131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document **No. 1778**

H.P. 1141 House of Representatives, April 25, 2023

An Act to Ensure a Sustainable Electric Grid

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

ROBERT B. HUNT
Clerk

Presented by Representative PERKINS of Dover-Foxcroft.
Cosponsored by Senator HARRINGTON of York and
Representatives: ALBERT of Madawaska, BABIN of Fort Fairfield, CAMPBELL of Orrington, FOSTER of Dexter, HENDERSON of Rumford, PAUL of Winterport.

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

Sec. 1. 26 MRSA §1304, sub-§1-A, as enacted by PL 2021, c. 705, §2, is amended by amending the first blocked paragraph to read:

"Assisted project" does not include a project for which the Public Utilities Commission approved a term sheet or contract or otherwise provided project-specific authorization or approval pursuant to Title 35-A on or before June 29, 2021 ~~or a project that is participating in net energy billing and that meets the requirements of Title 35-A, section 3209-A, subsection 7 or Title 35-A, section 3209-B~~.

Sec. 2. 35-A MRSA §3209-A, as amended by PL 2021, c. 659, §§17 and 18 and c. 705, §13, is repealed.

Sec. 3. 35-A MRSA §3209-B, as amended by PL 2021, c. 659, §19, is repealed.

Sec. 4. 35-A MRSA §3209-C is enacted to read:

§3209-C. Net energy billing requirement prohibited

The commission may not by rule or order require a transmission and distribution utility to allow a customer to participate in net energy billing. For the purposes of this section, "net energy billing" means a billing and metering practice under which a customer of a transmission and distribution utility has the ability to receive a bill credit or other adjustment of the customer's transmission and distribution service bill by delivering electricity to the transmission and distribution utility from an electric generating facility owned or operated by that customer or in which that customer has a financial interest that is located in the service territory of the transmission and distribution utility in the State.

Sec. 5. 35-A MRSA §3210, sub-§2, ¶B-3, as amended by PL 2019, c. 477, §1, is further amended to read:

B-3. "Renewable capacity resource" means a source of electrical generation:

(1) Whose ~~total power~~ production capacity ~~does not exceed 100 megawatts and~~ relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(d) Geothermal installations;

(e) Hydroelectric generators that meet all state and federal fish passage requirements applicable to the generator;

(f) Biomass generators that are fueled by wood~~,~~ or wood waste ~~or~~, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

~~(g) Anaerobic digestion of by-products of waste from animals or agricultural crops, food or vegetative material, algae or organic refuse; or~~

(h) Wind power installations or solar power installations.

~~(2) That relies on wind power installations or solar power installations.~~

Sec. 6. 35-A MRSA §3210, sub-§2, ¶C, as amended by PL 2009, c. 542, §5, is further amended to read:

C. "Renewable resource" means a source of electrical generation:

(1) That qualifies as a small power production facility under the Federal Energy Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart B, as in effect on January 1, 1997; or

(2) Whose ~~total power~~ production capacity ~~does not exceed 100 megawatts and that~~ relies on one or more of the following:

(a) Fuel cells;

(b) Tidal power;

(c) Solar arrays and installations;

(d) Wind power installations;

(e) Geothermal installations;

(f) Hydroelectric generators;

(g) Biomass generators that are fueled by wood or wood waste, landfill gas or anaerobic digestion of agricultural products, by-products or wastes; or

(h) Generators fueled by municipal solid waste in conjunction with recycling.

Sec. 7. 35-A MRSA §3623, sub-§3, ¶C, as enacted by PL 2021, c. 604, §3, is amended to read:

C. Satisfy the limits on net generating capacity established in subsection 2, paragraph A; <u>and</u>

Sec. 8. 35-A MRSA §3623, sub-§3, ¶D, as enacted by PL 2021, c. 604, §3, is amended to read:

D. Be highly efficient, as determined by the commission~~; and~~<u>.</u>

Sec. 9. 35-A MRSA §3623, sub-§3, ¶E, as enacted by PL 2021, c. 604, §3, is repealed.

Sec. 10. 35-A MRSA §10109, sub-§3-B is enacted to read:

<u>**3-B. Ceiling on energy efficiency spending.** There is established a ceiling on energy efficiency spending from the trust fund equal to $5 per carbon dioxide allowance. Until that price ceiling is adjusted or removed, only the first $5 of each carbon dioxide allowance sold and deposited in the trust fund may be awarded to or directed to qualified projects for purposes of energy efficiency improvements.</u>

<u>A. The trust shall transfer funds, to the extent funds are available, to the commission each year during fiscal years 2023-24 and 2024-25 in accordance with this subsection to be used by the commission for disbursements to affected customers. An affected customer who uses the entire disbursement received by that customer toward an efficiency measure approved by the trust in the fiscal year in which it is received must receive $1 of assistance from the trust for every $3 of the disbursement plus any additional customer funds that are applied by the affected customer toward the cost of the approved efficiency measure as long as the total of assistance from the trust and the disbursement allocated by the commission under this subsection for that customer for that fiscal year does not exceed 65% of the total measure cost.</u>

For the purposes of this subsection, "affected customer" means a customer who is not primarily in the business of selling electricity, is receiving service at a transmission or subtransmission voltage level as defined in section 10110, subsection 6 within the electrical utility transmission system administered by an independent system operator of the New England bulk power system or a successor organization and is an energy-intensive manufacturer, as defined in reports prepared by the United States Energy Information Administration. The commission may also determine that a manufacturer not defined as an energy-intensive manufacturer in reports prepared by the United States Energy Information Administration is an affected customer if that manufacturer meets the other requirements of the definition under this subsection.

