

MAINE STATE LEGISLATURE

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Date: 4-15-16

(Filing No. S-538)

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STATE OF MAINE
SENATE
127TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT “A” to COMMITTEE AMENDMENT “A” to S.P. 689,
L.D. 1676, Bill, “An Act To Establish a Process for Procurement of Renewable
Resources”

Amend the amendment by striking out the substitute title and replacing it with the
following:

'An Act To Establish a Process for the Procurement of Biomass Resources'

Amend the amendment by inserting after the substitute title the following:

'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 requires that funds be transferred by June 30, 2016; 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 amendment in section 1 in subsection 2 in the 4th and 5th lines (page 1,
lines 30 and 31 in amendment) by striking out the following: "contingent upon available
funds for above-market costs of the contract pursuant to subsection 4"

Amend the amendment in section 1 by striking out all of subsections 3, 4, 5 and 6
(page 2, lines 3 to 43 and page 3, lines 1 to 9 in amendment) and inserting the following:

'3. Review and selection of renewable resources and contract adjustments. In
conducting a solicitation and entering into any contract under subsection 2, the
commission shall:

A. Ensure that a biomass resource facility is operating at least at a 50% capacity for
60 days prior to the initiation of a competitive solicitation in accordance with
subsection 2 and continues to operate at that capacity except for planned and forced
outages; and

- 1 B. Seek to ensure, to the maximum extent possible, that a contract entered into under
- 2 this section:
- 3 (1) Provides benefits to ratepayers;
- 4 (2) Provides in-state benefits, such as capital investments to improve long-term
- 5 viability of the facility, permanent direct jobs, payments to municipalities,
- 6 payments for fuel harvested in the State, payment for in-state resource access, in-
- 7 state purchases of goods and services and construction-related jobs and
- 8 purchases;
- 9 (3) Reduces greenhouse gas emissions;
- 10 (4) Promotes fuel diversity; and
- 11 (5) Supports or improves grid reliability.

12 In selecting among bids, the commission shall determine the total in-state economic
 13 benefits of the contract in an expected annual dollar per megawatt-hour average and the
 14 cost to fund the above-market costs of a contract in an expected annual dollar per
 15 megawatt-hour average. The commission shall consider both of these values for each
 16 proposal to identify those proposals that maximize the overall benefits to the State, and
 17 shall establish a process under which a generator of biomass resources verifies on an
 18 annual basis that the projected in-state economic benefits are generated during the term of
 19 the contract. If the commission concludes that the solicitation conducted under
 20 subsection 2 is not competitive, no bidders may be selected and the commission is not
 21 obligated to enter into a contract. If the commission finds the in-state benefits are not
 22 being achieved, the commission may reduce the contract payment by the percentage
 23 difference between actual in-state benefits achieved and the projected in-state benefits.

24 **4. Cost recovery fund.** There is established within the commission a nonlapsing
 25 cost recovery fund, referred to in this section as "the fund." The fund receives funds
 26 allocated or transferred by the Legislature from the unappropriated surplus of the General
 27 Fund in accordance with subsection 7. The commission shall use the fund to pay all
 28 above-market costs of any contract entered into under this section. No more than 50% of
 29 the fund may be awarded to facilities serving the NMISA region. At the close of fiscal
 30 year 2016-17, amounts remaining in the cost recovery fund that the commission has
 31 determined are not needed to pay above-market costs in accordance with subsection 5
 32 must be transferred to the Maine Budget Stabilization Fund established under the Maine
 33 Revised Statutes, Title 5, section 1532. The commission by rule or order shall establish
 34 how above-market costs are determined and how payments from the fund are made.

- 35 **5. Cost recovery.** The commission shall ensure that all costs and benefits associated
 36 with contracts entered into under this section are allocated as follows:
- 37 A. All costs, other than above-market costs, and all direct financial benefits
 - 38 associated with contracts entered into under this section must be allocated to
 - 39 ratepayers in accordance with the Maine Revised Statutes, Title 35-A, section 3210-F
 - 40 and may not be considered imprudent; and
 - 41 B. Above-market costs, including any price differential existing at any time during
 - 42 the term of the contract between the contract price and the prevailing market price at

SENATE AMENDMENT

1 which the capacity resource is sold and any losses derived from contracts for
2 differences, must be allocated as follows:

3 (1) To the extent funds are available in the fund under subsection 4, the above-
4 market costs must be paid from the fund; and

5 (2) If there are insufficient funds available in the fund under subsection 4, any
6 insufficiency must be allocated to ratepayers in accordance with Title 35-A,
7 section 3210-F and may not be considered imprudent.'

8 Amend the amendment in section 1 by striking out all of subsection 8 (page 3, lines
9 13 to 21 in amendment) and inserting the following:

10 **'8. Transfers of funds.** Notwithstanding any provision of law to the contrary, at the
11 close of fiscal year 2015-16, the State Controller, as the next priority after making the
12 transfers authorized pursuant to the Maine Revised Statutes, Title 5, sections 1507, 1511,
13 1519, 1522 and 1536, shall transfer from the unappropriated surplus of the General Fund
14 to the Cost Recovery Fund, Other Special Revenue Funds account within the Public
15 Utilities Commission amounts as may be available from time to time, up to a total of
16 \$13,400,000.'

