

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1379

S.P. 477

In Senate, March 17, 2005

An Act To Amend the Maine Wind Energy Act

Reference to the Committee on Utilities and Energy suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.
Cosponsored by Representative FLETCHER of Winslow and
Senators: BARTLETT of Cumberland, COWGER of Kennebec, DAMON of Hancock,
Representative: BLISS of South Portland.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 10 MRSA c. 110, sub-c. 12 is enacted to read:**

6 **SUBCHAPTER 12**

8 **WIND ENERGY PROJECTS**

10 **§1100-Z. Financing of wind energy projects and manufacturing
of wind energy equipment**

12 If the authority and the Public Utilities Commission
14 determine it is in the public interest, the authority and the
16 commission shall develop a program to increase the capitalization
18 of the authority for the purpose of assisting in the financing of
20 wind energy projects and the commission may transfer up to
\$2,000,000 per year from the conservation program fund, as
authorized by Title 35-A, section 3211-A, subsection 5-B to the
authority for this purpose for up to 10 years from the effective
date of this section.

22 **Sec. 2. 30-A MRSA §5250-Q is enacted to read:**

24 **§5250-Q. Wind power generators**

26 Notwithstanding any other provision of this subchapter, the
28 commissioner may certify a business that does not otherwise
30 qualify as a qualified Pine Tree Development Zone business or
32 that does not locate in a Pine Tree Development Zone as qualified
34 to receive Pine Tree Development Zone benefits if the
36 commissioner determines that such certification would support
construction by that business of a wind-powered electric
generation facility in this State. The business must demonstrate
to the commissioner that the construction of the facility would
not be likely to occur absent the availability of the Pine Tree
Development Zone benefits.

38 **Sec. 3. 35-A MRSA §3210, sub-§8 is enacted to read:**

40 **8. Credit trading.** The commission shall allow competitive
42 electricity providers to satisfy the portfolio requirements of
44 this Title through renewable energy credits if the commission
determines that a reliable system of electricity attribute
trading exists.

46 **Sec. 4. 35-A MRSA §3211-A, sub-§5, as enacted by PL 2001, c.**
48 **624, §4, is amended to read:**

50 **5. Conservation program fund.** The commission shall
establish a conservation program fund to be used solely for

2 conservation programs and wind energy projects as specified in
3 subsection 5-B.

4 A. The commission shall deposit all assessments collected
5 pursuant to this section, other than funds deposited in the
6 administration fund, into the program fund.

8 B. Any interest earned on funds in the program fund must be
9 credited to the program fund.

10 C. Funds not spent in any fiscal year remain in the program
11 fund to be used for conservation programs and wind energy
12 projects as specified in subsection 5-B.

14 D. The commission may apply for and receive grants from
15 state, federal and private sources for deposit in the
16 program fund and also may deposit in the program fund any
17 grants or other funds received by or from any entity with
18 which the commission has an agreement or contract pursuant
19 to this section if the commission determines that receipt of
20 those funds would be consistent with the purposes of this
21 section. If the commission receives any funds pursuant to
22 this paragraph, it shall establish a separate account within
23 the program fund to receive the funds and shall keep those
24 funds and any interest earned on those funds segregated from
25 other funds in the program fund.

28 **Sec. 5. 35-A MRSA §3211-A, sub-§5-B** is enacted to read:

30 **5-B. Support for wind energy projects.** Notwithstanding any
31 other provision of this section, the commission may provide up to
32 \$2,000,000 per year to the Finance Authority of Maine for use
33 pursuant to Title 10, section 1100-Z.

34 **Sec. 6. 35-A MRSA §3402**, as enacted by PL 2003, c. 665, §3,
35 is amended to read:

38 **§3402. Legislative findings**

40 The Legislature finds that it is in the public interest to
41 explore opportunities for and encourage the development, where
42 appropriate, of wind energy production in the State in a manner
43 that is consistent with high environmental standards and that
44 achieves reliable, cost-effective, sustainable energy production
45 on those sites in the State that will attract investment and
46 permit the development of viable wind energy projects. The
47 Legislature finds that the development of the wind energy
48 potential in the State needs to be integrated into the existing
49 energy supply and transmission systems in a way that achieves
50 system reliability, total capital cost-effectiveness and optimum

2 short-term and long-term benefits to Maine people. The
3 Legislature finds it is in the public interest to encourage the
4 construction and operation of wind energy generating facilities
5 that produce 300 megawatts by 2010 and the development of wind
6 energy research and generation equipment manufacturing facilities
7 in the State. The Legislature finds that enhancement of the
8 transmission of electricity to southern Maine markets from
9 northern and eastern Maine is essential to the efficient
10 development of the State's wind energy resources and to the
11 efficient connection of Aroostook County and Washington County
12 with the electric grid of the rest of the United States.

