

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 black ink, appearing to read "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.

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

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

SUBCHAPTER 12

WIND ENERGY PROJECTS

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

If the authority and the Public Utilities Commission determine it is in the public interest, the authority and the commission shall develop a program to increase the capitalization of the authority for the purpose of assisting in the financing of 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.

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

§5250-Q. Wind power generators

Notwithstanding any other provision of this subchapter, the commissioner may certify a business that does not otherwise qualify as a qualified Pine Tree Development Zone business or that does not locate in a Pine Tree Development Zone as qualified to receive Pine Tree Development Zone benefits if the 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.

Sec. 3. 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 this Title through renewable energy credits if the commission determines that a reliable system of electricity attribute trading exists.

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

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
subsection 5-B.

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

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

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

14 D. The commission may apply for and receive grants from
16 state, federal and private sources for deposit in the
18 program fund and also may deposit in the program fund any
20 grants or other funds received by or from any entity with
22 which the commission has an agreement or contract pursuant
24 to this section if the commission determines that receipt of
26 those funds would be consistent with the purposes of this
section. If the commission receives any funds pursuant to
this paragraph, it shall establish a separate account within
the program fund to receive the funds and shall keep those
funds and any interest earned on those funds segregated from
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
32 other provision of this section, the commission may provide up to
\$2,000,000 per year to the Finance Authority of Maine for use
pursuant to Title 10, section 1100-Z.

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

38 **§3402. Legislative findings**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUMMARY

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

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