



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 797

H.P. 585

House of Representatives, February 12, 2019

**An Act To Limit Greenhouse Gas Pollution and Effectively Use
Maine's Natural Resources**

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TUCKER of Brunswick.
Cosponsored by Senator FOLEY of York and
Representatives: COREY of Windham, DOUDERA of Camden, Speaker GIDEON of
Freeport, KINNEY of Knox, RILEY of Jay, TUELL of East Machias, Senators: BLACK of
Franklin, SANBORN, L. of Cumberland.

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

2 **Sec. 1. 2 MRSA §9, sub-§3, ¶C**, as amended by PL 2013, c. 541, §1, is further
3 amended to read:

4 C. In consultation with the Efficiency Maine Trust Board, established in Title 5,
5 section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy
6 plan to the Governor and the Legislature by January 15, 2009 and submit an updated
7 plan every 2 years thereafter. Within the comprehensive state energy plan, the
8 director shall identify opportunities to lower the total cost of energy to consumers in
9 this State and transmission capacity and infrastructure needs and recommend
10 appropriate actions to lower the total cost of energy to consumers in this State and
11 facilitate the development and integration of new renewable energy generation within
12 the State and support the State's renewable resource portfolio requirements specified
13 in Title 35-A, section 3210 and wind energy development goals specified in Title
14 35-A, section 3404. The comprehensive state energy plan must include a section that
15 specifies the State's progress in meeting the oil dependence reduction targets in
16 subsection 5. The office shall make recommendations, if needed, for additional
17 legislative and administrative actions to ensure that the State can meet the reduction
18 targets in subsection 5. The recommendations must include a cost and resource
19 estimate for technology development needed to meet the reduction targets.

20 (1) ~~Beginning in 2015, the~~ The update to the plan must:

21 (a) Be submitted to the joint standing committee of the Legislature having
22 jurisdiction over utilities and energy matters and the joint standing committee
23 of the Legislature having jurisdiction over natural resources matters;

24 (b) Address the association between energy planning and meeting the
25 greenhouse gas reduction ~~goals in the state climate action plan pursuant to~~
26 levels in Title 38, section ~~577~~ 576-A. The director shall consult with the
27 Department of Environmental Protection in developing this portion of the
28 plan;

29 (c) Include a section devoted to wind energy development, including:

30 (i) The State's progress toward meeting the wind energy development
31 goals established in Title 35-A, section 3404, subsection 2, including an
32 assessment of the likelihood of achieving the goals and any
33 recommended changes to the goals;

34 (ii) Examination of the permitting process and any recommended
35 changes to the permitting process;

36 (iii) Identified successes in implementing the recommendations
37 contained in the February 2008 final report of the Governor's Task Force
38 on Wind Power Development created by executive order issued May 8,
39 2007;

40 (iv) A summary of tangible benefits provided by expedited wind energy
41 developments, including, but not limited to, documentation of

1 community benefits packages and community benefit agreement
2 payments provided;

3 (v) A review of the community benefits package requirement under Title
4 35-A, section 3454, subsection 2, the actual amount of negotiated
5 community benefits packages relative to the statutorily required
6 minimum amount and any recommended changes to community benefits
7 package policies;

8 (vi) Projections of wind energy developers' plans, as well as technology
9 trends and their state policy implications;

10 (vii) Recommendations, including, but not limited to, identification of
11 places within the State's unorganized and deorganized areas for inclusion
12 in the expedited permitting area established pursuant to Title 35-A,
13 chapter 34-A and the creation of an independent siting authority to
14 consider wind energy development applications;

15 (d) Include a description of activities undertaken pursuant to paragraph H;
16 and

17 (e) Include a description of the State's activities relating to the expansion of
18 natural gas service, any actions taken by the office to expand access to
19 natural gas in the State and any recommendations for actions by the
20 Legislature to expand access to natural gas in the State.

21 The joint standing committee of the Legislature having jurisdiction over utilities and
22 energy matters may report out legislation by February 1st of each odd-numbered year
23 relating to the content of the plan. The joint standing committee of the Legislature
24 having jurisdiction over natural resources matters may make recommendations
25 regarding that legislation to the joint standing committee of the Legislature having
26 jurisdiction over energy matters.

27 **Sec. 2. 2 MRSA §9, sub-§5, ¶D**, as enacted by PL 2011, c. 400, §2, is amended
28 to read:

29 D. Draw on existing state data and studies rather than new analyses, including, but
30 not limited to, analyses and data from the State's climate action plan developed by the
31 Department of Environmental Protection pursuant to Title 38, section 577 and the
32 progress updates to the climate action plan evaluations of the State's progress toward
33 meeting greenhouse gas emissions levels under Title 38, section 578, the
34 comprehensive state energy plan pursuant to subsection 3, paragraph C, the
35 Efficiency Maine Trust's triennial plan pursuant to Title 35-A, section 10104,
36 subsection 4 and analyses completed by the Federal Government, nonprofit
37 organizations and other stakeholders.

