



# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1689

S.P. 545

In Senate, May 10, 2021

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**An Act To Ensure Equity in the Clean Energy Economy by  
Providing a Limited Tax Exemption for Certain Clean Energy  
Infrastructure Projects**

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Received by the Secretary of the Senate on May 6, 2021. Referred to the Committee on Taxation 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 MAXMIN of Lincoln.  
Cosponsored by Representative PLUECKER of Warren and  
Senators: HICKMAN of Kennebec, President JACKSON of Aroostook, Representative:  
CUDDY of Winterport.

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

2 **Sec. 1. 26 MRSA §1407** is enacted to read:

3 **§1407. Certification of clean energy projects**

4 The Department of Labor, referred to in this section as "the department," shall certify  
5 clean energy projects seeking an exemption from sales tax pursuant to Title 36, section  
6 2021 in accordance with this section.

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

9 A. "Biomass" includes:

10 (1) By-products of pulping and wood manufacturing processes;

11 (2) Animal waste;

12 (3) Solid organic fuels from wood;

13 (4) Forest or field residues;

14 (5) Wood from demolition or construction debris;

15 (6) Food waste;

16 (7) Fuel alcohols derived from algae and other sources;

17 (8) Crops specifically grown to provide biomass;

18 (9) Biosolids; and

19 (10) Yard waste.

20 "Biomass" does not include wood that has been treated with chemical preservatives  
21 such as creosote, pentachlorophenol or copper chrome arsenate; wood from old growth  
22 forests; or municipal solid waste.

23 B. "Clean energy" means electricity generated using fuel cells, wind, solar cells,  
24 biomass, tides or waves, geothermal resources or technology that converts otherwise  
25 lost energy from exhaust.

26 C. "Clean energy project" means the development and construction of infrastructure  
27 for the generation, storage, transformation or transmission of clean energy.

28 D. "Fuel cell" means an electrochemical cell that generates electricity by combining  
29 atoms of hydrogen and oxygen in the presence of a catalyst.

30 E. "Machinery and equipment" means fixtures, devices and support facilities that are  
31 integral and necessary to the generation of clean energy. "Machinery and equipment"  
32 does not include:

33 (1) Hand-powered tools;

34 (2) Property with a useful life of less than one year;

35 (3) Repair parts required to restore machinery and equipment to normal working  
36 order;

37 (4) Replacement parts that do not increase productivity, improve efficiency or  
38 extend the useful life of machinery and equipment;

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(5) Buildings; or

(6) Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

F. "Used directly" means that the machinery and equipment provides any part of the process that captures the energy of wind, sun, biomass, tides or waves, geothermal resources or technology that converts otherwise lost energy from exhaust, converts that energy to electricity and stores, transforms or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

Machinery and equipment is used directly in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity and stores, transforms or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

**2. Information requirements.** A person seeking an exemption from the sales tax pursuant to Title 36, section 2021 shall provide the following information to the department on an application developed by the department:

A. A copy of any license required and issued by the State in order for the person to legally engage in a clean energy project;

B. Proof of insurance coverage appropriate for the clean energy project;

C. Proof of compliance with requirements imposed on employers pursuant to this Title;

D. Certification that the purchase is for machinery and equipment used directly in a clean energy project. If the purchase is for machinery and equipment used directly in the generation of electricity by a solar energy system, the person shall provide certification that such system is capable of generating more than 100 kilowatts but less than 500 kilowatts of electricity. As used in this paragraph, "kilowatt" has the same meaning as in Title 35-A, section 3481, subsection 8; and

E. Other documentation as required by the department and reasonably necessary to making the determination pursuant to subsection 3.

**3. Certification of clean energy project; amount of exemption.** A person that purchases machinery and equipment used directly in a clean energy project is entitled to an exemption of 75% of the sales tax due on the purchase of that machinery and equipment if the person demonstrates, to the satisfaction of the department, that the clean energy project:

A. Results in a meaningful economic impact on an overburdened community. As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Low-income" means household income as defined by the department except that household income may not exceed 80% of the area median income, as determined by the United States Department of Housing and Urban Development, or 200% of the federal poverty level, as defined in Title 22, section 3762, subsection 1, paragraph C, whichever is higher.

