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Date: 4/6/12

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1325, L.D. 1798, Bill, "An Act To Reform Land Use Planning in the Unorganized Territory"

Amend the bill in section 5 in subsection 20 in the 2nd line (page 2, line 28 in L.D.) by inserting after the following: "have been" the following: 'agreed to by the owner of the land within the delineated area and'

Amend the bill by striking out all of section 7 and inserting the following:

'Sec. 7. 12 MRSA §683-A is enacted to read:

§683-A. Creation of Maine Land Use Planning Commission

The Maine Land Use Planning Commission, as established by Title 5, section 12004-D, subsection 1-A to carry out the purposes stated in section 681, is created within the Department of Conservation and in this chapter called "the commission." The commission is charged with implementing this chapter. The commission consists of 9 members, nominated in accordance with subsections 1 and 2. All nominations under this section are subject to review by the joint standing committee of the Legislature having jurisdiction over conservation matters and to confirmation by the Senate.

1. Nomination by the Governor. Except as provided in subsection 2, the Governor shall nominate one member to the commission. In selecting a nominee, the Governor shall actively seek and give consideration to persons residing in or near the unorganized and deorganized areas of the State and to persons residing on unorganized coastal islands. A nominee under this subsection must be familiar with the needs and issues affecting the commission's jurisdiction and must:

A. Reside in the commission's jurisdiction;

B. Work in the commission's jurisdiction;

C. Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction; or

COMMITTEE AMENDMENT

H. 48.

COMMITTEE AMENDMENT "A" to H.P. 1325, L.D. 1798

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D. Have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they relate to the commission's jurisdiction.

2. Members representing a county. One member must be nominated by each of the 8 counties with the most acreage in the unorganized or deorganized areas subject to the jurisdiction of the commission. The county commissioners of each of the counties shall nominate a resident of that county to serve as a member of the commission. A county commissioner nominated to serve on the commission may not vote on that nomination. In making nominations, the county commissioners shall actively seek and give consideration to persons residing in or near the unorganized or deorganized areas within the county.

A nominee under this subsection must have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they relate to the commission's jurisdiction and must:

- A. Reside in the commission's jurisdiction;
- B. Work in the commission's jurisdiction; or
- C. Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction.

If a county fails to nominate a member to the commission under this subsection within 90 business days of a vacancy on the commission to be filled by that county, the Governor shall nominate a resident of that county meeting the criteria in subsection 1 to fill the vacancy.

3. Eligibility. A state employee may not be appointed to or serve as a member of the commission. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, a commissioner, official or employee from that county or municipality may not participate in that proceeding as a member of the commission.

4. Terms. All members are appointed to 4-year terms. Any member who has not been renominated by the Governor or the county commissioners prior to the expiration of that member's term may not continue to serve on the commission, unless the Governor notifies the Legislature in writing prior to the expiration of that member's term that extension of that member's term is required to ensure fair consideration of specific major applications pending before the commission. That member's term ends upon final commission decisions on the specific applications identified in the Governor's communication. Any member renominated by the Governor prior to the expiration of that member's term shall continue to serve on the commission until the nomination is acted upon by the Legislature. A vacancy during an unexpired term is filled as provided in this section, but only for the unexpired portion of the term.

5. Rules. Unless otherwise provided in this chapter, rules adopted by the commission under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

COMMITTEE AMENDMENT

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1 Amend the bill in section 11 in subsection 4 by striking out all of the last blocked
2 paragraph (page 6, lines 1 to 3 in L.D.)

