

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. 1218, L.D. 1634, "An Act To Create the Maine Generation Authority"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 35-A MRSA §3210-J is enacted to read:

§3210-J. Maine Generation Authority surcharge

Notwithstanding any provision of this Title to the contrary, the commission shall ensure that the Maine Generation Authority surcharge as calculated pursuant to section 4221, subsection 4 is included in the retail rates of all electric ratepayers of all transmission and distribution utilities in the State.'

Amend the bill in section 3 in c. 42 in §4202 in subsection 2 in the first line (page 1, line 22 in L.D.) by striking out the following: "facilitate" and inserting the following: 'reduce the costs to ratepayers in this State of meeting the State's climate and energy goals by facilitating the decarbonization of electricity production through'

Amend the bill in section 3 in c. 42 in §4202 in subsection 2 in paragraph A in the first line (page 1, line 24 in L.D.) by inserting after the following: "State that" the following: 'rely exclusively on commercially available technology to'

Amend the bill in section 3 in c. 42 in §4202 in subsection 2 in paragraph A in the 3rd line (page 1, line 26 in L.D.) by striking out the following: ", tidal and biomass" and inserting the following: 'and tidal'

Amend the bill in section 3 in c. 42 in §4202 in subsection 2 in paragraph B in the first line (page 1, line 30 in L.D.) by striking out the following: "Electricity storage systems located in Maine" and inserting the following: 'Energy storage systems located in the State that rely exclusively on commercially available technology and'

Amend the bill in section 3 in c. 42 in §4203 by inserting after subsection 3 the following:

COMMITTEE AMENDMENT

ROS

1 **'4. Commercially available technology.** "Commercially available technology"
2 means a technology that is being used in the United States by commercially operating
3 energy storage systems for more than 250 megawatts of storage or by commercially
4 operating renewable generation projects for more than 250 megawatts of output.'

5 Amend the bill in section 3 in c. 42 in §4203 in subsection 4 in the first 2 lines (page
6 2, lines 6 and 7 in L.D.) by striking out the following: "that achieves commercial operations
7 after January 1, 2022"

8 Amend the bill in section 3 in c. 42 in §4203 by striking out all of subsection 11 (page
9 2, lines 41 to 43 and page 3, lines 1 to 4 in L.D.) and inserting the following:

10 **'11. Renewable generation project.** "Renewable generation project" means a facility
11 that generates electricity using a source of energy that is renewable and that does not emit
12 carbon dioxide when used to generate electricity, including hydroelectric generators,
13 onshore or offshore wind power installations, solar photovoltaic arrays and installations,
14 geothermal installations and tidal power generators.'

15 Amend the bill in section 3 in c. 42 in §4203 by renumbering the subsections to read
16 consecutively.

17 Amend the bill in section 3 in c. 42 in §4205 in subsection 1 in paragraph B in the first
18 line (page 3, line 22 in L.D.) by inserting after the following: "B. The" the following:
19 'executive'

20 Amend the bill in section 3 in c. 42 in §4205 by striking out all of subsection 8 (page
21 4, lines 13 to 17 in L.D.).

22 Amend the bill in section 3 in c. 42 in §4205 by inserting after subsection 10 the
23 following:

24 **'11. Conflict of interest.** A member of the board may not participate in any decision
25 on any contract entered into by the authority under this chapter if that member has any
26 interest, direct or indirect, in any firm, partnership, corporation or association that is party
27 to the contract. The interest must be disclosed to the authority in writing and must be set
28 forth in the minutes of the board.

29 **'12. Remote participation by members.** The authority may allow members to
30 participate in meetings using remote methods in accordance with Title 1, section 403-B.'

31 Amend the bill in section 3 in c. 42 in §4205 by renumbering the subsections to read
32 consecutively.

33 Amend the bill in section 3 in c. 42 in §4206 in the first line (page 4, line 36 in L.D.)
34 by striking out the following: "the authority;" and inserting the following: 'authority;
35 executive'

36 Amend the bill in section 3 in c. 42 in §4206 by striking out all of subsection 1 (page
37 4, lines 37 to 40 in L.D.) and inserting the following:

38 **'1. Appointment of executive director; compensation.** At its annual meeting each
39 September, the board shall appoint, after using a full and competitive search process, or
40 reappoint a qualified full-time executive director of the authority. The executive director
41 of the authority serves at the pleasure of the board. The board shall establish the rate and
42 amount of compensation of the executive director.'

