

MAINE STATE LEGISLATURE

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Date: 4-13-16

Report B

(Filing No. S-518)

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

127TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 689, L.D. 1676, Bill, "An Act To Establish a Process for Procurement of Renewable Resources"

Amend the bill by striking out the title and substituting the following:

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

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

'Sec. 1. Biomass competitive solicitation.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Biomass resource" is a source of electrical generation fueled by wood, wood waste or landfill gas that produces energy that may be physically delivered to the ISO-NE region, as defined in the Maine Revised Statutes, Title 35-A, section 1902, subsection 3, or in the NMISA region.

B. "Commission" means the Public Utilities Commission.

C. "NMISA region" is the area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine.

2. Solicitation and contract negotiation. In accordance with subsection 3, the commission shall initiate a competitive solicitation as soon as practicable and direct investor-owned transmission and distribution utilities to enter into one or more 2-year contracts for up to 80 megawatts of biomass resources contingent upon available funds for above-market costs of the contract pursuant to subsection 4. The contract may be a contract for energy or a contract for differences. If a generator offers to sell capacity or renewable energy attributes as part of a contract entered into pursuant to this section, the contract may include the purchase of such capacity or attributes, but the commission may not condition any solicitation or contract on an offer or sale of capacity or renewable energy attributes.

COMMITTEE AMENDMENT

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

4 A. Ensure that a biomass resource facility is operating at 50% capacity 6 months
5 prior to the initiation of a competitive solicitation in accordance with subsection 2
6 and continues to operate at that capacity except for planned and forced outages; and

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

9 (1) Provides benefits to ratepayers;

10 (2) Provides in-state benefits, such as capital investments to improve long-term
11 viability of the facility, permanent direct jobs, payments to municipalities,
12 payments for fuel harvested in the State, payment for in-state resource access, in-
13 state purchases of goods and services and construction-related jobs and
14 purchases;

15 (3) Reduces greenhouse gas emissions;

16 (4) Promotes fuel diversity; and

17 (5) Supports or improves grid reliability.

18 In selecting among bids, the commission shall determine the total in-state economic
19 benefits of the contract in an expected annual dollar per megawatt-hour average and the
20 cost to fund the above-market costs of a contract in an expected annual dollar per
21 megawatt-hour average. The commission shall consider both of these values for each
22 proposal to identify those proposals that maximize the overall benefits to the State, and
23 shall establish a process under which a generator of biomass resources verifies on an
24 annual basis that the projected in-state economic benefits are generated during the term of
25 the contract. If the commission finds the in-state benefits are not being achieved, the
26 commission may reduce the contract payment by the percentage difference between
27 actual in-state benefits achieved and the projected in-state benefits.

28 **4. Cost limits.** The commission may enter only into contracts under this section that
29 are contingent on the availability of funds in the cost recovery fund established under
30 subsection 5 to pay the above-market costs of the contract, as determined by the
31 commission. Payments of all above-market costs of a contract must be made solely from
32 those funds and are not a liability of the transmission and distribution utility, its
33 ratepayers or the commission. If insufficient funds are available in the fund to pay above-
34 market costs under a contract, the commission shall notify the contracting entity and,
35 unless the contracting entity and the commission agree otherwise, the contract is
36 suspended. The commission and the contracting entity may agree to reinstate a
37 suspended contract upon the availability of sufficient funds in the cost recovery fund to
38 pay above-market costs.

39 **5. Cost recovery fund.** There is established within the commission a nonlapsing
40 cost recovery fund, referred to in this section as "the fund." The fund receives funds
41 allocated or transferred by the Legislature from the Maine Budget Stabilization Fund in
42 accordance with subsection 8. The commission shall use the fund to pay all above-
43 market costs of any contract entered into under this section. The commission by rule or

1 order shall establish how above-market costs are determined and how payments from the
 2 fund are made.

3 **6. Cost recovery.** The commission shall ensure that all costs, except those costs
 4 associated with above-market costs, and direct financial benefits associated with a
 5 contract entered into under this section are allocated to ratepayers in accordance with
 6 Title 35-A, section 3210-F. A price differential existing at any time during the term of
 7 the contract between the contract price and the prevailing market price at which the
 8 capacity resource is sold or any gains or losses derived from a contract for differences
 9 must be reflected in the amounts charged to ratepayers and may not be considered
 10 imprudent.

11 **7. Rules.** The commission may adopt rules to implement this section. Rules adopted
 12 under this subsection are routine technical rules as defined in Title 5, chapter 375,
 13 subchapter 2-A.

14 **8. Transfers of funds.** Notwithstanding any other provision of law, the State
 15 Controller shall transfer \$6,700,000 from the Maine Budget Stabilization Fund
 16 established under the Maine Revised Statutes, Title 5, section 1532 to the Cost Recovery
 17 Fund, Other Special Revenue Funds account within the Public Utilities Commission no
 18 later than September 1, 2016. Notwithstanding any other provision of law, the State
 19 Controller shall transfer \$6,700,000 from the Maine Budget Stabilization Fund
 20 established under Title 5, section 1532 to the Cost Recovery Fund, Other Special
 21 Revenue Funds account within the Public Utilities Commission no later than September
 22 1, 2017.

