

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1072

H. P. 867

House of Representatives, March 6, 1979

On Motion of Mr. Davies of Orono, referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Huber of Falmouth.

Cosponsors: Mr. Hall of Sangerville, Mr. Austin of Bingham and Mr. Wood of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Encourage the Development of Small Scale Hydroelectric Facilities.**

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

**Sec. 1. 36 MRSA § 656, sub-§ 1, ¶ I is enacted to read:**

**I. A new small hydroelectric power facility, as hereinafter defined, actively engaged in the generation of electricity shall be exempt for a period of 5 years from the date that the facility first generates power. Any person who wishes to claim this exemption shall file with his local tax assessor or board of assessors written application claiming the exemption in a manner prescribed by the assessor or board of assessors. An application for exemption from property taxation shall be filed by April 1st.**

**As used in this paragraph:**

**(1) "New small hydroelectric power facility" means a new hydroelectric power facility or reconstructed facility at a site where there has been no power production for a minimum of 5 years and which is located at the site of any existing dam which uses the water power potential of the dam and which has not more than 30 megawatts of installed capacity. A small hydroelectric**

power facility shall include buildings, equipment, dams, land and any other real property necessary to the existence and operation of the facility.

This paragraph shall remain in effect until January 1, 1985.

Sec. 2. 36 MRSA § 1760, sub-§ 41 is enacted to read:

41. Hydroelectric machinery and equipment. Sales of new hydroelectric machinery and equipment for use at small hydroelectric power facilities, as defined in section 656, subsection 1, paragraph 1, subparagraph (1), and for use by the purchaser directly for the production of hydroelectric power for other than consumption by the producer and which sales are certified by the Office of Energy Resources. In order to obtain certification, a person shall submit to the Office of Energy Resources or its legal successor an application for a tax rebate, which shall state the energy equipment purchased, its manufacturer, its cost, the seller from whom the purchase was made and the use which the purchaser shall make of the equipment.

The State Tax Assessor shall refund sales or use tax paid on the hydroelectric power equipment upon notice of certification by the Office of Energy Resources.

This subsection shall remain in effect until January 1, 1985.

Sec. 3. 36 MRSA § 5216 is enacted to read:

§ 5216. Tax credit for investment in small hydroelectric power facilities

A taxpayer shall be allowed a one-time credit for every qualified investment to be applied against the taxpayer's tax liability to the State for the taxable year in which the taxpayer makes a qualified investment.

1. Qualified investment. A qualified investment for the purposes of this section shall mean investment in a new small hydroelectric power facility.

A. For the purposes of this section, a new small hydroelectric power facility means a new hydroelectric power facility or a reconstructed facility at a site where there has been no power production for a minimum of 5 years and which is located at the site of any existing dam which uses the water potential of the dam and which has not more than 30 megawatts of installed capacity.

2. Limitation on credit. The credit allowed under this section shall be 20% of the taxpayer's qualified investment, not to exceed \$1,000.

3. Carry forward of the credit. If the amount of the credit determined in subsection 2 exceeds the taxpayer's total income tax obligation to the State, the excess shall be a credit carry over to each succeeding year following the first unused credit year until the taxpayer realizes the full amount of the credit provided in subsection 2.

4. Recapture for certain dispositions. If the taxpayer disposes of his qualified investment within 6 years after the date on which the taxpayer acquired his qualified investment in a transaction that gives rise to gain or loss for federal

**income tax purposes, then the tax liability of the taxpayer to the State for the taxable year in which the disposition occurs shall be increased by an amount equal to the amount allowed as a credit in the year of disposition and all prior years.**

#### STATEMENT OF FACT

The purpose of this bill is to encourage the development of small hydroelectric power facilities. Small hydroelectric power facilities include all facilities with an installed capacity up to 15,000 kilowatts which is the federal definition of small hydroelectric power facilities.

This bill provides complete property tax relief for small hydroelectric power facilities for a 5-year period. This tax relief provision will automatically expire on January 1, 1985.

The bill also provides a one-time investment tax credit to any taxpayer who invests in a small hydroelectric power facility. The tax credit provided is 20% of the taxpayer's tax liability to the State for the year in which the investment is made, not to exceed \$1,000. If the investor's tax credit cannot be used in its entirety during the year of the investment, the credit balance may be extended to succeeding years until it is completely used.

The bill also provides a sales tax exemption for new equipment used for the production of hydroelectric power that is made available to the general public. Small hydroelectric power facilities are eligible for this provision which will automatically expire on January 1, 1985.