

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 7, 2022 to March 30, 2023

FIRST SPECIAL SESSION
April 5, 2023 to July 26, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NONEMERGENCY LAWS IS
JUNE 29, 2023

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NONEMERGENCY LAWS IS
OCTOBER 25, 2023

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2023

of the premiums subject to tax under this section is the greater of 3% and the highest rate of taxation that applies to nonadmitted insurance premiums in the state, district or possession of the United States or province of Canada in which the insurer is incorporated. For purposes of this section, an insurance company incorporated in another country is deemed to be incorporated in the state, district or possession of the United States where it has elected to make its deposit and establish its principal agency in the United States. For all coverage placed in accordance with Title 24-A, chapter 19, the tax must be paid by the surplus lines producer. For all other nonadmitted insurance, the tax must be paid by the insured.

Sec. 2. Retroactivity. This Act applies retroactively to January 1, 2023.

See title page for effective date.

CHAPTER 373

H.P. 1093 - L.D. 1704

**An Act Regarding Incarcerated
Individuals and Legislative
Apportionment**

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

Sec. 1. 21-A MRSA §1208 is enacted to read:

§1208. Incarcerated persons

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Correctional facility" has the same meaning as in Title 34-A, section 1001, subsection 6.

B. "Residence" has the same meaning as described in section 112, subsection 1.

2. Counting incarcerated persons for apportionment. A person whose usual residence is determined by the Federal Decennial Census to be a correctional facility in this State must be counted for apportionment under this chapter as follows.

A. If the records of the Department of Corrections show the person has a residence address in this State immediately prior to incarceration, that address must be considered that person's residence for purposes of apportionment under this chapter.

B. If the records of the Department of Corrections do not show the person's residence address immediately prior to incarceration, or show a residence address immediately prior to incarceration that is not within this State, that person may not be counted for apportionment under this chapter.

3. Department of Corrections to provide data. Notwithstanding any provision of law respecting confidentiality to the contrary, the Department of Corrections shall provide to the Legislative Apportionment Commission, to the extent the department possesses or has access to the data, the preincarceration residence address and other demographic data of persons who are incarcerated in a correctional facility as of 12:01 a.m. on the date of the most recent Federal Decennial Census. This demographic data must include but is not limited to the last known complete preincarceration street address of the person, the person's race, age and gender and whether the person is a veteran. The department shall provide this data within 30 days of the first meeting of the commission. The data provided by the department is not a public record and the commission shall institute measures to safeguard its confidentiality and to ensure its safekeeping upon conclusion of the commission's work.

4. Construction. This section may not be construed to affect the population count in any geographical area for any purposes other than apportionment.

See title page for effective date.

CHAPTER 374

S.P. 751 - L.D. 1850

**An Act Relating to Energy
Storage and the State's Energy
Goals**

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

Sec. 1. 35-A MRSA §3145, as amended by PL 2021, c. 676, Pt. A, §49, is further amended to read:

§3145. State energy storage policy goals

The state goal for energy storage system development is at least 300 megawatts of installed capacity located within the State by December 31, 2025 and at least 400 megawatts of installed capacity located within the State by December 31, 2030. Beginning January 1, 2031 2024, and every 2 years thereafter, the Governor's Energy Office established in Title 2, section 9 shall set may reevaluate and increase the state goal for energy storage system development and report that goal to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters. For the purposes of this section, "energy storage system" has the same meaning as in section 3481, subsection 6.

Sec. 2. Maine energy storage program development. The Governor's Energy Office, established in the Maine Revised Statutes, Title 2, section 9, referred to in this section as "the office," shall, in consultation with the Public Utilities Commission, evaluate designs for a program to procure commercially avail-

able utility-scale energy storage systems connected to the transmission and distribution systems, including, but not limited to, through the use of an index storage credit mechanism.

1. In evaluating programs for the procurement of energy storage systems, the office shall consider programs that are likely to be cost-effective for ratepayers and that are likely to achieve the following objectives:

A. Advance both the State's climate and clean energy goals and the state energy storage policy goals established in Title 35-A, section 3145 through the development of up to 200 megawatts of incremental energy storage capacity located in the State;

B. Provide one or more net benefits to the electric grid and to ratepayers, including, but not limited to, improved reliability, improved resiliency and incremental delivery of renewable electricity to customers;

C. Maximize the value of federal incentives; and

D. Enable the highest value energy storage projects, specifically energy storage systems in preferred locations, projects that can serve as an alternative to upgrades of the existing transmission system and projects of optimal duration.

For purposes of this subsection, "index storage credit mechanism" means a mechanism for setting contract prices for energy storage capacity using the difference between a competitively bid price, or strike price, and daily reference prices calculated using an index designed to approximate wholesale market revenues available for each megawatt-hour of capacity and including a mechanism to provide for a net payment from the operator of the storage capacity project to ratepayers in the event the reference price exceeds the strike price.

2. The office shall encourage interested parties to submit relevant information to inform the evaluation under subsection 1.

3. No later than March 31, 2024, the office shall complete the evaluation required under subsection 1 and provide its recommendations to the Public Utilities Commission for a program to procure up to 200 megawatts of energy storage capacity.

