

An Act to Establish the Maine Clean Energy Authority

Sec. 1. 5 MRSA §12004-F, sub-§19 is enacted to read:

19.

Maine Clean Energy Authority, Board of Directors Legislative Per Diem

Sec. 2. 35-A MRSA Pt. 10 is enacted to read:

PART 10 **MAINE CLEAN ENERGY AUTHORITY** **CHAPTER 105**

§10501. Authority established; purpose.

The Maine Clean Energy Authority is established for the purposes of developing, planning, coordinating, financing and building the transmission and energy infrastructure needed to meet the State's energy goals established in section 3210, to meet the State's greenhouse gas emissions reduction obligations under Title 38, section 576-A, to minimize costs for ratepayers and to create high-quality jobs for residents of the State. The authority as a public instrument, yet not an agency of the state government, and is not subject to administrative direction by any department, commission, board, or agency of the state.

§10502. Definitions. As used in this section, the following terms have the following meanings.

1. Authority. "Authority" means the Maine Clean Energy Authority.

2. Energy storage system. "Energy storage system" has the same meaning as in section 3481, subsection 6.

§10502. Board of directors.

1. Governance; board. The powers of the authority are vested in a board of directors, which consists of the following 7 members:

A. The commissioner of Department of Energy Resources, or the commissioner's designee;

B. The Public Advocate or the Public Advocate's designee;

C. The following members, appointed by the Governor, confirmed by joint standing committee of the Legislature having jurisdiction over electricity matters and to confirmation by the Senate:

(1) A member representing organized labor from transmission or distribution construction;

(2) A member representing a utility responsible for electricity transmission

(3) A member of one of the four federal recognized Indian tribes in the State; and

(4) Two at-large members of the public.

2. Term. Each appointed member holds office for 6 years or until a qualified successor has been confirmed. Each term expires on March 31st of the last year of the term. The terms of the appointed members must be staggered so that no more than one term expires in any given year.

3. Vacancy. A member's term is vacated if the member dies, resigns, becomes incapacitated, is removed for cause or no longer meets a requirement under which the member was appointed. By majority vote of the remaining members, the board may declare and bring to the Governor's attention any circumstances creating a vacancy. When a vacancy occurs, the Governor may appoint a member to serve only for the unexpired portion of the term vacated.

4. Removal. The Governor may remove a member from the board only for gross misconduct. For purposes of this subsection, "gross misconduct" means financial malfeasance, a deliberate or reckless failure to attend to duties required for governance of the authority or unexcused absences from 4 or more meetings of the board in a 12-month period.

5. Chair. The Governor may appoint the chair from among members appointed to the board. In the absence of such appointment or if the position of chair is vacated, the board may elect a chair from among the members of the board. The chair must be appointed or elected for a one-year term at the board's annual meeting.

6. Annual meetings; quorum; action. The board shall convene annually at a meeting held in September and more often as determined by the chair. Four members of the board constitute a quorum. Four votes are required to act on any matter, although a lesser number may adjourn a meeting.

7. Compensation. Appointed members of the board are compensated in accordance with Title 5, section 12004-F, subsection 19.

8. Executive director. At its annual meeting each September, the board shall appoint or reappoint an executive director who is not a member of the board. An executive director's first appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over electricity matters and to confirmation by the Senate.

9. Secretary and treasurer. At its annual meeting each year, the board shall elect a secretary and a treasurer, who may be the same person and need not be a member of the board. The secretary and treasurer are responsible in their respective capacities directly to the board and may be relieved of their duties only by the board. Before the issuance of any bonds under this chapter, the secretary and the treasurer shall each execute a security bond in the penalty of \$50,000. Each security bond must be approved by the Attorney General and conditioned upon the faithful performance of the duties of the secretary and treasurer. The bond must be filed in the office of the State Auditor.

