

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 522

Initiated Bill 1

House of Representatives, January 29, 1981

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EDWIN H. PERT, Clerk of the House

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Create the Maine Energy Commission.

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

Sec. 1. Short title; purpose. This Act shall be known as the Maine Energy Conservation and Development Act. Its purposes are to:

1. Provide for the administration of the public utilities law through 3 elected commissioners;
2. Consolidate the functions and offices of the Public Utilities Commission and the Office of Energy Resources into one new agency;
3. Establish a state energy budget, a comprehensive energy plan which will:
 - A. Emphasize the development of renewable energy supplies and means of energy conservation;
 - B. Determine priorities for financing of projects by the Energy Development Fund; and
 - C. Guide the commission in making decisions concerning rates, construction requirements and other matters;
4. Revise the rate-making and other standards and procedures for regulating electric and natural gas companies; and
5. Administer an energy development fund to provide financing for projects selected by the state energy budget.

Sec. 2. 5 MRSA Pt. 13, as amended, is repealed.

Sec. 3. 21 MRSA § 1395, sub-§ 7 is enacted to read:

7. Contributions to elections for Maine Energy Commission. It is unlawful for any public utility, corporation or other entity regulated by Title 35 or by the Federal Power Act, Public Law chapter 285, as amended, to make a contribution or expenditure in connection with an election to the Maine Energy Commission or for any candidate for Maine Energy Commissioner knowingly to accept or receive any contribution by these entities.

Sec. 4. 35 MRSA § 1, as last amended by PL 1975, c. 771, §§ 390-392, is repealed and the following enacted in its place:

§ 1. Maine Energy Commission

1. Elected commission. The Maine Energy Commission is created and shall consist of 3 members elected by the qualified electors of the State for terms of 4 years. All 3 commissioners shall devote full time to their duties. One commissioner shall be elected statewide by the qualified electors of the State, and shall be designated chairman. One commissioner shall be elected from the first congressional district by the qualified electors of that district, and one shall be elected from the 2nd congressional district by the qualified electors of that district.

2. Overlapping terms. The chairman and members shall serve terms of 4 years, but the term of the chairman first elected shall expire at the end of 1986 and the terms of the commissioners first elected shall expire at the end of 1984.

3. Organization. The commission shall adopt and have a seal and shall maintain its headquarters office in the Augusta area, at which its records shall be kept. The commission shall appoint an executive director, a director of planning and evaluation and a general counsel, all of whom shall serve at the pleasure of the commission. The executive director shall keep a complete record of the proceedings of the commission which shall be open to public inspection at all times. The executive director shall have authority to certify all official acts of the commission, administer oaths, issue subpoenas and issue all processes, notices, orders or other documents necessary to the performance of the duties of the commission. The commission shall have custody and control of all records, maps and papers pertaining to the offices of the former Board of Railroad Commissioners, the former State Water Storage Commission, and the Public Utilities Commission and the Office of Energy Resources.

4. Employees and consultants. The commission may employ consultants and appoint employees as are necessary.

5. Acceptance of moneys. The commission may apply for and accept on behalf of the State any goods, services or funds, including grants, bequests, gifts or contributions from any person, corporation or government, including the Government of the United States.

6. Agreements. The commission may enter into such agreements with other Maine state governmental agencies, governmental agencies of other states and of the United States and of other countries, and private persons and organizations as will promote the objectives of the commission.

Sec. 5. 35 MRSA § 13-A, as last amended by PL 1979, c. 265, §§ 3-5, is further amended by adding after the 2nd paragraph a new paragraph to read:

The company shall file a petition for the commission's approval whenever any electric company proposes to purchase by contract an ownership interest in any electric generating plant constructed or proposed to be constructed within or outside the State; or any long-term, one year or over, purchase or sale of energy or capacity to or from any source within or outside the State.

Sec. 6. 35 MRSA § 13-A, 3rd ¶, first sentence, as enacted by PL 1971, c. 476, § 1, is repealed and the following enacted in its place:

In its order, the commission shall make specific findings with regard to: The need for the facilities, the need for the purchase of an ownership interest in any electric generating plant constructed or proposed to be constructed within or outside the State, or the need for any long-term, one year or more, purchase or sale of energy or capacity to or from any source within or outside the State; and whether the proposal is consistent with the state energy budget. If the commission finds that a need exists, and that the proposal is consistent with the state energy budget, it shall issue a certificate of public convenience and necessity for the facilities or the purchase or sale proposed.

Sec. 7. 35 MRSA §§ 18 and 19 are enacted to read:

§ 18. State energy budget

1. Budget. Beginning January 15th, 1984, and every 2 years thereafter, the commission shall transmit to the Governor and the Legislature a comprehensive state energy budget. The budget shall include, but not necessarily be limited to, the following:

- A.** Projection of the demand for electrical energy and natural gas in the State for the succeeding 5, 10 and 15-year periods;
- B.** A plan for the securing of sufficient supply to meet the projected demand, with maximum feasible utilization of renewable resources, including but not limited to solar, low head hydro, wind, peat, biomass and tidal resources; cogeneration technologies; and imported power;
- C.** A plan for the encouragement of conservation of energy by residential, commercial, governmental and industrial users;
- D.** Identification of any expected increases to the State's capacity to generate or transmit electrical energy and natural gas, the costs of the additions and an evaluation of their impact on the state's environment, the health and safety of the population and the short and long-term cost of the ratepayers;

E. A report on the impact of the state energy budget on the state's elderly and low income populations;

F. Recommendation to the Governor and the Legislature for any administrative or legislative actions which in the view of the commission are necessary to support the state energy budget or otherwise carry out the intent of this section; and

G. An explanation of the major assumptions and methods used in constructing the state energy budget.

2. Process. The state energy budget shall be determined as follows.

A. On or before January 15th of each year every electric company, gas company and natural gas pipeline company shall transmit to the commission its forecast of energy demand and proposed resources to meet that demand for its service area for the ensuing 5, 10 and 15-year periods. The specific content required for the forecasts shall be designated by rule making.

