

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2026

Legislative Document

No. 2174

H.P. 1462

House of Representatives, January 27, 2026

**An Act to Replace the Maine Waterway Development and
Conservation Act with the Maine Renewable Energy and Associated
Transmission Development and Conservation Act**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

R. B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative KESSLER of South Portland.

1 **Emergency preamble.** **Whereas**, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas**, electricity prices in Maine are increasing significantly and financial
4 incentives for renewable energy deployment are decreasing, which is negatively impacting
5 economic vitality throughout the State; and

6 **Whereas**, current permitting requirements are a significant impediment to renewable
7 energy deployment, which requires expediency in order to be financially viable as well as
8 competitive with neighboring states that have recently enacted permitting reform for
9 renewable energy development and the needed supporting transmission; and

10 **Whereas**, Maine has long been a national leader in working to address the climate
11 crisis, with both the Legislature and Governor having set ambitious decarbonization targets
12 and comprehensive plans to achieve these targets; and

13 **Whereas**, to achieve its emissions targets and promote new economic development
14 and long-term employment, the State must build more clean energy generation
15 infrastructure and at a much quicker pace than it has been built to date, while also upgrading
16 and building out its transmission and distribution grids to accommodate this generation and
17 increased electricity demand; and

18 **Whereas**, the Maine Waterway Development and Conservation Act, a 1983 law, is
19 out of date in that hydropower is no longer Maine's only major source of renewable energy,
20 and permitting can be streamlined for more than just hydropower projects to save time and
21 cost while increasing more consistent and certain regulatory review without risking harm
22 to the natural environment; and

23 **Whereas**, unless obstacles to the use of the State's substantial renewable energy
24 resources are removed, Maine will not be able to realize substantial direct and near-term
25 benefits but instead will increasingly risk other states capitalizing on Maine's renewable
26 resources; and

27 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
28 the meaning of the Constitution of Maine and require the following legislation as
29 immediately necessary for the preservation of the public peace, health and safety; now,
30 therefore,

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

32 **Sec. 1. 38 MRSA §489-E, first ¶**, as repealed and replaced by PL 2011, c. 359, §4,
33 is amended to read:

34 Rules adopted by the department pursuant to this article are routine technical rules as
35 defined in Title 5, chapter 375, subchapter 2-A, including rules to establish a permit-by-
36 rule process in accordance with section 344, subsection 7, except that rules adopted by the
37 department after January 1, 2010 pursuant to section 484, subsections 1, 3, 4, 4-A, 5, 6 and
38 7 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

39 **Sec. 2. 38 MRSA §574, sub-§3** is enacted to read:

40 **3. Beneficial electrification.** "Beneficial electrification" has the same meaning as in
41 Title 35-A, section 10102, subsection 3-A.

Sec. 3. 38 MRSA §574, sub-§4 is enacted to read:

4. Renewable or clean energy project. "Renewable or clean energy project" means any development that uses a 5-megawatt or greater clean resource, as defined in Title 35-A, section 3210, subsection 2, paragraph A-4, for the purpose of generating electrical power. "Renewable or clean energy project" includes all energy storage systems, as defined in Title 35-A, section 3481, subsection 6, powerhouses, dams, water conduits, turbines or other instream power devices, generators, associated transmission lines, water impoundments, roads and other appurtenant works and structures that are part of the development.

Sec. 4. 38 MRSA §579-A is enacted to read:

§579-A. Renewable energy and associated transmission development and conservation

1. Short title. This section may be cited as "the Maine Renewable Energy and Associated Transmission Development and Conservation Act."

2. Policy. The Legislature declares that it is the policy of the State to support and encourage the development of hydropower, wind power, biomass, solar and other types of renewable or clean energy projects and the necessary transmission development activities needed to serve such projects by simplifying and clarifying requirements for permits, while ensuring reasonable protection of natural resources and the public interest. It is the purpose of this section to require a single application and permit for the construction of all such projects, with the permit application process administered by the department.

It further is the policy of the State to encourage the attraction of appropriately sited renewable or clean energy project development, including any additional transmission and other energy infrastructure needed to transport such energy to market, consistent with all state environmental standards; the permitting and siting of renewable or clean energy projects; and the permitting, siting, financing and construction of energy research and manufacturing facilities.

3. Prohibition; permit required; exceptions. Beginning March 1, 2027, a person may not initiate construction, reconstruction or expansion of a renewable or clean energy project without first obtaining a permit from the department in accordance with this section. This section does not apply to activities for which, prior to the effective date of this Act, a permit or permits have been issued.