38 **Sec. 3. 35-A MRSA §3210-C, sub-§3**, as amended by PL 2017, c. 134, §2, is
39 further amended to read:

40 **3. Commission authority.** The commission may direct investor-owned
41 transmission and distribution utilities to enter into long-term contracts for:

- 1 A. Capacity resources;
- 2 B. Any available energy associated with capacity resources contracted under
3 paragraph A:
- 4 (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or
- 5 (2) If the commission determines appropriate for purposes of supplying or
6 lowering the cost of standard-offer service or otherwise lowering the cost of
7 electricity for the ratepayers in the State. Available energy contracted pursuant to
8 this subparagraph may be sold into the wholesale electricity market in
9 conjunction with solicitations for standard-offer supply bids;
- 10 C. Any available renewable energy credits associated with capacity resources
11 contracted under paragraph A. The price paid by the investor-owned transmission
12 and distribution utility for the renewable energy credits must be lower than the price
13 received for those renewable energy credits at the time they are sold by the
14 investor-owned transmission and distribution utility; and
- 15 D. Transmission capacity, capacity resources, energy or renewable energy credits
16 pursuant to a regional procurement process in conjunction with other states.
- 17 The commission may permit, but may not require, investor-owned transmission and
18 distribution utilities to enter into contracts for differences that are designed and intended
19 to buffer ratepayers in the State from potential negative impacts from transmission
20 development. To the greatest extent possible, the commission shall develop procedures
21 for long-term contracts for investor-owned transmission and distribution utilities under
22 this subsection having the same legal and financial effect as the procedures used for
23 standard-offer service pursuant to section 3212 for investor-owned transmission and
24 distribution utilities.
- 25 The commission may enter into contracts for interruptible, demand response or energy
26 efficiency capacity resources. These contracts are not subject to the rules of the State
27 Purchasing Agent. In a competitive solicitation conducted pursuant to subsection 6, the
28 commission shall allow transmission and distribution utilities to submit bids for
29 interruptible or demand response capacity resources.
- 30 Capacity resources contracted under this subsection may not exceed the amount
31 necessary to ensure the reliability of the electric grid of this State, to meet the energy
32 efficiency program budget allocations articulated in the triennial plan as approved by the
33 commission pursuant to section 10104, subsection 4 or any annual update plan approved
34 by the commission pursuant to section 10104, subsection 6 or to lower customer costs as
35 determined by the commission pursuant to rules adopted under subsection 10.
- 36 Unless the commission determines the public interest requires otherwise, a capacity
37 resource may not be contracted under this subsection unless the commission determines
38 that the capacity resource is recognized as a capacity resource for purposes of any
39 regional or federal capacity requirements.
- 40 The commission shall ensure that any long-term contract authorized under this subsection
41 is consistent with the ~~State's goals for greenhouse gas reduction levels~~ under Title 38,
42 section ~~576~~ 576-A and the regional greenhouse gas initiative as described in the ~~state~~
43 ~~climate action plan required in~~ Title 38, section ~~577~~ 579.

1 By January 1st of each year, the commission shall submit a report to the joint standing
2 committee of the Legislature having jurisdiction over energy and utilities matters on the
3 procurement of transmission capacity, capacity resources, energy and renewable energy
4 credits in the preceding 12 months under this subsection, the Community-based
5 Renewable Energy Act and deep-water offshore wind energy pilot projects under Public
6 Law 2009, chapter 615, Part A, section 6, as amended by Public Law 2013, chapter 369,
7 Part H, sections 1 and 2 and chapter 378, sections 4 to 6. The report must contain
8 information including, but not limited to, the number of requests for proposals by the
9 commission for long-term contracts, the number of responses to requests for proposals
10 pursuant to which a contract has been finalized, the number of executed term sheets or
11 contracts resulting from the requests for proposals, the commission's initial estimates of
12 ratepayer costs or savings associated with any approved term sheet, actual ratepayer costs
13 or savings for the previous year associated with any procurement, the total ratepayer costs
14 or savings at the time of the report and the megawatt-hours, renewable energy credits or
15 capacity produced or procured through contracts. The report must also include a plan for
16 the succeeding 12 months pertaining to the procurement of capacity resources, energy
17 and renewable energy credits, including dates for requests for proposals, and types of
18 resources to be procured.

