

MAINE STATE LEGISLATURE

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OF THE
STATE OF MAINE

AS PASSED BY THE

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Augusta, Maine
2012

CHAPTER 636
S.P. 642 - L.D. 1848

**An Act To Expand the
Notification Requirements of
the Maine Certificate of Need
Act of 2002**

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

Sec. 1. 22 MRSA §337, sub-§5, as amended by PL 2011, c. 424, Pt. D, §2 and affected by Pt. E, §1, is further amended to read:

5. Public notice; public informational meeting. Within 5 business days of the filing of a certificate by an applicant that a complete certificate of need application is on file with the department, public notice that the application has been filed and that a public informational meeting must be held regarding the application must be given by publication in a newspaper of general circulation in Kennebec County and in a newspaper published within the service area in which the proposed expenditure will occur. If an existing health care facility may close or lose bed capacity as a result of a proposal for which a certificate of need application has been filed, the department shall notify the municipal officers of the municipality in which that health care facility is located and the members of the State House of Representatives and the State Senate representing any part of that municipality. The notice must also be provided to all persons who have requested notification by means of asking that their names be placed on a mailing list maintained by the department for this purpose. This notice must include:

A. A brief description of the proposed expenditure or other action, including the name and location of any existing health care facility that may close or lose bed capacity as a result of a proposal for which a certificate of need application has been filed;

B. A description of the review process and schedule;

C. A statement that any person may examine the application, submit comments in writing to the department regarding the application and examine the entire record assembled by the department at any time from the date of publication of the notice until the application process is closed for comment; and

D. The time and location of the public informational meeting and a statement that any person may appear at the meeting to question the applicant regarding the project or the department regarding the conditions that the applicant must satisfy in order to receive a certificate of need for the project.

The department shall make an electronic or stenographic record of the public informational meeting.

A public informational meeting is not required for the simplified review and approval process in section 336.

Sec. 2. Rules. The Department of Health and Human Services shall adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A regarding the notice required by Title 22, section 337, subsection 5.

See title page for effective date.

CHAPTER 637
S.P. 649 - L.D. 1864

**An Act To Improve Efficiency
Maine Trust Programs To
Reduce Heating Costs and
Provide Energy Efficient
Heating Options for Maine's
Consumers**

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

Sec. 1. 35-A MRSA §3210, sub-§9, ¶B, as amended by PL 2011, c. 314, §1, is further amended to read:

B. The commission shall collect alternative compliance payments made by competitive electricity providers and shall deposit all funds collected under this paragraph in the Energy Efficiency and Renewable Resource Fund established under section 10121, subsection 2 to be used to fund research, development and demonstration projects relating to renewable energy technologies and to fund rebates for cost-effective renewable energy technologies.

Sec. 2. 35-A MRSA §10103, sub-§2, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

2. Governance; board. The trust is created as a body corporate and politic and a public instrumentality of the State and is governed by the independent Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, in accordance with this section.

A. The board consists of the following 9 voting members:

- (1) The director of the Governor's Office of Energy Independence and Security;
- (2) The director of the Maine State Housing Authority; and

(3) Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these members must be persons with knowledge of and experience in financial matters and consumer advocacy and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy. The requirements of this subparagraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, as long as at any one time the 7 members include among them members who adequately represent the identified interests and who ~~posses~~ possess the required knowledge, expertise and experience.

Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

B. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the members. Each officer serves for a one-year term and is eligible for reelection.

C. A majority of the trustees constitutes a quorum.

D. The board may elect an executive committee of not fewer than 5 trustees who, in intervals between meetings of the board, may transact such business of the trust as the board may authorize from time to time.

Sec. 3. 35-A MRSA §10104, sub-§4, ¶B-1 is enacted to read:

B-1. In developing the triennial plan, the trust shall provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input on the plan, which may occur at the same time the trust consults with other entities in the development of the plan.

Sec. 4. 35-A MRSA §10104, sub-§12 is enacted to read:

12. Budget transparency. The trust shall provide on January 30th and July 30th of each year to the joint standing committee of the Legislature having jurisdiction over energy matters a report that includes

the trust's revenues and program expenses for the current fiscal year and program budgets for the next fiscal year for all the trust's funds and programs, whether or not subject to legislative allocation. The report must indicate any significant departures from the triennial plan approved pursuant to subsection 4 or an updated plan approved pursuant to subsection 6. After receiving a report, the joint standing committee of the Legislature having jurisdiction over energy matters may report out legislation relating to the trust. In accordance with applicable provisions of Title 5, chapter 149, the trust shall also prepare and submit to the State Budget Officer for inclusion in the budget of the State Government the amount of any funds administered by the trust that require legislative allocation in the budget. The joint standing committee of the Legislature having jurisdiction over energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with regard to any proposed allocation of the trust's funds in any budget legislation. Within 30 days after enactment of legislation that includes an allocation of funds that affects the trust's triennial plan, the trust shall make any necessary adjustments to the triennial plan.

