

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

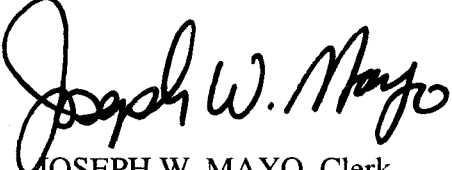
No. 1398

H.P. 1000

House of Representatives, February 18, 1999

**An Act to Secure Environmental and Economic Benefits from Electric
Utility Restructuring.**

Reference to the Committee on Utilities and Energy suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DAVIDSON of Brunswick.
Cosponsored by Senator CAREY of Kennebec and
Representatives: BRYANT of Dixfield, COLWELL of Gardiner, ETNIER of Harpswell,
ROWE of Portland, SAVAGE of Buxton, SAXL of Portland.

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

4 **Sec. 1. 35-A MRSA §3211**, as enacted by PL 1997, c. 316, §3,
is amended to read:

6 **§3211. Conservation programs**

8 The commission shall require transmission and distribution
10 utilities to implement energy conservation programs developed
pursuant to the requirements of section 3211-A, subsection 2,
12 paragraphs B and C and include the cost of any such programs in
the rates of transmission and distribution utilities. ~~The~~
14 ~~commission shall require~~ To the greatest extent practicable, and
whenever so directed in strategy and plan developed pursuant to
section 3211-A, subsection 2, paragraphs B and C, transmission
16 and distribution utilities ~~to~~ shall select energy efficiency
service providers through periodic competitive bidding programs.
18 ~~However, nothing in this section precludes transmission and~~
~~distribution utilities from selecting providers through other~~
20 ~~means, including contracts or other forms of agreement with~~
~~state, regional, federal or other public agencies, units of local~~
22 ~~government or nonprofit organizations whenever it can be~~
~~demonstrated to the satisfaction of the commission that such~~
24 ~~entities can provide unique services or benefits and such~~
~~arrangements are in the best interests of the State, or when the~~
26 ~~strategy and plans developed pursuant to section 3211-A,~~
~~subsection 2, paragraphs B and C so recommend.~~ The commission
28 shall establish a reasonable level of funding for ~~these new~~
programs targeted at incremental energy efficiency savings. The
30 funding for these new programs must be comparable to the amount
expended in total for similar all programs in the year 1999 and
32 regularly review the amount of funding needed . ~~The commission~~
~~shall periodically review the amount of funding for each~~
34 ~~transmission and distribution utility in subsequent proceedings,~~
~~in consultation with the Energy Management Authority of Maine in~~
36 ~~fulfillment of its obligations under section 3211-A, subsection~~
~~2, paragraph C.~~

38 By July 1, 1998, the commission shall commence a rule-making
40 proceeding on energy conservation programs. ~~By July 1, 1999~~
January 1, 2000, the commission shall ~~provisionally~~ adopt final
42 rules establishing energy conservation programs in compliance
with this subsection. Rules adopted under this subsection are
44 ~~major-substantive~~ routine technical rules pursuant to Title 5,
chapter 375, subchapter II-A.

46 Funds collected in the rates of transmission and
48 distribution utilities beginning March 1, 2000 must be
transferred to the Energy Management Authority of Maine for
50 disbursement in contracts to energy efficiency service providers.

2 following bid competitions under section 3211-A, subsection 2,
3 paragraph C.

4 Sec. 2. 35-A MRS §§3211-A and 3211-B are enacted to read:

6 **§3211-A. Energy Management Authority of Maine**

8 1. Authority established; purpose. The Energy Management
9 Authority of Maine, referred to in this section as the
10 "authority," is established as a body corporate and politic and a
11 public instrumentality of the State. The exercise by the
12 authority of its powers conferred by this chapter is deemed to be
13 the performance of essential governmental functions.

