

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
127<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON ENERGY, UTILITIES  
AND TECHNOLOGY**

May 2016

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# STATE OF MAINE

127<sup>TH</sup> LEGISLATURE

SECOND REGULAR SESSION



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 127<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER*..... *carried over to a subsequent session of the Legislature*  
*CON RES XXX*..... *chapter # of constitutional resolution passed by both houses*  
*CONF CMTE UNABLE TO AGREE*..... *Committee of Conference unable to agree; legislation died*  
*DIED BETWEEN HOUSES*..... *House & Senate disagreed; legislation died*  
*DIED IN CONCURRENCE*..... *defeated in each house, but on different motions; legislation died*  
*DIED ON ADJOURNMENT*..... *action incomplete when session ended; legislation died*  
*EMERGENCY*..... *enacted law takes effect sooner than 90 days after session adjournment*  
*FAILED, EMERGENCY ENACTMENT or PASSAGE*..... *emergency failed to receive required 2/3 vote*  
*FAILED, ENACTMENT or FINAL PASSAGE*..... *failed to receive final majority vote*  
*FAILED, MANDATE ENACTMENT*..... *legislation proposing local mandate failed required 2/3 vote*  
*HELD BY GOVERNOR*..... *Governor has not signed; final disposition to be determined at subsequent session*  
*LEAVE TO WITHDRAW*..... *sponsor's request to withdraw legislation granted*  
*NOT PROPERLY BEFORE THE BODY*..... *ruled out of order by the presiding officer; legislation died*  
*INDEF PP*..... *indefinitely postponed; legislation died*  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... *ought-not-to-pass report accepted; legislation died*  
*P&S XXX*..... *chapter # of enacted private & special law*  
*PUBLIC XXX*..... *chapter # of enacted public law*  
*RESOLVE XXX*..... *chapter # of finally passed resolve*  
*VETO SUSTAINED*..... *Legislature failed to override Governor's veto*

The effective date for non-emergency legislation enacted in the First Regular Session of the 127<sup>th</sup> Legislature is July 29, 2016. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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large-volume consumers, until 90 days after adjournment of the First Regular Session of the 128th Legislature.

This bill defines "large-volume consumer" as a consumer using 1,000,000 centum cubic feet or more of natural gas per year.

**Enacted Law Summary**

Public Law 2015, chapter 425 prohibits the Public Utilities Commission from allowing a gas utility to collect an assessment under the Maine Revised Statutes, Title 35-A, section 10111 through its rates from a wholesale electricity-generating facility that has a nameplate capacity of three megawatts or more and prohibits such a facility from participating in any natural gas conservation program. The law also establishes a moratorium on assessments for large-volume consumers by gas utilities until 90 days after the adjournment of the First Regular Session of the 128th Legislature. This law specifies that the Public Utilities Commission may not allow a natural gas utility to collect an assessment under Title 35-A, section 10111 through its rates from large-volume consumers and may not make a final decision regarding the appropriateness of or size of such collections from large-volume consumers. The law specifies that the Public Utilities Commission may not order or authorize a natural gas utility to exempt from collection of an assessment through its rates any consumers other than large-volume consumers. The law specifies that, during this same time period, large-volume consumers are not eligible to participate in any Efficiency Maine Trust natural gas conservation programs. This law also ensures that any assessment by the commission under Title 35-A, section 10111 must be in an amount necessary to capture all cost-effective energy efficiency that is achievable and reliable only for consumers who are not exempt under Title 35-A, section 10111, subsection 2-A, or who are not large-volume consumers, until 90 days after adjournment of the First Regular Session of the 128th Legislature.

This law defines "large-volume consumer" as a consumer using 1,000,000 centum cubic feet or more of natural gas per year.

**LD 1676**

**An Act To Establish a Process for the Procurement of Biomass Resources**

**PUBLIC 483  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-517
	OTP-AM	S-539 WOODSOME D
	ONTP	

This bill is reported by the committee pursuant to joint order, S.P. 668.

This bill directs the Public Utilities Commission to conduct competitive solicitations and negotiate the procurement of new or existing renewable resources. The commission is directed to procure by September 1, 2016, through an expedited proceeding, 80 megawatts of new or existing renewable resources for contracts of five years and, by September 1, 2017, 60 megawatts of new or existing renewable resources for contracts of no longer than ten years. This bill provides that any facility that generates new or existing renewable resources that are procured by the commission is deemed to produce zero greenhouse gas emissions.

**Committee Amendment "A" (S-517)**

This amendment is the majority report of the committee and it strikes and replaces the bill. The amendment does the following.

1. It directs the Public Utilities Commission to initiate a competitive solicitation as soon as practicable to procure up to 80 megawatts of biomass resources, contingent upon available funds for above-market costs.
2. It allows the contract to be a contract for energy or a contract for differences.