Sec. 5. 35-A MRSA §10108, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed and the following enacted in its place:

§10108. Liability

1. Bond. All officers, directors, employees and other agents of the trust entrusted with the custody of funds of the trust or authorized to disburse the funds of the trust must be bonded either by a blanket bond or by individual bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the trust.

2. Indemnification. Each trustee must be indemnified by the trust against expenses actually and necessarily incurred by the trustee in connection with the defense of any action or proceeding in which the trustee is made a party by reason of being or having been a trustee and against any final judgment rendered against the trustee in that action or proceeding.

Sec. 6. 35-A MRSA §10110, sub-§2, ¶K is enacted to read:

K. The trust shall provide programs developed in partnership with energy providers, such as transmission and distribution utilities, to provide consumers with information on energy options to promote energy efficiency and increased use of alternative energy resources in the State.

Sec. 7. 35-A MRSA §10111, sub-§2, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

2. Funding level. The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility that serves at least 5,000 residential customers an amount that is no less than 3% of the gas utility's delivery revenues as defined by commission rule. In accordance with the triennial plan, the commission may assess a higher amount. All amounts collected under this subsection must be transferred to the natural gas conservation fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section.

The assessments charged to gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers served by the gas utilities assessed under this subsection. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to this subsection.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. 35-A MRSA §10121, as amended by PL 2011, c. 314, §§2 to 4, is further amended to read:

§10121. Energy Efficiency and Renewable Resource Fund

1. Funding for energy efficiency and renewable resource research and development; community demonstration projects; rebates for cost-effective energy efficiency and renewable energy technologies. The trust by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund energy efficiency and renewable resource research and development, to fund community demonstration projects using energy efficiency and renewable energy technologies and to fund rebates for cost-effective energy efficiency and renewable energy technologies. The program must:

A. Include a mechanism for customers to indicate their willingness to make contributions;

B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the trust;

C. Provide for a distribution of the funds through a competitive bid process to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for energy efficiency and renewable resource research and development;

D. Provide for a distribution of the funds through a competitive bid process to Maine-based non-profit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities, quasi-municipal corporations or districts as defined in Title 30-A, section 2351, community-based renewable energy projects as defined in section 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1 for community demonstration projects using energy efficiency and renewable energy technologies;

E. Provide for an annual distribution of 35% of the funds to the Maine Technology Institute to support the development and commercialization of energy efficiency and renewable energy technologies; and

F. Provide rebates for cost-effective energy efficiency and renewable energy technologies as determined by the trust.

2. Fund established. There is established the Energy Efficiency and Renewable Resource Fund, referred to in this section as "the fund." The fund is a nonlapsing fund administered by the trust. All funds collected by the trust pursuant to subsection 1 must be deposited in the fund for distribution by the trust in accordance with subsection 1. The trust may seek and accept funding for the program established pursuant to subsection 1 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 1 must be deposited in the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. Any interest earned on funds in the fund must be credited to the fund.

The trust may allocate funds pursuant to subsection 1, paragraphs C, D and F from the fund to most effectively meet the objectives of the triennial plan pursuant to section 10104, subsection 4.

3. Report. The trust shall report by December 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the fund. The report must include:

A. A description of actions taken by the trust pursuant to subsections 1 and 2 during the prior 12 months;

B. An accounting of total deposits into and expenditures from the fund during the prior 12 months; and

C. A description of any research and development or community demonstration project that received a distribution from the fund during the prior 12 months, including its objectives, current status and results.

4. Rulemaking. The trust shall adopt rules to implement this section. The rules must include, but are not limited to:

A. Selection criteria for the competitive bid process pursuant to subsection 1, paragraphs C and D, including, but not limited to, the cost-effectiveness of the project or development and the likelihood that the renewable energy technology will be adopted on a broader scale in this State; and

B. Qualification criteria for rebates for energy efficiency and renewable energy technologies pursuant to subsection 1, paragraph F, including, but not limited to, cost-effectiveness and quality assurance requirements.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 9. Report. The Governor's Office of Energy Independence and Security or its successor shall provide to the joint standing committee of the Legislature having jurisdiction over energy matters by January 15, 2013 a report of its assessment of the Efficiency Maine Trust's effectiveness in delivering natural gas conservation programs pursuant to the Maine Revised Statutes, Title 35-A, Section 10111. The assessment must include, but need not be limited to:

1. The annual cost of the natural gas system benefit charge on the average residential, commercial and industrial customer;

2. The number of programs operated by the Efficiency Maine Trust that are designed to benefit natural gas customers in the service territory of the natural gas utility that is assessed the natural gas system benefit charge; and

3. The proportion of the natural gas system benefit charge that is delivered as benefits to customers and the proportion that is expended on administrative costs.

