

MAINE STATE LEGISLATURE

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Date: 4/13/18

L.D. 260
(Filing No. H-768)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 193, L.D. 260, Bill, "An Act To Create the Maine Energy Office"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 10 MRSA §1043, sub-§2, ¶O, as amended by PL 2017, c. 95, §1, is further amended to read:

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

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

(2) The authority has reviewed and considered any comments provided by the ~~Director~~ Commissioner of the ~~Governor's~~ Maine Energy Office and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make these

COMMITTEE AMENDMENT

1 determinations, the authority shall consider such factors as it considers necessary
2 and appropriate in light of the special purpose or other nature of the business
3 entity owning the project and the specific purposes of the project to measure and
4 evaluate the project and the sufficiency of the pledged revenues to repay the
5 obligations, including, but not limited to:

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

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

13 (c) Whether the applicant's creditworthiness is demonstrated by factors such
14 as its historical financial performance, management ability, plan for
15 marketing its product or service and ability to access conventional financing;

16 (d) Whether the applicant meets or exceeds industry average financial
17 performance ratios commonly accepted in determining creditworthiness in
18 that industry;

19 (e) Whether the applicant demonstrates that the need for authority assistance
20 is due to the reduced cost and increased flexibility of the financing for the
21 project that result from authority assistance and not from an inability to
22 obtain necessary financing without the capital reserve fund security provided
23 by the authority;

24 (f) Whether collateral securing the repayment obligation is reasonably
25 sufficient under the circumstances;

26 (g) Whether the proposed project enhances the opportunities for economic
27 development;

28 (h) The effect that the proposed project financing has on the authority's
29 financial resources;

30 (i) The financial performance of similar projects;

31 (j) The need for the project, as determined by the Public Utilities
32 Commission and as indicated by any comments provided by the ~~Director~~
33 Commissioner of the ~~Governor's~~ Maine Energy Office, other public officials
34 and members of the public;

35 (k) The nature and extent of customer commitment to use the project or the
36 fuel or energy the project distributes, transmits or generates;

37 (l) The cost advantages to end users of the fuel or energy to be distributed,
38 transmitted or generated by the project, to the extent those advantages may
39 affect market penetration by the project; and

1 (m) The nature and extent of the applicant's equity contribution to payment
2 of the costs of the project; such a contribution may not be less than 25% of
3 the expected cost of the project.

4 This paragraph is repealed January 1, 2020.

5 **Sec. 3. 10 MRSA §9722, sub-§2, ¶I**, as amended by PL 2011, c. 655, Pt. MM,
6 §10 and affected by §26, is further amended to read:

7 I. An energy efficiency representative, recommended by the ~~Director~~ Commissioner
8 of the ~~Governor's~~ Maine Energy Office within the Executive Department, who has
9 experience or expertise in the design or implementation of energy codes or in the
10 application of energy efficiency measures in residential or commercial construction;

11 **Sec. 4. 35-A MRSA §4131, sub-§3, ¶C**, as amended by PL 2011, c. 655, Pt.
12 MM, §17 and affected by §26, is further amended to read:

13 C. The ~~Director~~ Commissioner of the ~~Governor's~~ Maine Energy Office, or another
14 employee of that office, as the ~~director~~ commissioner may from time to time
15 designate in writing filed with the clerk of the agency, shall serve as a member of the
16 board of directors.