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3. It provides the contract may include the purchase of capacity or attributes, but the commission may not condition any solicitation or contract on an offer or sale of capacity or renewable energy attributes.
4. It requires that in order for a facility to receive a contract it must be operating at 50% capacity six months prior to the initiation of a competitive solicitation and continue to operate at that capacity except for planned and forced outages.
5. It requires the commission to seek to ensure, to the maximum extent possible, that a contract entered into provides benefits to ratepayers; provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases; reduces greenhouse gas emissions; promotes fuel diversity; and supports or improves grid reliability.
6. It requires that the commission determine the total in-state economic benefits of the contract in an expected annual dollar per megawatt-hour average and the cost to fund the above-market costs of a contract in an expected annual dollar per megawatt-hour average.
7. It specifies that if the commission finds the in-state benefits are not being achieved, the commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits.
8. It creates a non-lapsing fund within the commission, called the cost recovery fund, to pay the above-market costs of the contract, which is funded through transfers from the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532.
9. It limits the commission's authority to enter into a contract based on the availability of funds in the cost recovery fund.
10. It specifies that, if insufficient funds are available in the fund to pay above-market costs under a contract, the contract is suspended.
11. It requires the State Controller to transfer \$6,700,000 on or before September 1, 2016 and on or before September 1, 2017 to the cost recovery fund.
12. It requires all costs that are not above-market costs and direct financial benefits associated with a contract for biomass resources to be allocated to ratepayers in accordance with Title 35-A, section 3210-F.
13. It directs the commission to initiate a competitive solicitation in a manner consistent with Title 35-A, section 3210-C by July 1, 2017 to procure up to 40 megawatts of electric energy generated by a combined heat and power facility or facilities for a period of 10 years.
14. It specifies that the commission may direct an investor-owned transmission and distribution utility to enter into a contract only if the commission finds that the likely benefit to ratepayers resulting from any contract entered into as a result of the solicitation process will exceed the likely costs.
15. It requires that in order for a facility to qualify for a contract it must have a designed operating efficiency ratio of useful electric and thermal output to the fuel input of at least 60% and be a new facility or a facility that has been refurbished through significant capital investment.

### **Committee Amendment "B" (S-518)**

This amendment is a minority report of the committee and it strikes and replaces the bill. The amendment does the

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following.

1. It directs the Public Utilities Commission to initiate a competitive solicitation as soon as practicable to procure up to 80 megawatts of biomass resources, contingent upon available funds for above-market costs.
2. It allows the contract to be a contract for energy or a contract for differences.
3. It provides the contract may include the purchase of capacity or attributes, but the commission may not condition any solicitation or contract on an offer or sale of capacity or renewable energy attributes.
4. It requires that in order for a facility to receive a contract it must be operating at 50% capacity six months prior to the initiation of a competitive solicitation and continue to operate at that capacity except for planned and forced outages.
5. It requires the commission to seek to ensure, to the maximum extent possible, that a contract entered into provides benefits to ratepayers; provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases; reduces greenhouse gas emissions; promotes fuel diversity; and supports or improves grid reliability.
6. It requires that the commission determine the total in-state economic benefits of the contract in an expected annual dollar per megawatt-hour average and the cost to fund the above-market costs of a contract in an expected annual dollar per megawatt-hour average.
7. It specifies that if the commission finds the in-state benefits are not being achieved, the commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits.
8. It creates a non-lapsing fund within the commission, called the cost recovery fund, to pay the above-market costs of the contract, which is funded through transfers from the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532.
9. It limits the commission's authority to enter into a contract based on the availability of funds in the cost recovery fund.
10. It specifies that, if insufficient funds are available in the fund to pay above-market costs under a contract, the contract is suspended.
11. It requires the State Controller to transfer \$6,700,000 on or before September 1, 2016 and on or before September 1, 2017 to the cost recovery fund.
12. It requires all costs that are not above-market costs and direct financial benefits associated with a contract for biomass resources to be allocated to ratepayers in accordance with Title 35-A, section 3210-F.

This amendment was not adopted.

### **Senate Amendment "A" To Committee Amendment "A" (S-538)**

This amendment:

1. Adds an emergency preamble and clause;
2. Removes language that limits the Public Utilities Commission's authority to enter into a contract based on the

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availability of funds in the cost recovery fund;

3. Requires that a biomass resource facility is operating at least at a 50% capacity for 60 days rather than 6 months prior to initiation of the competitive solicitation;
4. Provides that if the Public Utilities Commission concludes that the solicitation is not competitive, no bidders may be selected;
5. Removes language that requires the Public Utilities Commission to conduct a competitive solicitation for a combined heat and power solicitation; and
6. Eliminates cost recovery through the Maine Budget Stabilization Fund and instead directs the State Controller at the close of fiscal year 2015-16 to transfer from the unappropriated surplus of the General Fund up to \$13,400,000 to the cost recovery fund established for this purpose. At the close of fiscal year 2016-17, amounts remaining in the cost recovery fund that the commission has determined are not needed to pay above-market costs must be transferred to the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532. If funds in the cost recovery fund are insufficient, the commission is directed to recover the funds through amounts charged to ratepayers.

