

**Proposed Amendment “B” to LD 1646, An Act To Restore Local Ownership
and Control of Maine's Power Delivery Systems**

Amend the title of the bill by striking it and replacing it with the following:

**“An Act to Explore Pathways to Increased Consumer Ownership of
Maine’s Energy Future”**

Amend the bill by striking everything and replacing it with the following:

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

Sec. 1. 35-A MRSA section 10105, subsection 8 is enacted to read:

8. Energy storage systems; generation assets. The trust may acquire, hold and dispose of any real or personal property that is part of or connected to an energy efficiency measure or system, an energy storage system or generation assets as consistent with the purposes of this chapter. For the purposes of this subsection, “energy storage system” has the same meaning as in section 3481 subsection 6, and “generation assets” has same meaning as in section 320, subsection 10.

Sec. 2. Notification of transmission and distribution utility sale; Public Utilities Commission inquiry. The Public Utilities commission shall open an inquiry to examine and make recommendations regarding a process to provide timely notification to all entities authorized to own transmission and distribution plant in the State of any proposed sale of an investor-owned transmission and distribution utility and to provide the opportunity for the notified entities to bid on the sale. The commission shall submit a report on the results of this inquiry to the Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters by March 15, 2021. The Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters may, after receipt of the report under this section, submit legislation related to the report to the First Regular Session of the 130th Legislature.

Sec 3. Least-cost capital provider; Public Utilities Commission inquiry. The Public Utilities commission shall open an inquiry to examine and make recommendations regarding a process or pilot program to finance capital investment in and ownership of new transmission and distribution plant by a least-cost capital provider at a lower cost to ratepayers, and to compensate transmission and distribution utilities for performance in planning, building, maintaining and operating the new plant rather than rather than for taxable equity investment. The commission shall submit a report on the results of this inquiry to the Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters by March 15, 2021. The Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters may, after receipt of the report under this section, submit legislation related to the report to the First Regular Session of the 130th Legislature. For the purpose of this section “Least-cost capital

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provider” means a tax-exempt third-party entity able to finance and own transmission and distribution plant in the State.

Sec. 4. Consumer ownership evaluation task force. The Consumer Ownership Evaluation Task Force referred to in this section as “the task force” is established to evaluate and provide recommendations regarding the establishment and operation of a consumer-owned transmission and distribution utility to replace the investor-owned transmission and distribution utilities in the State.

1. Notwithstanding Joint Rule 353, the task force is composed of 13 members, including 9 voting members and 4 nonvoting members, as follows:

A. Five public members, who serve as voting members of the task force, appointed by the Governor as follows:

- (1) One member with expertise in utility law or regulation;
- (2) One member with expertise in utility management, planning or engineering;
- (3) One member with expertise in large-scale generation or supply markets;
- (4) One member with expertise in the needs of organized labor; and
- (5) One member with expertise in the needs of business consumers.

B. Two public members, who serve as voting members of the task force, appointed by Speaker of the House of Representatives as follows:

- (1) One member with expertise in economics or utility finance; and
- (2) One member with expertise in the development of telecommunications systems using shared utility infrastructure or of consumer-owned utilities.

C. Two public members, who serve as voting members of the task force, appointed by the President of the Senate as follows:

- (1) One member with expertise in medium-to-small scale clean energy development or financing; and
- (2) One member with expertise in the needs of lower-income or otherwise disadvantaged consumers.

D. Two members of the Senate, who serve as nonvoting members of the task force, appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature; and

E. Two members of the House of Representatives, who serve as nonvoting members of the task force, appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature.

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Members of the task force may not have a personal economic or fiduciary interest that would be affected by a recommendation, decision, or other matter handled by the task force and must sign an affidavit in accordance with subsection 2.

2. Prior to conducting any business as a member of the task force, a member must have filed with the Maine Ethics Commission a sworn affidavit stating the member:

A. Has not, in the five years prior to appointment, performed work for or held direct financial interest in any transmission and distribution utility in the State, or its parent company or affiliate; and

B. Agrees to refrain, for five years following appointment, from any activity where the member, the member’s family or the member’s employer could profit from the consideration of, transition to or operations of any transmission and distribution utility in the State.

