

MAINE STATE LEGISLATURE

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L.D. 1366

Date: 6-14-11

(Filing No. H-630)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1005, L.D. 1366, Bill, "An Act To Update the Maine Wind Energy Act To Include Low-emission Energy"

Amend the amendment by striking out the substitute title and replacing it with the following:

'An Act To Clarify the Expectation for the 2012 Assessment of Progress on Meeting Wind Energy Development Goals and To Establish Statewide Standards for Setbacks'

Amend the amendment by striking out all of sections 1 to 4 and inserting the following:

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

PART A

Sec. A-1. 12 MRSA §685-B, sub-§4-B, ¶C, as enacted by PL 2007, c. 661, Pt. C, §4, is amended to read:

C. Will be constructed with setbacks of at least 1.5 miles from the base of a wind turbine, unless the commission at the request of a person affected by the proposed generating facilities determines a reduced setback is adequate to protect public safety, as provided in Title 35-A, section 3455. In making findings pursuant to this paragraph, the commission shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities. The commission shall establish a process by which persons affected by the proposed generating facilities may petition to apply a reduced setback; and

Sec. A-2. 35-A MRSA §3455, as enacted by PL 2007, c. 661, Pt. A, §7, is repealed.

Sec. A-3. 35-A MRSA §3456, sub-§1, ¶C, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

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~~C. Will be constructed with setbacks of at least 1.5 miles from the base of a wind turbine, unless the department at the request of a person affected by the proposed wind energy development determines a reduced setback is adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities. The department shall establish a process by which persons affected by the proposed wind energy development may petition the primary siting authority to apply a reduced setback.~~

Sec. A-4. 38 MRSA §484, sub-§10, ¶B, as enacted by PL 2007, c. 661, Pt. B, §12, is amended to read:

~~B. Will be constructed with setbacks of at least 1.5 miles from the base of a wind turbine, unless the department at the request of a person affected by the proposed grid-scale wind energy development determines a reduced setback is adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities. The department shall establish a process by which persons affected by the proposed grid-scale wind energy development may petition the primary siting authority to apply a reduced setback; and~~

PART B

Sec. B-1. Expectations for assessment. When the Governor's Office of Energy Independence and Security, referred to in this Part as "the office," undertakes its 2011 annual assessment of progress on meeting the wind energy development goals pursuant to Public Law 2007, chapter 661, Part A, section 8, as amended by Public Law 2009, chapter 642, Part A, section 9, it shall consider the following specific issues.

- 1. In its examination of the experiences from the permitting process, the office shall specifically examine:
 - A. Whether statewide permitting standards should be applied to wind energy development, including, but not limited to, noise standards, visual standards, setback requirements and decommissioning plans;
 - B. The criteria used during the permitting process to consider the visual impact of an expedited grid-scale wind energy development, the permits issued and any recommended changes to the criteria, including, but not limited to, changes to the criteria that require the primary siting authorities to consider insignificant the visual impacts greater than 8 miles from a scenic resource of state or national significance as defined in the Maine Revised Statutes, Title 35-A, section 3451, subsection 9;
 - C. The quality of submitted decommissioning plans and recommendations for mechanisms to provide financial assurance for funding the decommissioning; and
 - D. The time required for completing the permitting process, including the time required for conducting environmental surveys and preparing and submitting the applications and the associated costs.

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2. In its examination of the status of this State and each of the other New England states in making progress toward reducing greenhouse gas emissions, the office shall specifically evaluate the accuracy of the estimates generated by state agencies and wind energy developers for greenhouse gas reductions that are a result of wind energy development in this State and make recommendations for a standardized protocol, if necessary.

3. In developing its recommendations regarding the wind energy development goals established in Title 35-A, section 3404, subsection 2, the office shall consider the number of wind turbines necessary to meet the goals, market conditions, development trends, emissions goals, siting policies, cumulative impacts and other factors that may indicate it is necessary to amend the wind energy development goals.

4. In developing its recommendations regarding identification of places within the State's unorganized and deorganized areas for inclusion in the expedited permitting area established pursuant to Title 35-A, chapter 34-A, the office shall also consider whether places should be removed from the expedited permitting area, including, but not limited to, mountain area protection subdistricts, as described by the Department of Conservation, Maine Land Use Regulation Commission Rule Chapter 10.

Notwithstanding Public Law 2007, chapter 661, Part A, section 8, as amended by Public Law 2009, chapter 642, Part A, section 9, the assessment submitted in 2012 is due February 1, 2012. Following receipt and review of the report, the Joint Standing Committee on Energy, Utilities and Technology may submit a bill to the Second Regular Session of the 125th Legislature.

Sec. B-2. Additional considerations. To the extent resources are available, the office shall include the following in the annual assessment of progress on meeting the wind energy development goals pursuant to Public Law 2007, chapter 661, Part A, section 8, as amended by Public Law 2009, chapter 642, Part A, section 9, in the assessment submitted in 2012:

1. Recommendations for the method by which permitting authorities should consider the cumulative impact on natural resources at the state or regional level, including but not limited to mountain areas and to scenic resources of state or national significance as defined in the Maine Revised Statutes, Title 35-A, section 3451, subsection 9;

2. The economic effects of wind energy development on the tourism industry, to the extent data are available;

3. In collaboration with the Office of the Public Advocate, an evaluation of the costs associated with transmission upgrades for the purpose of transmitting wind energy; and

4. The implications of the intermittency of wind power for regional markets and the grid, including capacity charges, the forward capacity market and electricity price volatility.

Sec. B-3. Use of existing data and stakeholder input. When completing the assessments under sections 1 and 2, the office and the Office of the Public Advocate may draw on existing state data and studies rather than new analyses, including, but not limited to, those developed for the New England Wind Integration Study published by ISO New England in December 2010, the state climate action plan pursuant to the Maine

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HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1005, L.D. 1366

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Revised Statutes, Title 38, section 577 and progress evaluation in Title 38, section 578, the State of Maine Comprehensive Energy Plan 2008-2009 and any reports from the Department of Economic and Community Development, as well as on analyses by the Federal Government, nonprofit organizations and other parties. The office and the Office of the Public Advocate may also draw on input from stakeholders and interested parties to complete the assessments.

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Sec. B-4. Health effects. To the extent that resources are available, the Department of Health and Human Services, Maine Center for Disease Control and Prevention shall conduct an analysis of the research on health effects from wind turbines, including effects from noise, and provide a report to the Joint Standing Committee on Energy, Utilities and Technology by February 1, 2012. The report must include recommendations for making the information in the report easily accessible to the public.'

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SUMMARY

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This amendment retains the provisions of Committee Amendment "A" and incorporates the provisions of Committee Amendment "B" that establish a statewide standard setback of at least 1.5 miles for wind energy development.

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SPONSORED BY: Sunny C. Dunphy
(Representative DUNPHY)
TOWN: Embden

FISCAL NOTE REQUIRED
(See attached)



125th MAINE LEGISLATURE

LD 1366

LR 1637(05)

An Act To Update the Maine Wind Energy Act To Include Low-emission Energy

Fiscal Note for House Amendment "A" to Committee Amendment "A"

Sponsor: Rep. Dunphy of Embden

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any costs associated with establishing a petition process by which persons affected by a proposed grid-scale wind energy development may seek relief from the primary siting authority to apply a reduced setback can be absorbed by the Department of Environmental Protection within existing budgeted resources.