ROS

1 Amend the bill in section 3 in c. 42 in §4206 in subsection 2 in the first line (page 4,
2 line 41 in L.D.) by inserting after the following: "**Responsibilities of**" the following:
3 '**executive**'

4 Amend the bill in section 3 in c. 42 in §4206 in subsection 2 in the first line (page 4,
5 line 41 in L.D.) by inserting after the following: "**director. The**" the following: '**executive**'

6 Amend the bill in section 3 in c. 42 in §4206 in subsection 2 in paragraph C in the first
7 line (page 5, line 10 in L.D.) by inserting after the following: "**duties that the**" the following:
8 '**executive**'

9 Amend the bill in section 3 in c. 42 in §4207 in subsection 4 in the 2nd line (page 5,
10 line 19 in L.D.) by striking out the following: "**eminent domain.**"

11 Amend the bill in section 3 in c. 42 in §4207 by striking out all of subsection 5 (page
12 5, lines 23 and 24 in L.D.).

13 Amend the bill in section 3 in c. 42 in §4207 by renumbering the subsections to read
14 consecutively.

15 Amend the bill in section 3 in c. 42 in §4208 in subsection 4 in the last line (page 7,
16 line 2 in L.D.) by striking out the following: "**and**"

17 Amend the bill in section 3 in c. 42 in §4208 in subsection 5 in the last line (page 7,
18 line 5 in L.D.) by striking out the following: "**authority.**" and inserting the following:
19 '**authority; and**'

20 Amend the bill in section 3 in c. 42 in §4208 by inserting after subsection 5 the
21 following:

22 '**6. Technologies. Owning or operating any energy storage system or any renewable**
23 **generation project that achieves commercial operations before January 1, 2023 or that relies**
24 **on a technology for storing energy or generating electricity that is not a commercially**
25 **available technology.'**

26 Amend the bill in section 3 in c. 42 in §4210 in the first line (page 8, line 26 in L.D.)
27 by striking out the following: "**; eminent domain**"

28 Amend the bill in section 3 in c. 42 in §4210 by striking out all of subsection 2 (page
29 8, lines 32 to 36 in L.D.) and inserting the following:

30 '**2. Sale or lease of property. The authority may not lease, sell or otherwise convey,**
31 **or allow to be used, any of its real or personal property or easements in that property,**
32 **buildings or structures for commercial purposes, except that the authority may allow public**
33 **utilities the right to use the authority's real property for the purpose of locating electrical**
34 **power, telegraph, telephone, communications, water, sewer or pipeline facilities.'**

35 Amend the bill in section 3 in c. 42 in §4210 by striking out all of subsection 3 (page
36 8, lines 37 to 41 and page 9, lines 1 and 2 in L.D.).

37 Amend the bill in section 3 in c. 42 in §4210 by renumbering the subsections to read
38 consecutively.

39 Amend the bill in section 3 in c. 42 by striking out all of §4215 (page 12, lines 36 to
40 43 and page 13, lines 1 and 2 in L.D.) and inserting the following:

41 '**§4215. Exemption from property and income taxes; payments in lieu of taxes**

ROS

1 1. Exemption from taxes. The property and income of the authority and the bonds
2 issued by the authority are exempt from taxation as provided in this subsection.

3 A. Except as provided in subsection 2, the authority is exempt from taxation or
4 assessment on any property acquired or used by it for the purposes provided in this
5 chapter.

6 B. The authority is exempt from taxation on its income except as may be required by
7 the laws of the United States.

8 C. The bonds or other securities and obligations issued from the authority and their
9 transfer and the income therefrom, including any profits made on their sale, are exempt
10 from taxation within the State.

11 2. Payments in lieu of property taxes. The authority shall make payments in lieu of
12 taxes on all real and personal property it owns in an amount equal to the amount that would
13 be imposed by a county, a municipality, a district, the State or other taxing authority on
14 such real and personal property.'