3 Amend the bill by striking out all of section 12 and inserting the following:

4 **'Sec. 12. 12 MRSA §685-A, sub-§4-A** is enacted to read:

5 **4-A. Transition from commission jurisdiction to the jurisdiction of a plantation**
6 **or municipality. Any portion of a land use district that subsequently becomes an**
7 **organized municipality or part of an organized municipality or any plantation that adopts**
8 **planning, zoning and subdivision control as provided in Title 30-A, section 7059**
9 **continues to be regulated by the Maine Land Use Planning Commission pursuant to this**
10 **chapter until such time as the plantation or municipality of which the regulated district is**
11 **then a part adopts land use plans and regulations not less protective of the existing**
12 **natural, recreational or historic resources than those adopted by the commission.**

13 A. Any municipality organized after September 23, 1971 or any plantation that
14 adopts planning, zoning and subdivision control as provided in Title 30-A, section
15 7059 may submit to the commission and receive the approval of the commission of
16 the following:

- 17 (1) A comprehensive land use plan for that plantation or municipality;
18 (2) Standards for determining land use district boundaries and uses permitted
19 within the districts in that plantation or municipality;
20 (3) A land use district boundary map for that plantation or municipality; and
21 (4) Such other proposed regulations or standards as the commission considers
22 necessary to achieve the purpose, intent and provisions of this chapter.

23 Upon request of the plantation or municipality, the commission shall prepare such
24 plans, maps, regulations and standards as it considers necessary to meet minimum
25 planning and zoning standards for its approval of those standards.

26 Upon obtaining approval, the plantation or municipality shall thereafter adopt,
27 administer and enforce the approved plans, maps, regulations and standards, except
28 that the commission retains jurisdiction for any planned subdistrict within the
29 municipality or plantation unless the owner of the land within the delineated area
30 agrees to the transfer of the administration and enforcement of that planned
31 subdistrict to the municipality or plantation.

32 B. From time to time, the commission may review the administration and
33 enforcement of local land use plans and regulations by plantations and municipalities
34 that have adopted land use plans, maps, regulations and standards approved by the
35 commission. If, following the review, the commission finds that any of the following
36 has occurred, the commission may reestablish its jurisdiction over that plantation or
37 municipality:

- 38 (1) A plantation or municipality has repealed the land use plan, maps, standards
39 or regulations necessary to satisfy the requirements of this subsection or has
40 substantially modified the land use plan, maps, standards or regulations so that
41 the resources of the plantation or municipality are not reasonably protected;

1 (2) A plantation or municipality has abolished or does not have functioning the
2 administrative bodies and officers necessary to implement the land use program
3 as approved by the commission; or

4 (3) A plantation or municipality has not administered or enforced its land use
5 plan, maps, standards or regulations in a manner that reasonably protects the
6 resources in the plantation or municipality involved.

7 The action by the commission must conform with the provisions for rulemaking of
8 the Maine Administrative Procedure Act.

9 Action taken by the commission to reestablish its jurisdiction over a plantation or
10 municipality is effective immediately, but must be submitted to the current or next
11 regular session of the Legislature for approval. If the Legislature fails to act, the
12 action of the commission continues in effect.'

13 Amend the bill by striking out all of section 13.

14 Amend the bill by striking out all of sections 15 to 17.

15 Amend the bill in section 18 by striking out all of paragraph B and inserting the
16 following:

17 'B. A Except for projects that are located in a planned subdistrict that was approved
18 or accepted by the commission for processing prior to September 1, 2012, a permit is
19 not required for those aspects of a project approved by the Department of
20 Environmental Protection under Title 38 if the commission determines that the
21 project is an allowed use within the subdistrict or subdistricts for which it is
22 proposed. Notice of the intent to develop and a map indicating the location of the
23 proposed development must be filed with the commission prior to or concurrently
24 with submission of a development application to the Department of Environmental
25 Protection;'

26 Amend the bill by inserting after section 18 the following:

27 '**Sec. 19. 12 MRSA §685-B, sub-§1-A, ¶B-1** is enacted to read:

