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ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 385, L.D. 1264, Bill, “An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs”

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 ~~though~~ through state bonds or the Maine Municipal Bond Bank:

COMMITTEE AMENDMENT

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

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

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

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

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

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

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

28 **PART B**

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

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

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

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

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

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

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

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

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

20 A. Provides for operation or maintenance of the improvement for at least 5 years or
21 the entire term of the financing agreement if longer than 5 years;

22 B. Requires a guaranty by the contractor that the improvement will meet
23 performance criteria set forth in the agreement for at least 5 years or for the entire
24 term of the financing agreement if longer than 5 years; and

25 C. Has a total contract cost, excluding interest and operating and maintenance costs,
26 of less than \$2,000,000 for any school building, except that this limit may be
27 exceeded if all risk that the project's costs will exceed its benefits is borne by an
28 entity other than the school administrative unit.

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

1 writing to the office of the superintendent of schools in that school administrative unit
2 within 21 days of the last publication of the newspaper advertisement.

3 **PART C**

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

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

14 **PART D**

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

17 **§5953-C. Loans for energy efficiency and distributed renewable energy technology**
18 **improvements in municipal and school buildings**

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

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

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

5 **3. Proposals; contracts.** The bank shall solicit proposals from energy service
6 companies and individual vendors of energy service products. Notwithstanding any
7 provision of the law regarding bidding requirements, the bank shall contract with an
8 energy service company or companies or vendor or vendors to provide energy services in
9 municipal and school buildings under the program. Whenever the bid proposals received
10 are substantially equivalent, the bank shall in the contract process select an in-state
11 energy service company or vendor whose primary place of business is within this State.
12 For public school projects, bid proposals for ~~energy efficiency~~ energy-related
13 improvements must include plans and specifications that are adequate to permit review by
14 the agencies listed under Title 20-A, section 15903, subsection 3 and that bear the stamp
15 of a licensed professional engineer or licensed architect. The agencies listed in Title
16 20-A, section 15903, subsection 3 shall review the plans and specifications and approve
17 or disapprove them within a reasonable time period.

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

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

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

