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

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

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 C, §§1 and 2, is repealed.

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

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

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

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

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

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

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

(2) The project is technologically feasible; and

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

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

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

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

The authority, ~~in consultation with the Governor's Office of Energy Independence and Security within the Executive Department,~~ shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for loans under this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

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

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

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

A. The panel includes the following members:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) The commission shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters during the next regular session of the Legislature following the acquisition of lands or easements by eminent domain.

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

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

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

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

(3) Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these members must be persons with knowledge of and experience in financial matters and consumer advocacy and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy. The requirements of this subparagraph may be met through the appointment of one or more persons

who satisfy more than one of the requirements, as long as at any one time the 7 members include among them members who adequately represent the identified interests and who possess the required knowledge, expertise and experience.

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

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

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

A. The triennial plan must be developed by the trust, in consultation with entities and agencies engaged in delivering efficiency programs in the State, to authorize and govern or coordinate implementation of energy efficiency and weatherization programs in the State.

(1) Transmission and distribution utilities and natural gas utilities shall furnish data to the trust that the trust requests under this subsection subject to such confidential treatment as a utility may request and the board determines appropriate pursuant to section 10106. The costs of providing the data are deemed reasonable and prudent expenses of the utilities and are recoverable in rates.

B. In developing the triennial plan, the staff of the trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.

C. The board shall review and approve the triennial plan by affirmative vote of 2/3 of the trustees upon a finding that the plan is consistent with the statutory authority for each source of funds that will be used to implement the plan, the state energy efficiency targets in paragraph F and the best practices of program administration under subsection 2. The plan must include, but is not limited to, efficiency and conservation program budget allocations, objectives, targets, measures of performance, program designs, program implementation strategies, timelines and other relevant information.

D. Prior to submission of the triennial plan to the commission, the trust shall offer to provide a detailed briefing on the draft plan to the joint standing committee of the Legislature having jurisdiction over energy matters and, at the request of the committee, shall provide such a briefing and opportunity for input from the committee. After providing such opportunity for input and making any changes as a result of any input received, the board shall deliver the plan to the commission for its review and approval. The commission shall open a proceeding and issue an order either approving the plan or rejecting the plan and stating the reasons for the rejection. The commission shall reject elements of the plan that propose to use funds generated pursuant to sections 3210-C, 10110, 10111 or 10119 if the plan fails to reasonably explain how these elements of the program would achieve the objectives and implementation requirements of the programs established under those sections or the measures of performance under subsection 3. Funds generated under these statutory authorities may not be used pursuant to the triennial plan unless those elements of the plan proposing to use the funds have been approved by the commission. The commission shall approve or reject any elements of the triennial plan within 60 days of its delivery to the commission. The board, within 15 days of final commission approval of its plan, shall submit the plan to the joint standing committee of the Legislature having jurisdiction over energy matters together with any explanatory or other supporting material as the committee may request and, at the request of the committee, shall provide a detailed briefing on the final plan. After receipt of the plan, the joint standing committee of the Legislature having jurisdiction over energy matters may submit legislation relating to the plan.

E. The trust shall determine the period to be covered by the triennial plan except that the period of the plan may not interfere with the delivery of any existing contracts to provide energy efficiency services that were previously procured pursuant to efficiency and conservation programs administered by the commission.

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

- (1) Weatherizing 100% of residences and 50% of businesses by 2030;
- (2) Reducing peak-load electric energy consumption by 100 megawatts by 2020;
- (3) Reducing the State's consumption of liquid fossil fuels by at least 30% by 2030;
- (4) By 2020, achieving electricity and natural gas savings of at least 30% and heating fuel savings of at least 20% as defined in and determined pursuant to the measures of performance ratified by the commission under section 10120;
- (5) Capturing all cost-effective energy efficiency resources available for electric and natural gas utility ratepayers;

(6) Saving residential and commercial heating consumers not less than \$3 for every \$1 of program funds invested by 2020 in cost-effective heating and cooling measures that cost less than conventional energy supply;

(7) Building stable private sector jobs providing clean energy and energy efficiency products and services in the State by 2020; and

(8) Reducing greenhouse gas emissions from the heating and cooling of buildings in the State by amounts consistent with the State's goals established in Title 38, section 576.

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

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

SUMMARY

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