28 B-1. Except for projects that are located in a planned subdistrict that was approved or
29 accepted by the commission for processing prior to September 1, 2012, a permit from
30 the commission is not required for a development of state or regional significance
31 that may substantially affect the environment as defined in Title 38, section 482,
32 subsection 2. A project meeting that definition is reviewed under Title 38, section
33 489-A-1. A person submitting a development proposal to the Department of
34 Environmental Protection under Title 38, section 489-A-1 shall file a notice of the
35 intent to develop and a map indicating the location of the proposed development with
36 the commission prior to or concurrently with submission of a development
37 application to the Department of Environmental Protection. The Department of
38 Environmental Protection must receive certification from the commission that the
39 proposed development is an allowed use within the subdistrict or subdistricts for
40 which it is proposed and the proposed development meets any land use standard
41 established by the commission that is not considered in the department's review under
42 Title 38, section 489-A-1, subsection 1 before issuing a permit. Nothing in this

1 subsection may be construed as prohibiting the commission from enforcing the land
2 use standards certified to the Department of Environmental Protection under this
3 paragraph.'

4 Amend the bill in section 19 in subsection 1-C in the 5th line (page 9, line 10 in L.D.)
5 by striking out the following: "a review of that decision by" and inserting the following:
6 'appeal that decision to'

7 Amend the bill in section 19 in subsection 1-C in the 6th line (page 9, line 11 in L.D.)
8 by striking out the following: "A request for such a review" and inserting the following:
9 'Such an appeal'

10 Amend the bill by striking out all of sections 20 and 21 and inserting the following:

11 '**Sec. 20. 12 MRSA §685-B, sub-§2-C**, as amended by PL 2009, c. 615, Pt. D,
12 §3, is repealed and the following enacted in its place:

13 **2-C. Wind energy development; community-based offshore wind energy**
14 **projects; determination deadline.** For purposes of this subsection, "expedited
15 permitting area," "grid-scale wind energy development" and "wind energy development"
16 have the same meanings as in Title 35-A, section 3451. The following provisions govern
17 wind energy development.

18 A. The commission shall consider any wind energy development in the expedited
19 permitting area under Title 35-A, chapter 34-A with a generating capacity of 100
20 kilowatts or greater or a community-based offshore wind energy project a use
21 requiring a permit, but not a special exception, within the affected districts or
22 subdistricts.

23 B. All grid-scale wind energy development proposed for the unorganized or
24 deorganized areas of the State is reviewed and permits are issued by the Department
25 of Environmental Protection under Title 35-A, chapter 34-A and Title 38, section
26 489-A-1.

27 C. For an offshore wind energy project that is proposed within one nautical mile of
28 an island within the unorganized or deorganized areas, the commission shall review
29 the proposed project to determine whether the project qualifies as a community-based
30 offshore wind energy project and therefore is within the jurisdiction of the
31 commission.

32 D. Except for a grid-scale wind energy project, the commission may require an
33 applicant to provide a timely notice of filing prior to filing an application for, and
34 may require the applicant to attend a public meeting during the review of, a wind
35 energy development or a community-based offshore wind energy project. For
36 projects or development located within the expedited permitting areas, the
37 commission shall render its determination on an application for such a development
38 or project within 185 days after the commission determines that the application is
39 complete, except that the commission shall render such a decision within 270 days if
40 it holds a hearing on the application. The chair of the Public Utilities Commission or
41 the chair's designee shall serve as a nonvoting member of the commission and may
42 participate fully but is not required to attend hearings when the commission considers
43 an application for a community-based offshore wind energy project. The chair's

11 of 5

1 participation on the commission pursuant to this subsection does not affect the ability
2 of the Public Utilities Commission to submit information into the record of the
3 commission's proceedings.

4 E. At the request of an applicant, the commission may stop the processing time for a
5 period of time agreeable to the commission and the applicant. The expedited review
6 period specified in paragraph D does not apply to the associated facilities, as defined
7 in Title 35-A, section 3451, subsection 1, of the wind energy development or
8 community-based offshore wind energy project if the commission determines that an
9 expedited review time is unreasonable due to the size, location, potential impacts,
10 multiple agency jurisdiction or complexity of that portion of the development or
11 project.

