

MAINE STATE LEGISLATURE

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JM
R. G. S.

Date: 4/13/2018

Majority

(Filing No. S-464)

ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE

SENATE

128TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 644, L.D. 1745, Bill, "An Act Regarding a Biomass-generated Energy Purchase and Sale Agreement and Payments to Contractors"

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

'An Act To Establish the Wood Energy Program'

Amend the bill by striking out everything after the title and before the summary and inserting 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, the Legislature intended, with the enactment of Public Law 2015, chapter 483, to ensure that a biomass facility that was closed down would not qualify to participate in a competitive solicitation for biomass resources because it would fail to meet the requirement that a biomass facility was operational at least at a 50% capacity for 60 days prior to the initiation of a competitive solicitation and continued to operate at that capacity except for planned or forced outages; and

Whereas, a review of a contract for biomass resources to determine if contract requirements were met was just concluded at the Public Utilities Commission; and

Whereas, the contract for biomass resources that was under review is with a biomass facility that received a contract in spite of the Legislature's intent to limit qualified applicants to those entities that were actively operating a biomass facility at the time a competitive solicitation was initiated; and

Whereas, the Legislature wants to ensure that those funds provided in Public Law 2015, chapter 483 that are not going to be paid to the biomass facility because not all contract requirements were met are used to support the forest products industry, especially since those requirements not met were those that would have directly benefited the forest products industry, and to do so this legislation must take effect immediately; and

COMMITTEE AMENDMENT

H. 45

1 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
2 the meaning of the Constitution of Maine and require the following legislation as
3 immediately necessary for the preservation of the public peace, health and safety; now,
4 therefore,

5 **Be it enacted by the People of the State of Maine as follows:**

6 **Sec. 1. 35-A MRSA §10124** is enacted to read:

7 **§10124. Wood Energy Program**

8 **1. Establishment; purpose.** The Wood Energy Program is established within the
9 trust to provide incentives and low-interest or no-interest loans in consultation with the
10 Finance Authority of Maine, established in Title 10, chapter 110, in order to strengthen
11 the State's forest products sector and lower energy costs by increasing the efficient use of
12 wood for energy production.

13 **2. Wood energy fund.** There is established in the custody of the trust a special
14 nonlapsing fund, to be known as the wood energy fund. The wood energy fund consists
15 of the following:

16 A. Such sums that may be transferred from the Public Utilities Commission from the
17 cost recovery fund established in Public Law 2015, chapter 483, section 1, subsection
18 5;

19 B. Other funds that the trust may receive from the State or from the Federal
20 Government, or other agreements whose purpose is consistent with this section;

21 C. Principal and interest received from the repayment of loans made from the wood
22 energy fund; and

23 D. Interest earned from the investment of fund balances.

24 **3. Program details.** The trust through the Wood Energy Program shall provide
25 incentives and low-interest or no-interest loans to businesses, municipalities, educational
26 institutions and nonprofit entities in the State for the installation of new wood-derived
27 thermal energy or cogeneration projects from the wood energy fund established in
28 subsection 2. The trust shall require Wood Energy Program participants to substantially
29 share in the cost of projects funded under this section. The trust shall seek to maximize
30 the Wood Energy Program's impact per dollar of expenditure from the wood energy fund
31 and shall set limits it determines prudent on the size of incentives. The trust may not
32 provide incentives or loans from the wood energy fund for the refurbishment or
33 maintenance of existing facilities.

34 The trust shall develop activities promoting the Wood Energy Program in consultation
35 with the Finance Authority of Maine. The trust shall consult with the Finance Authority
36 of Maine, when appropriate, in its decisions to award incentives and loans. To the extent
37 that funding is available, the trust shall offer technical assistance to eligible projects in a
38 manner that is coordinated and consistent with other trust programs.

39 For purposes of this subsection, "new wood-derived thermal energy or cogeneration
40 project" includes, but is not limited to, wood-fueled combined heat and power
41 cogeneration boiler installations; co-location development that increases the efficient use

of wood for energy production; conversion of fossil fuel fired boilers to wood-fueled boilers or boilers using biofuels derived from wood; and the installation of new wood-fueled boilers or boilers using biofuels derived from wood.

