

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1396**

S. P. 491

In Senate, March 19, 1981

Referred to the Committee on Energy and Natural Resources. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsors: Senator O'Leary of Oxford and Representative Davies of Orono.

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STATE OF MAINE

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

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**AN ACT to Assure the Appropriate Development of the Hydropower Potential of  
Maine Rivers.**

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

**Sec. 1.** 35 MRSA § 2327, sub-§ 5 is enacted to read:

**5. Cost of fishways and fish ladders installed at a small power production facility or cogeneration facility. The rate charged by a small power producer or cogenerator for electricity produced shall reflect the cost to the small power producer or cogenerator of fishways and fish ladders installed at the small power production facility or cogeneration facility.**

**Sec. 2.** 38 MRSA § 621, as enacted by PL 1979, c. 465, is amended by adding after the 2nd sentence a new sentence to read:

**It is the intent of the Legislature in enacting this subarticle that the development of small hydroelectric facilities on existing dams shall be subject only to requirements for permits, licenses or other regulatory approvals or conditions which would have applied to the development of small hydroelectric facilities prior to the enactment of this subarticle.**

**Sec. 3.** 38 MRSA § 625, as enacted by PL 1979, c. 465, is amended by adding after the 4th paragraph a new paragraph to read:

Any agency of the State proposing a condition on the granting of a license to construct or operate the facility has the burden to establish that, over the expected life of the facility, the advantages of the proposed condition outweigh any adverse impact on the economic feasibility of the facility and on the displacement of fossil fuel generation resulting from operation of the facility.

#### STATEMENT OF FACT

The intent of this bill is to promote development of hydroelectric facilities and other alternate energy sources in the State.

Section 1 of the bill amends the Small Power Production Facilities and Cogeneration Facilities Act to permit the costs of fishways and fish ladders installed at the small power production facility or cogeneration facility to be reflected in the rate charged for electricity produced by the facility. Presently, the bill does not specifically permit the costs of environmental controls installed by a small power producer or cogenerator to be reflected in such rates. The costs of environmental improvements and environmental control facilities, such as fish ladders, adds significantly to the development cost of cogeneration or small power production projects. This legislation encourages the development of small power production and cogeneration facilities by permitting the costs of environmental safeguards to be reflected in the rates charged for the power sold by such facilities.

Sections 2 and 3 amend Title 38, sections 621 and 625, as enacted by PL 1979, c. 465, to clarify that the purpose of the legislation is to provide a single license application proceeding for small hydroelectric facilities on existing dams and not to create any additional regulatory burdens on the redevelopment of such facilities. This bill also expedites the development of such small hydroelectric power projects by requiring any state agency which proposes that conditions be attached to the granting of a license pursuant to the statute to bear the burden of demonstrating that the advantages of the proposed conditions outweigh the economic and energy impact of the conditions.

In light of escalating costs of fossil fuel fired energy and the risk of dependence upon foreign energy sources, Maine must act to encourage the development of hydroelectric facilities and other alternate energy sources. This bill is designed to clarify and improve prior legislation dealing with the development of hydroelectric resources in this State and to promote the further development of small power production facilities and cogeneration facilities within the State.