

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 Relating to Energy-efficient Buildings'

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

'**Sec. 1. 38 MRSA c. 3-C** is enacted to read:

CHAPTER 3-C

THE ENERGY-EFFICIENT STATE BUILDING DEVELOPMENT ACT

§ 580-G. Short title

This chapter may be known and cited as "the Energy-efficient State Building Development Act."

§ 580-H. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Greenhouse gas. "Greenhouse gas" has the same meaning as in section 574, subsection 1.

2. State authority. "State authority" means any state agency or any state authority, including the University of Maine System, the Maine Maritime Academy and the Maine Community College System.

§ 580-I. Reducing energy use and greenhouse gas emissions by state authorities

A state authority shall establish policies and guidelines to lower overall energy use, lessen the State's reliance on fossil fuels and reduce greenhouse gas emissions associated with state-owned buildings. By January 1, 2011, and every 4 years thereafter, the Department of Environmental Protection, in consultation with other state authorities, shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters summarizing state authorities' efforts to implement the policies and guidelines and the savings and reductions achieved.

Sec. 2. Review; relationship among energy use, climate change and land use decisions.

1. Stakeholder group established. The Department of Environmental Protection, referred to in this section as "the department," shall establish and convene a stakeholder group to evaluate the options, actions and measures available to people and businesses in this State to reduce reliance on the fossil fuels that contribute to greenhouse gas emissions, stabilize and reduce greenhouse gas emissions to aid in the achievement of state greenhouse gas emission reduction goals and incorporate these measures into state land use and licensing processes for private development. The stakeholder group must include:

- A. Representatives of state agencies with a current interest in these matters and likely involvement in the implementation of any recommendations;
- B. Representatives of business, industry and trade associations;
- C. Representatives of nongovernmental organizations; and
- D. Interested citizens of the State.

The department shall ensure that a balance of interests is represented in the stakeholder group's decision making. The department may ask the University of Maine and other higher education institutions to provide scientific and technical expertise to the stakeholder group. The department shall also consult with and obtain information from, as the stakeholder group considers appropriate, the Technical Building Codes and Standards Board established in the Maine Revised Statutes, Title 10, section 9722, as well as any stakeholder group established by the Public Utilities Commission to develop or select a standardized rating system and reporting form for building energy efficiency and carbon performance.

2. Review; interim report. In evaluating the options, actions and measures pursuant to subsection 1, the stakeholder group shall first specifically explore existing voluntary actions being undertaken by people and businesses in this State to reduce or stabilize greenhouse gas emissions and the potential for implementation of additional incentive-based voluntary mechanisms to encourage the incorporation of desirable greenhouse gas reduction measures into private development.

By January 11, 2010, the department shall submit an interim report to the Joint Standing Committee on Natural Resources describing the findings of the stakeholder group on the use of existing voluntary measures and the feasibility and recommended elements of additional incentive-based mechanisms to reduce reliance by private development on fossil fuels and to stabilize and reduce greenhouse gas emissions in the State. The interim report must include an analysis of the likely regulatory costs that will be incurred by the private sector, the outcomes of implementing such incentive-based mechanisms, including an analysis of the extent to which these mechanisms, together with other factors such as, but not limited to, ongoing voluntary measures, applicable federal law and projected economic conditions, are likely to result in the achievement of the State's targeted greenhouse gas emission reduction goals set forth in the Maine Revised Statutes, Title 38, section 576. The Joint Standing Committee on Natural Resources is authorized to submit legislation related to the interim report to the Second Regular Session of the 124th Legislature.

3. Regulatory requirements; final report. Only if the January 11, 2010 interim report of the stakeholder group concludes that existing or proposed voluntary or incentive-based mechanisms are not likely to result in the achievement of the State's targeted medium-term and long-term greenhouse gas emission reduction goals set forth in the Maine Revised Statutes, Title 38, section 576, the Joint Standing Committee on Natural Resources may authorize the stakeholder group to explore the design and recommended elements of regulatory requirements or standards to be proposed through major substantive rulemaking by the department. In addition to any new regulatory standards, such rules may include, and the stakeholder group may be directed to consider:

- A. Thresholds or types of projects or elements of developments or activities that generate a de minimis amount of greenhouse gas emissions and will not require review by the department under the new standards;
- B. Categories of developments or activities that will be exempt from the standards, such as, but not limited to, certain categories of industrial development, industrial processes, expansions of existing facilities subject to reporting requirements, forestry, agriculture, and those projects or activities subject to federal greenhouse gas requirements;
- C. A list of qualified measures that when included in the design of a development or activity means the development or activity meets the new standards. The qualified measures may relate to the design, construction and operation of buildings and structures and may include the use of energy-efficient designs, such as the United States Environmental Protection Agency's Energy Star standards, or nationally recognized energy and environmental design rating systems; active and passive renewable energy systems; construction materials and practices; and site-clearing or land management practices;
- D. Provisions that allow for other measures that reduce energy use and greenhouse gas emissions; and
- E. Provisions that include cost-effective mitigation requirements for those developments that do not satisfy the new standards. These requirements may include mitigation through an on-site or off-site compensation, through natural biological carbon sequestration, such as forestry or agricultural offsets, or through energy efficiency projects. These provisions may include a fee program to allow payment of a fee when mitigation of greenhouse gas emissions is not practicable for an applicant or when an applicant prefers to pay a fee rather than provide on-site or off-site compensation.

By January 11, 2011, the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters the final report of the stakeholder group on any proposed major substantive rules, along with any necessary implementing legislation. The recommendations in the final report may include proposals for legislation, modifications to existing rules and specific initiatives for one or more agencies to undertake in collaboration with stakeholder organizations to implement the recommendations. Any proposed mandatory standards and requirements must be accompanied by an analysis of both the State's costs to implement and administer the new standards and the costs to private businesses and individuals to comply with the new standards, including but not limited to the costs of any required mitigation or compensation and any new fees that would be required to cover the cost of implementing the new rules. The cost analysis must be prepared in consultation with those state agencies or programs, such as the Public Utility Commission's Efficiency Maine or its successor, charged with promoting energy efficiency measures. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to submit legislation related to the final report to the 125th Legislature.

4. Funding. The department is authorized to accept public and private funds for the costs incurred to convene the stakeholder group and prepare the reports under this section. All funds received for these purposes must be deposited into the Maine Environmental Protection Fund established in the Maine Revised Statutes, Title 38, section 351 and must be used exclusively for purposes related to the preparation of this report.'

SUMMARY

This amendment is the minority report of the Joint Standing Committee on Natural Resources. The amendment replaces the bill. The amendment requires state authorities to establish policies and guidelines to lower energy use, lessen the State's reliance on fossil fuels and reduce greenhouse gas emissions associated with state-owned buildings. The amendment requires the Department of Environmental Protection to submit a report on the policies and guidelines established by state authorities to the joint standing committee of the Legislature having jurisdiction over natural resources matters every 4 years. The amendment also establishes a stakeholder group to evaluate measures available to Maine people and businesses to reduce reliance on fossil fuels, to stabilize and reduce greenhouse gas emissions and to incorporate the measures into land use and licensing for private development.

FISCAL NOTE REQUIRED

(See attached)