

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

## PART A

**Sec. A-1. 5 MRSA §1764-A**, as affected by PL 2003, c. 497, §5 and corrected by RR 2003, c. 1, §2, is amended to read:

### **§ 1764-A.Improvement of energy efficiency and usage of distributed renewable technology in state-funded construction**

**1. Definitions.** For purposes of this section, "substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Load management system" means the process of balancing the supply of electricity on the network with the electrical load by adjusting or controlling the load rather than the power station output.

B. "Substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

**2. Rules.** The Bureau of General Services, in consultation with the ~~Energy Resources Council~~ and the ~~Public Utilities Commission~~ Efficiency Maine Trust, established in Title 35-A, section 10103, shall by rule require that all planning and design for the construction of new or substantially renovated state-owned or state-leased buildings and buildings built with state funds, including buildings funded ~~through~~ state bonds or the Maine Municipal Bond Bank:

A. Involve consideration of architectural designs and energy systems, including load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds by at least 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, ~~section 1415-D~~ chapter 1103; and

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

Rules adopted pursuant to this section apply to all new or substantially renovated state-owned or state-leased buildings and buildings built with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank, regardless of whether the planning and design for construction is subject to approval by the department.

Rules adopted pursuant to this section may provide for exemptions, waivers or other appropriate consideration for buildings with little or no energy usage, such as unheated sheds or warehouses.

~~The Bureau of General Services shall adopt rules pursuant to this section by July 1, 2004. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**3. Approval.** A state agency responsible for approving the construction of a new or substantially renovated state-owned or state-leased building and buildings built with state funds, including buildings funded ~~through~~ state bonds or the Maine Municipal Bond Bank, may not grant such approval unless the agency or other entity or organization proposing the construction can show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with rules adopted pursuant to this section.

## PART B

**Sec. B-1. 20-A MRSA §15908-A, sub-§1**, as enacted by PL 2003, c. 497, §2 and affected by §5, is repealed and the following enacted in its place:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Load management system" means the process of balancing the supply of electricity on the network with the electrical load by adjusting or controlling the load rather than the power station output.

B. "Substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation.

**Sec. B-2. 20-A MRSA §15908-A, sub-§2, ¶¶A and B**, as enacted by PL 2003, c. 497, §2 and affected by §5, are amended to read:

A. Involve consideration of architectural designs and energy systems, including load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds by at least 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, ~~section 1415-D~~chapter 1103; and

**Sec. B-3. 20-A MRSA §15915, sub-§1**, as amended by PL 2005, c. 499, §1, is further amended to read:

**1. Initial agreement.** Any school administrative unit may enter into an agreement of up to 15 20 years with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation, load management systems or combined energy conservation and air quality improvements at existing school administrative unit facilities. For purposes of this subsection, "load management system" has the same meaning as in section 15908-A, subsection 1, paragraph A. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

- A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;
- B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and
- C. Has a total contract cost, excluding interest and operating and maintenance costs, of less than \$2,000,000 for any school building, except that this limit may be exceeded if all risk that the project's costs will exceed its benefits is borne by an entity other than the school administrative unit.

A school administrative unit may select contractors for these professional services on the basis of a request for qualifications or a request for proposals and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The school administrative unit shall interview not fewer than 3 service providers unless a smaller number of service providers responds to the request for qualifications or requests for proposals. The performance criteria in the agreement is~~are~~ subject to approval by the Department of Administrative and Financial Services, Bureau of General Services. A request for qualifications or proposals may not contain terms that require service providers to have more than 3 years of experience in the energy conservation field or the use of equipment that is not generally available to service providers or terms that are otherwise included for the purpose of bias or favoritism toward a particular service provider. Objections to the terms of a request for qualifications or proposals under this subsection are deemed waived if not delivered in writing to the office of the superintendent of schools in that school administrative unit within 21 days of the last publication of the newspaper advertisement.

## PART C

**Sec. C-1. 30-A MRS §903, sub-§1**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**1. Agreement with energy service and 3rd-party financing companies.** County commissioners may enter into an agreement with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation or load management system improvements at county facilities. For purposes of this subsection, "load management system" means the process of balancing the supply of electricity on the network with the electrical load by adjusting or controlling the load rather than the power station output.

## PART D

**Sec. D-1. 30-A MRS §5953-C**, as amended by PL 2007, c. 66, §1, is further amended to read:

### **§ 5953-C. Loans for energy efficiency and distributed renewable energy technology improvements in municipal and school buildings**

This section establishes a program to promote energy efficiency and increased use of load management systems and indoor air quality in municipal and school buildings. As used in this section, "load management system" means the process of balancing the supply of electricity on the network with the electrical load by adjusting or controlling the load rather than the power station output.

