

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 673

H. P. 596

House of Representatives, February 5, 1981

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Jacques of Waterville.

Cosponsors: Representative Kiesman of Fryeburg and Representative Masterman of Milo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Include Energy and Economic Considerations in Assessing Proposals before the Land Use Regulation Commission, the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife and to Provide for Energy and Economic Review of Certain State Standards.

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

Sec. 1. 12 MRSA § 685-B, sub-§ 4, last ¶, as amended by PL 1973, c. 569, § 11, is further amended by adding at the end 2 new sentences to read:

In determining whether the environmental effects of a proposal are unreasonably adverse pursuant to the requirements of this paragraph, the commissioner shall permit the applicant to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources. That evidence shall be considered in weighing the positive benefits of the proposal against environmental effects.

Sec. 2. 12 MRSA § 7777, sub-§ 2, as enacted by PL 1979, c. 420, § 1, is amended by adding at the end 2 new sentence to read:

In determining whether the environmental effects of a proposal are unreasonably adverse pursuant to the requirements of this subsection, the commissioner shall permit the applicant to provide evidence on the economic benefits of the proposal

as well as the impact of the proposal on energy resources. That evidence shall be considered in weighing the positive benefits of the proposal against environmental efforts.

Sec. 3. 38 MRSA § 484, 2nd ¶, 2nd sentence, as enacted by PL 1975, c. 240, is repealed and the following enacted in its place:

In determining whether the environmental effects of a proposal are unreasonably adverse pursuant to the requirements of this paragraph, the board shall permit the applicant to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources. That evidence shall be considered in weighing the positive benefits of the proposal against environmental effects.

Sec. 4. 38 MRSA § 585-B is enacted to read:

§ 585-B. Review of standards

Ambient air quality standards and emission standards contained in sections 584-A and 598 to 604 which contain requirements more stringent than required by federal law or regulations shall be reviewed by the board within 180 days from the effective date of this section. The purpose of that review shall be to determine the energy and economic effects which result from maintaining those standards more stringent than required by the federal law and whether those standards continue to be justified in light of present knowledge and information and whether the standards are necessary to provide the degree of protection required by state law. The report of the board, prepared after public hearing, shall be submitted to the second regular session of the 110th Legislature.

STATEMENT OF FACT

In weighing the extent of impact of a proposal, neither the Land Use Regulation Commission, the Department of Environmental Protection nor the Department of Inland Fisheries and Wildlife is allowed or required to consider the positive economic and energy benefits of the project in relation to the environmental effects. This legislation requires this consideration. The legislation also clarifies that it is only "unreasonable" adverse environmental effects which are sought to be avoided. See **In re Spring Valley Development Corp.**

This bill also requires that the Department of Environmental Protection reexamine the state ambient air quality standards in the same fashion as the Federal Government continues to reexamine its standards in order to assure that Maine sources are not paying an unnecessary energy or economic price or being placed at a competitive disadvantage due to the maintenance of standards which have not been reexamined. A number of state ambient air quality standards are stricter than required by federal law. In one instance, state standards are the same as a federal standard which upon reexamination and scientific study by the environmental protection agency was deleted as being unsupportable by scientific evidence.