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No. 789

H.P. 596

House of Representatives, March 1, 2011

An Act To Eliminate the Governor's Office of Energy Independence and Security

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative MOULTON of York.
Cosponsored by Senator THOMAS of Somerset.

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

2 **Sec. 1. 2 MRSA §9**, as amended by PL 2009, c. 655, Pt. C, §§1 and 2, is repealed.

3 **Sec. 2. 10 MRSA §1023-K, sub-§1**, as amended by PL 2009, c. 124, §2, is
4 further amended to read:

5 **1. Established; fund administration.** The Clean Fuel Vehicle Fund, referred to in
6 this section as the "fund," is established under the jurisdiction of the authority to support
7 production, distribution and consumption of clean fuels and biofuels. ~~In administering~~
8 ~~the fund, the authority shall consult and provide opportunity for input from the~~
9 ~~Governor's Office of Energy Independence and Security within the Executive~~
10 ~~Department.~~

11 **Sec. 3. 10 MRSA §1023-K, sub-§3-B**, as enacted by PL 2009, c. 124, §2, is
12 amended to read:

13 **3-B. Application of fund.** The fund may be used in accordance with this
14 subsection.

15 A. The fund may be applied to carry out any power of the authority under or in
16 connection with section 1026-A, subsection 1, paragraph A, subparagraph (1),
17 division (c), including, but not limited to, the pledge or transfer and deposit of money
18 in the fund as security for and the application of the fund to pay principal, interest and
19 other amounts due on insured loans.

20 B. The fund may be used for direct loans to finance all or part of any clean fuel or
21 sustainable biofuel vehicle project when the authority determines that:

22 (1) The applicant demonstrates a reasonable likelihood that the applicant will be
23 able to repay the loan;

24 (2) The project is technologically feasible; and

25 (3) The project will contribute to a reduction of or more efficient use of fossil
26 fuels.

27 C. The fund may be used for grants to support clean fuel and sustainable biofuel
28 production, distribution and consumption. The authority, ~~in consultation with the~~
29 ~~Governor's Office of Energy Independence and Security within the Executive~~
30 ~~Department,~~ shall establish a formula and method for the awarding of grants under
31 this paragraph.

32 D. The fund may be used for reasonable development and administration costs for an
33 online contribution process, in accordance with subsection 6.

34 E. The fund may be used for reasonable initial and ongoing administrative costs of
35 the authority to implement this section.

36 The authority, ~~in consultation with the Governor's Office of Energy Independence and~~
37 ~~Security within the Executive Department,~~ shall adopt rules for determining eligibility,
38 project feasibility, terms, conditions and security for loans under this section. Rules

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

3 **Sec. 4. 10 MRSA §9722, sub-§2, ¶I**, as enacted by PL 2007, c. 699, §6, is
4 amended to read:

5 I. An energy efficiency representative, ~~recommended by the director of the~~
6 ~~Governor's Office of Energy Independence and Security within the Executive~~
7 ~~Department~~, who has experience or expertise in the design or implementation of
8 energy codes or in the application of energy efficiency measures in residential or
9 commercial construction;

10 **Sec. 5. 35-A MRSA §122, sub-§1-B, ¶A**, as enacted by PL 2009, c. 655, Pt. A,
11 §2, is amended to read:

12 A. The panel includes the following members:

13 ~~(1) The Director of the Governor's Office of Energy Independence and Security~~
14 ~~within the Executive Department or the director's designee;~~

15 (2) The Commissioner of Administrative and Financial Services or the
16 commissioner's designee;

17 (3) The commissioner of each department or the director of any other state
18 agency or authority that owns or controls land or assets within the statutory
19 corridor under consideration or that commissioner's or director's designee; and

20 (4) Four members of the public appointed by the Governor in accordance with
21 this subparagraph, subject to review by the joint standing committee of the
22 Legislature having jurisdiction over utilities and energy matters and to
23 confirmation by the Senate:

24 (a) One member with expertise in energy and utilities selected from
25 candidates nominated by the President of the Senate;

26 (b) One member with expertise in real estate or finance selected from
27 candidates nominated by the President of the Senate;

28 (c) One member representing industrial or commercial energy consumers
29 selected from candidates nominated by the Speaker of the House; and

30 (d) One member representing residential energy consumers selected from
31 candidates nominated by the Speaker of the House.

32 Public members serve 3-year terms, except that a vacancy must be filled for the
33 unexpired portion of the term. A public member serves until a successor is
34 appointed. A public member may serve a maximum of 2 consecutive terms.
35 Compensation of public members is as provided in Title 5, section 12004-G,
36 subsection 30-D.

