MAINE STATE LEGISLATURE

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No. 1634

H.P. 1177

House of Representatives, April 25, 2019

An Act To Create the Maine Clean Energy Fund and To Authorize a General Fund Bond Issue To Capitalize the Fund

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative ZEIGLER of Montville.

Cosponsored by Representatives: ACKLEY of Monmouth, DAUGHTRY of Brunswick, DOUDERA of Camden, HUBBELL of Bar Harbor, MATLACK of St. George, RYKERSON of Kittery, Senators: CHIPMAN of Cumberland, SANBORN, L. of Cumberland.

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in 1 accordance with the Constitution of Maine, Article IX, Section 14 to authorize the 2 issuance of bonds on behalf of the State of Maine to provide funds as described in this 3 4 Act. 5 Be it enacted by the People of the State of Maine as follows: **PART A** 6 7 Sec. A-1. Authorization of bonds. The Treasurer of State is authorized under the direction of the Governor, to issue bonds in the name and on behalf of the State in an 8 amount not exceeding \$100,000,000 for the purposes described in section 5 of this Part. 9 The bonds are a pledge of the full faith and credit of the State. The bonds may not run for 10 a period longer than 10 years from the date of the original issue of the bonds. 11 Sec. A-2. Records of bonds issued; Treasurer of State. The Treasurer of 12 State shall ensure that an account of each bond is kept showing the number of the bond, 13 the name of the successful bidder to whom sold, the amount received for the bond, the 14 15 date of sale and the date when payable. Sec. A-3. Sale; how negotiated; proceeds appropriated. The Treasurer of 16 State may negotiate the sale of the bonds by direction of the Governor, but no bond may 17 be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the 18 19 bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set 20 forth in this Part. Any unencumbered balances remaining at the completion of the project 21 in this Part lapse to the Office of the Treasurer of State to be used for the retirement of 22 23 general obligation bonds. 24 **Sec. A-4. Interest and debt retirement.** The Treasurer of State shall pay 25 interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity. 26 Sec. A-5. Disbursement of bond proceeds from General Fund bond issue. 27 The proceeds of the sale of the bonds authorized under this Part must be expended as 28 designated in the following schedule under the direction and supervision of the agencies 29 and entities set forth in this section. 30 31 **Efficiency Maine Trust** 32 Provides funds for the Maine Clean Energy Fund to support the development of renewable and clean energy technologies and infrastructure through providing 33 financing support including loans, loan guarantees and other financial and risk 34

36 Total \$100,000,000

mitigation products.

1 2	Sec. A-6. Contingent upon ratification of bond issue. Sections 1 to 5 do not become effective unless the people of the State ratify the issuance of the bonds as set
3	forth in this Part.
4	Sec. A-7. Appropriation balances at year-end. At the end of each fiscal year,
5	all unencumbered appropriation balances representing state money carry forward. Bond
6	proceeds that have not been expended within 10 years after the date of the sale of the
7 8	bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.
9	Sec. A-8. Bonds authorized but not issued. Any bonds authorized but not
10	issued within 5 years of ratification of this Part are deauthorized and may not be issued,
11	except that the Legislature may, within 2 years after the expiration of that 5-year period,
12	extend the period for issuing any remaining unissued bonds for an additional amount of
13	time not to exceed 5 years.
14	Sec. A-9. Referendum for ratification; submission at election; form of
15	question; effective date. This Part must be submitted to the legal voters of the State at
16	a statewide election held in the month of November following passage of this Act. The
17	municipal officers of this State shall notify the inhabitants of their respective cities, towns
18	and plantations to meet, in the manner prescribed by law for holding a statewide election,
19	to vote on the acceptance or rejection of this Part by voting on the following question:
20	"Do you favor a \$100,000,000 bond issue for the Maine Clean Energy
21	Fund to support the development of renewable and clean energy
22	technologies and infrastructure through providing financing support
23	including loans, loan guarantees and other financial and risk mitigation
24	products?"
25	The legal voters of each city, town and plantation shall vote by ballot on this question
26	and designate their choice by a cross or check mark placed within a corresponding square
27	below the word "Yes" or "No." The ballots must be received, sorted, counted and
28	declared in open ward, town and plantation meetings and returns made to the Secretary of
29 30	State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the
31	Governor shall proclaim the result without delay and this Part becomes effective 30 days
32	after the date of the proclamation.
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33	The Secretary of State shall prepare and furnish to each city, town and plantation all
34	ballots, returns and copies of this Part necessary to carry out the purposes of this
35	referendum.
36	PART B
37	Sec. B-1. 5 MRSA §12004-F, sub-§19 is enacted to read:
38	19.