19 **Sec. 4. 35-A MRSA §3402, sub-§1, ¶A**, as amended by PL 2009, c. 615, Pt. A,
20 §2, is further amended to read:

21 A. Wind energy is an economically feasible, large-scale energy resource that does
22 not rely on fossil fuel combustion or nuclear fission, thereby displacing electrical
23 energy provided by these other sources and avoiding air pollution, waste disposal
24 problems and hazards to human health from emissions, waste and by-products;
25 consequently, wind energy development may address energy needs while making a
26 significant contribution to achievement of the State's renewable energy and
27 greenhouse gas reduction objectives, including those in Title 38, section ~~576~~ 576-A;

28 **Sec. 5. 35-A MRSA §10104, sub-§4, ¶F**, as repealed and replaced by PL 2013,
29 c. 369, Pt. A, §13, is amended to read:

30 F. It is an objective of the triennial plan to design, coordinate and integrate sustained
31 energy efficiency and weatherization programs that are available to all energy
32 consumers in the State and to users of all fuel types. The plan must set forth the costs
33 and benefits of energy efficiency programs that advance the following goals, and
34 funding necessary to meet those goals:

- 35 (1) Reducing energy costs, including residential heating costs;
- 36 (2) Weatherizing substantially all homes whose owners or occupants are willing
37 to participate in and share the costs of cost-effective home weatherization to a
38 minimum standard of weatherization, as defined by the trust, by 2030;
- 39 (3) Reducing peak-load demand for electricity through trust programs by 300
40 megawatts by 2020;
- 41 (4) By 2020, achieving electricity and natural gas program savings of at least
42 20% and heating fuel savings of at least 20%, as defined in and determined

1 pursuant to the measures of performance approved by the commission under
2 section 10120;

3 (5) Creating stable private sector jobs providing alternative energy and energy
4 efficiency products and services in the State by 2020; and

5 (6) Reducing greenhouse gas emissions from the heating and cooling of buildings
6 in the State by amounts consistent with the ~~State's goals~~ reduction levels
7 established in Title 38, section ~~576~~ 576-A.

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

13 Except when specifically provided in the individual goals under this paragraph, the
14 trust may consider expected savings from market effects not attributable to the trust
15 as well as efforts by other organizations, including but not limited to federally funded
16 low-income weatherization programs.

17 As used in this paragraph, "heating fuel" means liquefied petroleum gas, kerosene or
18 #2 heating oil, but does not include fuels when used for industrial or manufacturing
19 processes.

20 **Sec. 6. 38 MRSA §574, sub-§§1-A, 1-B and 1-C** are enacted to read:

21 **1-A. Climate action plan.** "Climate action plan" means the state plan adopted in
22 2004 by the department under this chapter to address greenhouse gas emissions
23 reductions in each sector in cost-effective ways.

24 **1-B. Gross annual greenhouse gas emissions.** "Gross annual greenhouse gas
25 emissions" means the total amount of greenhouse gases emitted by all sources within the
26 State each year.

27 **1-C. Net annual greenhouse gas emissions.** "Net annual greenhouse gas
28 emissions" means gross annual greenhouse gas emissions less the total amount of
29 greenhouse gases absorbed each year by plants and natural ecosystems, including, but not
30 limited to, trees, crops, soil and wetlands within the State.

31 **Sec. 7. 38 MRSA §576**, as enacted by PL 2003, c. 237, §1, is repealed.

32 **Sec. 8. 38 MRSA §576-A** is enacted to read:

33 **§576-A. Greenhouse gas emissions reductions**

34 **1. 2050 annual emissions level.** By January 1, 2050, the State shall reduce net
35 annual greenhouse gas emissions to at least 80% below the 1990 net annual greenhouse
36 gas emissions level.

37 **2. Interim emissions levels.** The department shall adopt rules establishing interim
38 net annual greenhouse gas emissions levels for 2030 and 2040. The interim net annual

1 greenhouse gas emissions levels must maximize the State's ability to meet the 2050 net
2 annual greenhouse gas emissions level. The interim 2030 net annual greenhouse gas
3 emissions level must at a minimum be consistent with the highest level of the greenhouse
4 gas emissions reduction range adopted by the Conference of New England Governors and
5 Eastern Canadian Premiers in Resolution 39-1, dated August 31, 2015. The interim 2040
6 net annual emissions level must at a minimum be sufficient to project achievement of the
7 2050 net annual emissions level. The department shall set the interim 2030 net annual
8 emissions level by January 1, 2020 and the interim 2040 net annual emissions level by
9 January 1, 2030.

