

MAINE STATE LEGISLATURE

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L.D. 1379

DATE: 5-23-06

(Filing No. S-696)

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STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to SENATE AMENDMENT "A" to S.P. 477, L.D. 1379, Bill, "An Act To Amend the Maine Wind Energy Act"

Amend the amendment by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 30-A MRSA §5223, sub-§3, as amended by PL 2003, c. 451, Pt. NNN, §1, is further amended by amending the last blocked paragraph to read:

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts ~~or~~, tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 or tax increment financing districts that consist solely of a community wind power generator or generators certified pursuant to Title 36, section 5219-AA, subsection 3.

Further amend the amendment by striking out all of section 5 (page 2, lines 38 to 49 and page 3, lines 2 to 9 in amendment) and inserting in its place the following:

'Sec. 5. 36 MRSA §1760, sub-§89 is enacted to read:

89. Sales of tangible personal property to qualified community wind power generators. Beginning October 1, 2006, sales of tangible personal property to a qualified community wind power generator, as defined in section 5219-AA, for use directly and primarily in the generation of electricity by that community wind power generator. The exemption provided by this subsection is limited for each qualified community wind power generator to sales occurring on or before December 31, 2011.

SENATE AMENDMENT

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Sec. 6. 36 MRSA §2017 is enacted to read:

§2017. Qualified community wind power generator; reimbursement of certain taxes

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

B. "Qualified community wind power generator" has the meaning given to it in section 5219-AA.

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified community wind power generator and that is used directly and primarily by the qualified community wind power generator.

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified community wind power generator certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily by the qualified community wind power generator. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified community wind power generator and by the person, if any, that sold the real property in question to that business. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the

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2 contractor or subcontractor shall file, at the request of
3 the qualified community wind power generator, a claim for
4 reimbursement in accordance with this section and pay the
5 reimbursement to the qualified community wind power
6 generator.

7 B. If, by agreement between the contractor or subcontractor
8 and the qualified community wind power generator, the
9 contractor or subcontractor assigns its right to claim and
10 receive reimbursement, the qualified community wind power
11 generator must file a claim for reimbursement in accordance
12 with this subsection. Reimbursement may not be issued to a
13 qualified community wind power generator under this
14 paragraph unless the contractor or subcontractor has
15 previously submitted to the bureau a certificate, signed by
16 the contractor or subcontractor, releasing the contractor's
17 or subcontractor's claim to the reimbursement. The
18 certificate must be in a format prescribed by the State Tax
19 Assessor.

20 4. Limitations. Limitations on reimbursements made pursuant
21 to this section are governed by this subsection.

22 A. Reimbursements made by the State Tax Assessor pursuant to
23 this section are limited to taxes paid in connection with
24 sales of tangible personal property that occur within a
25 period of 5 years from the date the qualified community wind
26 power generator receiving the property is certified pursuant
27 to section 5219-AA or by December 31, 2011, whichever occurs
28 first.

29 B. Reimbursement pursuant to this section of taxes paid in
30 connection with the sale of tangible personal property
31 subsequently attached to real property may not be made when
32 those real property improvements:

33 (1) Are owned by more than one person prior to their
34 acquisition by the qualified community wind power
35 generator whose certification accompanies the
36 reimbursement claim pursuant to subsection 3; or

37 (2) Have been used for a business purpose by a person
38 other than the qualified community wind power generator
39 whose certification accompanies the reimbursement claim
40 pursuant to subsection 3.

41 5. Audit. The State Tax Assessor has the authority to audit
42 any claim filed under this section. If the assessor determines
43 that the amount of the claimed reimbursement is incorrect, the
44 assessor shall redetermine the claim and notify the claimant in
45 the manner prescribed by the State Tax Assessor.