15 Amend the bill in section 3 in c. 42 in §4221 in subsection 1 in paragraph A in the first
16 3 lines (page 15, lines 6 to 8 in L.D.) by striking out the following: "and ownership by the
17 authority of renewable generation projects and energy storage systems in the following
18 cumulative" and inserting the following: "by 3rd parties of renewable generation projects
19 and energy storage systems and the ownership by the authority of those renewable
20 generation projects and energy storage systems. Renewable generation projects and energy
21 storage systems financed or owned by the authority must use commercially available
22 technology and achieve commercial operations on or after January 1, 2023. The authority
23 shall seek to provide for the development and ownership of projects and systems the output
24 capacity of which totals the following'

25 Amend the bill in section 3 in c. 42 in §4221 in subsection 4 in the 2nd line (page 16,
26 line 21 in L.D.) by striking out the following: "3210-H" and inserting the following:
27 '3210-J'

28 Amend the bill in section 3 in c. 42 in §4222 in subsection 1 in paragraph B in the last
29 2 lines (page 17, lines 15 and 16 in L.D.) by striking out the following: "and payment into
30 any sinking funds" and inserting the following: 'payment into any sinking funds and
31 payment of amounts pursuant to section 4215, subsection 2'

32 Amend the bill in section 3 in c. 42 in §4223 in subsection 3 in the first line (page 18,
33 line 16 in L.D.) by inserting after the following: "exceptions. The" the following:
34 'executive'

35 Amend the bill in section 4 in the first line (page 19, line 5 in L.D.) by striking out the
36 following: "§10128" and inserting the following: '§10130'

37 Amend the bill in section 4 in §10128 in the first line (page 19, line 6 in L.D.) by
38 striking out the following: "§10128." and inserting the following: '§10130.'

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

41 **SUMMARY**

42 This amendment makes the following changes to the bill.

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1. It clarifies the purpose of the Maine Generation Authority.
2. It adds a definition of "commercially available technology" and adjusts the definitions of "energy storage system" and "renewable generation project."
3. It changes the title of the director of the authority to the executive director and clarifies the appointment process.
4. It prohibits members of the board of the authority from participating in decisions on matters in which they have an interest.
5. It removes the ability for the authority to take property by eminent domain.
6. It prohibits the authority from owning or operating any energy storage system or any renewable generation project that achieves commercial operations before January 1, 2023 or that relies on a technology for storing energy or generating electricity that is not a commercially available technology.
7. It provides that, while the authority is tax exempt, it must provide payments in lieu of taxes on all real and personal property and clarifies that the authority may use its revenues for this purpose.
8. It provides that the authority's capital plan must provide for the development by 3rd parties of renewable generation projects and energy storage systems and the ownership by the authority of those renewable generation projects and energy storage systems. Renewable generation projects and energy storage systems financed or owned by the authority must use commercially available technology and achieve commercial operations on or after January 1, 2023.
9. It provides that the authority must seek to provide for the development and ownership of projects and systems the output capacity of which totals certain amounts by certain dates.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 1634

LR 1455(02)

An Act To Create the Maine Generation Authority

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Energy, Utilities and Technology

Fiscal Note Required: Yes

A.C.H-982)

Fiscal Note

Creates Maine Generation Authority
Potential future biennium revenue decrease - General Fund
Current biennium cost increase - Efficiency Maine Trust
Current biennium revenue increase - Efficiency Maine Trust

Fiscal Detail and Notes

This bill creates the Maine Generation Authority (MGA) as an instrumentality of the State that is authorized to issue revenue bonds up to an amount not to exceed \$1,500,000,000 in principal outstanding at any one time to facilitate the financing and ownership of energy generation projects and energy storage systems located in the State. The revenue bonds will be backed by electric ratepayers through the sale of the output of projects in relevant wholesale markets administered by New England independent operator ISO-NE. The bonds do not constitute a debt of the State and are payable solely from the operating revenue of the MGA. It is important to clarify that this fiscal note does not attempt to quantify or include the cost to the MGA to issue these bonds or the potential costs to ratepayers to finance them.

The bill also allows the MGA to borrow up to \$1,000,000 for 3 years at 3% from the Efficiency Maine Trust (EMT) to fund start-up costs. The MGA will contract with the EMT to sell the energy produced. The EMT has sufficient resources to provide the loan and accommodate the contractual obligations with the MGA.

MGA is exempt from sales and income taxes and, to the extent that future electricity sales by taxable utilities are reduced, there will be a reduction in General Fund and Local Government Fund revenue. MGA is also exempt from property taxes, but must make payments in lieu of property taxes equal to any loss of property tax revenue.

Any additional costs to various departments and agencies from the other provisions in this bill are expected to be minor and can be absorbed within existing budgeted resources.