Sec. 10. Efficient heating equipment report. The Efficiency Maine Trust shall report to the joint standing committee of the Legislature having

jurisdiction over energy matters by March 31, 2013 its findings and recommendations relating to efficient heating options for residential and small business consumers. The report must be based on the results of the Efficiency Maine Trust's competitive heating equipment innovation project, low-income heating equipment installations and any other relevant research or activities conducted by or available to the trust. The report must include information on the cost-effectiveness of different heating equipment options and whether and to what degree the Efficiency Maine Trust's programs are assisting consumers in this State in improving the efficiency of their heating systems. The report must include a description of what constitutes efficient electric heating equipment and provide any findings of the Efficiency Maine Trust regarding the effectiveness of emerging electric technologies, as well as any findings regarding efficient use of oil, gas, wood or other fuels. The report must identify any market barriers or impediments to consumers installing more efficient heating systems, as well as any administrative, funding or policy barriers affecting the Efficiency Maine Trust's ability to assist consumers in installing efficient heating systems. The report must specifically identify options for any changes in statute or rules needed to provide loans or utility on-bill financing to consumers for efficient heating equipment.

Sec. 11. Pilot program. Notwithstanding any other provision of law, in accordance with this section, a transmission and distribution utility may develop and implement, upon approval of the Public Utilities Commission, a pilot program within its service territory to measure the effectiveness of efficient electric heating systems and may advertise the availability of its pilot program to its customers.

1. Approval; rate-making treatment. A transmission and distribution utility must submit its proposed pilot program to the Public Utilities Commission for approval. The commission shall examine the proposal and, if it finds the proposal is reasonably designed and consistent with the provisions of this section, shall approve the pilot program. For rate-making purposes under the Maine Revised Statutes, Title 35-A, chapter 3, the commission shall treat the activities of a transmission and distribution utility under an approved pilot program as regulated activities of the utility.

2. Program elements. Under an approved pilot program, a transmission and distribution utility:

A. May provide efficient electric heat pumps or electric thermal storage units to up to 500 residential or small business customers within its service territory;

B. Must determine that the overall energy costs to each customer participating in the pilot program

will decrease as a result of participation in the pilot program, as measured by the customer's overall energy costs, regardless of the source of energy, and the financing costs associated with participation in the pilot program;

C. May provide on-bill financing to customers participating in the pilot program on terms and conditions and cost of capital approved by the Public Utilities Commission. The terms of any financing may not exceed 5 years and any delinquency or bad debt expenses must be recovered through the pilot program, as approved by the commission, and may not be recovered from the transmission and distribution utility's ratepayers;

D. May offer rebates to participating customers to be applied to the total installation cost of the efficient electric heat pumps or electric thermal storage units; and

E. May enroll customers in the pilot program only until December 31, 2013.

3. Measurement and analysis; report. Each transmission and distribution utility that implements a pilot program under this section shall measure and report to the Public Utilities Commission by November 15, 2013 on:

A. The overall reduction in energy use by participating customers;

B. The reduction in energy costs for participating customers;

C. The repayment experience of participating customers;

D. The effectiveness of the heating equipment installed under the pilot program;

E. The extent to which participating customers also took advantage of any programs offered by the Efficiency Maine Trust; and

F. The effect of the program on the electric grid, including effects during off-peak and peak times and seasons.

The Public Utilities Commission shall analyze the reports submitted under this subsection and shall submit those reports, together with any analyses, findings or recommendations of the commission related to the reports and the pilot programs to the joint standing committee of the Legislature having jurisdiction over energy matters by January 15, 2014.

See title page for effective date.

CHAPTER 638

S.P. 569 - L.D. 1670

An Act Relating to Rating on the Basis of Group Size in the Small Group Health Insurance Market

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

Sec. 1. 24-A MRSA §2808-B, sub-§2, ¶C, as amended by PL 2011, c. 364, §10, is further amended to read:

C. A carrier may vary the premium rate due to occupation and industry, family membership, ~~and participation in wellness programs and group size~~ to the extent permitted by the federal Affordable Care Act. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts for participation in wellness programs and rating for occupation and industry ~~and group size~~ pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24-A MRSA §2808-B, sub-§2, ¶D, as amended by PL 2011, c. 364, §11, is further amended to read:

D. A carrier may vary the premium rate due to ~~age, group size~~ and tobacco use only under the following schedule and within the listed percentage bands.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and September 30, 2011, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.