

# MAINE STATE LEGISLATURE

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L.D. 1091

Date: 5-26-11

(Filing No. S-178)

**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
SENATE  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 324, L.D. 1091, Bill, "An Act To Expand the Availability of Natural Gas to the Citizens of Maine"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 10 MRSA §963-A, sub-§12**, as enacted by PL 1985, c. 344, §7, is amended to read:

**12. Energy distribution system project.** "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and ~~which~~ that uses biomass, peat, solar, waste, water and related dams, wind, wood, coal or natural gas or that distributes or transmits natural gas.

**Sec. 2. 10 MRSA §1043, sub-§2, ¶M**, as amended by PL 2009, c. 517, §8, is further amended to read:

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or

**COMMITTEE AMENDMENT**

1 contribution from the Federal Government or other source in aid of activities of  
2 Efficiency Maine Trust under Title 35-A, chapter 97; and

3 **Sec. 3. 10 MRSA §1043, sub-§2, ¶N**, as enacted by PL 2009, c. 517, §9, is  
4 amended to read:

5 N. In the case of recovery zone facility bonds, the project will benefit the county or  
6 counties in which it is located; and

7 **Sec. 4. 10 MRSA §1043, sub-§2, ¶O** is enacted to read:

8 O. In the case of an energy distribution system project regulated by the Public  
9 Utilities Commission with respect to rates or terms of service or that requires, for  
10 construction or operation, authorization or certification from the commission, the  
11 following conditions are met.

12 (1) The energy distribution system project has received all authorizations or  
13 certifications from the Public Utilities Commission necessary for construction  
14 and operation of the project. The authority may issue a certificate of approval for  
15 a project that has received conditional approvals or certifications from the  
16 commission, except that the authority's certificate becomes legally effective only  
17 upon fulfillment of the conditional provisions of the commission's certificates or  
18 approvals. If the commission has approved rates to be charged by the project or  
19 has issued a certificate of public convenience and necessity for the project, the  
20 authority shall take into consideration any findings and conclusions of law of the  
21 commission, including any findings and conclusions pertaining to the need for  
22 the project and the financial viability of the project.

23 (2) The authority has reviewed and considered any comments provided by the  
24 Director of the Governor's Office of Energy Independence and Security and the  
25 Public Advocate.

26 (3) The authority has determined that the applicant is creditworthy and that there  
27 is a reasonable likelihood that the revenue obligation securities will be repaid  
28 through the revenues of the project and any other sources of revenues and  
29 collateral pledged to the repayment of those securities. In order to make these  
30 determinations, the authority shall consider such factors as it considers necessary  
31 and appropriate in light of the special purpose or other nature of the business  
32 entity owning the project and the specific purposes of the project to measure and  
33 evaluate the project and the sufficiency of the pledged revenues to repay the  
34 obligations, including, but not limited to:

35 (a) Whether the individuals or entities obligated to repay the obligations  
36 have demonstrated sufficient revenues from the project or from other sources  
37 to repay the obligations and a reasonable probability that those revenues will  
38 continue to be available for the term of the revenue obligation securities;

39 (b) Whether the applicant demonstrates a reasonable probability that the  
40 project will continue to operate and provide the public benefits projected to  
41 be created for the term of the revenue obligation securities;