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2 writing of the redetermination. If the claimant has received
3 reimbursement of an amount that the assessor concludes should not
4 have been reimbursed, the assessor may issue an assessment for
5 that amount within 3 years from the date the reimbursement claim
6 was filed or at any time if a fraudulent reimbursement claim was
7 filed. The claimant may seek reconsideration, pursuant to section
8 151, of the redetermination or assessment.

9
10 6. Payment of claims. The State Tax Assessor shall determine
11 the benefit for each claimant under this section and certify to
12 the State Controller the amount to be transferred to the
13 qualified community wind power generator reimbursement reserve
14 account established, maintained and administered by the State
15 Controller from General Fund undedicated revenue within the sales
16 tax category. The assessor shall pay the certified amounts to
17 each approved applicant qualifying for the benefit under this
18 section within 30 days after receipt of a properly completed
19 claim. Interest is not allowed on any payment made to a claimant
20 pursuant to this section.'

21 Further amend the amendment in section 6 by striking out all
22 of the first 2 lines (page 3, lines 11 and 13 in amendment) and
23 inserting in their place the following:

24 'Sec. 6. 36 MRSA §5219-AA is enacted to read:

25 §5219-AA. Community wind power generator credit'

26
27 Further amend the amendment in section 6 in §5219-Y in
28 subsection 3 in the 3rd line (page 3, line 39 in amendment) by
29 striking out the following: "2010" and inserting in its place
30 the following: '2011'

31
32 Further amend the amendment in section 6 in §5219-Y in
33 subsection 3 in the last 2 lines (page 3, lines 47 and 48 in
34 amendment) by striking out the following: "section and section
35 1760, subsections 88 and 89." and inserting in its place the
36 following: 'section, section 1760, subsection 89 and section
37 2017. The commissioner may not certify a legal entity as a
38 qualified community wind power generator if that entity commenced
39 the site permit application process for the project prior to the
40 effective date of this subsection.'

41
42 Further amend the amendment in section 6 in §5219-Y by
43 adding after subsection 3 the following:

44 '4. Repeal. This section is repealed December 31, 2007.'

45
46 Further amend the amendment by striking out all of sections
47 7 to 12.

MS.

Further amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment accomplishes the following.

1. It delays from October 1, 2005 to October 1, 2006 the sales tax benefits provided to qualified community wind power generators and delays from December 31, 2010 to December 31, 2011 the elimination of the sales tax exemption.

2. It establishes a process for reimbursement of certain taxes to qualified community wind power generators.

3. It removes those provisions of Senate Amendment "A" that require: rulemaking regarding improved permitting guidance; environmental siting guidelines for wind energy projects; Public Utilities Commission assistance in financing wind energy projects; rulemaking regarding allowing credit trading; examination by the Public Utilities Commission of community wind; and a study of incentives to facilitate the development of community wind power generator projects.

4. It repeals the community wind power generator credit on December 31, 2007.

5. It excludes a community wind power generator from certification and tax benefits if that entity commenced the site permit application process for the project prior to the effective date of this Act.

SPONSORED BY:
(Senator ROTUNDO)



COUNTY: Androscoggin

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1379

LR 1948(18)

An Act To Amend the Maine Wind Energy Act

Fiscal Note for Senate Amendment "A" to Senate Amendment "A"

Sponsor: Sen. Rotundo

Fiscal Note Required: Yes

Fiscal Note

Delays revenue loss - General Fund

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$0	\$94,800	\$94,80
Revenue				
General Fund	\$0	\$0	(\$94,800)	(\$94,800)
Other Special Revenue Funds	\$0	\$0	(\$5,200)	(\$5,200)

Fiscal Detail and Notes

This amendment delays the sales tax benefits until October 1, 2006 and repeals the income credit on December 31, 2007. It is estimated that one project of approximately 10 megawatts could reduce sales tax revenue by \$100,000. The 10 megawatt limit is per each site so it is possible that one project could be in multiple locations and not be limited in size. The fiscal note assumes one 10 megawatt project undertaken within the limited time frame available.