12 **Sec. 21. 12 MRSA §685-B, sub-§3-A**, as enacted by PL 1999, c. 333, §15, is
13 amended to read:

14 **3-A. Hearings and procedures.** Hearings and procedures in connection with the
15 review and approval of a permit application are subject to this subsection. To the extent
16 practicable, hearings held under this subsection must be held at a location in close
17 proximity to the project or projects under review.

18 A. The commission may determine on its own motion to hold a hearing on the
19 application.

20 B. If the commission determines to act upon a permit application without a hearing,
21 the commission, within 90 days after receiving the complete application, shall make
22 findings of fact and issue an order either granting approval, subject to reasonable
23 terms and conditions that the commission determines appropriate in order to fulfill
24 the requirements and intent of this chapter, the comprehensive land use plan and the
25 commission's standards, or denying approval of the application as proposed.

26 C. Any person aggrieved by a decision of the commission or its staff concerning any
27 permit application upon which no hearing was held may, within 30 days of that
28 decision, petition the commission for a hearing. The commission is not required to
29 hold a hearing, but shall respond within 45 days of receipt of the petition by notifying
30 the petitioner in writing of the date, time and place set for the requested hearing or of
31 the denial of the request.

32 D. Within 60 days after the commission adjourns any hearing held under this
33 subsection, it shall make findings of fact and issue an order either granting approval,
34 subject to reasonable terms and conditions that the commission determines
35 appropriate in order to fulfill the requirements and intent of this chapter, the
36 comprehensive land use plan and the commission's standards, or denying approval of
37 the application as proposed.

38 **Sec. 22. 12 MRSA §685-B, sub-§4**, as amended by PL 2009, c. 615, Pt. D, §4, is
39 further amended to read:

40 **4. Criteria for approval.** In approving applications submitted to it pursuant to this
41 section, the commission may impose such reasonable terms and conditions as the
42 commission may consider appropriate. In making a decision under this subsection
43 regarding an application for a community-based offshore wind energy project, the

1 commission may not consider whether the project meets the specific criteria designated in
2 section 1862, subsection 2, paragraph A, subparagraph (6), divisions (a) to (d). This
3 limitation is not intended to restrict the commission's review of related potential impacts
4 of the project as determined by the commission.

5 The commission may not approve an application, unless:

6 A. Adequate technical and financial provision has been made for complying with the
7 requirements of the State's air and water pollution control and other environmental
8 laws, and those standards and regulations adopted with respect thereto, including
9 without limitation the minimum lot size laws, sections 4807 to 4807-G, the site
10 location of development laws, Title 38, sections 481 to 490, and the natural resource
11 protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been
12 made for solid waste and sewage disposal, for controlling of offensive odors and for
13 the securing and maintenance of sufficient healthful water supplies;

14 B. Adequate provision has been made for loading, parking and circulation of land,
15 air and water traffic; in, on and from the site, and for assurance that the proposal will
16 not cause congestion or unsafe conditions with respect to existing or proposed
17 transportation arteries or methods;

18 C. Adequate provision has been made for fitting the proposal harmoniously into the
19 existing natural environment in order to ensure there will be no undue adverse effect
20 on existing uses, scenic character and natural and historic resources in the area likely
21 to be affected by the proposal. In making a determination under this paragraph
22 regarding development to facilitate withdrawal of groundwater, the commission shall
23 consider the effects of the proposed withdrawal on waters of the State, as defined by
24 Title 38, section 361-A, subsection 7; water-related natural resources; and existing
25 uses, including, but not limited to, public or private wells, within the anticipated zone
26 of contribution to the withdrawal. In making findings under this paragraph, the
27 commission shall consider both the direct effects of the proposed withdrawal and its
28 effects in combination with existing water withdrawals.

29 In making a determination under this paragraph regarding an ~~expedited wind energy~~
30 ~~development, as defined in Title 35-A, section 3451, subsection 4,~~ or a community-
31 based offshore wind energy project, the commission shall consider the ~~development's~~
32 ~~or~~ project's effects on scenic character and existing uses related to scenic character in
33 accordance with Title 35-A, section 3452.