14
15 The purpose of the authority is to further the general goals of
16 this chapter with respect to retail competition for electricity
17 supply service in a manner that ensures that electricity products
18 available in the State achieve a positive impact on the State's
19 environment and its economy. In keeping with this purpose, the
20 authority is mandated to develop and oversee a strategic plan and
21 policy framework that provides that the State's air quality and
22 environment is in no way degraded but rather improved as a result
23 of the activities of participants in the State's competitive
24 electricity market.

26 2. Duties. The authority shall:

28 A. Coordinate the actions of state agencies that affect the
29 consumption of energy with the objective of securing the
30 environmental and economic benefits of electric
31 restructuring;

32
33 B. Create objectives and an overall energy strategy for
34 statewide programs to be implemented by transmission and
35 distribution utilities pursuant to section 3211, including
36 program planning guidance that is sufficiently specific to
37 provide the basis for bidding programs or alternative
38 contractual arrangements when program requirements make such
39 arrangements preferable for the achievement of program
40 objectives. The objectives and strategy shall be revised
41 from time to time on a schedule to be determined by the
42 authority;

44 C. Review and approve proposed utility implementation
45 plans, including proposed bidding programs, for consistency
46 with the objectives, strategy and planning guidance
47 established pursuant to paragraph B prior to implementation
48 and monitor and evaluate implementation of programs by
49 transmission and distribution utilities compared with the
50 objectives, strategy and program planning guidance

2 established pursuant to paragraph B and negotiate program
3 modifications when changes are supported by evaluation
4 results or changed circumstances in the marketplace;

6 D. Monitor and participate in planning and program
7 development forums elsewhere in the region or the country
8 and enter into agreements with public agencies or other
9 entities outside of the State for joint or cooperative
10 planning or program delivery whenever such arrangements can
11 provide demonstrable benefits to citizens of the State and
12 when such arrangements are consistent with objectives,
13 strategies and program plans developed pursuant to paragraph
14 B;

16 E. Provide aggregation services in the purchase of retail
17 electricity on behalf of low-income households that qualify
18 for federal assistance under the Low-Income Home Energy
19 Assistance Program or its successor or under section 3214 if
20 those services are voluntary and are consented to by the
21 head of household;

22 F. Offer aggregation services for the purchase of retail
23 electricity and energy services at all facilities owned and,
24 to the extent feasible, leased by the State, in order to
25 achieve reductions in the costs to the State of these
26 services consistent with the overall environmental goals
27 identified in subsection 1;

28 G. Seek to realize reductions in the emission of ozone
29 precursors and greenhouse gases such as carbon dioxide, by
30 means of improved delivery of programs under the
31 jurisdiction of the Department of Environmental Protection
32 in conjunction with the emission reduction credit program
33 established in section 3211-B; and

34 H. Aggregate emissions reduction credits that are realized
35 by any of the authority's programs and seek their
36 certification by the Department of Environmental Protection
37 pursuant to section 3211-B. Any income realized as a result
38 of these aggregation efforts must be used to fund the
39 authority's operations.

40 3. Implementation. In performing the duties established in
41 subsection 2, the authority shall:

42 A. Coordinate its efforts with similar efforts in and among
43 states in the Northeast region that are designed to achieve
44 the same goals;

2 B. Coordinate its efforts with agencies of the State with
4 related responsibilities including the commission, the
6 Department of Environmental Protection, the Maine State
Housing Authority, the Finance Authority of Maine, the State
Planning Office, the Office of the Public Advocate and the
Department of Economic and Community Development;

8 C. Generate where practicable the development of resources,
10 infrastructure and skills within the State by utilizing
12 in-state contractors in conjunction with bid competitions
for energy efficiency services;

14 D. Pursue to the greatest extent practicable market-based
16 resources for implementing its various programs, as opposed
to regulatory approaches;

18 E. Seek to implement the delivery of program services in
20 all regions of the State on a consistent basis and to
citizens at all income levels; and

22 F. Apply for grants and receive grants from state, federal
24 and private sources when receipt of any such funding is
consistent with the purposes of this section.

