

MAINE STATE LEGISLATURE

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Date: 6/4/9

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 1038, L.D. 1485, Bill, "An Act Regarding Maine's Energy Future"

Amend the bill by inserting after the title and before the enacting clause the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation establishes the Efficiency Maine Trust to operate an integrated suite of energy efficiency and renewable energy programs; and

Whereas, it is necessary that the changes made by this legislation take effect as soon as possible for the maximum benefit of the people of the State to aid them in developing efficient uses of energy; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill in Part B in section 3 in §10104 in subsection 3 in the 2nd line (page 6, line 5 in L.D.) by inserting after the following: "performance" the following: 'for all programs it administers and'

Amend the bill in Part B in section 3 in §10104 in subsection 4 in paragraph D in the 8th line (page 7, line 11 in L.D.) by striking out the following: ", approving the plan with modifications or rejecting" and inserting the following: 'or rejecting the plan and stating the reasons for the rejection. The commission shall reject'

Amend the bill in Part B in section 3 in §10104 in subsection 9 in the 2nd line (page 10, line 5 in L.D.) by inserting after the following: "shall coordinate" the following: 'with'

Amend the bill in Part B in section 3 in §10107 by striking out all of the indented paragraph (page 12, lines 32 to 34 in L.D.) and inserting the following:

'Each trustee is an "executive employee" for purposes of Title 5, sections 18, 18-A and 19. A trustee or employee of the trust or a spouse or dependent child of any of those

HOUSE AMENDMENT

R. 08. 0.

1 individuals may not receive any direct personal benefit from the activities of the trust in
2 assisting any private entity. This section does not prohibit corporations or other entities
3 with which a trustee is associated by reason of ownership or employment from
4 participating in program activities with the trust if ownership or employment is made
5 known to the board and the board or director abstains from voting on matters relating to
6 that participation.'

7 Amend the bill in Part B in section 3 in §10108 by striking out all of the indented
8 paragraph (page 12, lines 36 to 38 in L.D.) and inserting the following:

9 'All officers, directors, employees and other agents of the trust entrusted with the
10 custody of funds of the trust or authorized to disburse the funds of the trust must be
11 bonded either by a blanket bond or by individual bonds with a minimum limitation of
12 \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary
13 liability insurance, conditioned upon the faithful performance of their duties. The
14 premiums for the bond or bonds must be paid out of the assets of the trust.'

15 Amend the bill in Part C in section 2 in subsection 1 in the 3rd line (page 31, line 34
16 in L.D.) by striking out the following: "Within 30 days" and inserting the following: 'As
17 soon as practicable'

18 Amend the bill in Part C in section 2 in subsection 4 in the 2nd line (page 32, line 10
19 in L.D.) by striking out the following: "between October 1, 2009 and" and inserting the
20 following: 'retroactive to the director's first day of employment to'

21 Amend the bill in Part C in section 2 in subsection 5 in the 2nd line (page 32, line 20
22 in L.D.) by inserting after the following: "pursuant to" the following: 'Title 35-A, section
23 3210, subsection 5 and'

24 Amend the bill in Part E in section 3 in subsection 4-A in paragraph A in
25 subparagraph (2) in the 5th and 6th lines (page 41, lines 8 and 9 in L.D.) by striking out
26 the following: "Maine Energy, Housing and Economic Recovery Fund created in Title
27 30-A, section 4863" and inserting the following: 'Housing Opportunities for Maine Fund
28 created in Title 30-A, section 4853'

29 Amend the bill in Part E in section 3 in subsection 4-A in paragraph B in
30 subparagraph (2) in the 5th and 6th lines (page 41, lines 17 and 18 in L.D.) by striking out
31 the following: "Maine Energy, Housing and Economic Recovery Fund created in Title
32 30-A, section 4863" and inserting the following: 'Housing Opportunities for Maine Fund
33 created in Title 30-A, section 4853'

34 Amend the bill in Part F in section 5 by striking out all of subsection 2 and inserting
35 the following:

36 **'2. Prohibition.** A state authority may not enter into a significant occupancy
37 agreement allowing the installation of energy facilities in state transportation corridors
38 until a law approving a plan governing such agreements is enacted. A state authority may
39 not issue a permit for an energy facility greater than 75 miles in length on land other than
40 the submerged lands of this State or outside the territorial waters of this State as defined
41 in the Maine Revised Statutes, Title 12, section 6001, subsection 48-B until this section is
42 repealed, except that:

HOUSE AMENDMENT

R. of S.

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- A. An application from such an energy facility may be processed by a state authority up to, but not including, final decision on the application;
- B. Any applications processed by the Department of Environmental Protection or the Public Utilities Commission that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record; and
- C. Any action, proceeding or decision by a state authority pertaining to such an application is governed by any law enacted pursuant to section 4, subsection 6.

