

# MAINE STATE LEGISLATURE

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Minority  
ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1119, L.D. 1511, "An Act To Finance Distribution Investments at the Lowest Cost to Customers and To Encourage Utility Performance"

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

PART A

Sec. A-1. 35-A MRSA §3131, sub-§1, as amended by PL 1999, c. 398, Pt. A, §45 and affected by §§104 and 105, is further amended to read:

1. Domestic transmission and distribution utility. "Domestic transmission and distribution utility" means any entity organized under the laws of this State to transmit or distribute electricity, except for a tax-exempt 3rd-party entity under section 3132-E.

Sec. A-2. 35-A MRSA §3131, sub-§4-E is enacted to read:

4-E. Tax-exempt 3rd-party entity. "Tax-exempt 3rd-party entity" means a tax-exempt entity capable of financing and owning facilities used or useful for the transmission and delivery of electricity, other than a domestic transmission and distribution utility.

Sec. A-3. 35-A MRSA §3132-E is enacted to read:

§3132-E. Tax-exempt 3rd-party entity

1. Tax-exempt 3rd-party entity. The commission shall establish and administer a process to approve a tax-exempt 3rd-party entity to finance and own a distribution project that is subject to investigation by the nonwires alternative coordinator under section 3132-B, subsection 2. The commission shall approve a tax-exempt 3rd-party entity to finance and own a distribution project under this subsection if:

A. Prior to the issuance of recommendations for nonwires alternatives under section 3132-B, subsection 4, the tax-exempt 3rd-party entity submits a request to the commission for the opportunity to submit a proposal to finance and own the

1 distribution project if a nonwires alternative is not determined to be appropriate and  
 2 the commission grants the request;

3 B. The result of the nonwires alternatives investigation for any petition received is the  
 4 determination by the commission that a nonwires alternative to the distribution project  
 5 is not appropriate;

6 C. The tax-exempt 3rd-party entity submits a proposal to the commission to finance  
 7 and own the distribution project within 90 days of the determination under paragraph  
 8 B; and

9 D. The commission determines that it is in the interest of ratepayers to approve the  
 10 proposal submitted under paragraph C.

11 **2. Operations.** Upon a finding by the commission that a distribution project should  
 12 be owned by a tax-exempt 3rd-party entity, the utility that initially proposed the distribution  
 13 project shall facilitate the project's planning, development, 3rd-party financing and  
 14 completion, shall promptly and collaboratively negotiate reasonable terms and conditions  
 15 with the tax-exempt 3rd-party entity and shall operate and maintain the project.

16 **3. Rate design.** The commission shall approve a rate design for a distribution project  
 17 approved under subsection 1 that minimizes the cost to ratepayers, compensates the tax-  
 18 exempt 3rd-party entity in accordance with the proposal approved under subsection 1 and  
 19 compensates the utility an amount based upon the utility's performance in planning,  
 20 development, operation and maintenance of the project and service to ratepayers in the  
 21 project's service area. A rate design under this subsection must provide for a payment in  
 22 lieu of taxes to a municipality, county or other political subdivision in the same amount as  
 23 the taxes that would have been paid if a domestic transmission and distribution utility  
 24 owned the distribution project.

25 **4. Rules.** The commission shall adopt rules to carry out the purposes of this section.  
 26 Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter  
 27 375, subchapter 2-A.

28 **Sec. A-4. Appropriations and allocations.** The following appropriations and  
 29 allocations are made.

30 **PUBLIC UTILITIES COMMISSION**

31 **Public Utilities - Administrative Division 0184**

32 Initiative: Provides one-time funding for contracted services and related STA-CAP  
 33 expenses.

34 <b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
35 All Other	\$0	\$200,000
36		
37 <b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$200,000</b>

38 **Public Utilities - Administrative Division 0184**

39 Initiative: Provides funding for one Staff Attorney position, 2 Utility Analyst positions and  
 40 associated position costs.

41 <b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
42 POSITIONS - LEGISLATIVE COUNT	0.000	2.000

COMMITTEE AMENDMENT "A" to H.P. 1119, L.D. 1511

1	Personal Services	\$0	\$435,936
2	All Other	\$0	\$26,991
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$462,927</u>
5			
6	<b>PUBLIC UTILITIES COMMISSION</b>		
7	<b>DEPARTMENT TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
8			
9	OTHER SPECIAL REVENUE FUNDS	\$0	\$662,927
10			
11	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$662,927</u>

**PART B**

**Sec. B-1. 5 MRSA §12021, sub-§6, ¶D-1** is enacted to read:

D-1. An investor-owned public utility under Title 35-A, section 113, subsection 6;

**Sec. B-2. 5 MRSA §12025** is enacted to read:

**§12025. Exception for investor-owned public utility**

Notwithstanding any provision of this subchapter to the contrary, an investor-owned public utility under Title 35-A, section 113, subsection 6 is not subject to any of the requirements of this subchapter except for section 12022, subsection 3.