26 4. Staff; appointment. The Director of the Energy
28 Management Authority of Maine is appointed by the Governor,
30 subject to review by the joint standing committee of the
32 Legislature having jurisdiction over utility and energy matters
34 and subject to confirmation by the Legislature. The director may
hire and fire staff as necessary to fulfill the purposes of the
authority; any such staff serve at the pleasure of the director
and are not subject to the Civil Service Law. Compensation for
all employees of the authority is determined by the board of
directors. Initial personnel include 3 staff members and the
director.

36 5. Repeal. This section is repealed July 1, 2007.

38 §3211-B. Emissions reduction credits program

40 1. Program. The Department of Environmental Protection may
42 establish a program of tradable emissions reduction credits that
44 may be earned by a generator, broker, marketer or retail customer
as a consequence of diminished impacts on air associated with
energy efficiency programs.

46 2. Rulemaking. By January 1, 2000, the Department of
48 Environmental Protection shall provisionally adopt rules
50 establishing conditions for the emissions reduction credit
program. Rules adopted under this subsection are major

2 substantive rules pursuant to Title 5, chapter 375, subchapter
3 II-A.

4 3. Set-aside. The Department of Environmental Protection
5 shall establish a set-aside under the Maine nitrous oxide
6 emissions budget for qualifying energy efficiency programs by
7 means of allowances released by the department as a result of
8 closures of facilities, the reclamation of allowances following
9 enforcement actions and other allowances that lapse and are not
10 used or otherwise tradable.

12 **Sec. 3. Transition.** For the fiscal years 1999-00 and 2000-01,
13 funding in the amount of \$400,000 in each fiscal year must be
14 transferred to the Energy Management Authority of Maine from the
15 Public Utilities Commission account in which licensing fees paid
16 by competitive electricity providers pursuant to the Maine
17 Revised Statutes, Title 35-A, section 3203 are segregated and
18 maintained. These funds are to be deposited in the Energy
19 Management Authority Fund.

20 **Sec. 4. Allocation.** The following funds are allocated from
21 Other Special Revenue to carry out the purposes of this Act.

24 **1999-00** **2000-01**

26 **ENERGY MANAGEMENT AUTHORITY OF**
27 **MAINE**

28 **Energy Management Authority of**
29 **Maine**

32	Positions	(4.0)	(4.0)
	Personal Services	\$255,000	\$273,000
34	All Other	130,000	122,000
	Capital Expenditures	15,000	5,000

36
38 Amounts in the Energy
39 Management Authority Fund do
40 not lapse but must be carried
41 forward for the purposes
42 enumerated in the Maine
43 Revised Statutes, Title 35-A,
44 section 3211-A.

46 **ENERGY MANAGEMENT AUTHORITY**
47 **OF MAINE**

48	TOTAL	\$400,000	\$400,000
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SUMMARY

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4 This bill proposes creations of a tradable credit program,
6 under rules to be established by the Department of Environmental
8 Protection, that will be administered by a new quasi-governmental
10 agency created in this bill, the Energy Management Authority of
12 Maine, with authority to aggregate the credits earned as a result
14 of energy efficiency programs targeted at electric consumers or
16 resulting from the purchases of electricity at state agency
18 facilities or on behalf of low-income customers enrolled in the
20 Low-Income Home Energy Assistance Program. The bill also directs
22 the Energy Management Authority of Maine to undertake the
statewide planning, management and coordination of all energy
efficiency services that are paid for in the rates of
transmission and distribution customers. Finally, the Energy
Management Authority of Maine is directed to undertake the
development of a state strategy for pursuing other energy
efficiency opportunities that arise as a result of electric
industry restructuring and to receive the advice of the 15-member
board of stakeholders, citizen advisors and industry
representatives. Authorization for these activities is repealed
in July 2007 unless renewed by the Legislature.