The Maine Ethics Commission shall, to the extent practicable within existing resources, make a standard form affidavit available to the members of the task force for the purposes of this section.

3. Notwithstanding Joint Rule 353, the task force shall elect from its voting members a chair and a vice-chair.

4. All appointments to the task force must be made no later than 30 days following the effective date of this legislation. When the appointment of all members has been completed, and the chair and vice-chair of the task force have been elected, the chair shall call and convene the first meeting of the task force. Notwithstanding Joint Rule 353, if 30 days or more after the effective date of this legislation a majority of appointments but not all appointments have been made, the task force may meet and conduct its business.

5. Notwithstanding Joint Rule 353, five voting members of the task force constitute a majority and a quorum. The vice-chair shall serve as acting chair in the absence of the chair. All decisions of the task force must be made by a majority vote of the task force.

6. The duties of the task force are as follows:

A. The task force shall complete the following due diligence studies:

(1) A review of publicly available projections for the future capital expenditure needs of the State’s transmission and distribution system;

(2) A study to evaluate the finance and tax issues related to transitioning to a consumer-owned utility, including but not limited to: finance and tax-related obstacles or opportunities in the initial acquisition of investor-owned utilities and the transition to a consumer-owned utility; recommendations for optimizing the

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financial and capital structure; and a tax strategy to mitigate costs and maximize both short- and long-term benefits;

(3) A study to analyze and recommend a competitive procurement process and an optimal contractual arrangement for an independent contractor to manage and operate a consumer-owned utility, including but not limited to identification of appropriate performance standards for the contractor; and

(4) A study of regional and federal systems, regulations and requirements that affect the transition to a consumer-owned utility, including but not limited to: membership in regional transmission organizations; obligations with respect to the Federal Energy Regulatory Commission; opportunities to maximize regional and local transmission network service savings; and recommendations with respect to the optimal relationship of the proposed authority to Independent System Operator New England.

B. The task force shall develop a recommended outline for a transition plan and a business plan for the potential consumer-owned transmission and distribution utility. The outline for the transition plan must, at a minimum, include: a timeline for the transition including specific objectives or benchmarks; identification of individuals or entities responsible for each objective or benchmark; and potential variations and contingencies for the transition. The outline for the business plan must, at a minimum, provide: a description of the consumer-owned transmission and distribution utility; an overview of its objectives and mission; an outline of necessary operations procedures; a description of the management and organizational structure; and an outline and analysis of the financial plan for the consumer-owned transmission and distribution utility; and

C. The task force shall assess the risks and rewards of the transition plan outline and business plan outline developed in accordance with paragraph B. The task force shall also evaluate and develop estimates of the net public benefits of the transition to and operation of a consumer-owned transmission and distribution utility as compared to the continued operation of investor-owned transmission and distribution utilities in the State based on a range of scenarios and assumptions regarding acquisition costs, comparative capital costs and grid investment levels. The task force shall determine whether or not it is in the public interest to transition to consumer-ownership for all transmission and distribution utilities in the State based on its findings in the assessments and evaluation under this paragraph, and make a recommendation based on that determination, along with any other specific recommendations or next steps, within its final report under subsection 8.

7. The task force shall coordinate with and may request staffing, administrative and other assistance from the following entities as needed, and these entities are authorized assist the task force to the extent possible within existing resources:

- A. Governor’s Energy Office, established in Title 2, section 9;
- B. Finance Authority of Maine, established in Title 10, section 964;
- C. Public Utilities Commission, established in Title 35-A, section 103;

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- D. Public Advocate, established in Title 35-A, section 1701;
- E. Efficiency Maine Trust, established in Title 35-A, section 10103;
- F. Maine Climate Council, established in Title 38, section 577-A; and
- G. Office of the State Treasurer.