**Sec. B-3. 35-A MRSA §113, sub-§6** is enacted to read:

**6. Investor-owned utility selection of vendors.** An investor-owned public utility shall, no later than November 1, 2022, comply with the requirements of Title 5, section 12022, subsection 3 to ensure that the utility secures the best value in its procurements. For the purposes of this subsection, "investor-owned public utility" means a public utility that operates as a for-profit corporation owned by shareholders and is not wholly owned by its customers. The commission by rule may define when competitive procurement by an investor-owned utility under Title 5, section 12022, subsection 3 may be waived, including when the utility is responding to emergencies or in other situations in which the commission determines competitive procurement is impractical. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. B-4. Public Utilities Commission; report.** The Public Utilities Commission shall review laws and rules within its authority for requirements applicable to public utilities that are substantially similar to the requirements for a governing body of an entity under the Maine Revised Statutes, Title 5, section 12022, other than subsection 3 of that section. By January 1, 2023, the commission shall provide the joint standing committee of the Legislature having jurisdiction over energy and utility matters with a report that includes the following:

1. Identification of the laws and rules applicable to public utilities that the commission finds to be substantially similar to Title 5, section 12022; and
2. Consideration of the feasibility of requiring investor-owned utilities to comply with the requirements of Title 5, section 12022, if those requirements are not otherwise established by laws and rules that are substantially similar.

1 After reviewing the report, the joint standing committee may report out related  
2 legislation to the 131st Legislature in 2023.'

3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
4 number to read consecutively.

5 **SUMMARY**

6 This amendment replaces the bill, which is a concept draft.

7 Part A directs the Public Utilities Commission to allow a tax-exempt 3rd-party entity  
8 other than a domestic transmission and distribution utility to finance and own an electric  
9 distribution project and directs that the rate design for the project minimize the cost to  
10 ratepayers and compensate the tax-exempt 3rd-party entity an amount based upon the  
11 entity's performance in planning, development, operation and maintenance of the project  
12 and service to ratepayers in the project's service area. The rate design must provide for a  
13 payment in lieu of taxes to a municipality, county or other political subdivision in the same  
14 amount as the taxes that would have been paid if a domestic transmission and distribution  
15 utility owned the distribution project. Part A includes an appropriations and allocations  
16 section.

17 Part B provides that investor-owned public utilities are reporting entities for the  
18 purpose of the Maine Revised Statutes, Title 5, section 12022, subsection 3. It also  
19 provides that an investor-owned utility must comply with the competitive procurement  
20 requirements of that subsection by November 1, 2022. It authorizes the Public Utilities  
21 Commission to exempt by rule investor-owned utilities from the competitive procurement  
22 requirement with respect to procurements that are needed in responding to emergencies  
23 such as storm damage or other situations in which the commission determines competitive  
24 procurement is impractical. Part B also directs the commission to review the laws and rules  
25 within its regulatory authority for laws and rules that impose requirements on public  
26 utilities substantially similar to those contained in Title 5, section 12022, other than  
27 subsection 3. After completing its review, the commission is required to provide a report  
28 to the joint standing committee of the Legislature having jurisdiction over energy and utility  
29 matters.

30 **FISCAL NOTE REQUIRED**

31 (See attached)



# 130th MAINE LEGISLATURE

LD 1511

LR 1880(02)

## An Act To Finance Distribution Investments at the Lowest Cost to Customers and To Encourage Utility Performance

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-976)  
 Committee: Energy, Utilities and Technology  
 Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$662,927	\$481,575	\$504,304
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$662,927	\$481,575	\$504,304

#### Fiscal Detail and Notes

This bill directs the Public Utilities Commission (PUC) to allow a tax-exempt 3rd-party entity other than a transmission and distribution utility to finance and own electric distribution projects, provided that the rate design for the project meets certain criteria. The bill defines investor-owned utilities as reporting entities and requires them to follow the same financial reporting and procurement procedures as quasi-independent state entities. Beginning in fiscal year 2022-23, the bill provides ongoing allocations to the PUC of \$462,927 for one Staff Attorney position, two Utility Analyst positions and associated costs and \$200,000 for contracted services. The PUC is funded by an assessment set to produce sufficient revenue for the expenditures allocated by the Legislature for operating the PUC. The increased allocations in this bill require a corresponding increase in revenue from the assessment on transmission and distribution utilities.