(2) "Overburdened community" means any census block group, as determined by the most recent United States Census, in which:

(a) At least 35% of the households qualify as low-income households;

1                   **(b) At least 40% of the residents identify as members of a minority group or**  
2                   **as members of a federally recognized Indian tribe; or**

3                   **(c) At least 40% of the households have limited English-speaking proficiency.**  
4                   **As used in this subparagraph, "census block group" has the same meaning as "block**  
5                   **group" as defined in Title 21-A, section 1202, subsection 2;**

6                   **B. Supports local manufacturing; and**

7                   **C. Is developed under a community benefits agreement or project labor agreement.**  
8                   **As used in this paragraph, "community benefits agreement or project labor agreement"**  
9                   **means a prehire collective bargaining agreement with one or more labor organizations**  
10                   **that establishes the terms and conditions of employment for a specific construction**  
11                   **project and is an agreement described in 29 United States Code, Section 158(f).**

12                   **4. Issuance of certificate.** The department shall issue to a person whose clean energy  
13                   **project qualifies under subsection 3 a certificate of compliance stating the percentage of**  
14                   **the sales tax exemption to which the person is entitled for machinery and equipment used**  
15                   **directly in that clean energy project.**

16                   **5. Procedure for claiming exemption.** A person issued a certificate of compliance  
17                   **pursuant to subsection 4 shall pay the full amount of the sales tax due on all machinery and**  
18                   **equipment and submit, on an application provided by the Department of Administrative**  
19                   **and Financial Services, Bureau of Revenue Services, a claim for a refund of the amount of**  
20                   **sales tax paid and exempt pursuant to the certificate of compliance issued pursuant to**  
21                   **subsection 4. Alternatively, a person issued a certificate of compliance pursuant to**  
22                   **subsection 4 may apply, pursuant to Title 36, section 2021, subsection 3, to the State Tax**  
23                   **Assessor for a certificate to make purchases free of sales tax.**

24                   **6. Rules.** The department shall adopt rules to implement the provisions of this section.  
25                   **Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5,**  
26                   **chapter 375, subchapter 2-A.**

27                   **Sec. 2. 36 MRSA §2021** is enacted to read:

28                   **§2021. Refund of sales tax on purchases of machinery and equipment used in clean**  
29                   **energy projects**

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

32                   **A. "Biomass" includes:**

- 33                   **(1) By-products of pulping and wood manufacturing processes;**
- 34                   **(2) Animal waste;**
- 35                   **(3) Solid organic fuels from wood;**
- 36                   **(4) Forest or field residues;**
- 37                   **(5) Wood from demolition or construction debris;**
- 38                   **(6) Food waste;**
- 39                   **(7) Fuel alcohols derived from algae and other sources;**
- 40                   **(8) Crops specifically grown to provide biomass;**

1           (9) Biosolids; and

2           (10) Yard waste.

3           "Biomass" does not include wood that has been treated with chemical preservatives  
4           such as creosote, pentachlorophenol or copper chrome arsenate; wood from old growth  
5           forests; or municipal solid waste.

6           B. "Certificate of compliance" means the certificate of compliance issued by the  
7           Department of Labor pursuant to Title 26, section 1407, subsection 4.

8           C. "Clean energy" means electricity generated using fuel cells, wind, solar cells,  
9           biomass, tides or waves, geothermal resources or technology that converts otherwise  
10           lost energy from exhaust.

11           D. "Clean energy project" means the development and construction of infrastructure  
12           for the generation, storage, transformation or transmission of clean energy.

13           E. "Fuel cell" means an electrochemical cell that generates electricity by combining  
14           atoms of hydrogen and oxygen in the presence of a catalyst.

15           F. "Machinery and equipment" means fixtures, devices and support facilities that are  
16           integral and necessary to the generation of clean energy. "Machinery and equipment"  
17           does not include:

18                   (1) Hand-powered tools;

19                   (2) Property with a useful life of less than one year;

20                   (3) Repair parts required to restore machinery and equipment to normal working  
21                   order;

22                   (4) Replacement parts that do not increase productivity, improve efficiency or  
23                   extend the useful life of machinery and equipment;

24                   (5) Buildings; or

25                   (6) Building fixtures that are not integral and necessary to the generation of  
26                   electricity that are permanently affixed to and become a physical part of a building.