37 **Sec. 6. 35-A MRSA §122, sub-§2, ¶B**, as amended by PL 2009, c. 655, Pt. A,
38 §2, is further amended to read:

1 B. The commission may commence a proceeding to designate a petitioned corridor
2 only upon the filing of a petition for the designation of a petitioned corridor by the
3 Office of the Public Advocate, ~~the Executive Department, Governor's Office of~~
4 ~~Energy Independence and Security~~ or a potential developer.

5 **Sec. 7. 35-A MRSA §122, sub-§7, ¶C**, as amended by PL 2009, c. 655, Pt. A,
6 §2, is further amended to read:

7 C. The commission may take and hold by right of eminent domain lands and
8 easements within an energy infrastructure corridor in accordance with this paragraph,
9 notwithstanding any transmission and distribution utility ownership of the lands or
10 easements.

11 (1) The commission may exercise the authority under this paragraph only in an
12 adjudicatory proceeding upon a petition by the Office of the Public Advocate ~~or~~
13 ~~the Executive Department, Governor's Office of Energy Independence and~~
14 ~~Security~~ demonstrating that such action is urgently needed to avoid substantial
15 harm to electricity consumers regarding anticipated activity associated with an
16 energy infrastructure corridor. A determination by the commission that the
17 exercise of eminent domain under this paragraph is urgently needed to avoid
18 substantial harm to electricity consumers regarding anticipated activity associated
19 with an energy infrastructure corridor constitutes reviewable final agency action.

20 (2) The amount of any lands or easements taken by the commission pursuant to
21 this subsection may be no greater than is required to avoid the harm to electricity
22 consumers identified under subparagraph (1).

23 (3) The right of eminent domain granted in this paragraph does not apply to
24 personal property, fixtures or improvements that constitute transmission and
25 distribution plant or an energy transport pipeline.

26 (4) The commission may exercise the right of eminent domain for the purposes of
27 this paragraph in the same manner and under the same conditions as set forth in
28 chapter 65. For the purposes of the exercise of eminent domain authorized by
29 this paragraph, the commission is both a person and the State.

30 (5) The commission is authorized to assess transmission and distribution utilities
31 to the extent necessary to obtain sufficient funds to pay for lands and easements
32 taken pursuant to this subsection.

33 (6) The commission, in an adjudicatory proceeding upon petition by the Office of
34 the Public Advocate ~~or the Executive Department, Governor's Office of Energy~~
35 ~~Independence and Security~~, may transfer or convey to any person or state agency
36 or authority lands and easements once acquired, except that a transmission and
37 distribution utility or the owner of an energy transport pipeline whose lands or
38 easements were taken pursuant to this paragraph must be given the first
39 opportunity to acquire the lands or easements to the extent necessary or useful in
40 the performance of its duties as a transmission and distribution utility or an owner
41 of an energy transport pipeline.

42 (7) The commission shall report on the circumstances of any taking by eminent
43 domain to the joint standing committee of the Legislature having jurisdiction

1 over utilities and energy matters during the next regular session of the Legislature
2 following the acquisition of lands or easements by eminent domain.

3 **Sec. 8. 35-A MRSA §10103, sub-§2, ¶A**, as enacted by PL 2009, c. 372, Pt. B,
4 §3, is amended to read:

5 A. The board consists of the following 9 8 voting members:

6 (1) ~~The director of the Governor's Office of Energy Independence and Security;~~

7 (2) The director of the Maine State Housing Authority; and

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

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

25 **Sec. 9. 35-A MRSA §10104, sub-§4**, as amended by PL 2009, c. 518, §8, is
26 further amended to read:

27 **4. Triennial plan.** The board shall vote on a detailed, triennial, energy efficiency,
28 alternative energy resources and conservation plan that includes the quantifiable measures
29 of performance developed under subsection 3 and make a full report of the vote to the
30 commission in accordance with this subsection. The triennial plan must provide
31 integrated planning, program design and implementation strategies for all energy
32 efficiency, alternative energy resources and conservation programs administered by the
33 trust, including but not limited to the electric efficiency and conservation programs under
34 section 10110, the natural gas efficiency and conservation programs under section 10111,
35 the Regional Greenhouse Gas Initiative Trust Fund under section 10109, the Heating
36 Fuels Efficiency and Weatherization Fund under section 10119 and any state or federal
37 funds or publicly directed funds accepted by or allocated to the trust for the purposes of
38 this chapter. The triennial plan must include provisions for the application of appropriate
39 program funds to support workforce development efforts that are consistent with and
40 promote the purposes of the trust. Beginning January 1, 2011, the triennial plan must
41 specify the appropriate participation of the State in national and regional carbon markets.
42 ~~The plan must be consistent with the comprehensive state energy plan pursuant to Title 2,~~
43 ~~section 9, subsection 3, paragraph C.~~