**1. Efficiency Partners Program.** The bank shall establish the Efficiency Partners Program, referred to in this section as "the program," designed to reduce net energy costs in municipal and school buildings and to create jobs by financing energy audits and cost-effective improvements that accomplish energy efficiency and increased use of load management systems while maintaining healthful indoor air quality. The bank shall issue a request for proposals for energy audits of municipal and school buildings and for energy savings that could be achieved through cost-effective improvements to load management, heating and cooling systems, windows, insulation, lighting and equipment in municipal and school buildings. Identification of cost-effective improvements to achieve net energy savings under the program must be based on a comprehensive energy audit that has been performed within the previous 5 years by a professional engineer licensed in this State. An energy audit that is financed under the program or is the basis for cost-effective energy efficiencyenergy-related improvements financed under the program must address compliance with the model building energy codeMaine Uniform Building and Energy Code adopted by the ~~Public Utilities Commission pursuant to Title 35-A, section 121~~pursuant to Title 10, chapter 1103.

**2. Access to the program.** Municipalities and school administrative units may have access to the program regardless of whether the municipality or school administrative unit utilizes a loan pursuant to this section to finance an energy audit or cost-effective energy efficiencyenergy-related improvements.

**3. Proposals; contracts.** The bank shall solicit proposals from energy service companies and individual vendors of energy service products. Notwithstanding any provision of the law regarding bidding requirements, the bank shall contract with an energy service company or companies or vendor or vendors to provide energy services in municipal and school buildings under the program. Whenever the bid proposals received are substantially equivalent, the bank shall in the contract process select an in-state energy service company or vendor whose primary place of business is within this State. For public

school projects, bid proposals for ~~energy efficiency~~energy-related improvements must include plans and specifications that are adequate to permit review by the agencies listed under Title 20-A, section 15903, subsection 3 and that bear the stamp of a licensed professional engineer or licensed architect. The agencies listed in Title 20-A, section 15903, subsection 3 shall review the plans and specifications and approve or disapprove them within a reasonable time period.

**4. Loan; loan agreements.** Loans from the bank for ~~energy efficiency~~energy-related improvements must be structured to ensure to the greatest extent possible that the cost savings achieved by the ~~energy efficiency~~energy-related improvements are sufficient to cover the loan and ultimately to achieve a net positive cash flow as ~~early as practical~~. The rate of interest charged for loans made through the program for ~~energy efficiency~~energy-related improvements or energy audits must be below the currently available rate of interest charged on commercial loans of equivalent term and use.

**5. Energy Payment Equalization Fund.** The bank shall establish a fund called the Energy Payment Equalization Fund. To the extent that the fund has assets available to it through funding by federal, state or local governments, or grants, gifts, donations or payments from any other source, money in the fund may be applied to loans made to municipalities in the program if achieved energy savings are not sufficient to offset the debt service payments on a loan made through the program. This fund may include deposits made by energy service companies or vendors to guarantee their commitment to achieve energy savings sufficient to offset debt service payments but may not include any other donations or payments from vendors or interested parties. The fund may be used to provide general interest rate reductions or principal reductions on any loan or group of loans made under the program for energy audits or for ~~energy efficiency~~energy-related improvements regardless of energy cost savings that may be achieved through the use of the proceeds of the loans or loan.

**6. Report to the Legislature.** Beginning in 2008, the bank shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the program. The report must document program activity during the prior 12 months, including, but not limited to, contracts made with energy service companies or vendors, loans made to municipalities or school administrative units, energy audits conducted and ~~energy efficiency~~energy-related improvements implemented.

**Sec. D-2. 30-A MRSA §5954-A, sub-§1,** as amended by PL 2005, c. 190, §1, is further amended to read:

**1. Authority.** In addition to its other enumerated powers, but subject to the limitations imposed under subsection 2, the bank, on behalf of or in partnership with one or more governmental units or nonprofit corporations organized under the Internal Revenue Code, Section 501, may aggregate governmental units and nonprofit corporations to purchase in bulk electricity, petroleum products, fuel oil and, natural gas and the services of energy service companies and individual vendors of energy service products.'

## SUMMARY

This amendment strikes and replaces the bill with the following.

Part A extends existing standards for energy savings design considerations to include cost-effective load management systems.

Part B adds consideration of cost-effective load management systems to existing standards for energy savings design considerations and targets for school construction projects and gives school administrative units increased flexibility in contracting with energy service companies for energy efficiency and load management improvements.

Part C expands counties' ability to contract with energy service companies to achieve energy savings to include load management systems.

Part D expands the Maine Municipal Bond Bank's Efficiency Partners Program, which provides loans for efficiency upgrades to municipal and public school buildings, to include load management projects and expands the bank's aggregation powers for nonprofits and municipalities to include the services of energy service companies and products vendors.