4. Permit requirements; coordinated review; applications. An application for a permit for a renewable or clean energy project under this section is governed by this subsection.

A. An application for a permit for a renewable or clean energy project required by subsection 3 must be made on forms provided by the commissioner and filed with the commissioner. Public notice of the filing must be made as required by the board.

B. Within 10 working days of receiving the completed application for a permit for a renewable or clean energy project, the commissioner shall notify the applicant of the official date on which the application was accepted. The commissioner shall also notify the applicant that the department needs to retain one or more expert consultants necessary to assist in the review of the project's compliance with the governing

1 standards and, following that notice, the department shall employ a consultant or
2 consultants at the expense of the applicant.

3 C. The commissioner shall circulate the application for a permit among the department,
4 the Department of Agriculture, Conservation and Forestry, the Department of Inland
5 Fisheries and Wildlife, the Department of Marine Resources, the Department of
6 Transportation, the Maine Historic Preservation Commission, the Department of
7 Energy Resources, the Public Utilities Commission and the municipal officials of each
8 municipality in which the renewable or clean energy project is located, inviting timely
9 submission of any comments for consideration by the department, as the sole
10 coordinating permitting state agency, in its review of the project's compliance with the
11 relevant provisions of the Natural Resources Protection Act, the site location of
12 development laws, chapter 3, subchapter 1, article 6, the protection of agricultural soils
13 from solar energy development laws, chapter 35, the land use regulation laws in Title
14 12, chapter 206-A and any of the provisions set forth in subsection 7.

15 (1) The Department of Energy Resources and the Public Utilities Commission
16 shall submit written comments to the department under subsection 7, paragraph D.

17 (2) Each municipality in which the renewable or clean energy project is located
18 shall file comments regarding the environmental and economic impacts of the
19 proposed renewable or clean energy project on that municipality within time limits
20 set by the department so as not to delay the department's timely issuance of a
21 decision. Notwithstanding any provision of law to the contrary, a municipality
22 may not enact a moratorium that delays local review of the renewable or clean
23 energy project, enact or enforce a land use ordinance that prohibits siting of the
24 proposed development or enact a land use ordinance or ordinance provision that
25 includes standards or criteria more strict than those of state law or that would
26 frustrate the purpose of any state law.

27 D. A person intending to file an application for a permit for a renewable or clean
28 energy project to remove an existing dam or decommission a renewable or clean energy
29 project shall attend a preapplication meeting with the department and hold a public
30 informational meeting prior to filing the application. The preapplication meeting and
31 the public informational meeting must be held in accordance with the department's
32 rules on the processing of applications.

33 **5. Department decision.** Upon receipt of a properly completed application for a
34 permit for a renewable or clean energy project, the department shall:

35 A. Approve the permit for the proposed renewable or clean energy project in writing
36 upon such terms and conditions as are appropriate and reasonable to protect and
37 preserve the environment and the public's health, safety and general welfare, including
38 the public interest in replacing fossil fuels, particularly oil, with renewable or clean
39 energy and cost-effectively achieving the State's emissions reduction goals under
40 section 576-A through beneficial electrification;

41 B. Disapprove the permit for the proposed renewable or clean energy project in writing
42 setting forth the reasons for the disapproval; or

43 C. Schedule a hearing on the proposed renewable or clean energy project. The hearing
44 must follow the notice requirements and procedures for an adjudicatory hearing under

Title 5, chapter 375, subchapter 4. Within 45 days after the hearing is held, the department shall make findings of facts and issue an order approving or disapproving the permit for the proposed renewable or clean energy project as provided in paragraphs A and B.

6. Time limits for processing applications. Whenever the commissioner receives a properly completed application for a permit for a proposed renewable or clean energy project under subsection 5, the department shall make a decision within 105 working days, except that decisions delegated to the commissioner by the board must be made within 60 working days. Following one extension of up to 25 working days, the commissioner may waive the time limit requirements of this subsection only at the request of the applicant. The permit for a proposed renewable or clean energy project is deemed approved if the department does not notify the applicant of a decision within the applicable review period.