The commission shall direct funds to be dispersed quarterly during fiscal years 2023-24 and 2024-25 for the benefit of affected customers in proportion to their retail purchase of electricity as measured in kilowatt-hours for the prior calendar year. The total amount to be disbursed from the fund, to the extent those funds are available, must be $3,000,000 in fiscal year 2023-24 and $3,000,000 in fiscal year 2024-25.

During fiscal years 2023-24 and 2024-25, an affected customer who receives a disbursement under this subsection is not eligible to receive financial or other assistance from the trust fund established in this section except as allowed under this subsection. This ineligibility does not apply to any trust program opportunity notices issued before July 1, 2016 or to any affected customer that elects in writing to the commission prior to December 1, 2023 to not receive a disbursement under this subsection for the full period of fiscal years 2023-24 and 2024-25. The commission shall reduce the total amount to be disbursed as necessary to reflect the share of load represented by affected customers electing to opt out.

B. In fiscal years 2023-24 and 2024-25, the trust shall transfer to the commission for distribution to Maine-based energy-intensive businesses, other than affected customers, any revenue received that is in excess of the sum of:

(1) The first $5 of each carbon dioxide allowance sold; and

(2) The transfer, in accordance with paragraph A, to the commission of $3,000,000 to be used for disbursements to affected customers.

C. Beginning with fiscal year 2025-26:

(1) Revenue received by the trust from carbon dioxide allowances valued above $5 up to a limit of $3,000,000 per year must be transferred to the commission for use by the commission for the benefit of affected customers in accordance with paragraph A; and

(2) Revenue received by the trust in excess of the amount transferred in accordance with subparagraph (1) must be transferred to the commission for distribution to Maine-based energy-intensive businesses, other than affected customers, up to an additional $3,000,000 annually.

Any funds received by the trust in excess of a value of $5 per carbon dioxide allowance plus $6,000,000 must be transferred to the commission for distribution to electric ratepayers in a manner designed to provide the greatest benefit to the state economy as determined by the commission.

The commission may adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 35-A MRSA §10109, sub-§4, as amended by PL 2021, c. 716, §2, is further amended to read:

4. Expenditures; projects. Except for transfers required under subsection 3-B and other costs authorized in accordance with this chapter, funds in the trust fund must be expended in accordance with this subsection.

A. Trust funds must be allocated for measures, investments, loans, technical assistance and arrangements that reduce electricity consumption, increase energy efficiency or reduce greenhouse gas emissions and lower energy costs at commercial or industrial facilities and for investment in measures that lower residential heating energy demand and reduce greenhouse gas emissions. The measures that lower residential heating demand must be fuel-neutral and may include, but are not limited to, energy efficiency improvements to residential buildings, energy storage systems and upgrades to efficient heating systems that will reduce residential energy costs and greenhouse gas emissions, as determined by the board. The trust shall ensure that measures to reduce the cost of residential heating are available for low-income households as defined by the trust. When promoting electricity cost and consumption reduction, the trust may consider measures at commercial and industrial facilities that also lower peak capacity demand, including energy storage systems. Subject to the apportionment pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

(1) Reliably reduce greenhouse gas production and heating energy costs by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or

(2) Reliably increase the efficiency with which energy in the State is consumed at the lowest cost in funds from the trust fund per unit of energy saved.

B. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the board under section 10105. Rules adopted by the board to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation.

C. The board may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph A are satisfied.

D. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust to the extent they are eligible under paragraph A.

E. The size of a project funded by the trust fund is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial plan.

F. No more than $800,000 of trust fund receipts in any one year may be used for the costs of administering the trust fund pursuant to this section. The limit on administrative costs established in this paragraph does not apply to the following costs that may be funded by the trust fund:

(1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and

(2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.

G. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section and other programs under this chapter.

H. The trust shall consider delivery of efficiency programs by means of contracts with service providers that participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses.

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection.

J. Trust fund receipts must, upon request by the Department of Environmental Protection, fund research approved by the Department of Environmental Protection in an amount of up to $100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph F, subparagraph (1).

K. The trust shall establish an industrial climate transition initiative to develop and support climate change mitigation strategies designed to reduce greenhouse gas emissions at industrial facilities in the State. In establishing the initiative and developing climate change mitigation strategies for industrial facilities, the trust shall:

(1) Prioritize mitigation strategies identified in the State's climate action plan, as adopted and updated under Title 38, section 577, that offer the most cost-effective means of reducing greenhouse gas emissions at industrial facilities; and

(2) Consider mitigation strategies and other recommendations identified by any working group, task force or other advisory body that is established by the Maine Climate Council, established under Title 38, section 577-A, to develop strategies and other recommendations to reduce greenhouse gas emissions at industrial facilities in the State.

The trust may allocate funds from the trust fund, and may expend any federal funds or other public or private funding that may be available, to establish the initiative under this paragraph and to develop and support climate change mitigation strategies designed to reduce greenhouse gas emissions at industrial facilities in the State.

SUMMARY

This bill makes the following changes to the energy laws.

1. It repeals the laws governing net energy billing and provides that the Public Utilities Commission may not require a transmission and distribution utility to allow a customer to participate in net energy billing.

2. It changes the definitions of "renewable capacity resource" and "renewable resource."

3. It sets a ceiling on energy efficiency spending from the Regional Greenhouse Gas Initiative Trust Fund and directs revenue received in excess of this ceiling to affected customers, Maine-based energy-intensive businesses and electric ratepayers.