13 **Sec. 7. 35-A MRSA §3404** is enacted to read:

14 **§3404. Determination of public policy**

15 It is the policy of the State that its political
16 subdivisions, agencies and public officials take every reasonable
17 action to encourage and expedite the attraction of
18 wind-energy-related development; the permitting and financing of
19 wind energy projects; and the siting, permitting, financing and
20 construction of wind energy research and manufacturing facilities.

21 **Sec. 8. 38 MRSA §341-D, sub-§1-C** is enacted to read:

22 **1-C. Streamlined permitting for certain projects.** In order
23 to ensure an adequate, secure and reliable supply of electricity
24 for residents of the State, to encourage economic development
25 opportunities in this State, to reduce greenhouse gas emissions
26 from the State's electricity supply portfolio and to maintain and
27 increase the use of a renewable, efficient and indigenous
28 resource, the board shall:

29 **A. Adopt rules that streamline the process for the review**
30 **and permitting of any wind-powered electric generation**
31 **facility of not more than 100 megawatts. The streamlined**
32 **process must involve any reviews required to be conducted or**
33 **permits or licenses required to be issued for such a project**
34 **by the board or the department. Notwithstanding any other**
35 **provision of this Title, the rules may shorten or otherwise**
36 **streamline the process but may not result in a weakening of**
37 **any substantive standard or requirement. Rules adopted**
38 **pursuant to this paragraph are major substantive rules as**
39 **defined in Title 5, chapter 375, subchapter 2-A;**

40 **B. Adopt rules that deal on a general basis with the**
41 **evaluation of issues that arise in the permitting of wind**
42 **energy facilities, including turbine and blade safety,**
43 **effect on birds and other wildlife, public safety, aesthetic**
44 **effects and other pertinent issues. These rules must be**

2 designed to narrow the regulatory focus to important
3 information, improve and speed consideration and decision
4 making and allow easier determination of permitting
5 projects. Rules adopted pursuant to this paragraph are
6 major substantive rules as defined in Title 5, chapter 375,
7 subchapter 2-A; and

8 C. Following consultation with the Maine Land Use
9 Regulation Commission, determine by rule the general areas
10 in this State that may have wind resources sufficient for
11 viable wind energy projects and that, by their
12 characteristics, are preferred for the siting of wind energy
13 projects. Each area must be at least 50,000 acres in total
14 area. Rules adopted pursuant to this paragraph are major
15 substantive rules as defined in Title 5, chapter 375,
16 subchapter 2-A.

17 **Sec. 9. Assistance of financing of wind energy projects.** The
18 Finance Authority of Maine shall, within 6 months of the
19 effective date of this Act, in consultation with the Public
20 Utilities Commission, determine the most effective ways to use
21 the powers of the authority to assist in financing wind energy
22 projects.

23 **Sec. 10. Rulemaking regarding credit trading.** The Public
24 Utilities Commission, not later than March 1, 2006, shall adopt
25 rules allowing energy credit trading as specified in the Maine
26 Revised Statutes, Title 35-A, section 3210, subsection 8. Rules
27 adopted pursuant to this section are major substantive rules as
28 defined in Title 5, chapter 375, subchapter 2-A.

29 **Sec. 11. Rulemaking regarding streamlined permitting and siting.**
30 The Department of Environmental Protection, Board of
31 Environmental Protection shall adopt major substantive rules as
32 defined in the Maine Revised Statutes, Title 5, chapter 375,
33 subchapter 2-A to carry out the objectives of Title 38, section
34 341-D, subsection 1-C, paragraphs A, B and C. The board shall
35 submit rules made pursuant to this section to the Legislature for
36 its review no later than January 15, 2006.

41 **SUMMARY**

42
43 This bill creates a comprehensive statutory scheme for the
44 encouragement of the development of properly sited and designed
45 wind energy projects in Maine. The bill declares that wind
46 energy development and wind energy equipment manufacturing in the
47 State is in the public interest and that it is state policy to
48 improve the permitting and financing of wind energy projects and
49 to enhance electricity transmission in northern and eastern Maine
50

2 to allow the transmission of wind energy to New England markets.
3 The bill provides for streamlined permitting, the use of general
4 rules to minimize litigation and the designation by the State of
5 preferred areas for viable wind development. The bill allows the
6 State to provide the benefits of Pine Tree Development Zone
7 eligibility to wind energy projects. The bill allows the Finance
8 Authority of Maine and the Public Utilities Commission to
9 establish programs to aid in wind energy development, including
10 the use of funds from conservation programs, and to increase the
financial capacity of the Finance Authority of Maine programs.