain a federal tax exemption for bonds and notes issued under this chapter, and provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this chapter. All electric utilities regardless of form of ownership shall be entitled to purchase power from the MEA.

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

After agreement upon the terms of any contract for the sale of 100 megawatts or more of electricity, or any contract covering a period in excess of one year shall have been reached by the authority and its coparty or coparties, the MEA shall hold a public hearing or hearings upon the terms thereof. At least 30 days' notice of such hearing shall be given by publication once in each week during such period in newspapers to be selected by the MEA. Copies of proposed contracts shall be available for public inspection during such period of 30 days at the office or offices of the MEA and at such other places throughout the State as it may designate.

Following such public hearing, the MEA shall reconsider the terms of the proposed contract or contracts and shall negotiate such changes and modifications in the contract or contracts as it then deems necessary or advisable.

#### § 3347. New generating facilities

Commencing 2 years after the effective date of this chapter, all new generating facilities and all new expansions of existing generating facilities shall

be financed by the Maine Energy Authority under the provisions of this chapter. 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.

The purpose of this section is to assure that all new or expanded facilities construction be financed at the lowest possible rates.

Construction of new or expanded generating facilities may be initiated by proposal submitted, by any privately, publicly or cooperatively owned utility system 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.

The principal and interest on all bonds issued under the provisions of 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 40 years from their date as may be determined 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 the 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 regis-

tered bonds. Before selling the bonds, or any part thereof, the authority shall give notice inviting sealed bids in such manner as the authority may prescribe. If satisfactory bids are received, bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the authority determines that the bids received are not satisfactory as to price or responsibility of the bidders, the authority may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

If the proceeds of the bonds of any series initially issued by reason of increased construction costs, or error in estimates or otherwise, shall be less than the amount required for the purpose for which such bonds are authorized, additional bonds may in like manner be issued to provide the amount of such deficiency and shall be deemed to be of the same series and shall be entitled to payment from the same fund or funds as the bonds first issued, without preference or priority of the bonds first issued. If the proceeds of such bonds shall exceed the amount so required, such excess shall be deposited to the credit of the sinking fund for such bonds if so provided in the trust agreement, and may be applied to the payment of any other project.

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 shall become mutilated or shall be 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 fact thereof a statement to the effect that neither the authority nor the State, nor any political subdivision thereof, shall be obligated 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 the provisions of 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 shall appoint a financial advisor, whose appointment shall be subject to approval by the Governor. 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 a 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. The Governor's approval of such advisor shall be conclusively evidenced by a writing to that effect filed with the Commissioner of Finance and Administration and with the authority. 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 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 refunding bonds may be issued not more than 5 years prior to the maturity or redemption date of bonds being refunded. 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 the utility companies and interested state, regional and federal agencies with responsibility for environmental protection, shall 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 historic values.

In carrying out such a study, the authority shall prepare a state-wide 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 each year after the initial study is completed;

B. Complete the initial study called for in this section within 18 months after enactment of this chapter;

C. Collect and evaluate data on geological, hydrological, seismological, metrological, 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; and

E. Collect and evaluate data on environmental conditions at the sites studied, including land, water, recreation, scenic, ecological and historic factors, and determine costs associated with non development or measures designed to minimize adverse impact on the environment.

2. Authority to develop a comprehensive power plan. Following completion of the studies called for by this section, the authority shall develop 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 collecting 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, and prior to the acquisition of any site, the authority shall hold public hearings throughout the State 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.

D. Before adopting any plan pursuant to this section, it shall be published in proposed form and comments received from all interested persons and public agencies.

#### § 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 paragraph, 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.

The authority may disseminate information designed to encourage energy conservation or to educate the public regarding the efficient use of electricity, but may not engage in "institutional advertising."

§ 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 gross revenue to be allocated among the subdivisions of the State as the Legislature shall determine.

§ 3354. Reports

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

§ 3355. Inconsistent laws inapplicable

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

§ 3356. Act liberally construed

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

§ 3357. 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
	\$ 90,600	\$137,600

## STATEMENT OF FACT

The purpose of this Act 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.