

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 911

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H.P. 631

House of Representatives, March 12, 2015

### **An Act Concerning the Review of Certain Projects under the Site Location of Development Laws**

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Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative WINSOR of Norway.  
Cosponsored by Senator SAVIELLO of Franklin and  
Representatives: CAMPBELL of Orrington, DUCHESNE of Hudson, DUNPHY of Embden,  
HARLOW of Portland, McCREIGHT of Harpswell, MORRISON of South Portland.

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

2 **Sec. 1. 35-A MRSA §3451, sub-§§1-D and 1-E** are enacted to read:

3 **1-D. Combined observation.** "Combined observation" means a view of more than  
4 one group of generating facilities within the field of view of a stationary viewer.

5 **1-E. Cumulative scenic impact or effect.** "Cumulative scenic impact or effect"  
6 means the potential adverse effect on the scenic character and existing uses related to the  
7 scenic character of scenic resources of state or national significance resulting from the  
8 incremental impact of a proposed wind energy development when added to the effects of  
9 other past or present wind energy developments within the viewshed of a scenic resource  
10 of state or national significance. A determination of cumulative scenic impact or effect  
11 may be based upon the combined observation, successive observation or sequential  
12 observation of wind energy developments by a viewer.

13 **Sec. 2. 35-A MRSA §3451, sub-§9, ¶D,** as enacted by PL 2007, c. 661, Pt. A,  
14 §7, is amended to read:

15 D. A great pond that is:

16 (1) One of the 66 great ponds located in the State's organized area identified as  
17 having outstanding or significant scenic quality in the "Maine's Finest Lakes"  
18 study published by the Executive Department, State Planning Office in October  
19 1989; ~~or~~

20 (2) One of the 280 great ponds in the State's unorganized or deorganized areas  
21 designated as outstanding or significant from a scenic perspective in the "Maine  
22 Wildlands Lakes Assessment" published by the Maine Land Use Regulation  
23 Commission in June 1987; or

24 (3) One of the great ponds listed in the publications cited in subparagraphs (1)  
25 and (2) but not considered to have outstanding or significant scenic quality under  
26 subparagraph (1) or designated as outstanding or significant from a scenic  
27 perspective under subparagraph (2) on which there is located at least one  
28 commercial sporting camp that was established prior to 2007;

29 **Sec. 3. 35-A MRSA §3451, sub-§§9-A and 9-B** are enacted to read:

30 **9-A. Sequential observation.** "Sequential observation" means a view of more than  
31 one group of generating facilities as the viewer travels along a linear route, including, but  
32 not limited to, a hiking trail or river.

33 **9-B. Successive observation.** "Successive observation" means views of more than  
34 one group of generating facilities from a single viewpoint as a result of the viewer turning  
35 the viewer's head or body.

36 **Sec. 4. 35-A MRSA §3451, sub-§10-A** is enacted to read:

37 **10-A. Viewshed of a scenic resource.** "Viewshed of a scenic resource" means the  
38 geographic area as viewed from a scenic resource of state or national significance that

1 includes a proposed wind energy development. The viewshed of a scenic resource may  
2 include the visible proposed wind energy development from a single viewer position or  
3 the visible proposed wind energy development from multiple viewer positions. The  
4 viewshed of a scenic resource is limited to the geographic area within 15 miles, measured  
5 horizontally, from the proposed wind energy development's generating facilities.

6 **Sec. 5. 35-A MRSA §3452, sub-§3**, as enacted by PL 2007, c. 661, Pt. A, §7, is  
7 amended to read:

8 **3. Evaluation criteria.** In making its determination pursuant to subsection 1, and in  
9 determining whether an applicant for an expedited wind energy development must  
10 provide a visual impact assessment in accordance with subsection 4, the primary siting  
11 authority shall consider:

12 A. The significance of the potentially affected scenic resource of state or national  
13 significance;

14 B. The existing character of the surrounding area;

15 C. The expectations of the typical viewer;

16 D. The expedited wind energy development's purpose and the context of the  
17 proposed activity;

18 E. The extent, nature and duration of potentially affected public uses of the scenic  
19 resource of state or national significance and the potential effect of the generating  
20 facilities' presence on the public's continued use and enjoyment of the scenic resource  
21 of state or national significance; and

22 F. The scope and scale of the potential effect of views of the generating facilities on  
23 the scenic resource of state or national significance, including but not limited to  
24 issues related to the number and extent of turbines visible from the scenic resource of  
25 state or national significance, the distance from the scenic resource of state or  
26 national significance and the effect of prominent features of the development on the  
27 landscape.

28 In applying these evaluation criteria, the primary siting authority shall consider the  
29 primary impact and the cumulative scenic impact or effect of the development during  
30 both day and night on scenic resources of state or national significance. A finding by the  
31 primary siting authority that the development's generating facilities are a highly visible  
32 feature in the landscape is not a solely sufficient basis for determination that an expedited  
33 wind energy project has an unreasonable adverse effect on the scenic character and  
34 existing uses related to scenic character of a scenic resource of state or national  
35 significance. ~~In making its determination under subsection 1, the primary siting authority~~  
36 ~~shall consider insignificant the effects of portions of the development's generating~~  
37 ~~facilities located more than 8 miles, measured horizontally, from a scenic resource of~~  
38 ~~state or national significance.~~

39 **Sec. 6. 35-A MRSA §3452, sub-§4**, as enacted by PL 2007, c. 661, Pt. A, §7, is  
40 repealed and the following enacted in its place:



1           4. Allows the Department of Environmental Protection to require a visual impact  
2 assessment for wind energy developments located within 15 miles of scenic resources of  
3 state or national significance and mandates a visual impact assessment if a generating  
4 facility is located within 15 miles of specific scenic resources of state or national  
5 significance; and

6           5. Allows the Department of Environmental Protection to require a visual impact  
7 assessment for wind energy developments located beyond 15 miles from scenic resources  
8 of state or national significance under certain limited circumstances.