10. Compliance audits. In addition to retaining an annual auditor, the board shall retain a separate compliance auditor who shall:

- A. Periodically monitor the authority's financial operations and management controls;
- B. Test selected transactions for policy compliance;
- C. Make quarterly findings directly to the board and to the joint standing committee of the Legislature having jurisdiction over electricity matters;
- D. Recommend to the board any necessary or advisable improvements to management systems, policies or controls; and
- E. Render an annual compliance and management report in conjunction with the report of the authority's annual auditor.

11. Employees. The executive director may hire employees as necessary for the operation of the authority and may establish the employees' duties and compensation.

§10503. Duties.

1. Transmission corridors. The authority shall identify and establish corridors for the transmission of electricity within the State in collaboration with other state entities including, but not limited to, the commission, the Department of Energy Resources and the Efficiency Maine Trust. The authority may not own a stake of a project established pursuant to this chapter.

In fulfilling its duties under this subsection, the authority shall:

- A. Consider the use of existing right-of-ways in siting new corridors, identified through past, ongoing or new studies;

B. Utilize a competitive process to build infrastructure in corridors; and

C. For any project established pursuant to this chapter, provide information and training to employees of the project regarding any unique hazards that may be posed by the project, safe work practices and emergency procedures.

2. Efficiency. The authority shall consider or study options to increase the efficient use of the transmission systems or relieve constraints on the transmission system in this state, including the use of storage and advanced transmission technologies.

3. Regional participation. Through participation in regional transmission forums and other organizations, coordinate, investigate, plan, prioritize and negotiate with entities within and outside of the State for interstate transmission corridors and engage in other planning activities alongside other state entities including, but not limited to, the commission, the Department of Energy Resources and the Efficiency Maine Trust.

§10504. Powers.

1. Powers. The authority, as created by this chapter and as authorized by Title 5, section 12004-F, subsection 19, is a body both corporate and politic in the State and may:

A. Acquire, hold and dispose of personal property for its purposes;

B. Acquire in the name of the authority by purchase, eminent domain, lease or otherwise, real property and rights or easements therein determined by it necessary or desirable for its purposes, and use that property;

C. Acquire any such real property by the exercise of the power of eminent domain in the manner provided by Title 23, section 1967. In exercising the power of eminent domain for the taking of land for the construction of a high-impact transmission line, the provisions regarding offer requirements in section 3136, subsection 4, paragraph A and section 3136 subsection 6, notice and education materials in section 3136, subsection 7 and property owner fees and expenses in section 3136, subsection 8 apply;

D. Borrow money, make, issue and sell at public or private sale negotiable notes, bonds and other evidences of indebtedness or obligations of the authority for the purposes set forth in this chapter and secure the payment of that obligation or any part thereof by pledge of all or any part of the operating revenues of the authority;

E. Collect charges, fees, or other charges from persons using eligible facilities for administrative services from authority;

F. Receive and accept aid, grants, or contributions and participate in programs from the federal government;

G. Make loans and grants to any participating utility or developer to finance the cost of any facilities in accordance with an agreement between the authority and such participating utility or developer;

H. Use loan repayments made by utilities to replenish the revolving loan fund;

I. Finance and refinance cost of the grid upgrades, including the integration of alternative transmission technologies and grid enhancing technologies; and

J. Adopt any rule necessary or useful for carrying out any of the authority's powers or duties pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§10503. Revolving loan fund; taxes; revenue bonds.

1. Establishment; administration. A revolving loan fund is established as provided in this section.

A. The revolving loan fund is secured by issued revenue and municipal bonds by the authority and other appropriated or awarded financial instruments including but not limited to grants, general obligation bonds and other funds.

B. The authority is not limited in the amount of outstanding issued revenue bonds, municipal bonds or issued loans.

2. Exemption from taxes. The accomplishment by the authority of the authorized purpose stated in this chapter being for the benefit of the people of the State and for the improvement of their commerce and prosperity in which accomplishment the authority will be performing essential governmental functions, the authority shall not be required to pay any taxes or assessment on any property acquired or used by it for the purposes provided in this chapter, nor may the authority be required to pay any tax upon its income except as may be required by the laws of the United States, and the bonds or other securities and obligations issued from the authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within the State.