8. The task force may accept funding or other assistance from a not for profit organization of its choosing to support the work of the task force. The task force shall publicly disclose any funding or other assistance provided to it by a not for profit organization and indicate the name of the organization on any report or product produced with such assistance.

9. If the task force determines that it is necessary, the task force may contract for staffing, consulting or other services from an independent entity. The task force may seek assistance from the Public Utilities Commission in the issuing of request for proposals for contracted services. Notwithstanding the Maine Revised Statutes, Title 35-A, section 117 or any other provision of law to the contrary, the Public Utilities Commission shall use funds from the Public Utilities Commission Reimbursement Fund, established in Title 35-A, section 117, for services contracted under this subsection.

10. Notwithstanding Joint Rule 353, the task force shall submit an interim status report, no later than March 15, 2021, and a final report no later than November 30, 2021, to the Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters. The final report must include the results of the due diligence studies, transition and business plan outlines, the evaluation of net public benefits, and any additional recommendations or conclusions of the task force regarding the transition to a consumer-owned utility. The Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters may, after receipt of the reports under this subsection, submit legislation related to the reports to the First or Second Regular Session of the 130th Legislature.

SUMMARY

This amendment strikes and replaces the original bill and does the following:

1. Authorizes the Efficiency Maine Trust to acquire, hold and dispose of any real or personal property that is part of or connected to an energy efficiency measure or system, an energy storage system or generation assets as consistent with the purposes of the Trust under Title 35-A chapter 97.

2. Directs the Public Utilities Commission to open an inquiry to examine and make recommendations regarding a process to provide timely notification to entities authorized to transmission and distribution plant in the State of any proposed sale of an investor-owned transmission and distribution utility and to provide the opportunity for the notified entities to bid on the sale, and requires the commission to submit a report on the results of this inquiry to the Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters by March 15, 2021.

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3. Directs the Public Utilities Commission to open an inquiry to examine and make recommendations regarding a process or pilot program to finance capital investment in and ownership of new transmission and distribution plant by a least-cost capital provider at a lower cost to ratepayers, and to compensate transmission and distribution utilities for performance in planning, building, maintaining and operating the new plant rather than for taxable equity investment. It requires the commission on the results of this inquiry to the Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters by March 15, 2021.

4. Establishes the Consumer Ownership Evaluation Task force. The task force is composed of 13 members, including 9 voting public members appointed by the Governor, President of the Senate and Speaker of the House and 4 nonvoting members, 2 members of the Senate appointed by the President of the Senate and 2 members of the House appointed by the Speaker of the House. The duties of the task force include:

A. Conducting due diligence studies including a review of publicly available projections for the future capital expenditure needs of the State’s transmission and distribution system; a study to evaluate the finance and tax issues related to transitioning to a consumer-owned utility; a study to analyze and recommend a competitive procurement process and an optimal contractual arrangement for an independent contractor to manage and operate a consumer-owned utility; and a study of regional and federal systems, regulations and requirements that affect the transition to a consumer-owned utility.

B. Developing a recommended outline for a transition plan and a business plan for the potential consumer-owned transmission and distribution utility.

C. Assessing the risk and rewards of the transition plan outline and business plan outline developed in accordance with paragraph B and evaluate and develop estimates of the net public benefits of the transition to and operation of a consumer-owned transmission and distribution utility as compared to the continued operation of investor-owned transmission and distribution utilities in the State.

The task force is directed to coordinate with and may request assistance from a number of state agencies in the conduct of its work and is authorized to accept funding or other assistance from a not for profit organization of its choosing to support its work. The task force is also authorized to contract for staffing, consulting or other services from an independent entity as necessary. It requires the Public Utilities Commission to use funds from the Public Utilities Commission Reimbursement Fund for contracted services.

The task force is required to submit an interim status report, no later than March 15, 2021, and a final report no later than November 30, 2021, to the Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters. The Joint Standing Committee of the Legislature having jurisdiction over energy and utility matters may, after receipt of the reports under this subsection, submit legislation related to the reports to the First or Second Regular Session of the 130th Legislature.