4. No later than December 31, 2024, the Public Utilities Commission shall review the recommendations of the report and determine whether the program recommended by the office is reasonably likely to achieve the objectives established in subsection 1. Upon finding the proposed program reasonably likely to achieve the objectives established in subsection 1, the Public Utilities Commission shall take steps to implement the program in accordance with any applicable authority the commission may have under law and may submit to the joint standing committee of the Legislature having jurisdiction over energy matters recommen-

dations for any changes to law needed to allow the commission to fully implement the program. The joint standing committee may report out legislation related to energy storage to the 132nd Legislature in 2025.

Sec. 3. Governor's Energy Office; long-duration energy storage report. The Governor's Energy Office shall study long-duration energy storage, including opportunities for new and emerging long-duration energy storage technology that would support the State's need for clean, firm power generation in support of the State's climate and clean energy goals. The office shall submit a report, along with any recommendations, to the Joint Standing Committee on Energy, Utilities and Technology no later than February 1, 2024. The joint standing committee may report out a bill related to the report to the Second Regular Session of the 131st Legislature. The report must include, but is not limited to:

1. A discussion of technology options for long-duration energy storage, including emerging technologies and a description of their technical operation and commercial viability, that may be feasible within the State and New England between 2023 and 2040;

2. An overview of known cost and performance characteristics, as well as development considerations by technology, such as development timelines, siting requirements or safety considerations;

3. A discussion of scenarios for long-duration energy storage technologies, such as serving as peaking capacity, providing winter reliability or providing benefits through colocation with renewable resources; and

4. Consideration of whether and under what conditions the use of long-duration energy storage would be cost-effective for ratepayers in the State.

Sec. 4. Funding. Upon written request of the Governor's Energy Office, for the purposes of allowing the office to fulfill its responsibilities under sections 2 and 3, the Public Utilities Commission shall provide:

1. Reasonable technical, legal and other assistance, including the provision of requested information; and

2. Notwithstanding the Maine Revised Statutes, Title 35-A, section 117, funding for staff and consultants in an amount not to exceed \$300,000 from the Public Utilities Commission Reimbursement Fund established under Title 35-A, section 117.

Sec. 5. Public Utilities Commission; utility ownership or control of energy storage. The Public Utilities Commission shall solicit stakeholder input on whether and, if so, at what cost and under what conditions, including commission approval on a case-by-case basis, an investor-owned transmission and distribution utility may own, have a financial interest in or otherwise control an energy storage system, as defined in the Maine Revised Statutes, Title 35-A, section 3481, subsection 6, in order to perform its obligations as a

transmission and distribution utility in an effective, prudent and efficient manner. In making recommendations, in addition to the input received from stakeholders, the commission shall consider at a minimum:

1. The role that investor-owned transmission and distribution utility ownership of, financial interest in or control of energy storage systems may have in:

A. The achievement of the state energy storage goals established in Title 35-A, section 3145, including current and future state programs to encourage investment in energy storage;

B. The achievement of the objectives of Title 35-A, chapter 32;

C. The achievement of the greenhouse gas emissions reduction requirements established in Title 38, section 576-A;

D. The achievement of the renewable energy goals established in Title 35-A, section 3210;

E. The achievement of the renewable energy deployment goals of the State, including but not limited to the solar deployment goals established in Title 35-A, chapter 34-B and the wind energy development goals established in Title 35-A, chapter 34;

F. The procurement of nonwires alternatives under Title 35-A, section 3132-D; and

G. The achievement of lower electricity costs for ratepayers; and

2. Whether the competitive market for energy storage can meet the energy needs of transmission and distribution utilities at a reasonable cost.

The commission shall submit a report containing any recommendations based on the commission's activities under this section related to energy storage to the Joint Standing Committee on Energy, Utilities and Technology no later than February 15, 2024. The committee may report out a bill related to the subject matter of the report.

See title page for effective date.

CHAPTER 375

H.P. 1298 - L.D. 2012

An Act to Prohibit Early Termination Fees for Residential Electric Generation Service Contracts

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

Sec. 1. 35-A MRSA §3203, sub-§4-B, ¶E, as enacted by PL 2017, c. 74, §1, is amended to read:

~~E. May not impose enter into or renew a contract for generation service that includes an early termination fee for any contract for generation service that was renewed without express consent from the residential consumer.~~

See title page for effective date.

CHAPTER 376

S.P. 266 - L.D. 649

An Act to Promote Water Conservation and Water Quality and Create Habitat for Wildlife, Including Pollinator Species, by Protecting Low-impact Landscaping

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

Sec. 1. 33 MRSA c. 28-B is enacted to read:

CHAPTER 28-B

PROTECTION OF LOW-IMPACT LANDSCAPING

§1451. Protection of low-impact landscaping

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Condominium" has the same meaning as in section 1601-103, subsection (7).

B. "Low-impact landscaping" means landscaping techniques that conserve water, lower maintenance costs, provide pollution prevention and create habitat for wildlife. "Low-impact landscaping" includes gardens and other features designed to attract wildlife generally and pollinator species more specifically; rain gardens and other features that use natural biological principles to return rainwater to the soil and to filter rainwater of excess nutrients; and other forms of landscaping or gardening that reduce or eliminate the need for supplemental water from irrigation.

C. "Real estate subject to common ownership" means residential real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions and that common ownership is in the form of undivided interests in that common portion.

D. "Restriction" includes any covenant, restriction or condition contained in a deed, declaration, contract, bylaw, rule or other instrument governing activities on real estate within a condominium or real estate subject to common ownership.