

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1075

H.P. 742

House of Representatives, March 17, 2009

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### An Act To Promote Community-based Energy

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MacDONALD of Boothbay.  
Cosponsored by Representatives: BOLAND of Sanford, FITTS of Pittsfield, HINCK of  
Portland, MARTIN of Eagle Lake, Speaker PINGREE of North Haven, SHAW of Standish,  
VAN WIE of New Gloucester.

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

2 **Sec. 1. 5 MRSA §1766-A**, as enacted by PL 2007, c. 52, §1, is amended to read:

3 **§1766-A. Electricity purchases for state buildings**

4 No later than January 1, 2010, all electricity consumed in state-owned buildings must  
5 be supplied by renewable resources. For purposes of this section, "renewable resource"  
6 means any renewable resource defined in Title 35-A, section 3210, subsection 2,  
7 paragraph C. In purchasing electricity for state-owned buildings and facilities, the State  
8 shall to the maximum extent practicable give preference to electricity generated by  
9 community-based energy facilities, as defined in Title 35-A, section 3602, subsection 2.

10 **Sec. 2. 35-A MRSA §3210, sub-§8**, as amended by PL 2007, c. 403, §6, is  
11 further amended to read:

12 **8. Credit trading.** The commission shall allow competitive electricity providers to  
13 satisfy the portfolio requirements of subsections 3 and 3-A through the use of renewable  
14 energy credits if the commission determines that a reliable system of electrical attribute  
15 trading exists. When renewable energy credits are used to satisfy the portfolio  
16 requirements of subsections 3 and 3-A, the value of a renewable energy credit for  
17 electricity generated from a community-based energy facility, as defined in section 3602,  
18 subsection 2 is equal to 150% of the amount of the electricity.

19 **Sec. 3. 35-A MRSA §3212, sub-§7** is enacted to read:

20 **7. Community-based energy requirement.** Beginning January 1, 2013, the  
21 commission shall require a standard-offer service provider to purchase a minimum of 3%  
22 of the electricity supplied under the standard-offer service contract from community-  
23 based energy facilities. Beginning January 1, 2015, the minimum amount required to be  
24 purchased from community-based energy facilities under this subsection increases to 5%.  
25 For the purposes of this subsection, "community-based energy facility" has the same  
26 meaning as in section 3602, subsection 2.

27 **Sec. 4. 35-A MRSA c. 36** is enacted to read:

28 **CHAPTER 36**

29 **COMMUNITY-BASED ENERGY**

30 **§3601. Short title**

31 This chapter may be known and cited as "the Community-based Energy Act."

32 **§3602. Definitions**

33 As used in this chapter, unless the context otherwise indicates, the following terms  
34 have the following meanings.

1           **1. Commercial energy developer.** "Commercial energy developer" means a person  
2 or organization that develops an energy generation facility or sells services, machinery or  
3 other supplies for the development of an energy generation facility.

4           **2. Community-based energy facility.** "Community-based energy facility" means  
5 an electricity-generating facility that generates electricity from renewable resources and  
6 meets the following criteria:

7           A. At least 51% of the gross revenues from electricity sales and renewable energy  
8 credit sales from the community-based energy facility flow to qualifying owners; and

9           B. The legislative body of each political subdivision of the State or tribal land or  
10 territory in which the community-based energy facility is located has passed a  
11 resolution in support of the facility.

12           **3. Qualifying owner.** "Qualifying owner" means an owner of a community-based  
13 energy facility that is:

14           A. A resident of the State and not a commercial energy developer of the community-  
15 based energy facility;

16           B. A limited liability company organized under the laws of the State, not organized  
17 for the purpose of commercial energy development and made up of members who are  
18 residents of the State;

19           C. A nonprofit corporation organized under the laws of the State;

20           D. A rural electrification cooperative, as defined in Title 35-A, section 3703,  
21 subsection 2;

22           E. A political subdivision of the State, including, but not limited to, a county,  
23 municipality, municipal electric district, school administrative unit, public or private  
24 institution of higher education, regional council of governments or any other local or  
25 regional governmental organization, including, but not limited to, a board,  
26 commission or association;

27           F. A department, agency or instrumentality of the State; or

28           G. A federally recognized Indian tribe.

29           **4. Renewable resource.** "Renewable resource" has the same meaning as in section  
30 3210, subsection 2, paragraph C.