17 **Sec. 5. 35-A MRSA §10103, sub-§2, ¶A**, as repealed and replaced by PL 2013,
18 c. 424, Pt. B, §14, is amended to read:

19 A. The board consists of the following 9 voting members:

20 (1) The ~~Director~~ Commissioner of the ~~Governor's~~ Maine Energy Office or the
21 commissioner's designee;

22 (2) The director of the Maine State Housing Authority; and

23 (3) Seven members appointed by the Governor, reviewed by the joint standing
24 committee of the Legislature having jurisdiction over energy matters and
25 approved by the Senate. Among these 7 members must be persons who
26 adequately represent the interests of commercial energy consumers, industrial
27 energy consumers, small business energy consumers, residential energy
28 consumers and low-income energy consumers; among these members must be
29 persons with knowledge of and experience in financial matters and consumer
30 advocacy and who possess substantial management expertise or knowledge of or
31 experience with conservation fund programs, carbon reduction programs or
32 energy efficiency or climate change policy. The requirements of this
33 subparagraph may be met through the appointment of one or more persons who
34 satisfy more than one of the requirements, as long as at any one time the 7
35 members include among them members who adequately represent the identified
36 interests and who possess the required knowledge, expertise and experience.

37 Appointed trustees serve 3-year terms. If an appointed trustee is unable to
38 complete the term, the Governor shall appoint a replacement for the remainder of
39 the unexpired term.'

40 Amend the bill in section 3 in §10203 by striking out all of subsection 2 (page 4, lines
41 18 to 21 in L.D.) and inserting the following:

1 '2. Deputy commissioner. The commissioner shall designate a deputy
2 commissioner, who serves at the pleasure of the commissioner.'

3 Amend the bill in section 3 in §10204 by striking out all of subsection 2 (page 4, lines
4 29 and 30 in L.D.) and inserting the following:

5 '2. Funds from the Efficiency Maine Trust. To the extent federal funds are
6 inadequate to meet the funding needs of the office, the office may receive funds from the
7 trust, but only for that portion of the office's activities that support or reasonably relate to
8 programs or activities of the trust. The commissioner shall keep an accounting of the
9 office's resources devoted to its various duties and activities, including that portion of its
10 resources devoted to activities in support of or reasonably related to programs or
11 activities of the trust. The office shall provide the accounting to the joint standing
12 committee of the Legislature having jurisdiction over energy matters as part of its annual
13 report under section 10205, subsection 3. The joint standing committee of the Legislature
14 having jurisdiction over energy matters shall make recommendations to the joint standing
15 committee of the Legislature having jurisdiction over appropriations and financial affairs
16 with regard to any proposed allocation of funds of the trust to support the office. In
17 accordance with any legislative allocation or deallocation of funds of the trust to support
18 the office, the commissioner shall request from the trust and the trust shall provide the
19 allocated resources to the office.'

20 Amend the bill in section 3 in §10206 in the first paragraph in the 4th to 6th lines
21 (page 7, lines 22 to 24 in L.D.) by striking out the following: "For the purposes of this
22 section, "state-owned" and "energy infrastructure corridor" have the same meanings as in
23 section 122, subsection 1."

24 Amend the bill by inserting after section 5 the following:

25 **'Sec. 6. Transition provisions.** The following provisions govern the transition of
26 the Governor's Energy Office to the Maine Energy Office.

27 1. The Maine Energy Office is the successor in every way to the powers, duties and
28 functions of the former Governor's Energy Office.

29 2. Any positions authorized and allocated subject to the personnel laws to the former
30 Governor's Energy Office are transferred to the Maine Energy Office and may continue to
31 be authorized.

32 3. All records, property and equipment previously belonging to or allocated for the
33 use of the former Governor's Energy Office become, on the effective date of this Act, part
34 of the property of the Maine Energy Office.

35 4. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued
36 expenditures, assets and liabilities, including but not limited to any contractual
37 obligations, balances, appropriations, allocations, transfers, revenues, grants or other
38 available funds, in any account or subdivision of an account of the Governor's Energy
39 Office on the effective date of this Act must be reallocated to the Maine Energy Office.

40 5. The Governor may appoint from the personnel of the former Governor's Energy
41 Office an acting commissioner to exercise the powers and perform the duties of the
42 Commissioner of the Maine Energy Office until a commissioner is appointed in

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1 accordance with the Maine Revised Statutes, Title 35-A, section 10203, subsection 1 or
 2 for 6 months from the date of appointment, whichever occurs first.

