

MAINE STATE LEGISLATURE

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DATE: 5-23-06

(Filing No. H-1108)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to SENATE AMENDMENT "A" to S.P. 477, L.D. 1379, Bill, "An Act To Amend the Maine Wind Energy Act"

Amend the amendment by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 30-A MRSA §5223, sub-§3, as amended by PL 2003, c. 451, Pt. NNN, §1, is further amended by amending the last blocked paragraph to read:

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts ~~or~~ tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 or tax increment financing districts that consist solely of a community wind power generator or generators certified pursuant to Title 36, section 5219-AA, subsection 3.

Further amend the amendment by striking out all of section 5 (page 2, lines 38 to 49 and page 3, lines 2 to 9 in amendment) and inserting in its place the following:

'Sec. 5. 36 MRSA §1760, sub-§89 is enacted to read:

89. Sales of tangible personal property to qualified community wind power generators. Beginning October 1, 2006, sales of tangible personal property to a qualified community wind power generator, as defined in section 5219-AA, for use directly and primarily in the generation of electricity by that community wind power generator. The exemption provided by this subsection is limited for each qualified community wind power generator to sales occurring on or before December 31, 2011.

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2 Sec. 6. 36 MRSA §2017 is enacted to read:

4 §2017. Qualified community wind power generator; reimbursement
6 of certain taxes

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

14 A. "Primarily" means more than 50% of the time during the
16 period that begins on the date on which the property is
18 first placed in service by the purchaser and ends 2 years
20 from that date or at the time the property is sold,
22 destroyed or otherwise permanently removed from service by
24 the purchaser, whichever occurs first.

26 B. "Qualified community wind power generator" has the
28 meaning given to it in section 5219-AA.

30 2. Reimbursement allowed. A reimbursement is allowed as
32 provided in this section for a tax paid pursuant to this Part
34 with respect to the sale or use of tangible personal property
36 that is physically incorporated in and becomes a permanent part
38 of real property that is owned by or sold to a qualified
40 community wind power generator and that is used directly and
42 primarily by the qualified community wind power generator.

44 3. Claim for reimbursement. Claims under this section for
46 reimbursement of taxes are controlled by this subsection.

48 A. A claim for reimbursement under this section must be
50 filed by the contractor or subcontractor with the State Tax
 Assessor within 3 years from the date on which the tangible
 personal property was incorporated into real property. The
 reimbursement claim must be submitted on a form prescribed
 by the assessor and must be accompanied by a statement from
 a qualified community wind power generator certifying, under
 penalties of perjury, that the personal property with
 respect to which the tax was paid by the claimant has been
 placed in use directly and primarily by the qualified
 community wind power generator. All records pertaining to
 such certification and to the transactions in question must
 be retained for at least 6 years by the contractor or
 subcontractor, by the qualified community wind power
 generator and by the person, if any, that sold the real
 property in question to that business. The reimbursement
 claim must be accompanied by such additional information as
 the assessor may require. If a sales or use tax is included
 in the contractor's or subcontractor's contract price, the

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2 contractor or subcontractor shall file, at the request of
3 the qualified community wind power generator, a claim for
4 reimbursement in accordance with this section and pay the
5 reimbursement to the qualified community wind power
6 generator.

7 B. If, by agreement between the contractor or subcontractor
8 and the qualified community wind power generator, the
9 contractor or subcontractor assigns its right to claim and
10 receive reimbursement, the qualified community wind power
11 generator must file a claim for reimbursement in accordance
12 with this subsection. Reimbursement may not be issued to a
13 qualified community wind power generator under this
14 paragraph unless the contractor or subcontractor has
15 previously submitted to the bureau a certificate, signed by
16 the contractor or subcontractor, releasing the contractor's
17 or subcontractor's claim to the reimbursement. The
18 certificate must be in a format prescribed by the State Tax
19 Assessor.

20 4. Limitations. Limitations on reimbursements made pursuant
21 to this section are governed by this subsection.

22 A. Reimbursements made by the State Tax Assessor pursuant to
23 this section are limited to taxes paid in connection with
24 sales of tangible personal property that occur within a
25 period of 5 years from the date the qualified community wind
26 power generator receiving the property is certified pursuant
27 to section 5219-AA or by December 31, 2011, whichever occurs
28 first.

29 B. Reimbursement pursuant to this section of taxes paid in
30 connection with the sale of tangible personal property
31 subsequently attached to real property may not be made when
32 those real property improvements:

33 (1) Are owned by more than one person prior to their
34 acquisition by the qualified community wind power
35 generator whose certification accompanies the
36 reimbursement claim pursuant to subsection 3; or

37 (2) Have been used for a business purpose by a person
38 other than the qualified community wind power generator
39 whose certification accompanies the reimbursement claim
40 pursuant to subsection 3.

41 5. Audit. The State Tax Assessor has the authority to audit
42 any claim filed under this section. If the assessor determines
43 that the amount of the claimed reimbursement is incorrect, the
44 assessor shall redetermine the claim and notify the claimant in
45 writing.

