



132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 371

S.P. 163

In Senate, February 3, 2025

An Act to Expand Hydroelectric Development by Removing the 100-megawatt Cap

Received by the Secretary of the Senate on January 30, 2025. Referred to the Committee on Energy, Utilities and Technology pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MARTIN of Oxford.
Cosponsored by Representative PAUL of Winterport and
Senators: CYRWAY of Kennebec, HARRINGTON of York, TIMBERLAKE of
Androscoggin, Representatives: FOSTER of Dexter, SOBOLESKI of Phillips,
WADSWORTH of Hiram.

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

2 **Sec. 1. 35-A MRSA §3210, sub-§2, ¶B-3**, as amended by PL 2019, c. 477, §1, is
3 further amended to read:

4 B-3. "Renewable capacity resource" means a source of electrical generation:

5 (1) Whose total power production capacity does not exceed 100 megawatts and
6 relies on one or more of the following:

7 (a) Fuel cells;

8 (b) Tidal power;

9 (d) Geothermal installations;

10 ~~(e) Hydroelectric generators that meet all state and federal fish passage~~
11 ~~requirements applicable to the generator;~~

12 (f) Biomass generators that are fueled by wood, wood waste or landfill gas; or

13 (g) Anaerobic digestion of by-products of waste from animals or agricultural
14 crops, food or vegetative material, algae or organic refuse; ~~or~~

15 (2) That relies on wind power installations or solar power installations; or

16 (3) That relies on hydroelectric generators that meet all state and federal fish
17 passage requirements applicable to the generator.

18 **Sec. 2. 35-A MRSA §3210, sub-§2, ¶C**, as amended by PL 2009, c. 542, §5, is
19 further amended to read:

20 C. "Renewable resource" means a source of electrical generation:

21 (1) That qualifies as a small power production facility under the Federal Energy
22 Regulatory Commission rules, 18 Code of Federal Regulations, Part 292, Subpart
23 B, as in effect on January 1, 1997; ~~or~~

24 (2) Whose total power production capacity does not exceed 100 megawatts and
25 that relies on one or more of the following:

26 (a) Fuel cells;

27 (b) Tidal power;

28 (c) Solar arrays and installations;

29 (d) Wind power installations;

30 (e) Geothermal installations;

31 ~~(f) Hydroelectric generators;~~

32 (g) Biomass generators that are fueled by wood or wood waste, landfill gas or
33 anaerobic digestion of agricultural products, by-products or wastes; or

34 (h) Generators fueled by municipal solid waste in conjunction with recycling;
35 or

36 (3) That relies on hydroelectric generators.

1 **Sec. 3. 38 MRS §635-A, first ¶,** as affected by PL 1989, c. 890, Pt. A, §40 and
2 amended by Pt. B, §185, is further amended to read:

3 Whenever the commissioner receives a properly completed application, the department
4 shall make a decision as expeditiously as possible, but no later than 6 months from the date
5 that the department receives the application.

6 **Sec. 4. 38 MRS §636, first ¶,** as affected by PL 1989, c. 890, Pt. A, §40 and
7 amended by Pt. B, §187, is further amended to read:

8 The department shall approve a project when ~~it~~ the department finds that the applicant
9 has demonstrated that the following criteria and application requirements have been met.

10 **Sec. 5. 38 MRS §636, sub-§3,** as enacted by PL 1983, c. 458, §18, is amended to
11 read:

12 **3. Public benefits.** The project will result in significant economic benefits to the
13 public, including, but not limited to, the creation of employment opportunities for the
14 construction and operation of the hydropower project for workers of the State.

15 **Sec. 6. 38 MRS §636, sub-§3-A** is enacted to read:

16 **3-A. Public engagement.** The applicant has held at least one public meeting, in the
17 municipality in which the proposed hydropower project may be located, to receive input
18 from the public. The application must include a summary of input received from the public
19 at the meeting.

20 **Sec. 7. 38 MRS §636, sub-§7, ¶B,** as amended by PL 2009, c. 561, §39, is further
21 amended to read:

22 B. Whether the project will result in significant benefit or harm to fish and wildlife
23 resources. In making its determination, the department shall consider other existing
24 uses of the watershed and fisheries management plans adopted by the Department of
25 Inland Fisheries and Wildlife and the Department of Marine Resources and may
26 consider the applicant's proposed use of technologies to improve fish passage and
27 protect wildlife resources;

28 **Sec. 8. 38 MRS §639** is enacted to read:

29 **§639. Operational capacity**

30 Subject to the requirements of this subarticle and other applicable laws and rules, an
31 approved hydropower project may operate at its full nameplate capacity as defined in Title
32 35-A, section 3481, subsection 11.

33 **SUMMARY**

34 This bill provides that sources of electrical generation relying on hydroelectric
35 generators are not subject to a limit of 100 megawatts of power production capacity. The
36 bill also amends the law governing the criteria that must be met for the Department of
37 Environmental Protection to approve a hydropower project. The bill requires the
38 department to make a decision on a complete application for a project within 6 months of
39 the date the complete application is received. It also clarifies that an approved hydropower
40 project may operate at its full nameplate capacity subject to the requirements of applicable
41 laws and rules.