- 1                    (c) Whether the applicant's creditworthiness is demonstrated by factors such
- 2                    as its historical financial performance, management ability, plan for
- 3                    marketing its product or service and ability to access conventional financing;
- 4                    (d) Whether the applicant meets or exceeds industry average financial
- 5                    performance ratios commonly accepted in determining creditworthiness in
- 6                    that industry;
- 7                    (e) Whether the applicant demonstrates that the need for authority assistance
- 8                    is due to the reduced cost and increased flexibility of the financing for the
- 9                    project that result from authority assistance and not from an inability to
- 10                   obtain necessary financing without the capital reserve fund security provided
- 11                   by the authority;
- 12                   (f) Whether collateral securing the repayment obligation is reasonably
- 13                   sufficient under the circumstances;
- 14                   (g) Whether the proposed project enhances the opportunities for economic
- 15                   development;
- 16                   (h) The effect that the proposed project financing has on the authority's
- 17                   financial resources;
- 18                   (i) The financial performance of similar projects;
- 19                   (j) The need for the project, as determined by the Public Utilities
- 20                   Commission and as indicated by any comments provided by the Director of
- 21                   the Governor's Office of Energy Independence and Security, other public
- 22                   officials and members of the public;
- 23                   (k) The nature and extent of customer commitment to use the project or the
- 24                   fuel or energy the project distributes or transmits; and
- 25                   (l) The cost advantages to end users of the fuel or energy to be distributed or
- 26                   transmitted by the project, to the extent those advantages may affect market
- 27                   penetration by the project.

28                   **Sec. 5. 10 MRSA §1043, sub-§5** is enacted to read:

29                   **5. Assistance.** In considering any request for financial assistance from an applicant

30                   for a project regulated by the Public Utilities Commission with respect to rates or terms

31                   of service or that requires for construction or operation authorization or certification from

32                   the commission, the commission, upon request of the authority, shall provide assistance

33                   in analyzing financial, economic or technical issues on which the commission has

34                   expertise. At the request of the commission, the authority shall assess the applicant a fee

35                   to be paid to the commission to reimburse the commission for any costs incurred by the

36                   commission that cannot be absorbed within its existing resources.

37                   **Sec. 6. 10 MRSA §1053, sub-§6, ¶A**, as repealed and replaced by PL 1999, c.

38                   531, Pt. G, §1, is amended to read:

39                   A. The sum of \$330,000,000 consisting of not more than \$275,000,000 for loans and

40                   up to \$55,000,000 for use of bond proceeds to fund capital reserve funds for revenue

1 obligation securities issued pursuant to this subchapter relating to loans for electric  
2 rate stabilization projects or loans for energy distribution system projects, except that  
3 the authority's maximum financial liability for any energy distribution system project  
4 may not exceed the limits established annually by the authority;

5 **SUMMARY**

6 This amendment replaces the bill. The amendment:

- 7 1. Modifies the definition of "energy distribution system project" under the laws  
8 governing the Finance Authority of Maine to include systems that distribute or transmit  
9 natural gas;
- 10 2. Authorizes the Finance Authority of Maine to issue revenue obligation securities  
11 relating to energy distribution system projects under the program limits currently  
12 established in law for electric rate stabilization projects and provides that loans for energy  
13 distribution system projects may not exceed the limits established annually by the  
14 authority;
- 15 3. Establishes standards under which the Finance Authority of Maine may approve  
16 providing financial assistance to energy distribution system projects; and
- 17 4. Requires the Public Utilities Commission, upon request of the Finance Authority  
18 of Maine, to provide assistance in analyzing financial, economic or technical issues  
19 relating to projects regulated by the commission. At the request of the commission, the  
20 Finance Authority of Maine must assess the applicant a fee to reimburse the commission  
21 for any costs incurred by the commission that cannot be absorbed within its existing  
22 resources.

23 **FISCAL NOTE REQUIRED**

24 (See attached)



# 125th MAINE LEGISLATURE

LD 1091

LR 1701(02)

**An Act To Expand the Availability of Natural Gas to the Citizens of Maine**

**Fiscal Note for Bill as Amended by Committee Amendment "A" S-178**

**Committee: Energy, Utilities and Technology**

**Fiscal Note Required: Yes**

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## Fiscal Note

Potential current biennium cost increase - Other Special Revenue Funds  
Potential current biennium revenue increase - Other Special Revenue Funds

### Fiscal Detail and Notes

Additional costs to the Finance Authority of Maine (FAME) associated with making the required determination can be absorbed within existing budgeted resources. Any costs incurred by the Public Utilities Commission (PUC) in assisting FAME in analyzing financial, economic or technical issues relating to projects regulated by the PUC can be reimbursed by fees authorized in the committee amendment that can be assessed on applicants.