35-A MRSA §10124

Board of Directors, Maine
Clean Energy Fund

Legislative Per Diem
Plus Expenses

4	Sec. B-3. 35-A MRSA §10124 is enacted to read:
5	§10124. Maine Clean Energy Fund
6 7	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
8 9 10 11 12	A. "Alternative fuel vehicle project" means any project, technology, product, service, function or measure that supports the development or deployment of alternative fuels used for electricity generation, alternative fuel vehicles and related infrastructure, including infrastructure for electric vehicle charging stations. "Alternative fuel vehicle project" does not include the combustion of fossil fuels.
13 14	B. "Clean energy board" means the board of directors of the Maine Clean Energy Fund.
15 16 17	C. "Demand response project" means any project, technology, product, service, function or measure that changes the usage of electricity by retail customers from normal consumption patterns in response to:
18	(1) Changes in the price of electricity over time; or
19 20	(2) Incentive payments designed to induce lower electricity use at times of high market prices or when system reliability is jeopardized.
21 22	D. "Energy efficiency project" means any project, technology, product, service, function or measure that:
23 24 25	(1) Results in the reduction of energy use required to achieve the same level of service or output obtained before the application of the project, technology, product, service, function or measure; or
26 27 28	(2) Substantially reduces greenhouse gas emissions relative to emissions that would have been produced before the application of the project, technology, product, service, function or measure.
29	E. "Fund" means the Maine Clean Energy Fund.
30	F. "Greenhouse gas" has the same meaning as in Title 38, section 574, subsection 1.
31 32 33 34	G. "Microgrid" means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity in a larger electrical grid and that can connect to and disconnect from the larger grid to operate in either grid-connected or isolation mode.
35 36 37	H. "Qualified clean energy project" means any alternative fuel vehicle project, demand response project, energy efficiency project, renewable energy project or system efficiency project.

Sec. B-2. 35-A MRSA §10104, sub-§13 is enacted to read:

Clean Energy Fund under section 10124.

13. Maine Clean Energy Fund. The trust shall provide oversight for the Maine

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2	(1) Solar resources;
3	(2) Wind resources;
4	(3) Geothermal resources;
5	(4) Nonhazardous organic biomass;
6	(5) Anaerobic digestion of organic waste streams;
7	(6) Small-scale hydropower that produces 30 megawatts or less of electricity;
8	(7) Tidal currents;
9	(8) Fuel cells using renewable resources; and
10 11 12	(9) Any other source that naturally replenishes over a human, rather than geological, time frame and that is ultimately derived from solar, water or wind resources.
13 14 15	J. "Renewable energy project" means the development, construction, deployment, alteration or repair of any project, technology, product, service, function or measure that generates electric power from renewable energy.
16 17 18 19	K. "System efficiency project" means the development, construction, deployment, alteration or repair of any distributed generation system, energy storage system, smart grid technology, advanced battery system, microgrid system, fuel cell system or combined heat and power systems.
20 21 22 23 24 25 26 27 28 29 30 31	2. Fund established. The Maine Clean Energy Fund is established to support the development of renewable and clean energy technologies and infrastructure through providing financing support including loans, loan guarantees and other financial and risk mitigation products. The fund is administered by the clean energy board with oversight from the trust and consists of funds derived from the appropriations and allocations to the fund and from other public and private sources. The fund, to be accounted within the trust, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund and earned through the return of fund activities become part of the assets of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but must be carried forward. Expenses of the clean energy board and the trust in the administration and oversight of the activities of the fund must be paid by the fund.
32 33	3. Board of directors. The board of directors of the Maine Clean Energy Fund consists of 9 members, as follows:
34	A. The Director of the Governor's Energy Office;
35 36	B. The Commissioner of Economic and Community Development or the commissioner's designee;
37 38	C. The director of the Real Estate Commission within the Department of

I. "Renewable energy" means energy produced by:

- D. The Superintendent of Financial Institutions within the Department of Professional and Financial Regulation or the superintendent's designee;
- E. The Executive Director of the Maine Public Employees Retirement System or the executive director's designee;
- 5 F. The director of the Maine State Housing Authority or the director's designee;
- 6 <u>G. A member of the public from a list of nominees submitted by labor organizations</u> 7 in the State, appointed by the Governor;
- 8 H. A member of the public from a list of nominees submitted by the county
 9 commissioners of the county in the State with the largest population, appointed by the
 10 Governor; and
- I. A member of the public from a list of nominees submitted by the county commissioners of the counties not described in paragraph H, appointed by the Governor.