10 **3. Monitoring and reporting rules.** By January 1, 2020, the department shall adopt
11 rules to monitor and report to the Legislature on gross and net annual greenhouse gas
12 emissions. By January 1, 2021, and periodically thereafter, the department shall adopt
13 rules to ensure compliance with the levels established by and pursuant to subsections 1
14 and 2. Rules adopted pursuant to this subsection are routine technical rules as defined in
15 Title 5, chapter 375, subchapter 2-A.

16 **Sec. 9. 38 MRSA §577,** as enacted by PL 2003, c. 237, §1, is repealed and the
17 following enacted in its place:

18 **§577. Action plan; long-term goal**

19 **1. Long-term reduction goal.** The State's long-term reduction goal is to reduce net
20 annual greenhouse gas emissions to an extent sufficient to minimize harmful effects of
21 climate change. To accomplish this goal, reducing net annual greenhouse gas emissions
22 to zero by 2050 may be necessary.

23 **2. Climate action plan update.** By December 1, 2020, the department, with input
24 from stakeholders, shall update the State's climate action plan to meet the reduction levels
25 in section 576-A. In updating the climate action plan, the department shall conduct a
26 study examining pathways to reduce net annual greenhouse gas emissions consistent with
27 the levels in section 576-A and with the long-term goal in subsection 1. The department
28 shall quantitatively analyze and report on the technical feasibility and cost-effectiveness
29 of each pathway. To fund the analysis, the department may solicit and receive financial
30 support from the public and private and nonprofit organizations. The department shall
31 submit the study to the joint standing committee of the Legislature having jurisdiction
32 over natural resources matters, which is authorized to report out legislation related to the
33 study. In identifying the preferred pathways to include in the updated climate action plan,
34 the department shall give consideration to the following objectives:

35 A. Pursuing the most cost-effective and technologically feasible reduction pathways
36 while minimizing effects on low-income and moderate-income persons, minimizing
37 environmental effects, supporting economic sectors that face the biggest barriers to
38 emissions reductions and creating, when feasible, additional employment and
39 economic growth in the State;

40 B. Encouraging the use of natural solutions to reduce net greenhouse gas emissions,
41 such as solutions related to forests, farms and coastal lands in the State and materials
42 that sequester carbon;

1 C. Ensuring that all sectors and regions of the State and the broadest group of
2 residents benefit from reaching the levels in section 576-A and the long-term goal in
3 subsection 1, with consideration to economic, quality-of-life and public health
4 benefits; and

5 D. Maximizing involvement in interstate initiatives designed to reduce regional
6 greenhouse gas emissions.

7 **Sec. 10. 38 MRSA §578**, as amended by PL 2013, c. 415, §5, is further amended
8 to read:

9 **§578. Progress evaluation**

10 ~~By January 1, 2006 and by that date every 2 years thereafter, the~~ The department
11 shall evaluate the State's progress toward meeting the reduction goals levels specified in
12 section 576 ~~576-A~~, ~~review the cost-effectiveness of the actions taken toward meeting the~~
13 ~~reduction goals and shall amend the action plan as necessary to ensure that the State can~~
14 ~~meet the reduction goals and in rules adopted pursuant to section 576-A, subsection 2 and~~
15 ~~progress toward implementing the climate action plan in section 577.~~ The department
16 shall submit a report of its evaluation to the joint standing committee of the Legislature
17 having jurisdiction over natural resources matters and the joint standing committee of the
18 Legislature having jurisdiction over utilities and energy matters by January 1, ~~2016~~ 2022
19 and by that date every 2 years thereafter. The joint standing committee of the Legislature
20 having jurisdiction over natural resources matters is authorized to report out legislation
21 relating to the evaluation to the second regular session of any Legislature. The joint
22 standing committee of the Legislature having jurisdiction over utilities and energy
23 matters may make recommendations to the joint standing committee of the Legislature
24 having jurisdiction over natural resources matters regarding that legislation. ~~Starting no~~
25 ~~earlier than January 1, 2008, the department may recommend to the joint standing~~
26 ~~committee of the Legislature having jurisdiction over natural resources matters that the~~
27 ~~reduction goals specified in section 576 be increased or decreased.~~

28 **SUMMARY**

29 This bill provides that by January 1, 2050 the State must reduce net annual
30 greenhouse gas emissions to at least 80% below the 1990 net annual greenhouse gas
31 emissions level. It directs the Department of Environmental Protection to establish
32 interim net annual emissions levels and to monitor and report on gross and net annual
33 greenhouse gas emissions. It directs the department to update the State's climate action
34 plan and evaluate the State's progress toward meeting the reduction levels.