



State of Maine  
**Office of the Public Advocate**  
112 State House Station, Augusta, Maine 04333-0112  
(207) 287-2445 (voice) 711 (TTY) [www.Maine.gov/meopa](http://www.Maine.gov/meopa)

Paul R. LePage  
GOVERNOR

Timothy R. Schneider  
PUBLIC ADVOCATE

April 22, 2015

**Office of the Public Advocate Testimony on LD 1221 “An Act to Enhance Energy Cost reduction and Facilitate Heating Alternatives in Furtherance of the Omnibus Energy Act”**

Chairman Dion, Chairman Woodsome and Members of the Energy, Utilities and Technology Committee,

The Office of the Public Advocate testifies in support of LD 1221. As described in our testimony on LD 1215, we support the language that caps the rate impact of any EMT procurement at 4% of T&D and retail electricity sales. Our support for this change is based on the benefits to ratepayers from ensuring that Efficiency Maine Trust has the funding necessary to procure all cost-effective energy efficiency measures.

LD 1221 includes a number of other changes related to the Governor’s Energy Office. While we take no formal position on these changes, given the fundamental challenges Maine faces on energy matters—particularly in those areas not within the purview of the Public Utilities Commission—additional staffing and resources for the Governor’s Energy Office is almost certain to be money well spent.

Our primary area of concern relates to the bill’s proposed changes to the selection of the Director of the Efficiency Maine Trust. Due to the nature of its mission, and the large amount of ratepayer funds at its disposal, it is of paramount importance that the Trust maintain its independence, both actual and perceived. At its simplest, this is about ensuring that the programs the Trust implements are effective and consistent with the statutory goals. Perhaps more subtly, if the activities undertaken by the trust are perceived to reflect an agenda other than that of the goals set forth in statute, the consensus that maintains an independent energy efficiency administrator breaks down. Maine is one of the very few

states in the nation where energy efficiency measures are not administered by utilities. This hard-won independence ensures that energy efficiency measures are undertaken with vigor, and are not subject to a utility's potential conflict of interest.

I speak from personal experience that it is possible to be both a gubernatorial appointee and act independently of the Governor. Though we sometimes work closely with the Governor's Energy Office, our Office develops the positions we take before the Commission and in the Legislature independently, and indeed, we frequently disagree with the Governor. The bill provides that the Executive Director of the Trust would serve at the pleasure of the Board, not the Governor, which provides a measure of independence similar to that of our Office.

Still, the proposed changes are concerning. For example, the removal of the requirement that the director "have demonstrated experience in the planning, design or delivery of energy efficiency programs or the management of organizations that plan, design or deliver those programs" is troubling, since that would seem to be a central qualification for the role of EMT Director. The removal of the objective standard to evaluate the Director's qualifications could raise issues in the event the Governor appoints a Director that the Board does not support. In this situation, the proposed structure in which the Director is appointed by the Governor, but serves at the pleasure of the Board, would presents an invitation for gridlock.

Similarly we are concerned about how, in practice, the board would function with a Director that it has not had a hand in choosing. The Director is the most important staff person within the Trust. The Board is the entity that implements the mission of the Trust and it is the Director who must make decisions and execute the business entrusted to him or her by the Board. Taking the selection of the Trust's most important employee out of the hands of its Board could disrupt the relationship between the Board and the staff of the Trust, and creates the potential for conflict.

Respectfully submitted,



Timothy R. Schneider  
Public Advocate