- 1 A. The triennial plan must be developed by the trust, in consultation with entities and
2 agencies engaged in delivering efficiency programs in the State, to authorize and
3 govern or coordinate implementation of energy efficiency and weatherization
4 programs in the State.
- 5 (1) Transmission and distribution utilities and natural gas utilities shall furnish
6 data to the trust that the trust requests under this subsection subject to such
7 confidential treatment as a utility may request and the board determines
8 appropriate pursuant to section 10106. The costs of providing the data are
9 deemed reasonable and prudent expenses of the utilities and are recoverable in
10 rates.
- 11 B. In developing the triennial plan, the staff of the trust shall consult the board and
12 provide the opportunity for the board to provide input on drafts of the plan.
- 13 C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of
14 the trustees upon a finding that the plan is consistent with the statutory authority for
15 each source of funds that will be used to implement the plan, the state energy
16 efficiency targets in paragraph F and the best practices of program administration
17 under subsection 2. The plan must include, but is not limited to, efficiency and
18 conservation program budget allocations, objectives, targets, measures of
19 performance, program designs, program implementation strategies, timelines and
20 other relevant information.
- 21 D. Prior to submission of the triennial plan to the commission, the trust shall offer to
22 provide a detailed briefing on the draft plan to the joint standing committee of the
23 Legislature having jurisdiction over energy matters and, at the request of the
24 committee, shall provide such a briefing and opportunity for input from the
25 committee. After providing such opportunity for input and making any changes as a
26 result of any input received, the board shall deliver the plan to the commission for its
27 review and approval. The commission shall open a proceeding and issue an order
28 either approving the plan or rejecting the plan and stating the reasons for the
29 rejection. The commission shall reject elements of the plan that propose to use funds
30 generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to
31 reasonably explain how these elements of the program would achieve the objectives
32 and implementation requirements of the programs established under those sections or
33 the measures of performance under subsection 3. Funds generated under these
34 statutory authorities may not be used pursuant to the triennial plan unless those
35 elements of the plan proposing to use the funds have been approved by the
36 commission. The commission shall approve or reject any elements of the triennial
37 plan within 60 days of its delivery to the commission. The board, within 15 days of
38 final commission approval of its plan, shall submit the plan to the joint standing
39 committee of the Legislature having jurisdiction over energy matters together with
40 any explanatory or other supporting material as the committee may request and, at the
41 request of the committee, shall provide a detailed briefing on the final plan. After
42 receipt of the plan, the joint standing committee of the Legislature having jurisdiction
43 over energy matters may submit legislation relating to the plan.
- 44 E. The trust shall determine the period to be covered by the triennial plan except that
45 the period of the plan may not interfere with the delivery of any existing contracts to

1 provide energy efficiency services that were previously procured pursuant to
2 efficiency and conservation programs administered by the commission.

3 F. It is an objective of the triennial plan to design, coordinate and integrate sustained
4 energy efficiency and weatherization programs that are available to all energy
5 consumers in the State, regardless of fuel type, that advance the targets of:

- 6 (1) Weatherizing 100% of residences and 50% of businesses by 2030;
- 7 (2) Reducing peak-load electric energy consumption by 100 megawatts by 2020;
- 8 (3) Reducing the State's consumption of liquid fossil fuels by at least 30% by
9 2030;
- 10 (4) By 2020, achieving electricity and natural gas savings of at least 30% and
11 heating fuel savings of at least 20% as defined in and determined pursuant to the
12 measures of performance ratified by the commission under section 10120;
- 13 (5) Capturing all cost-effective energy efficiency resources available for electric
14 and natural gas utility ratepayers;
- 15 (6) Saving residential and commercial heating consumers not less than \$3 for
16 every \$1 of program funds invested by 2020 in cost-effective heating and cooling
17 measures that cost less than conventional energy supply;
- 18 (7) Building stable private sector jobs providing clean energy and energy
19 efficiency products and services in the State by 2020; and
- 20 (8) Reducing greenhouse gas emissions from the heating and cooling of buildings
21 in the State by amounts consistent with the State's goals established in Title 38,
22 section 576.

23 The trust shall preserve when possible and appropriate the opportunity for carbon
24 emission reductions to be monetized and sold into a voluntary carbon market. Any
25 program of the trust that supports weatherization of buildings must be voluntary and
26 may not constitute a mandate that would prevent the sale of emission reductions
27 generated through weatherization measures into a voluntary carbon market.

28 As used in this paragraph, "heating fuel" means a fossil fuel used for the purposes of
29 heating buildings or for domestic water heating, including liquefied petroleum gas,
30 kerosene or #2 heating oil, but not including fuels when used for industrial or
31 manufacturing processes, and "liquid fossil fuel" means any liquid fossil fuel or
32 heating fuel used for a purpose other than for transportation.

33 **SUMMARY**

34 This bill eliminates the Governor's Office of Energy Independence and Security and
35 related cross-references.