Sec. 2. Contract evaluation; fund transfer. If, in its annual evaluation of a 2-year contract entered into pursuant to Public Law 2015, chapter 483, the Public Utilities Commission finds that an entity that was awarded a contract for biomass resources is not meeting contract requirements and therefore is not qualified to receive the full contract payment or any contract payment, those funds that would have been paid to the entity had contract requirements been met must be transferred to the wood energy fund established in the Maine Revised Statutes, Title 35-A, section 10124, subsection 2. Notwithstanding Public Law 2015, chapter 483, section 1, subsection 5, any funds remaining in the cost recovery fund established in Public Law 2015, chapter 483, section 1, subsection 5 that are not needed to pay above-market costs for biomass resources must be transferred to the wood energy fund.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

EFFICIENCY MAINE TRUST

Wood Energy Fund N287

Initiative: Allocates funds transferred from the Public Utilities Commission to establish the wood energy fund, to provide incentives and low-interest loans for new wood-derived thermal energy or cogeneration projects.

OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
All Other	\$266,027	\$500,000
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$266,027</u>	<u>\$500,000</u>

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

SUMMARY

This amendment is the majority report and it replaces the bill. It specifies that, if the Public Utilities Commission finds that an entity awarded a contract for biomass resources pursuant to Public Law 2015, chapter 483 is not meeting contract requirements and therefore is not qualified to receive the full contract payment or any contract payment, those funds that would have been paid had contract requirements been met must be transferred to the wood energy fund. It also specifies that any funds remaining in the cost recovery fund established in Public Law 2015, chapter 483, section 1, subsection 5 that are not needed to pay above-market costs for biomass resources must also be transferred by the Public Utilities Commission to the wood energy fund. It establishes the wood energy fund and creates the Wood Energy Program within the Efficiency Maine Trust. It requires the trust to use funds, if there are any, to provide incentives and low-interest or no-interest loans for new wood-derived thermal energy or cogeneration projects. It

A.S.

COMMITTEE AMENDMENT "A" to S.P. 644, L.D. 1745

1 requires that the trust consult with the Finance Authority of Maine, when appropriate, in
2 the development of any Wood Energy Program incentives and the distribution of money
3 from the wood energy fund. It prohibits the use of funds for incentives or loans for the
4 refurbishment or maintenance of existing facilities.

5 The amendment also adds an appropriations and allocations section.

6 **FISCAL NOTE REQUIRED**

7 **(See attached)**



128th MAINE LEGISLATURE

LD 1745

LR 2474(02)

An Act Regarding a Biomass-generated Energy Purchase and Sale Agreement and Payments to Contractors

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-404)

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Appropriations/Allocations				
Other Special Revenue Funds	\$266,027	\$500,000	\$0	\$0
Transfers				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

At the close of fiscal year 2015-16 \$13,400,000 was transferred from the unappropriated surplus of the General Fund to the Cost Recovery Fund at the Public Utilities Commission (PUC) to pay above-market costs of certain biomass contracts. This bill moves any money remaining from the transfer that is determined by the PUC to not be needed for the original purpose to be credited to the newly created Wood Energy Fund within the Efficiency Maine Trust (EMT). The PUC has determined that \$766,027 is available to be directed into the Wood Energy Fund at this time. Transfers in addition to the \$766,027 may be made in the future if the PUC makes certain determinations.

This bill includes Other Special Revenue Funds allocations to the Wood Energy Fund within the EMT of \$266,027 in fiscal year 2017-18 and \$500,000 in fiscal year 2018-19 to provide incentives and low or no-interest loans for new wood-derived thermal energy or cogeneration projects. Additional costs to the Finance Authority of Maine to consult with the EMT in the development of program incentives and distribution of funds from the wood energy fund where appropriate can be absorbed within existing budgeted resources.