A state authority may not sell or lease public lands as that term is used in Title 35-A, section 3132, subsection 13 for the installation of an energy facility greater than 75 miles in length until a law approving a plan governing the sale or lease of state lands for such installations is enacted or until the energy facility receives a certificate of public convenience and necessity pursuant to Title 35-A, section 3132. Notwithstanding any other statutory provision or exemption, any person proposing to construct a transmission line greater than 75 miles in length and operating at greater than 69 kilovolts must obtain a certificate of public convenience and necessity as required by Title 35-A, section 3132.'

Amend the bill in Part F in section 5 in subsection 3 by inserting at the end the following: 'This section does not apply to an energy facility that is an eligible project under Title IV of the federal American Recovery and Reinvestment Act of 2009 if that project has received notification from the United States Department of Energy or its agents that the energy facility has been granted a federal loan guarantee under that Act.'

Amend the bill by inserting after Part J the following:

'PART K

Sec. K-1. 35-A MRSA §3210, sub-§5, as amended by PL 2007, c. 644, §§1 to 3, is further amended to read:

5. Funding for research and development; community demonstration projects. The commission and the Efficiency Maine Trust, established pursuant to chapter 97, by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund community demonstration projects using renewable energy technologies. ~~The program must:~~

- A. ~~Include~~ The commission shall establish a mechanism for customers to indicate their willingness to make contributions;
- B. ~~Provide~~ The commission shall provide that transmission and distribution utilities collect and account for the contributions and forward them to the commission;
- C. ~~Provide~~ The commission shall provide for a distribution of the funds to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for renewable resource research and development;
- D. ~~Provide~~ The Efficiency Maine Trust shall provide for a distribution of the funds to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs,

1 municipalities, quasi-municipal corporations or districts as defined in Title 30-A,
2 section 2351 and school administrative units as defined in Title 20-A, section 1 for
3 community demonstration projects using renewable energy technologies; and.

4 E. Provide The Efficiency Maine Trust shall provide for an annual distribution of
5 35% of the funds to the Maine Technology Institute to support the development and
6 commercialization of renewable energy technologies.

7 Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter
8 375, subchapter 2-A.

9 **Sec. K-2. 35-A MRSA §3210, sub-§6,** as amended by PL 2007, c. 18, §2, is
10 further amended to read:

11 **6. Fund.** There is established the Renewable Resource Fund, referred to in this
12 subsection as the "fund." The fund is a nonlapsing fund administered by the ~~commission~~
13 Efficiency Maine Trust, established pursuant to chapter 97. All funds collected by the
14 commission pursuant to subsection 5 must be transferred to the Efficiency Maine Trust
15 and deposited in the fund for distribution by the commission and the Efficiency Maine
16 Trust in accordance with subsection 5. The ~~commission~~ Efficiency Maine Trust may
17 seek and accept funding for the program established pursuant to subsection 5 from other
18 sources, public or private. Any funds accepted for use in the program established
19 pursuant to subsection 5 must be deposited in the fund.

20 **Sec. K-3. 35-A MRSA §3210, sub-§6-A,** as enacted by PL 2007, c. 18, §3, is
21 amended to read:

22 **6-A. Renewable Resource Fund report.** The ~~commission~~ Efficiency Maine Trust,
23 established pursuant to chapter 97, shall report by December 1st of each year to the joint
24 standing committee of the Legislature having jurisdiction over utilities and energy
25 matters on the Renewable Resource Fund established in subsection 6 and referred to in
26 this subsection as "the fund." The report must include:

27 A. A description of actions taken by the ~~commission~~ Efficiency Maine Trust
28 pursuant to subsections 5 and 6 during the prior 12 months;

29 B. An accounting of total deposits into and expenditures from the fund during the
30 prior 12 months; and

31 C. A description of any research and development or community demonstration
32 project that received a distribution from the fund during the prior 12 months,
33 including its objectives, current status and results.