B. Within a reasonable time after receiving the forecasts, the commission shall prepare a forecast of energy demand and proposed resources to meet that demand for the State for the ensuing 5, 10 and 15-year periods. The specific content required for the forecast shall be designated by rule making.

C. Within a reasonable time after preparation of its forecast, the commission shall hold hearings to assess the reasonableness of company and other forecasts. After the hearings the commission shall make a preliminary decision and issue a draft budget.

3. Adoption. Prior to the adoption of the state energy budget by the commission, the draft of the budget prepared pursuant to subsection 2 shall be submitted to the Legislature solely for approval or disapproval. The plan shall be disapproved if 2/3 or more of each House of the Legislature votes a resolution of disapproval. In the absence of a 2/3 vote of disapproval within 60 calendar days from submission, the budget shall be deemed adopted.

§ 19. Energy Development Fund

1. Establishment. There is established an Energy Development Fund, to be administered by the commission. The fund will consist of moneys raised from the following sources:

A. General obligation bonds;

B. Revenue bonds issued by the commission and by others;

C. Grants, loans and gifts; or

D. Appropriations.

2. Purposes. The fund shall be used for financing projects within the guidelines set forth in the state energy budget.

Sec. 8. 35 MRSA § 51, 3rd sentence, is repealed and the following enacted in its place:

In determining just and reasonable rates, the commission shall provide revenues to the utility as may be required to perform its public service, consistent with the state energy budget and to attract necessary capital on just and reasonable terms.

Sec. 9. 35 MRSA § 69-A is enacted to read:

§ 69-A. Effective date of change in rates

Notwithstanding any other provision of this chapter no change in rates charged by an electric or gas company may take effect until expressly approved by the commission after notice and hearing.

Sec. 10. 35 MRSA § 93, first sentence, as enacted by PL 1977, c. 521, is repealed and the following enacted in its place:

The commission shall order electric companies and gas companies to submit specific rate design proposals and related programs which are consistent with the state energy budget at all electric company and gas company rate-making proceedings pending before the commission.

Sec. 11. Revision clause.

1. Wherever in the Revised Statutes, the words "Public Utilities Commission" appear or reference is made to that name, they shall be amended to read and mean "Maine Energy Commission."

2. Wherever in the Revised Statutes the words "Office of Energy Resources" appear or reference is made to that name, they shall be amended to read and mean "Maine Energy Commission."

Wherever in the Revised Statutes the word "commissioner," meaning commissioner of the Public Utilities Commission, appear or reference is made to that name, it shall be amended to read and mean "Commissioner of the Maine Energy Commission."

4. Wherever in the Revised Statutes the words "director of the Office of Energy Resources" appear or reference is made to that name, they shall be amended to read and mean "Maine Energy Commission."

Sec. 12. Disposition of assets, liabilities, personnel and pending cases; effective date.

1. The assets and liabilities of the Office of Energy Resources and the Public Utilities Commission shall be transferred to the Maine Energy Commission.

2. Nothing in this Act may be construed to affect the provisions of any collective bargaining agreement between the State and the employees of the agencies affected by this Act, in effect on the effective date of this Act.

3. All cases pending on the effective date of this Act shall be disposed of by the

new commissioners, under the law in effect when the cases were filed. All cases requiring conformance to the state energy budget filed after the effective date of this Act and prior to the adoption of the state energy budget shall be disposed of by the new commissioners under the law in effect prior to the effective date of the Act.

Sec. 13. Effective date. Sections 1 through 12 of this Act shall take effect upon the election of the commissioners.

Sec. 14. Election of commissioners. The first election for the commissioners shall be held during the first November after approval of this Act by the voters.

STATEMENT OF FACT

This bill creates the Maine Energy Commission, a new state agency essentially the product of a merger of the now existing Public Utilities Commission and the Office of Energy Resources. The bill provides for the election of 3 commissioners for terms of 4 years, as opposed to the now existing method of gubernatorial appointment of Public Utilities Commission commissioners for 7-year terms.

The bill also revises the rate making and capital construction approval procedures for electric and natural gas utilities. The major change in these procedures requires that all applications for rate increases and authorizations for new capital construction be consistent with a state energy budget. The preparation of this budget is covered in section 7. It is a comprehensive energy plan forming the basis of day-to-day decisions of the commission which charts the course of Maine's energy future.

In addition, the bill, in section 7, creates an Energy Development Fund designed to implement the state energy budget by providing financing for the projects targeted in the budget.

Sections 11 and 12 contain the transitional provisions necessary to put the new commission into operation.