3. Refunding bonds. The authority is authorized to provide by resolution for the issuance of revenue refunding bonds of the authority, including notes or other obligations defined as bonds under this chapter for the purpose of refunding any bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these bonds; and, if deemed advisable by the authority, for any additional purpose for which bonds authorized by this chapter may be issued. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the authority in respect of those rights, duties and obligations, shall be governed by this chapter insofar as these rights, duties and obligations may be applicable.

4. Notes and bonds as legal investment The State and all public officers, governmental units and agencies of the State, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, all credit unions and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds, notes or other evidences of indebtedness issued under this chapter, and the bonds, notes or other evidences of indebtedness are authorized security for any public deposits.

5. Conditions. The authority shall be subject to the same conditions regarding the issuance of bonds as those applicable to the Maine Turnpike Authority established in Title 23, chapter 24.

§10504. Projects; competitive solicitations.

1. Competitive solicitations. In accordance with the requirements established in subsection 2, the authority may fund:

- A. Transmission and distribution projects, including energy storage systems;
- B. Alternative transmission technologies or grid-enhancing technologies, as defined in section 3148;
- C. Nonwires alternative technologies; and
- D. Energy generation projects, geothermal projects or beneficial electrification projects that help to meet the State's greenhouse gas reduction target or qualify for the State's clean electricity standard as described in section 3210.

2. Competitive solicitations. The authority shall:

- A. Conduct a transparent and competitive solicitation process to select a qualified developer for any project funded by the authority;
- B. Require, at a minimum, each contractor and subcontractor comply with the requirements of Title 26, section 3502, subsection 1;
- C. Ensure that all projects receiving financial support from the Authority are considered public works projects as defined in Title 26, sections 1304 subsection 8; and
- D. Ensure that any selected project whose total construction costs exceed \$5 million dollars and receives financial assistance from the authority shall be performed under an agreement covering construction work that meets the requirements of 29 United States Code Section 158(f), and under an agreement covering operations and maintenance work that meets the requirements of section 3201, subsection 8-C.

§10505. Report.

The authority shall submit an annual report of its activities to the joint standing committee of the Legislature having jurisdiction over electricity matters.

§10506. Transmission planning; transmission corridor with statewide significance identification; transmission infrastructure study.

The authority shall engage in transmission planning as described in this section.

1. Corridors with statewide significance. The authority shall identify and designate intrastate transmission corridors with statewide significance and may consult with other entities including, but not limited to the commission, the Department of Energy Resources and the Efficiency Maine Trust.

2. Regional transmission corridors. The authority shall identify regional transmission corridors and may do so in collaboration with the New England independent system operator, the United States Department of Energy, adjacent states and other relevant entities as determined by the authority. In identifying regional transmission corridors the authority shall promote State goals for siting of corridors with minimal impact.

3. Transmission infrastructure needs. The authority may coordinate with the commission, the Department of Energy Resources and the Efficiency Maine Trust to assess and adopt recommendations on the transmission infrastructure needs of the State.

§10507. Utility ownership of energy storage.

Transmission and distribution utilities shall include their directly-controlled energy storage systems in their planning processes and as part of their portfolio of grid resources.

Summary

This amendment establishes the Maine Clean Energy Authority, a public entity designed to oversee the development, financing, planning and coordination for the buildout of energy and transmission infrastructure within State borders. By replacing the financing of energy and transmission infrastructure buildout with low-cost revenue bonds, the Authority could drive significant savings for ratepayers and create high-quality union jobs for Mainers on these necessary projects. The Authority is governed by a 7-member Board of Directors with its main function being to run competitive solicitations for electric infrastructure and energy project development financed by a

revolving loan fund, and requiring strong labor standards to ensure high-quality, union jobs on the projects it finances including prevailing wage and apprenticeship utilization.