34 **Sec. K-4. Appropriations and allocations.** The following appropriations and
35 allocations are made.

36 **EFFICIENCY MAINE TRUST**

37 **Renewable Resource Fund Z052**

38 Initiative: Allocates funds to reflect the transfer of the Renewable Resource Fund from
39 the Public Utilities Commission to the Efficiency Maine Trust.

R. of S.

HOUSE AMENDMENT "A" to H.P. 1038, L.D. 1485

1	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
2	All Other	\$0	\$75,000
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$75,000</u>
5	EFFICIENCY MAINE TRUST		
6	DEPARTMENT TOTALS	2009-10	2010-11
7			
8	OTHER SPECIAL REVENUE FUNDS	\$0	\$75,000
9			
10	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$75,000</u>
11	PUBLIC UTILITIES COMMISSION		
12	Renewable Resource Fund Z052		
13	Initiative: Deallocates funds to reflect the transfer of the Renewable Resource Fund from		
14	the Public Utilities Commission to the Efficiency Maine Trust.		
15	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
16	All Other	\$0	(\$75,000)
17			
18	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>(\$75,000)</u>
19	PUBLIC UTILITIES COMMISSION		
20	DEPARTMENT TOTALS	2009-10	2010-11
21			
22	OTHER SPECIAL REVENUE FUNDS	\$0	(\$75,000)
23			
24	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$75,000)</u>
25	SECTION TOTALS	2009-10	2010-11
26			
27	OTHER SPECIAL REVENUE FUNDS	\$0	\$0
28			
29	SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$0</u>
30			

31 Amend the bill by inserting at the end before the summary the following:

32 **'Emergency clause.** In view of the emergency cited in the preamble, this

33 legislation takes effect when approved.'

34 Amend the bill by relettering or renumbering any nonconsecutive Part letter or

35 section number to read consecutively.

HOUSE AMENDMENT

R. of S.

SUMMARY

This amendment:

1. Specifies that the Efficiency Maine Trust shall develop measures of performance for all programs it administers;

2. Requires that, if the Public Utilities Commission rejects the proposed triennial plan, it state its reasons for rejecting the plan;

3. Specifies that the spouse or dependent child of a trustee of the Efficiency Maine Trust or trust employee may not receive any direct benefit from the trust and authorizes corporations with which a trustee is associated to participate in programs if there is disclosure to the Efficiency Maine Trust Board and recusal by that trustee;

4. Requires bonding with a minimum limitation of \$100,000 coverage for each person covered;

5. Requires appointment of the Director of the Efficiency Maine Trust as soon as practicable after Senate confirmation of the board;

6. Requires the Director of the Efficiency Maine Trust to prepare a budget for the period from the director's first day of employment to July 1, 2010;

7. Amends the law governing the Renewable Resource Fund to allocate responsibility to the Efficiency Maine Trust for distributing certain funds, administering the fund and reporting on the fund;

8. Provides that the prohibitions associated with the legislative review of corridor plans do not apply to an energy facility that is an eligible project under the federal American Recovery and Reinvestment Act of 2009 if the energy facility has been granted a federal loan guarantee under that Act;

9. Corrects the name of a fund;

10. Provides that an application for an energy facility greater than 75 miles in length may be processed by a state authority up to but not including final decision on the application, that any applications that may require adjudicatory proceedings or permit application review may not proceed beyond creation of the evidentiary record and that any action, proceeding or decision pertaining to such an application is governed by law enacted pursuant to this legislation; and

11. Adds an emergency preamble and emergency clause.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY:  _____

(Representative MARTIN, J. L.)

TOWN: Eagle Lake



124th MAINE LEGISLATURE

LD 1485

LR 1989(08)

An Act Regarding Maine's Energy Future

Fiscal Note for House Amendment "A"

Sponsor: Rep. Martin of Eagle Lake

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$0	\$0	\$0
Transfers				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

This amendment adjusts allocations to implement the transfer of the Renewable Resource Fund program from the Public Utilities Commission to the Efficiency Maine Trust effective July 1, 2010. The amendment also adds an emergency preamble.