

# MAINE STATE LEGISLATURE

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L.D. 1676

Date: 4-15-16

(Filing No. S- 543)

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STATE OF MAINE  
SENATE  
127TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "C" 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 by striking out all of subsection 3 (page 2, lines 3 to 29 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

B. Seek to ensure, to the maximum extent possible, that a contract entered into under this section:

(1) Provides benefits to ratepayers;

**SENATE AMENDMENT**

- 1 (2) Provides in-state benefits, such as capital investments to improve long-term  
2 viability of the facility, permanent direct jobs, payments to municipalities,  
3 payments for fuel harvested in the State, payment for in-state resource access, in-  
4 state purchases of goods and services and construction-related jobs and  
5 purchases;
- 6 (3) Reduces greenhouse gas emissions;
- 7 (4) Promotes fuel diversity; and
- 8 (5) Supports or improves grid reliability.

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

21 Amend the amendment in section 1 by striking out all of subsections 5 and 6 (page 2,  
22 lines 41 to 43 and page 3, lines 1 to 9 in amendment) and inserting the following:

23 **5. Cost recovery fund.** There is established within the commission a nonlapsing  
24 cost recovery fund, referred to in this section as "the fund." The fund receives funds  
25 allocated or transferred by the Legislature from the unappropriated surplus of the General  
26 Fund in accordance with subsection 8. The commission shall use the fund to pay all  
27 above-market costs of any contract entered into under this section. No more than 50% of  
28 the fund may be awarded to facilities serving the NMISA region. At the close of fiscal  
29 year 2016-17, amounts remaining in the cost recovery fund that the commission has  
30 determined are not needed to pay above-market costs in accordance with subsection 6  
31 must be transferred to the Maine Budget Stabilization Fund established under the Maine  
32 Revised Statutes, Title 5, section 1532. The commission by rule or order shall establish  
33 how above-market costs are determined and how payments from the fund are made.

34 **6. Cost recovery.** The commission shall ensure that all costs and benefits associated  
35 with contracts entered into under this section are allocated as follows:

36 A. All costs, other than above-market costs, and all direct financial benefits  
37 associated with contracts entered into under this section must be allocated to  
38 ratepayers in accordance with the Maine Revised Statutes, Title 35-A, section 3210-F  
39 and may not be considered imprudent; and

40 B. Above-market costs, including any price differential existing at any time during  
41 the term of the contract between the contract price and the prevailing market price at  
42 which the capacity resource is sold and any losses derived from contracts for  
43 differences, must be paid from the fund.'

R. G. S.

1 Amend the amendment in section 1 by striking out all of subsection 8 (page 3, lines  
2 13 to 21 in amendment) and inserting the following:

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

11 Amend the amendment by striking out all of sections 2 and 3 and inserting the  
12 following:

13 **'Sec. 2. Appropriations and allocations.** The following appropriations and  
14 allocations are made.

15 **PUBLIC UTILITIES COMMISSION**

16 **Cost Recovery Fund N228**

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

19	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2015-16</b>	<b>2016-17</b>
20	All Other	\$0	\$13,400,000
21			
22	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$13,400,000</u>

23 **Public Utilities - Administrative Division 0184**

24 Initiative: Provides an allocation for consulting costs.

25	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2015-16</b>	<b>2016-17</b>
26	All Other	\$0	\$100,974
27			
28	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$100,974</u>

29 **PUBLIC UTILITIES COMMISSION**

30 **DEPARTMENT TOTALS**

31

32 **OTHER SPECIAL REVENUE FUNDS** **2015-16** **2016-17**

33 **\$0** **\$13,500,974**

34 **DEPARTMENT TOTAL - ALL FUNDS** **\$0** **\$13,500,974**

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

# SENATE AMENDMENT

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**SUMMARY**

This amendment incorporates the substance of Senate Amendment "B" to Committee Amendment "A" (S-539) and makes a technical correction to clarify the language governing the transfer of funds to the cost recovery fund, and specifies that the transfer occurs after making the transfer to the Reserve for General Fund Operating Capital pursuant to the Maine Revised Statutes, Title 5, section 1536.

**SPONSORED BY:** 

(Senator HAMPER)

**COUNTY: Oxford**

**FISCAL NOTE REQUIRED**  
(See attached)

**SENATE AMENDMENT**



# 127th MAINE LEGISLATURE

LD 1676

LR 2794(10)

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

Fiscal Note for Senate Amendment "2" to Committee Amendment "A"

Sponsor: Sen. Hamper of Oxford

Fiscal Note Required: Yes

(5-543)

### Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
<b>Net Cost (Savings)</b>				
General Fund - Maine Budget Stabilization Fund	\$0	(\$6,700,000)	(\$6,700,000)	\$0
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$6,700,000	(\$6,700,000)	\$0
<b>Transfers</b>				
From Cascade Priorities	(\$13,400,000)	\$0	\$0	\$0
General Fund - Maine Budget Stabilization Fund	\$0	\$6,700,000	\$6,700,000	\$0
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. The amendment allows up to 50% of funds within the Cost Recovery Fund to go to facilities serving the Northern Maine Independent System Administrator region. 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 makes clarifying changes to the language governing the transfer of funds from the unappropriated surplus of the General Fund to the Cost Recovery Fund. The new language makes clear that the transfer to the Cost Recovery Fund is to take place before any transfers to the Maine Budget Stabilization Fund and the Tax Relief Fund for Maine Residents. 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.