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2 writing of the redetermination. If the claimant has received
4 reimbursement of an amount that the assessor concludes should not
6 have been reimbursed, the assessor may issue an assessment for
8 that amount within 3 years from the date the reimbursement claim
10 was filed or at any time if a fraudulent reimbursement claim was
12 filed. The claimant may seek reconsideration, pursuant to section
14 151, of the redetermination or assessment.

16 6. Payment of claims. The State Tax Assessor shall determine
18 the benefit for each claimant under this section and certify to
20 the State Controller the amount to be transferred to the
22 qualified community wind power generator reimbursement reserve
24 account established, maintained and administered by the State
26 Controller from General Fund undedicated revenue within the sales
28 tax category. The assessor shall pay the certified amounts to
30 each approved applicant qualifying for the benefit under this
32 section within 30 days after receipt of a properly completed
34 claim. Interest is not allowed on any payment made to a claimant
36 pursuant to this section.'

38 Further amend the amendment by striking out all of section 6
40 (page 3, lines 11 to 48 in amendment) and inserting in its place
42 the following:

44 'Sec. 6. 36 MRSA §5219-AA is enacted to read:

46 §5219-AA. Community wind power generator credit

48 1. Definitions. As used in this section, unless the
50 context otherwise indicates, the following terms have the
52 following meanings.

54 A. "Commission" means the Public Utilities Commission.

56 B. "Community wind power generator" means an
58 electricity-generating facility at any one site with an
60 instantaneous generating nameplate capacity of not more than
62 10 megawatts that is powered entirely by wind energy.

64 2. Credit. An entity that is a qualified community wind
66 power generator is allowed a credit in the amount of 100% of the
68 tax that would otherwise be due under this Part for each of the
70 taxable years that the entity is required to file a return
72 pursuant to this Part beginning after the entity commences
74 operation as a community wind power generator. The credit
76 authorized under this section is limited to 10 consecutive years
78 following commencement of operation as a community wind power
80 generator.

82 3. Qualification. The credit available under this section
84 is available only to those community wind power generators

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2 qualified as such by the commission prior to January 1, 2011.
3 The commission may certify any legal entity as a community wind
4 power generator if the commission determines that such
5 certification would support construction of a community wind
6 power generator in this State by that entity and the entity will
7 own title or controlling interest in that generator. The entity
8 must demonstrate to the commission that the construction of the
9 facility would not be likely to occur absent the availability of
10 the benefits under this section, section 1760, subsection 89 and
11 section 2017. The commission may not certify a legal entity as a
12 qualified community wind power generator if that entity commenced
13 the site permit application process for the project prior to the
14 effective date of this subsection.

15 **4. Repeal.** This section is repealed December 31, 2007.'

16 Further amend the amendment by striking out all of sections
17 7 to 12.

18 Further amend the amendment by relettering or renumbering
19 any nonconsecutive Part letter or section number to read
20 consecutively.
21

22 SUMMARY

23 This amendment accomplishes the following.

24 1. It delays from October 1, 2005 to October 1, 2006 the
25 sales tax benefits provided to qualified community wind power
26 generators and delays from December 31, 2010 to December 31, 2011
27 the elimination of the sales tax exemption.

28 2. It establishes a process for reimbursement of certain
29 taxes to qualified community wind power generators.

30 3. It removes those provisions of Senate Amendment "A" that
31 require: rulemaking regarding improved permitting guidance;
32 environmental siting guidelines for wind energy projects; Public
33 Utilities Commission assistance in financing wind energy
34 projects; rulemaking regarding allowing credit trading;
35 examination by the Public Utilities Commission of community wind;
36 and a study of incentives to facilitate the development of
37 community wind power generator projects.

38 4. It repeals the community wind power generator credit on
39 December 31, 2007.

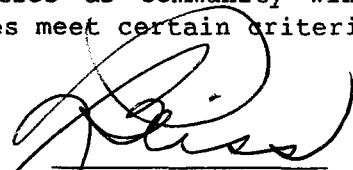
40 5. It excludes a community wind power generator from
41 certification and tax benefits if that entity commenced the site
42

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2 permit application process for the project prior to the effective date of this Act.

4 6. It gives the Public Utilities Commission, and not the
6 Commissioner of Economic Community Development, authority to
8 certify entities as community wind power generators as long as
those entities meet certain criteria.

10 SPONSORED BY: 
12 (Representative BLISS)

14 TOWN: South Portland

16

FISCAL NOTE REQUIRED
(See attached)

HOUSE AMENDMENT



Approved: 05/23/06 *MRC*

122nd MAINE LEGISLATURE

LD 1379

LR 1948(21)

An Act To Amend the Maine Wind Energy Act

Fiscal Note for House Amendment "A" to Senate Amendment "A"

Sponsor: Rep. Bliss

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Minor cost decrease - General Fund

Fiscal Detail and Notes

Shifting the responsibility for qualification for a community wind power generator income tax credit from the Department of Economic and Community Development to the Public Utilities Commission will shift the additional minor costs from the General Fund to Other Special Revenue Funds.