

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 901

H.P. 629

House of Representatives, March 7, 2017

**An Act To Amend the Laws Governing the Determination of a Wind
Energy Development's Effect on the Scenic Character of Maine's
Special Places**

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

A handwritten signature in black ink, reading "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative WINSOR of Norway.
Cosponsored by Representative WADSWORTH of Hiram, Senator SAVIELLO of Franklin
and Representatives: CAMPBELL of Orrington, DUCHESNE of Hudson, HARLOW of
Portland.

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

2 **Sec. 1. 35-A MRSA §3451, sub-§10-B**, as reallocated by RR 2015, c. 1, §39, is
3 amended to read:

4 **10-B. Viewshed of a scenic resource of state or national significance.** "Viewshed
5 of a scenic resource of state or national significance" means the geographic area as
6 viewed from a scenic resource of state or national significance that includes the proposed
7 wind energy development. The viewshed of a scenic resource of state or national
8 significance may include the proposed wind energy development visible from a single
9 viewer position or the proposed wind energy development visible from multiple viewer
10 positions. The viewshed of a scenic resource of state or national significance is limited to
11 the geographic area within 8 miles, measured horizontally, from the proposed wind
12 energy development's generating facilities, except that for a scenic resource of state or
13 national significance listed in section 3452, subsection 4, paragraph B, the viewshed is
14 limited to the geographic area within 15 miles, measured horizontally, from the proposed
15 wind energy development's generating facilities.

16 **Sec. 2. 35-A MRSA §3452, sub-§3**, as amended by PL 2015, c. 190, §4, is
17 further amended to read:

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

- 22 A. The significance of the potentially affected scenic resource of state or national
23 significance;
- 24 B. The existing character of the surrounding area;
- 25 C. The expectations of the typical viewer;
- 26 D. The expedited wind energy development's purpose and the context of the
27 proposed activity;
- 28 E. The extent, nature and duration of potentially affected public uses of the scenic
29 resource of state or national significance and the potential effect of the generating
30 facilities' presence on the public's continued use and enjoyment of the scenic resource
31 of state or national significance; and
- 32 F. The scope and scale of the potential effect of views of the generating facilities on
33 the scenic resource of state or national significance, including but not limited to
34 issues related to the number and extent of turbines visible from the scenic resource of
35 state or national significance, the distance from the scenic resource of state or
36 national significance and the effect of prominent features of the development on the
37 landscape.

38 In applying these criteria, the primary siting authority shall consider the primary impact
39 and the cumulative scenic impact or effect of the development during both day and night
40 on scenic resources of state or national significance. In evaluating cumulative scenic

1 impact or effect associated with sequential observation, the department shall consider, in
2 addition to the criteria in this subsection, the distance between viewpoints on the linear
3 route and other forms of development along the linear route that effect the expectation of
4 the user of the scenic resource of state or national significance. A finding by the primary
5 siting authority that the development's generating facilities are a highly visible feature in
6 the landscape is not a solely sufficient basis for determination that an expedited wind
7 energy project has an unreasonable adverse effect on the scenic character and existing
8 uses related to scenic character of a scenic resource of state or national significance. In
9 making its determination under subsection 1, the primary siting authority shall consider
10 insignificant the effects of portions of the development's generating facilities located
11 ~~more than 8 miles, measured horizontally, from~~ beyond the extent of the viewshed of a
12 scenic resource of state or national significance.

13 **Sec. 3. 35-A MRSA §3452, sub-§4**, as enacted by PL 2007, c. 661, Pt. A, §7, is
14 repealed and the following enacted in its place:

15 **4. Visual impact assessment.** An applicant for an expedited wind energy
16 development shall provide the primary siting authority with a visual impact assessment of
17 the development that addresses the evaluation criteria in subsection 3 as follows:

18 A. If portions of the development's generating facilities are located within 8 miles,
19 measured horizontally, from a scenic resource of state or national significance, a
20 visual impact assessment is required; and

21 B. Notwithstanding paragraph A, if portions of the development's generating
22 facilities are located within 15 miles, measured horizontally, from the following
23 scenic resources of state or national significance, a visual impact assessment is
24 required:

25 (1) Baxter State Park;

26 (2) Acadia National Park;

27 (3) The Caribou-Speckled Mountain Wilderness in the White Mountain National
28 Forest;

29 (4) Mount Abraham in Franklin County;

30 (5) The following scenic viewpoints along the Appalachian National Scenic
31 Trail:

32 (i) All scenic viewpoints within the Bureau of Parks and Lands Mahoosuc
33 Unit in Oxford County;

34 (ii) Old Blue Mountain in Franklin County;

35 (iii) Bemis Mountain in Franklin County;

36 (iv) Saddleback Mountain, The Horn and Saddleback Junior in Franklin
37 County;

38 (v) Spaulding Mountain in Franklin County;

39 (vi) Crocker Mountain and South Crocker Mountain in Franklin County;

- 1 (vii) All scenic viewpoints within the Bigelow Preserve Public Reserved
2 Land in Franklin and Somerset counties;
3 (viii) Pleasant Pond Mountain in Somerset County;
4 (ix) Moxie Bald Mountain in Somerset County;
5 (x) Barren Mountain in Piscataquis County; and
6 (xi) White Cap Mountain in Piscataquis County.

7 **SUMMARY**

8 This bill repeals and replaces the current law regarding when a visual impact
9 assessment is required for an expedited wind energy development. The bill provides that
10 a visual impact assessment is required if portions of a wind energy development's
11 generating facilities are located within 8 miles from a scenic resource of state or national
12 significance, except that for certain specified scenic resources of state or national
13 significance, a visual assessment is required if a development's generating facilities are
14 located within 15 miles from the scenic resource of state or national significance. The
15 bill also amends the definition of "viewshed of a scenic resource of state or national
16 significance" for those same specified scenic resources.