

# MAINE STATE LEGISLATURE

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L.D. 1379

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DATE: 6-13-05

(Filing No. S- 365)

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STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
FIRST SPECIAL SESSION

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

Amend the bill by striking out everything after the enacting clause and before the summary 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 section 5219-Y, subsection 3.

Sec. 2. 35-A MRSA §3210, sub-§8 is enacted to read:

8. Credit trading. The commission shall allow competitive electricity providers to satisfy the portfolio requirements of subsection 3 through the use of renewable energy credits if the commission determines that a reliable system of electrical attribute trading exists.

Sec. 3. 35-A MRSA §3402, as enacted by PL 2003, c. 665, §3, is amended to read:

**SENATE AMENDMENT**

2 **§3402. Legislative findings**

4 The Legislature finds that it is in the public interest to  
6 explore opportunities for and encourage the development, where  
8 appropriate, of wind energy production in the State in a manner  
10 that is consistent with high all state and federal environmental  
12 standards and that achieves reliable, cost-effective, sustainable  
14 energy production on those sites in the State that will attract  
16 investment and permit the development of viable wind energy  
18 projects. The Legislature finds that the development of the wind  
20 energy potential in the State needs to be integrated into the  
22 existing energy supply and transmission systems in a way that  
24 achieves system reliability, total capital cost-effectiveness and  
optimum short-term and long-term benefits to Maine people. The  
Legislature finds it is in the public interest to encourage the  
construction and operation of community wind power generator  
projects. For the purposes of this section, "community wind  
power generator" means an electricity-generating facility at any  
one site with instantaneous generating nameplate capacity of not  
more than 10 megawatts that is powered entirely by wind energy.  
The Legislature also finds it is in the public interest to  
encourage wind energy research and the development of wind  
generation equipment manufacturing facilities in the State.

26 **Sec. 4. 35-A MRSA §3404** is enacted to read:

28 **§3404. Determination of public policy**

30 It is the policy of the State that its political  
32 subdivisions, agencies and public officials take every reasonable  
34 action to encourage the attraction of appropriately sited  
36 wind-energy-related development consistent with all state and  
federal environmental standards; the permitting and financing of  
wind energy projects; and the siting, permitting, financing and  
construction of wind energy research and manufacturing facilities.

38 **Sec. 5. 36 MRSA §1760, sub-§§88 and 89** are enacted to read:

40 **88. Construction contracts with qualified community wind**  
42 **power generators.** Beginning October 1, 2005, sales to a  
44 construction contractor of tangible personal property that is to  
46 be physically incorporated in, and become a permanent part of,  
48 real property that is owned by or for sale to a qualified  
community wind power generator, as defined in section 5219-Y,  
which real property will be used to generate electricity at the  
site of the community wind power generator. The exemption  
provided by this subsection is limited to sales occurring on or  
before December 31, 2010.

2           89. Sales of tangible personal property to qualified  
3           community wind power generators. Beginning October 1, 2005,  
4           sales of tangible personal property to a qualified community wind  
5           power generator, as defined in section 5219-Y, for use directly  
6           and primarily in the generation of electricity by that community  
7           wind power generator. The exemption provided by this subsection  
8           is limited for each qualified community wind power generator to  
9           sales occurring on or before December 31, 2010.

10           Sec. 6. 36 MRSA §5219-Y is enacted to read:

11           §5219-Y. Community wind power generator credit

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

15           A. "Commissioner" means the Commissioner of Economic and  
16           Community Development.

17           B. "Community wind power generator" means an  
18           electricity-generating facility at any one site with an  
19           instantaneous generating nameplate capacity of not more than  
20           10 megawatts that is powered entirely by wind energy.

21           2. Credit. An entity that is a qualified community wind  
22           power generator is allowed a credit in the amount of 100% of the  
23           tax that would otherwise be due under this Part for each of the  
24           taxable years that the entity is required to file a return  
25           pursuant to this Part beginning after the entity commences  
26           operation as a community wind power generator. The credit  
27           authorized under this section is limited to 10 consecutive years  
28           following commencement of operation as a community wind power  
29           generator.

30           3. Qualification. The credit available under this section  
31           is available only to those community wind power generators  
32           qualified as such by the commissioner prior to January 1, 2010.  
33           The commissioner may certify any legal entity as a community wind  
34           power generator if the commissioner determines that such  
35           certification would support construction of a community wind  
36           power generator in this State by that entity and the entity will  
37           own title or controlling interest in that generator. The entity  
38           must demonstrate to the commissioner that the construction of the  
39           facility would not be likely to occur absent the availability of  
40           the benefits under this section and section 1760, subsections 88  
41           and 89.

2           **Sec. 7. Improved permitting guidance.** In order to ensure an  
3 adequate, secure and reliable supply of electricity for residents  
4 of the State, to encourage economic development opportunities in  
5 the State, to reduce greenhouse gas emissions from the State's  
6 electricity supply and to maintain and increase the use of  
7 renewable, efficient and indigenous resources, the Board of  
8 Environmental Protection, by March 1, 2006, shall adopt rules or  
9 other legally enforceable standards that deal on a general basis  
10 with the evaluation of issues that arise in the permitting of  
11 wind energy facilities, including turbine and blade safety,  
12 effect on birds and other wildlife, public safety, aesthetic  
13 effects and other pertinent issues. The rules or standards must  
14 be designed to narrow the regulatory focus to important  
15 information, improve and speed consideration and decision making  
16 and allow easier determination in permitting projects. Rules  
17 adopted pursuant to this section are routine technical rules as  
18 defined in the Maine Revised Statutes, Title 5, chapter 375,  
19 subchapter 2-A. This section may not be construed to affect any  
20 municipal permitting process.