17 Amend the amendment in section 1 by renumbering the subsections to read
18 consecutively.

19 Amend the amendment by striking out all of sections 2 and 3 and inserting the
20 following:

21 **'Sec. 2. Appropriations and allocations.** The following appropriations and
22 allocations are made.

23 **PUBLIC UTILITIES COMMISSION**

24 **Cost Recovery Fund N228**

25 Initiative: Provides an allocation to pay above-market costs of contracts for energy or
26 contracts for differences for the procurement of up to 80 megawatts of biomass resources.

27	OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
28	All Other	\$0	\$13,400,000
29			
30	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$13,400,000</u>

31 **Public Utilities - Administrative Division 0184**

32 Initiative: Provides an allocation for consulting costs.

33	OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
34	All Other	\$0	\$100,974
35			
36	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$100,974</u>

1	PUBLIC UTILITIES COMMISSION		
2	DEPARTMENT TOTALS	2015-16	2016-17
3			
4	OTHER SPECIAL REVENUE FUNDS	\$0	\$13,500,974
5			
6	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$13,500,974

7 **Emergency clause.** In view of the emergency cited in the preamble, this
 8 legislation takes effect when approved.'

9 **SUMMARY**

10 This amendment:

- 11 1. Adds an emergency preamble and clause;
- 12 2. Removes language that limits the Public Utilities Commission's authority to enter
 13 into a contract based on the availability of funds in the cost recovery fund;
- 14 3. Requires that a biomass resource facility is operating at least at a 50% capacity for
 15 60 days rather than 6 months prior to initiation of the competitive solicitation;
- 16 4. Provides that if the Public Utilities Commission concludes that the solicitation is
 17 not competitive, no bidders may be selected;
- 18 5. Removes language that requires the Public Utilities Commission to conduct a
 19 competitive solicitation for a combined heat and power solicitation; and
- 20 6. Eliminates cost recovery through the Maine Budget Stabilization Fund and instead
 21 directs the State Controller at the close of fiscal year 2015-16 to transfer from the
 22 unappropriated surplus of the General Fund up to \$13,400,000 to the cost recovery fund
 23 established for this purpose. At the close of fiscal year 2016-17, amounts remaining in
 24 the cost recovery fund that the commission has determined are not needed to pay above-
 25 market costs must be transferred to the Maine Budget Stabilization Fund established
 26 under the Maine Revised Statutes, Title 5, section 1532. If funds in the cost recovery
 27 fund are insufficient, the commission is directed to recover the funds through amounts
 28 charged to ratepayers.

29 **FISCAL NOTE REQUIRED**

30 (See attached)

31 SPONSORED BY: David Woodsome

32 (Senator WOODSOME)

33 COUNTY: York



127th MAINE LEGISLATURE

LD 1676

LR 2794(07)

An Act To Establish a Process for Procurement of Renewable Resources

Fiscal Note for Senate Amendment "A" to Committee Amendment "A"

Sponsor: Sen. Woodsome of York

Fiscal Note Required: Yes

(S-538)

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$13,400,000	\$0	\$0	\$0
General Fund - Maine Budget Stabilization Fund	\$0	(\$6,700,000)	(\$6,700,000)	\$0
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$6,700,000	(\$6,700,000)	\$0
Transfers				
General Fund	(\$13,400,000)	\$0	\$0	\$0
General Fund - Maine Budget Stabilization Fund		\$6,700,000	\$6,700,000	
Other Special Revenue Funds	\$13,400,000	(\$6,700,000)	(\$6,700,000)	\$0

Fiscal Detail and Notes

This amendment eliminates the \$6,700,000 transfer from the Maine Budget Stabilization Fund to the Cost Recovery Fund within the Public Utilities Commission (PUC) in both fiscal year 2016-17 and 2017-18 and instead directs \$13,400,000 to be transferred from the unappropriated surplus of the General Fund at the close of fiscal year 2015-16 following certain statutorily required transfers (the so-called "cascade"). There is no guarantee that there will be sufficient funds from the unappropriated surplus of the General Fund to make this transfer. In the event that there are insufficient funds in the Cost Recovery Fund, the amendment requires any above-market costs of a contract to be allocated to certain ratepayers. The amendment allows up to 50% of funds within the Cost Recovery Fund to go to the Northern Maine Independent System Administrator. This amendment also allows the PUC to not enter into any contract if a determination from the PUC is made that none of the bids are competitive. The amendment requires any funds remaining in the Cost Recovery Fund at the close of fiscal year 2016-17 be transferred to the Maine Budget Stabilization Fund.

The amendment also adds an emergency preamble and clause, as well as eliminates the requirement that the PUC conduct a solicitation to procure certain energy.