7. Approval criteria. The department shall approve a permit for a proposed renewable or clean energy project under subsection 5 when it finds that the applicant has demonstrated that in addition to meeting the criteria in chapter 3, subchapter 1, articles 5-A and 6, the following criteria have been met:

- A. The renewable or clean energy project will result in significant economic benefits to the public, including, but not limited to, creation of employment opportunities for workers in the State;
- B. For a renewable or clean energy project within the jurisdiction of the Maine Land Use Planning Commission, the renewable or clean energy project is consistent with zoning adopted by the commission;
- C. The applicant has made reasonable provisions to realize the environmental benefits of the renewable or clean energy project, if any, and to mitigate its adverse environmental impacts;
- D. The renewable or clean energy project will result in significant renewable or clean resource energy benefits, including the increase in generating capacity and annual energy output resulting from the renewable or clean energy project or indirectly from the associated transmission of the renewable or clean energy project, the amount of nonrenewable fuels the renewable or clean energy project would wholly or partly replace and the provision of material benefits to ratepayers in the State, whether in lower electricity costs, increases in sustainable employment or enhanced reliability of noncarbon energy generation;
- E. For a proposed electricity transmission project, the project will enable the increase of significant renewable or clean resource energy benefits under paragraph D while also meeting the other criteria in this subsection; and
- F. For a proposed new or reconstructed renewable or clean energy project, there is reasonable assurance that the renewable or clean energy project will not violate applicable state water quality standards, including the provisions of section 464, subsection 4, paragraph F as required for water quality certification under the United States Water Pollution Control Act, Section 401. This finding is required for any proposed impoundment and any affected classified water bodies downstream of the proposed impoundment.

1 The department shall make written findings of facts with respect to the nature and
2 magnitude of the impact of the renewable or clean energy project on the criteria under
3 paragraphs D and E and a written explanation of the department's use of these criteria in
4 reaching its decision.

5 **8. Rescission of approved permit.** After a permit for a renewable or clean energy
6 project has been approved by the department, absent a court ruling vacating that approval
7 or the department determining that the applicant has violated one or more permit conditions
8 warranting rescission of the permit, the approved permit may not be revoked.

9 **9. Appeal of approved project.** A final decision by the commissioner approving a
10 permit for a proposed renewable or clean energy project may be appealed to the board or
11 to the Superior Court only by an abutter or an intervenor in the underlying department
12 proceeding. If the appeal is to the board, the board shall expedite its review of the appeal
13 and render a final decision on the appeal within 60 working days of the filing of the appeal.
14 If the appeal is to the Superior Court, the appeal must be advanced on the docket and receive
15 priority over other cases.

16 **Sec. 5. 38 MRSA c. 5, sub-c. 1, art. 1, sub-art. 1-B,** as amended, is repealed.

17 **Sec. 6. Rulemaking to establish permit-by-rule process for renewable or**
18 **clean energy projects.** Within 60 days after the effective date of this Act, the Department
19 of Environmental Protection shall initiate rulemaking to establish, under the site location
20 of development laws, the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article
21 6, a permit-by-rule process in accordance with Title 38, section 344, subsection 7 for
22 renewable or clean energy projects. Such rulemaking by the department is routine technical
23 rulemaking, as defined in Title 5, chapter 375, subchapter 2-A.

24 **Sec. 7. Revisor's review; cross-references.** The Revisor of Statutes shall review
25 the Maine Revised Statutes and include in the inconsistencies, conflicts and errors bill
26 submitted to the First Regular Session of the 133rd Legislature pursuant to Title 1, section
27 94 any sections necessary to correct and update any cross-references in the statutes to
28 provisions of law repealed in this Act.

29 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
30 takes effect when approved.

31 **SUMMARY**

32 This bill repeals the Maine Waterway Development and Conservation Act, which
33 governs permits and certifications for hydropower projects. The bill enacts the Maine
34 Renewable Energy and Associated Transmission Development and Conservation Act,
35 which prohibits the construction, reconstruction or expansion of a renewable or clean
36 energy project without first obtaining a permit from the Department of Environmental
37 Protection. It defines "renewable or clean energy project" as any development that uses a
38 5-megawatt or greater clean resource for the purpose of generating electrical power. The
39 bill directs the department to, within 60 days after the effective date of this legislation,
40 initiate rulemaking to establish, under the site location of development laws, a permit-by-
41 rule process for renewable or clean energy projects.

1 The bill also specifies that rules adopted by the Department of Environmental
2 Protection to establish permit-by-rule processes under the site location of development laws
3 are routine technical rules.

4 Other than the repeal of the Maine Waterway Development and Conservation Act, this
5 bill does not include amendments to or repeal of sections of the Maine Revised Statutes
6 that may be necessary to administer and implement the Maine Renewable Energy and
7 Associated Transmission Development and Conservation Act. It also does not include
8 amendments to or repeal of sections of the Maine Revised Statutes necessary to correct and
9 update any cross-references in the statutes to provisions of law repealed in this bill.