21           **Sec. 8. Environmental siting guidelines for wind energy projects;  
22 authority to report legislation.** The Department of Environmental  
23 Protection and the Maine Land Use Regulation Commission shall, no  
24 later than March 1, 2006, provide a report to the Joint Standing  
25 Committee on Utilities and Energy on the agencies' wind energy  
26 project siting guidelines, including procedures used when wind  
27 energy projects are located within the jurisdiction of both  
28 agencies. The report must include an analysis of whether the  
29 guidelines are effective in fulfilling the policies established  
30 in this Act. The Joint Standing Committee on Utilities and  
31 Energy may report out legislation to the Second Regular Session  
32 of the 122nd Legislature concerning wind energy.

33           **Sec. 9. Public Utilities Commission assistance in financing wind  
34 energy projects.** By March 1, 2006, the Public Utilities Commission  
35 shall determine the most effective ways for the commission to  
36 assist in the financing of wind energy projects.

37           **Sec. 10. Public Utilities Commission; rulemaking.** By March 1,  
38 2006, the Public Utilities Commission shall adopt rules allowing  
39 credit trading in accordance with the Maine Revised Statutes,  
40 Title 35-A, section 3210, subsection 8. Rules adopted pursuant  
41 to this section are routine technical rules as defined in Title  
42 5, chapter 375, subchapter 2-A.

43           **Sec. 11. Community wind; Public Utilities Commission  
44 examination.** The Public Utilities Commission, in consultation  
45 with the Director of Energy Independence and Security in the  
46 State Planning Office, shall undertake an examination of the type

of electricity generation commonly referred to as "community wind." The commission shall:

1. Survey and gather information from appropriate agencies and experts with respect to community wind, including, but not limited to, its feasibility, impediments to its development and the need for and options for providing incentives for its development;

2. Determine what measures, if any, are required to address any impediments to the attraction and development of community wind projects in the State;

3. Develop recommendations for any appropriate changes to laws or rules or for the establishment of any financial incentives necessary to attract and develop appropriately sited community wind projects in the State that are consistent with high environmental standards;

4. Provide a report of its findings and recommendations to the Joint Standing Committee on Utilities and Energy no later than January 13, 2006; and

5. As part of its report, submit legislation by January 13, 2006 to the Second Regular Session of the 122nd Legislature to provide a strategy to rapidly implement feasible community wind sites.

**Sec. 12. Community wind; Public Utilities Commission study.** The Public Utilities Commission, in consultation with the Department of Environmental Protection and the Finance Authority of Maine, shall develop recommendations for creating incentives to facilitate the development of community wind power generator projects, including those projects that might be developed by municipalities and nonprofit entities. For the purposes of this section, "community wind power generator" means an electricity-generating facility at any one site with instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy. The commission shall consider ways of educating the community of potential community wind power generator site owners on the development process, ways of facilitating the initial funding of wind resource assessment at potential sites and ways of educating the lending and financial communities on the assessment of risk in wind energy project financing. The commission shall explore combining cell phone towers and similar structures with wind power generating equipment and structures. The commission shall inventory existing resources in the State's private and public sectors useful for these purposes. The commission shall provide

a report of its findings and recommendations to the Joint Standing Committee on Utilities and Energy by January 13, 2006.'

SUMMARY

This amendment incorporates the provisions of Committee Amendment "B" as amended by House Amendment "A" and Senate Amendment "A" with the following changes.

1. It removes the inclusion of community wind power generators as Pine Tree Development Zone entities but gives qualified community wind power generators similar tax credit benefits regarding sales tax and income tax as given to Pine Tree Development Zone entities.

2. It clarifies that the improved permitting process adopted by the Board of Environmental Protection does not affect the municipal permitting process.

3. It retains the original requirement of Committee Amendment "B" that the installed capacity of the community wind power generator project be 300 megawatts.

4. It provides for a repeal of the sales tax exemption of December 31, 2010 and it limits availability of the income tax credits to 10 consecutive years after a certified generator begins operation. An entity may be certified only if it qualifies prior to January 1, 2010.

SPONSORED BY:

*[Handwritten signature of R. J. Bartlett]*

(Senator BARTLETT)

COUNTY: Cumberland

FISCAL NOTE REQUIRED  
(See Attached)



Approved: 06/09/05 *MAC*

# 122nd MAINE LEGISLATURE

LD 1379

LR 1948(13)

**An Act To Amend the Maine Wind Energy Act**

**Fiscal Note for Senate Amendment "A"**

**Sponsor: Sen. Bartlett**

**Fiscal Note Required: Yes**

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## Fiscal Note

Undetermined revenue loss - General Fund

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

This bill may reduce General Fund revenue as a result of sales and income tax credits for community wind power generators. The exact amount by fiscal year can not be estimated at this time. The additional costs associated with this legislation can be absorbed by the Public Utilities Commission, the Department of Environmental Protection, the Finance Authority of Maine and the Department of Economic and Community Development utilizing existing budgeted resources.