3 **Sec. 7. Appropriations and allocations.** The following appropriations and
 4 allocations are made.

5 **EXECUTIVE DEPARTMENT**

6 **Governor's Energy Office Z122**

7 Initiative: Deallocates from the Governor's Energy Office, which is being eliminated.

8	FEDERAL EXPENDITURES FUND	2017-18	2018-19
9	POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
10	Personal Services	\$0	(\$141,567)
11	All Other	\$0	(\$947,050)
12			
13	FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$1,088,617)

14	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
15	POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
16	Personal Services	\$0	(\$79,205)
17	All Other	\$0	(\$50,000)
18			
19	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$129,205)

20	EXECUTIVE DEPARTMENT		
21	DEPARTMENT TOTALS	2017-18	2018-19
22			
23	FEDERAL EXPENDITURES FUND	\$0	(\$1,088,617)
24	OTHER SPECIAL REVENUE FUNDS	\$0	(\$129,205)
25			
26	DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$1,217,822)

27 **MAINE ENERGY OFFICE**

28 **Maine Energy Office N285**

29 Initiative: Provides allocation to the newly established Maine Energy Office.

30	FEDERAL EXPENDITURES FUND	2017-18	2018-19
31	POSITIONS - LEGISLATIVE COUNT	0.000	2.000
32	Personal Services	\$0	\$141,567
33	All Other	\$0	\$947,050
34			

COMMITTEE AMENDMENT "A" to H.P. 193, L.D. 260

1	FEDERAL EXPENDITURES FUND TOTAL	\$0	\$1,088,617
2	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
3	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
4	Personal Services	\$0	\$79,205
5	All Other	\$0	\$50,000
6			
7	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$129,205</u>
8	Maine Energy Office N285		
9	Initiative: Appropriates \$75,000 in fiscal year 2018-19 for activities relating to energy		
10	resources, planning and development.		
11	GENERAL FUND	2017-18	2018-19
12	All Other	\$0	\$75,000
13			
14	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$75,000</u>
15	Maine Energy Resources Development Program N286		
16	Initiative: Provides allocation to allow the Maine Energy Office to expend any private		
17	funds on activities promoting energy research and demonstration activities.		
18	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
19	All Other	\$0	\$500
20			
21	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$500</u>
22	MAINE ENERGY OFFICE		
23	DEPARTMENT TOTALS	2017-18	2018-19
24			
25	GENERAL FUND	\$0	\$75,000
26	FEDERAL EXPENDITURES FUND	\$0	\$1,088,617
27	OTHER SPECIAL REVENUE FUNDS	\$0	\$129,705
28			
29	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$1,293,322</u>



128th MAINE LEGISLATURE

LD 260

LR 1211(02)

An Act To Create the Maine Energy Office

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

A (H-768)

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$75,000	\$300,000	\$300,000
Appropriations/Allocations				
General Fund	\$0	\$75,000	\$300,000	\$300,000
Federal Expenditures Fund	\$0	\$0	\$0	\$0
Other Special Revenue Funds	\$0	\$500	\$500	\$500

Fiscal Detail and Notes

This bill establishes the Maine Energy Office (MEO) and transfers the staff, powers, duties and functions of the Governor's Energy Office (GEO) to it on January 1, 2019. The GEO is eliminated and the bill includes Federal Expenditures Fund and Other Special Revenue Funds deallocations to the GEO and corresponding allocations to the MEO. The bill also includes General Fund appropriations to the MEO of \$75,000 in fiscal year 2018-19 for activities relating to energy resources, planning and development. The Maine Energy Resources Development Program is established with a \$500 allocation to promote energy research and demonstration activities as future funding allows. The MEO may receive funds from the Efficiency Maine Trust (EMT) for office activities that are reasonably related to programs or activities of the EMT.