

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 the title and substituting the following:

**'An Act To Establish a Process for the  
Procurement of Biomass Resources'**

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

**'Sec. 1. Biomass competitive solicitation.**

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

- A. "Biomass resource" is a source of electrical generation fueled by wood, wood waste or landfill gas that produces energy that may be physically delivered to the ISO-NE region, as defined in the Maine Revised Statutes, Title 35-A, section 1902, subsection 3, or in the NMISA region.
- B. "Commission" means the Public Utilities Commission.
- C. "NMISA region" is the area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine.

**2. Solicitation and contract negotiation.** In accordance with subsection 3, the commission shall initiate a competitive solicitation as soon as practicable and direct investor-owned transmission and distribution utilities to enter into one or more 2-year contracts for up to 80 megawatts of biomass resources contingent upon available funds for above-market costs of the contract pursuant to subsection 4. The contract may be a contract for energy or a contract for differences. If a generator offers to sell capacity or renewable energy attributes as part of a contract entered into pursuant to this section, the contract may include the purchase of such capacity or attributes, but the commission may not condition any solicitation or contract on an offer or sale of capacity or renewable energy attributes.

**3. Review and selection of renewable resources and contract adjustments.** In conducting a solicitation and entering into any contract under subsection 2, the commission shall:

- A. Ensure that a biomass resource facility is operating at 50% capacity 6 months prior to the initiation of a competitive solicitation in accordance with subsection 2 and continues to operate at that capacity except for planned and forced outages; and
- B. Seek to ensure, to the maximum extent possible, that a contract entered into under this section:
  - (1) Provides benefits to ratepayers;
  - (2) Provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases;
  - (3) Reduces greenhouse gas emissions;

- (4) Promotes fuel diversity; and
- (5) Supports or improves grid reliability.

In selecting among bids, the commission shall determine the total in-state economic benefits of the contract in an expected annual dollar per megawatt-hour average and the cost to fund the above-market costs of a contract in an expected annual dollar per megawatt-hour average. The commission shall consider both of these values for each proposal to identify those proposals that maximize the overall benefits to the State, and shall establish a process under which a generator of biomass resources verifies on an annual basis that the projected in-state economic benefits are generated during the term of the contract. If the commission finds the in-state benefits are not being achieved, the commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits.

**4. Cost limits.** The commission may enter only into contracts under this section that are contingent on the availability of funds in the cost recovery fund established under subsection 5 to pay the above-market costs of the contract, as determined by the commission. Payments of all above-market costs of a contract must be made solely from those funds and are not a liability of the transmission and distribution utility, its ratepayers or the commission. If insufficient funds are available in the fund to pay above-market costs under a contract, the commission shall notify the contracting entity and, unless the contracting entity and the commission agree otherwise, the contract is suspended. The commission and the contracting entity may agree to reinstate a suspended contract upon the availability of sufficient funds in the cost recovery fund to pay above-market costs.

**5. Cost recovery fund.** There is established within the commission a nonlapsing cost recovery fund, referred to in this section as "the fund." The fund receives funds allocated or transferred by the Legislature from the Maine Budget Stabilization Fund in accordance with subsection 8. The commission shall use the fund to pay all above-market costs of any contract entered into under this section. The commission by rule or order shall establish how above-market costs are determined and how payments from the fund are made.

**6. Cost recovery.** The commission shall ensure that all costs, except those costs associated with above-market costs, and direct financial benefits associated with a contract entered into under this section are allocated to ratepayers in accordance with Title 35-A, section 3210-F. A price differential existing at any time during the term of the contract between the contract price and the prevailing market price at which the capacity resource is sold or any gains or losses derived from a contract for differences must be reflected in the amounts charged to ratepayers and may not be considered imprudent.

**7. Rules.** The commission may adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**8. Transfers of funds.** Notwithstanding any other provision of law, the State Controller shall transfer \$6,700,000 from the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532 to the Cost Recovery Fund, Other Special Revenue Funds account within the Public Utilities Commission no later than September 1, 2016. Notwithstanding any other provision of law, the

State Controller shall transfer \$6,700,000 from the Maine Budget Stabilization Fund established under Title 5, section 1532 to the Cost Recovery Fund, Other Special Revenue Funds account within the Public Utilities Commission no later than September 1, 2017.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC UTILITIES COMMISSION**

**Cost Recovery Fund N228**

Initiative: Provides an allocation to pay all above-market costs of contracts for energy or contracts for differences for the procurement of up to 80 megawatts of biomass resources.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2015-16</b>	<b>2016-17</b>
All Other	\$0	\$6,700,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$6,700,000</b>

**Public Utilities - Administrative Division 0184**

Initiative: Provides an allocation for consulting costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2015-16</b>	<b>2016-17</b>
All Other	\$0	\$100,974
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$100,974</b>

<b>PUBLIC UTILITIES COMMISSION</b>	<b>2015-16</b>	<b>2016-17</b>
<b>DEPARTMENT TOTALS</b>		
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$6,800,974</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$6,800,974</b>

**SUMMARY**

This amendment is the minority report of the committee and it strikes and replaces the bill. The amendment does the following.

1. It directs the Public Utilities Commission to initiate a competitive solicitation as soon as practicable to procure up to 80 megawatts of biomass resources, contingent upon available funds for above-market costs.
2. It allows the contract to be a contract for energy or a contract for differences.
3. It provides the contract may include the purchase of capacity or attributes, but the commission may not condition any solicitation or contract on an offer or sale of capacity or renewable energy attributes.
4. It requires that in order for a facility to receive a contract it must be operating at 50% capacity 6 months prior to the initiation of a competitive solicitation and continue to operate at that capacity except for planned and forced outages.
5. It requires the commission to seek to ensure, to the maximum extent possible, that a contract entered into provides benefits to ratepayers; provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases; reduces greenhouse gas emissions; promotes fuel diversity; and supports or improves grid reliability.
6. It requires that the commission determine the total in-state economic benefits of the contract in an expected annual dollar per megawatt-hour average and the cost to fund the above-market costs of a contract in an expected annual dollar per megawatt-hour average.
7. It specifies that if the commission finds the in-state benefits are not being achieved, the commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits.
8. It creates a nonlapsing fund within the commission, called the cost recovery fund, to pay the above-market costs of the contract, which is funded through transfers from the Maine Budget Stabilization Fund established under the Maine Revised Statutes, Title 5, section 1532.
9. It limits the commission's authority to enter into a contract based on the availability of funds in the cost recovery fund.
10. It specifies that, if insufficient funds are available in the fund to pay above-market costs under a contract, the contract is suspended.
11. It requires the State Controller to transfer \$6,700,000 on or before September 1, 2016 and on or before September 1, 2017 to the cost recovery fund.
12. It requires all costs that are not above-market costs and direct financial benefits associated with a contract for biomass resources to be allocated to ratepayers in accordance with Title 35-A, section 3210-F.
13. It adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
**(See attached)**