31           **5. Tribal land or territory.** "Tribal land or territory" means:

32           A. Houlton Band Trust Land, as defined in Title 30, section 6203, subsection 2-A;

33           B. Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection  
34 6;

35           C. Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9; and

36           D. Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2.

1        **§3603. Community-based energy**

2            **1. Policy goal.** The goal for community-based energy development in the State is  
3 that by 2017 at least 5% of electricity consumed by retail electricity customers in the  
4 State is generated by community-based energy facilities.

5            **2. State involvement.** Except when directly prohibited by law, deed restriction or  
6 other encumbrance, publicly owned land, water or facilities may be used by the State or  
7 political subdivisions in the development and operation of community-based energy  
8 facilities or may be leased to other qualifying owners for community-based energy  
9 facilities.

10           **3. Model community-based energy facility organization.** The Executive  
11 Department, State Planning Office, with assistance from the Office of the Attorney  
12 General, shall develop a model legal organizational structure for community-based  
13 energy facilities. The office shall make the model available on a publicly accessible  
14 website. The model must include a detailed guide to facilitate the efficient and effective  
15 establishment and operation of community-based energy facilities.

16           **4. Tracking; biennial report.** The commission and the Executive Department,  
17 Governor's Office of Energy Independence and Security shall develop and administer a  
18 system to register and track the development of community-based energy facilities and by  
19 January 15, 2011 and biennially by January 15th thereafter shall report progress toward  
20 meeting the community-based energy development goal established in subsection 1 to the  
21 joint standing committee of the Legislature having jurisdiction over utilities and energy  
22 matters. The report must include an assessment of the effectiveness of policies and  
23 programs designed to encourage community-based energy and make recommendations  
24 for any necessary adjustments to those policies and programs.

25           **Sec. 5. 35-A MRSA §10008, sub-§6, ¶M** is enacted to read:

26           M. Notwithstanding any other provision of this section, the trust fund may be used to  
27 fund the development of community-based energy facilities, as defined in section  
28 3602, subsection 2.

29           **Sec. 6. Consolidating state energy policy and energy efficiency**  
30 **responsibilities.** Under the direction of the Public Utilities Commission, state agencies  
31 with responsibility for energy policy and programs, including, but not limited to, the  
32 Public Utilities Commission, the Energy and Carbon Savings Trust, the Energy  
33 Conservation Board, the Governor's Office of Energy Independence and Security and the  
34 State Planning Office within the Executive Department and the Maine State Housing  
35 Authority, shall prepare a plan to consolidate and integrate state-level energy policy and  
36 program functions and responsibilities within a single entity. The plan must be designed  
37 to provide streamlined management and administration of state energy policy and  
38 programs and to maximize leveraging opportunities and strengthen program effectiveness  
39 and accountability. The duties of the single entity shall include providing technical  
40 assistance for the development of community-based energy facilities, as defined in the  
41 Maine Revised Statutes, Title 35-A, section 3602, subsection 2.

1 By January 15, 2010, the Public Utilities Commission shall submit a report based on  
2 the plan, including any necessary implementing legislation, to the Joint Standing  
3 Committee on Utilities and Energy. After receipt and review of the report, the committee  
4 may submit legislation related to the report to the Second Regular Session of the 124th  
5 Legislature.

## 6 SUMMARY

7 This bill includes a number of provisions designed to encourage the development of  
8 community-based energy facilities and to achieve a goal of having 5% of electricity  
9 consumed by retail customers produced by community-based energy facilities by 2017.

10 1. It requires the State to give preference to community-based energy facilities in  
11 purchasing electricity for state-owned buildings and facilities.

12 2. It increases the value of renewable energy credits for electricity generated by  
13 community-based energy facilities to 150% of the amount of the electricity.

14 3. It requires standard-offer service providers to purchase a minimum amount of  
15 electricity from community-based energy facilities.

16 4. It requires the Executive Department, State Planning Office to develop a model  
17 legal organizational structure for community-based energy facilities.

18 5. It requires the Public Utilities Commission and the Executive Department,  
19 Governor's Office of Energy Independence and Security to develop and administer a  
20 system to track the development of community-based energy facilities.

21 6. It requires those state agencies that have energy-related responsibilities to develop  
22 a plan to consolidate and integrate state-level energy policy and program functions and  
23 responsibilities within a single state entity.

24 7. It authorizes funding from the Energy and Carbon Savings Trust Fund to be used  
25 for the development of community-based energy facilities.