When nominating or appointing members under paragraphs G to I, preference must be given to nominees who have expertise in renewable energy, economic development, banking, law, finance or other matters relevant to the work of the board and consideration must be given to nominating or appointing members to reflect the ethnic and geographic diversity of the State. Members under paragraphs G to I serve 3-year terms and may be reappointed for additional 3-year terms. A vacancy occurring in the membership of the board must be filled in the same manner as the original appointment. The members of the board annually shall elect a chair from the membership, and the board shall meet at least semiannually and may meet at other times upon the call of the chair. Five members of the board constitute a quorum, and a quorum is required for the board to take action on any matter. The board shall adopt rules for its own management and government. A member of the board is entitled to receive the legislative per diem allowance and travel expenses provided for state officers and employees generally.

4. Board duties. The duties of the board include:

- A. Annually developing and adopting procedures to serve and support the deployment of qualified clean energy projects in the State, including projects benefiting single-family residential property; multifamily residential property, commercial, industrial, educational and governmental property; hospitals and nonprofit organization property; and any other project that advances the purposes of this section;
- B. Developing rules, policies and procedures that specify the eligibility of borrowers and any other terms or conditions of financing support provided by the fund before financing support is provided for any qualified clean energy project;
- C. Developing and offering a range of financing structures, forms and techniques for qualified clean energy projects, including loans, credit enhancements, guarantees, securitization and other financial products and structures;
- D. Leveraging private investment in qualified clean energy projects through financing mechanisms that support, enhance and complement private investment;

- E. Developing consumer protection standards to be enforced on all investments to ensure the fund lend in a responsible and transparent manner that is in the financial interests of borrowers;
- F. Assessing reasonable fees for the financing and risk management activities provided by the fund in amounts sufficient to cover the reasonable costs of the fund;
- G. Collecting and making available to the public in a centralized database on a publicly accessible website maintained by the clean energy board information regarding rates, terms and conditions of all financing support transactions, except for disclosure of a trade secret, confidential commercial information or confidential financial information;
- H. Working with market participants to provide information regarding best practices for overseeing qualified clean energy projects and information regarding other appropriate consumer protections;
- I. Preparing an annual report for the public and the trust on the financing activities of the fund;
- J. Identifying sources of funding that may be used to capitalize the fund; and
- 17 <u>K. Undertaking other activities necessary to carry out the provisions of this section.</u>
- **5. Board powers.** The board may:
- 19 A. Sue and be sued;
- 20 B. Have a seal;
- 21 <u>C. Acquire real or personal property or any interest in real or personal property by</u>
 22 <u>gift, purchase, foreclosure, deed in lieu of foreclosure, lease or option;</u>
- D. Prepare and enter into agreements with the Federal Government for the acceptance of grants of money for the purposes of this section;
- E. Enter into agreements or cooperate with 3rd parties to provide for enhanced leveraging of money of the fund or additional financing mechanisms for the purpose of expanding the scope of financial assistance available from the fund;
- F. Bind the fund and board to terms of any agreements entered into pursuant to this section;
- G. Apply for and accept gifts, grants and donations from any source to carry out the purposes of this section; and
- H. Adopt routine technical rules as defined by Title 5, chapter 375, subchapter 2-A to carry out the purposes of this section.
- Sec. B-4. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 35-A, section 10124, subsection 3, of the initial appointments of the board of directors of the Maine Clean Energy Fund, for members appointed pursuant to Title 35-A, section 10124, subsection 3, paragraphs G to I, the Governor shall appoint the first appointment to a one-year term, the next appointment to a 2-year term and any other appointment to a 3-year term. A member appointed under this section may be reappointed to a 3-year term

after the fulfillment of the member's initial term pursuant to the provisions of Title 35-A, section 10124, subsection 3.

Sec. B-5. Contingent effective date. This Part takes effect only if the General Fund bond issue proposed in Part A is approved by the voters of this State.

5 SUMMARY

This bill creates the Maine Clean Energy Fund within and with oversight from the Efficiency Maine Trust to support the development of renewable and clean energy technologies and infrastructure through providing financing support including loans, loan guarantees and other financial and risk mitigation products. The fund is administered by a 9-member board of directors consisting of certain government officials and members of the public appointed by the Governor.

This bill also provides for a bond issue in the amount of \$100,000,000 to be used to capitalize the Maine Clean Energy Fund.