This amendment was not adopted.

### **Senate Amendment "B" To Committee Amendment "A" (S-539)**

This amendment:

1. Adds an emergency preamble and clause;
2. Requires that a biomass resource facility is operating at least at a 50% capacity for 60 days rather than 6 months prior to initiation of the competitive solicitation;
3. Provides that if the Public Utilities Commission concludes that the solicitation is not competitive, no bidders may be selected;
4. Removes language that requires the Public Utilities Commission to conduct a competitive solicitation for a combined heat and power solicitation; and
5. Eliminates cost recovery through the Maine Budget Stabilization Fund and instead directs the State Controller at the close of fiscal year 2015-16 to transfer from the unappropriated surplus of the General Fund up to \$13,400,000 to the cost recovery fund established for this purpose. At the close of fiscal year 2016-17, amounts remaining in the cost recovery fund that the commission has determined are not needed to pay above-market costs must be transferred to the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532.

### **Enacted Law Summary**

Public Law 2015, chapter 483 directs the Public Utilities Commission to initiate a competitive solicitation as soon as practicable to procure up to 80 megawatts of biomass resources, contingent upon available funds for above-market costs. It allows the commission to direct investor-owned transmission and distribution utilities to enter into one or more two year contracts for these biomass resources. This law allows the contract to be a contract for energy or a contract for differences. This law provides that the contract may include the purchase of capacity or attributes, but the commission may not condition any solicitation or contract on an offer or sale of capacity or renewable energy attributes. This law requires that in order for a facility to receive a contract it must be operating at 50% capacity 60 days prior to the initiation of a competitive solicitation and continue to operate at that capacity except for planned and forced outages. This law requires the commission to seek to ensure, to the maximum extent

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possible, that a contract entered into provides benefits to ratepayers; provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases; reduces greenhouse gas emissions; promotes fuel diversity; and supports or improves grid reliability. It provides that if the commission concludes that the solicitation is not competitive, no bidders may be selected and the commission is not obligated to enter into a contract.

It requires that the commission determine the total in-state economic benefits of the contract in an expected annual dollar per megawatt-hour average and the cost to fund the above-market costs of a contract in an expected annual dollar per megawatt-hour average. This law specifies that if the commission finds the in-state benefits are not being achieved, the commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits.

This law creates a non-lapsing fund within the commission, called the cost recovery fund, to pay the above-market costs of the contract, which is funded through transfers at the close of fiscal year 2015-16 from the unappropriated surplus of the General Fund of up to \$13,400,000. It prohibits facilities serving the area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine from being awarded more than 50% of the funds.

This law requires that at the close of fiscal year 2016-17, amounts remaining in the cost recovery fund that the commission has determined are not needed to pay above-market costs must be transferred to the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532. It requires all costs that are not above-market costs and direct financial benefits associated with a contract for biomass resources to be allocated to ratepayers in accordance with Title 35-A, section 3210-F. It requires the commission by rule or order to establish how above-market costs are determined and how payments from the fund are to be made. It allows the commission to adopt routine technical rules to implement this law.

Public Law 2015, chapter 483 was enacted as an emergency measure effective April 16, 2016.

**LD 1693      *Resolve, Establishing the Commission To Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry***

**RESOLVE 85**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GIDEON S BURNS D	OTP-AM	H-662

This resolve establishes the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry. Membership of the commission consists of, among others, Legislators, a wood harvester and representatives of the biomass energy generation industry, a sawmill, the pulp and paper industry and users of biomass energy. The commission is required to examine and evaluate the economic, environmental and energy benefits of Maine's biomass resources, as well as public policy and economic proposals to create and maintain a sustainable future for the Maine biomass industry, and determine whether the environmental, economic and energy benefits of biomass support updating the State's energy policy to strengthen and increase the role that biomass and the forest products industry play throughout the State. The commission is required to report the results of its study and any recommendations by December 6, 2016 to the Joint Standing Committee on Energy, Utilities and Technology and the Joint Standing Committee on Agriculture, Conservation and Forestry.

**Committee Amendment "A" (H-662)**

This amendment removes from membership on the commission established in the resolve the Director of the Efficiency Maine Trust, or the director's designee, and the chair of the Public Utilities Commission, or the chair's designee. It removes language that limits who may provide public input. It removes the requirement that the commission hire a third party to help with data collection, research and best practices and to develop policy