23 **Sec. 2. Appropriations and allocations.** The following appropriations and
 24 allocations are made.

25 **PUBLIC UTILITIES COMMISSION**

26 **Cost Recovery Fund N228**

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

29	OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
30	All Other	\$0	\$6,700,000
31			
32	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$6,700,000</u>

33 **Public Utilities - Administrative Division 0184**

34 Initiative: Provides an allocation for consulting costs.

35	OTHER SPECIAL REVENUE FUNDS	2015-16	2016-17
36	All Other	\$0	\$100,974
37			
38	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$100,974</u>

COMMITTEE AMENDMENT

1	PUBLIC UTILITIES COMMISSION		
2	DEPARTMENT TOTALS	2015-16	2016-17
3			
4	OTHER SPECIAL REVENUE FUNDS	\$0	\$6,800,974
5			
6	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$6,800,974
7			

8 **SUMMARY**

9 This amendment is the minority report of the committee and it strikes and replaces
10 the bill. The amendment does the following.

11 1. It directs the Public Utilities Commission to initiate a competitive solicitation as
12 soon as practicable to procure up to 80 megawatts of biomass resources, contingent upon
13 available funds for above-market costs.

14 2. It allows the contract to be a contract for energy or a contract for differences.

15 3. It provides the contract may include the purchase of capacity or attributes, but the
16 commission may not condition any solicitation or contract on an offer or sale of capacity
17 or renewable energy attributes.

18 4. It requires that in order for a facility to receive a contract it must be operating at
19 50% capacity 6 months prior to the initiation of a competitive solicitation and continue to
20 operate at that capacity except for planned and forced outages.

21 5. It requires the commission to seek to ensure, to the maximum extent possible, that
22 a contract entered into provides benefits to ratepayers; provides in-state benefits, such as
23 capital investments to improve long-term viability of the facility, permanent direct jobs,
24 payments to municipalities, payments for fuel harvested in the State, payment for in-state
25 resource access, in-state purchases of goods and services and construction-related jobs
26 and purchases; reduces greenhouse gas emissions; promotes fuel diversity; and supports
27 or improves grid reliability.

28 6. It requires that the commission determine the total in-state economic benefits of
29 the contract in an expected annual dollar per megawatt-hour average and the cost to fund
30 the above-market costs of a contract in an expected annual dollar per megawatt-hour
31 average.

32 7. It specifies that if the commission finds the in-state benefits are not being
33 achieved, the commission may reduce the contract payment by the percentage difference
34 between actual in-state benefits achieved and the projected in-state benefits.

35 8. It creates a nonlapsing fund within the commission, called the cost recovery fund,
36 to pay the above-market costs of the contract, which is funded through transfers from the
37 Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5,
38 section 1532.

39 9. It limits the commission's authority to enter into a contract based on the
40 availability of funds in the cost recovery fund.

COMMITTEE AMENDMENT

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10. It specifies that, if insufficient funds are available in the fund to pay above-market costs under a contract, the contract is suspended.

11. It requires the State Controller to transfer \$6,700,000 on or before September 1, 2016 and on or before September 1, 2017 to the cost recovery fund.

12. It requires all costs that are not above-market costs and direct financial benefits associated with a contract for biomass resources to be allocated to ratepayers in accordance with Title 35-A, section 3210-F.

13. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



127th MAINE LEGISLATURE

LD 1676

LR 2794(03)

An Act To Establish a Process for Procurement of Renewable Resources

Fiscal Note for Bill as Amended by Committee Amendment "B" (S-518)
Committee: Energy, Utilities and Technology
Fiscal Note Required: Yes

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund - Maine Budget Stabilization Fund	\$0	\$6,700,000	\$6,700,000	\$0
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$6,800,974	\$6,800,974	\$100,974
Revenue				
Other Special Revenue Funds	\$0	\$100,974	\$100,974	\$100,974
Transfers				
General Fund - Maine Budget Stabilization Fund	\$0	(\$6,700,000)	(\$6,700,000)	\$0
Other Special Revenue Funds	\$0	\$6,700,000	\$6,700,000	\$0

Fiscal Detail and Notes

The bill requires the Public Utilities Commission (PUC) to enter into one or more two-year contracts for up to 80 megawatts of biomass resources, contingent upon available funds for above market costs of the contract. This bill creates the Cost Recovery Fund within the PUC and transfers \$6,700,000 in both fiscal year 2016-17 and fiscal year 2017-18 from the Maine Budget Stabilization Fund to the Cost Recovery Fund to pay all above-market costs of the contracts. The bill includes an Other Special Revenue Funds allocation in fiscal year 2016-17 of \$6,700,000 to allow the PUC to pay all above-market costs of the contracts and an Other Special Revenue Funds allocation of \$100,974 for consulting costs. The Maine Budget Stabilization Fund has sufficient resources to make these transfers. The PUC will receive an annual \$100,974 increase in Other Special Revenue Funds revenue from increased assessments to fund the consulting costs.