

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1236

H.P. 927

House of Representatives, March 22, 2011

An Act To Amend the Legislative Findings in the Maine Wind Energy Act

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative DUNPHY of Embden.
Cosponsored by Senator WHITTEMORE of Somerset and
Representatives: CRAFTS of Lisbon, DAVIS of Sangerville, HARMON of Palermo,
JOHNSON of Eddington, MALABY of Hancock, McCLELLAN of Raymond,
TIMBERLAKE of Turner, WINTLE of Garland.

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

2 **Sec. 1. 35-A MRSA §3132, sub-§6**, as amended by PL 2009, c. 615, Pt. A, §1
3 and c. 655, Pt. A, §4, is repealed and the following enacted in its place:

4 **6. Commission order; certificate of public convenience and necessity.** In its
5 order, the commission shall make specific findings with regard to the public need for the
6 proposed transmission line. Except as provided in subsection 6-A for a high-impact
7 electric transmission line, if the commission finds that a public need exists, it shall issue a
8 certificate of public convenience and necessity for the transmission line. In determining
9 public need, the commission shall, at a minimum, take into account economics,
10 reliability, public health and safety, scenic, historic and recreational values, the proximity
11 of the proposed transmission line to inhabited dwellings and alternatives to construction
12 of the transmission line, including energy conservation, distributed generation or load
13 management. If the commission orders or allows the erection of the transmission line, the
14 order is subject to all other provisions of law and the right of any other agency to approve
15 the transmission line. The commission shall, as necessary and in accordance with
16 subsections 7 and 8, consider the findings of the Department of Environmental Protection
17 under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed
18 transmission line and any modifications ordered by the Department of Environmental
19 Protection to lessen the impact of the proposed transmission line on the environment. A
20 person may submit a petition for and obtain approval of a proposed transmission line
21 under this section before applying for approval under municipal ordinances adopted
22 pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as
23 provided in subsection 4, before identifying a specific route or route options for the
24 proposed transmission line. Except as provided in subsection 4, the commission may not
25 consider the petition insufficient for failure to provide identification of a route or route
26 options for the proposed transmission line. The issuance of a certificate of public
27 convenience and necessity establishes that, as of the date of issuance of the certificate, the
28 decision by the person to erect or construct was prudent. At the time of its issuance of a
29 certificate of public convenience and necessity, the commission shall send to each
30 municipality through which a proposed corridor or corridors for a transmission line
31 extends a separate notice that the issuance of the certificate does not override, supersede
32 or otherwise affect municipal authority to regulate the siting of the proposed transmission
33 line. The commission may deny a certificate of public convenience and necessity for a
34 transmission line upon a finding that the transmission line is reasonably likely to
35 adversely affect any transmission and distribution utility or its customers.

36 **Sec. 2. 35-A MRSA §3402, sub-§1**, as amended by PL 2009, c. 615, Pt. A, §2, is
37 repealed.

38 **Sec. 3. 35-A MRSA §3402, sub-§2**, as enacted by PL 2007, c. 661, Pt. A, §5, is
39 amended to read:

40 **2. Need for modification of regulatory process for siting wind energy**
41 **developments.** The Legislature finds that it is in the public interest to reduce the
42 potential for controversy regarding siting of grid-scale wind energy development by
43 expediting development in places where it is most compatible with existing patterns of

1 development and resource values when considered broadly at the landscape level.
2 Accordingly, the Legislature finds that certain aspects of the State's regulatory process for
3 determining the environmental acceptability of wind energy developments should be
4 modified to encourage the siting of wind energy developments in these areas. Such
5 changes include, but are not limited to:

6 A. Making wind energy development a permitted use within certain parts of the
7 State's unorganized and deorganized areas;

8 B. Refining certain procedures of the Department of Environmental Protection and
9 the Maine Land Use Regulation Commission; and

10 C. Because the Legislature recognizes that wind turbines are potentially a highly
11 visible feature of the landscape that will have an impact on views, judging the effects
12 of wind energy development on scenic character and existing uses related to scenic
13 character based on whether the development significantly compromises views from a
14 scenic resource of state or national significance such that the development has an
15 unreasonable adverse effect on the scenic character or existing uses related to the
16 scenic character of that resource.

17 The Legislature further finds that, while wind energy may be developed at many sites
18 with minimal site-specific environmental impacts, wind energy developments may have,
19 in addition to their ~~beneficial environmental effects and~~ potential scenic impacts, specific
20 adverse environmental effects that must be addressed in state permitting decisions
21 pursuant to approval criteria tailored to address issues presented by wind energy
22 development. Nothing in this section is meant to diminish the importance of addressing
23 as appropriate site-specific impacts on natural values, including, but not limited to,
24 wildlife, wildlife habitats and other ecological values.

25 The Legislature further finds that development of the State's wind energy resources
26 should be undertaken in a manner that ensures significant tangible benefits to the people
27 of the State, including, but not limited to, residents of communities that host wind energy
28 facilities; ~~and that the State should seek to host a substantial amount of wind energy as
29 part of a strategy to reduce greenhouse gas emissions and meet the goals established in
30 the state climate action plan developed pursuant to Title 38, section 577.~~

31 **Sec. 4. 35-A MRSA §3451, sub-§10**, as amended by PL 2009, c. 642, Pt. A, §6,
32 is further amended to read:

33 **10. Tangible benefits.** "Tangible benefits" means ~~environmental or~~ economic
34 improvements or benefits to residents of this State attributable to the construction,
35 operation and maintenance of an expedited wind energy development, including but not
36 limited to: property tax payments resulting from the development; other payments to a
37 host community, including, but not limited to, payments under a community benefit
38 agreement; construction-related employment; local purchase of materials; employment in
39 operations and maintenance; reduced property taxes; reduced electrical rates; land or
40 natural resource conservation; performance of construction, operations and maintenance
41 activities by trained, qualified and licensed workers in accordance with Title 32, chapter
42 17 and other applicable laws; or other comparable benefits, with particular attention to
43 assurance of such benefits to the host community or communities to the extent practicable
44 and affected neighboring communities.