27           G. "Used directly" means that the machinery and equipment provides any part of the  
28           process that captures the energy of wind, sun, biomass, tides or waves, geothermal  
29           resources or technology that converts otherwise lost energy from exhaust, converts that  
30           energy to electricity and stores, transforms or transmits that electricity for entry into or  
31           operation in parallel with electric transmission and distribution systems.

32           Machinery and equipment is used directly in generating electricity by fuel cells if it  
33           provides any part of the process that captures the energy of the fuel, converts that  
34           energy to electricity and stores, transforms or transmits that electricity for entry into or  
35           operation in parallel with electric transmission and distribution systems.

36           **2. Refund authorized.** The State Tax Assessor shall refund to a person that purchases  
37           machinery and equipment used directly in a clean energy project the amount of sales tax  
38           paid with respect to that machinery and equipment upon the person's presenting evidence  
39           that the purchase is eligible for a refund under this section. The refund claim must be  
40           submitted on a form prescribed by the assessor and must be accompanied by a certificate  
41           of compliance indicating that the purchaser is engaged in the development and construction

1 of a clean energy project and the percentage of the sales tax exemption the purchaser is  
2 entitled to pursuant to the determination of the Department of Labor pursuant to Title 26,  
3 section 1407, subsection 3 and such additional information as the assessor may require. An  
4 application for a refund under this subsection must be filed with the assessor within 36  
5 months of the date of purchase.

6 **3. Purchases made free of tax with certificate.** Sales tax need not be paid on the  
7 purchase of machinery and equipment used directly in a clean energy project if the  
8 purchaser has obtained a certificate from the assessor stating that the purchaser is engaged  
9 in the development and construction of a clean energy project and authorizing the purchaser  
10 to purchase machinery and equipment used directly in a clean energy project without  
11 paying Maine sales tax. A purchaser may obtain a certificate under this subsection by  
12 applying to the assessor, on a form prescribed by the assessor, and including a copy of the  
13 certificate of compliance issued by the Department of Labor pursuant to Title 26, section  
14 1407, subsection 4 and such additional information as the assessor may require. The seller  
15 shall obtain a copy of the certificate together with an affidavit as prescribed by the assessor,  
16 to be maintained in the seller's records, attesting to the qualification of purchases for  
17 exemption pursuant to this section.

18 **4. Audit.** The assessor may audit a claim for refund filed under subsection 2 or the  
19 use of a certificate issued under subsection 3. If the assessor determines that the amount  
20 of the claimed refund is incorrect or that the certificate has been used inappropriately, the  
21 assessor may issue an assessment within 3 years from the date of purchase or the date the  
22 claim was filed, whichever is later, or at any time if a fraudulent claim was filed. The  
23 claimant may seek reconsideration of the assessment pursuant to section 151.

24 **5. Payment of claims.** The assessor shall pay the approved amount to qualified  
25 applicants under this section within 30 days after receipt of a properly completed claim.  
26 Interest is not allowed on any payment made to a claimant pursuant to this section.

27 **Sec. 3. Supply chain manufacturing assessment.** The Governor's Office of  
28 Policy Innovation and the Future shall develop a detailed supply chain manufacturing  
29 assessment of how the State can support existing manufacturing and attract additional  
30 manufacturing associated with renewable energy industries, including, but not limited to,  
31 heat pumps and solar, offshore wind, hydrogen and tidal power.

## 32 SUMMARY

33 This bill allows a person who purchases machinery or equipment for direct use in the  
34 development and construction of a clean energy product a refund or exemption from a  
35 portion of the sales tax due on that machinery or equipment. "Clean energy project" is  
36 defined as the development and construction of infrastructure for the generation, storage,  
37 transformation or transmission of electricity generated using fuel cells, wind, solar cells,  
38 biomass, tides or waves, geothermal resources or technology that converts otherwise lost  
39 energy from exhaust.

40 A person may obtain a refund or exemption of 75% of the sales tax by demonstrating  
41 to the Department of Labor that the clean energy project results in a meaningful economic  
42 impact on an overburdened community, as defined; supports local manufacturing; and is  
43 developed under a community benefits agreement or project labor agreement.

1           Finally, this bill requires the Governor's Office of Policy Innovation and the Future to  
2 develop a detailed supply chain manufacturing assessment of how the State can support  
3 existing manufacturing and attract additional manufacturing associated with renewable  
4 energy industries, including, but not limited to, heat pumps and solar, offshore wind,  
5 hydrogen and tidal power.