34 In making a determination under this paragraph regarding a wind energy
35 development, as defined in Title 35-A, section 3451, subsection 11, that is not a grid-
36 scale wind energy development, that has a generating capacity of 100 kilowatts or
37 greater and that is proposed for location within the expedited permitting area, the
38 commission shall consider the development's or project's effects on scenic character
39 and existing uses relating to scenic character in the manner provided for in Title
40 35-A, section 3452;

41 C-1. With respect to a wind energy development that has a generating capacity of
42 100 kilowatts or greater, the person proposing the development has received
43 certification from the Department of Environmental Protection in the manner
44 provided under Title 35-A, section 3456;

1 D. The proposal will not cause unreasonable soil erosion or reduction in the capacity
2 of the land to absorb and hold water and suitable soils are available for a sewage
3 disposal system if sewage is to be disposed on-site;

4 E. The proposal is otherwise in conformance with this chapter and the regulations,
5 standards and plans adopted pursuant thereto; and

6 F. In the case of an application for a structure upon any lot in a subdivision, that the
7 subdivision has received the approval of the commission.

8 The burden is upon the applicant to demonstrate by substantial evidence that the criteria
9 for approval are satisfied, and that the public's health, safety and general welfare will be
10 adequately protected. ~~Except as otherwise provided in Title 35-A, section 3454, the~~ The
11 commission shall permit the applicant and other parties to provide evidence on the
12 economic benefits of the proposal as well as the impact of the proposal on energy
13 resources.'

14 Amend the bill by striking out all of section 26.

15 Amend the bill in section 28 in §689 in the first paragraph by striking out all of the
16 last sentence (page 16, lines 1 to 3 in L.D.)

17 Amend the bill by striking out all of sections 29, 30 and 31.

18 Amend the bill in section 32 in subsection 8 in paragraph B in the last line (page 16,
19 line 35 in L.D.) by inserting after the following: "subsection 19" the following: 'and a
20 wind energy development in the unorganized and deorganized areas as defined in Title
21 12, section 682, subsection 1 that is not grid-scale wind energy development'

22 Amend the bill by inserting after section 32 the following:

23 '**Sec. 33. 35-A MRSA §3454, first ¶**, as enacted by PL 2007, c. 661, Pt. A, §7, is
24 amended to read:

25 In making findings pursuant to ~~Title 12, section 685-B, subsection 4~~ or Title 38,
26 section 484, subsection 3, the primary siting authority shall presume that an expedited
27 wind energy development provides energy and emissions-related benefits described in
28 section 3402 and shall make additional findings regarding other tangible benefits
29 provided by the development. The Department of Labor, the Executive Department,
30 State Planning Office and the Public Utilities Commission shall provide review
31 comments if requested by the primary siting authority.

32 **Sec. 34. 35-A MRSA §3454, sub-§2**, as enacted by PL 2009, c. 642, Pt. A, §7, is
33 amended to read:

34 **2. Community benefits package requirement.** Except as provided in subsection 3,
35 to demonstrate that an expedited wind energy development provides significant tangible
36 benefits as required in ~~Title 12, section 685-B, subsection 4-B~~ and Title 38, section 484,
37 subsection 10, the applicant for an expedited wind energy development is required to
38 establish a community benefits package valued at no less than \$4,000 per year per wind
39 turbine included in the expedited wind energy development, averaged over a 20-year
40 period. This subsection does not affect the property tax obligations of an expedited wind
41 energy development.

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

3 **1. Construction and operation requirements.** A person may not construct or
4 operate a wind energy development, other than a grid-scale wind energy development,
5 ~~that is located in the State's organized area~~ without first obtaining a certification from the
6 department that the generating facilities:

7 A. Will meet the requirements of the noise control rules adopted by the Board of
8 Environmental Protection pursuant to Title 38, chapter 3, subchapter 1, article 6;

9 B. Will be designed and sited to avoid unreasonable adverse shadow flicker effects;
10 and

11 C. Will be constructed with setbacks adequate to protect public safety. In making a
12 finding pursuant to this paragraph, the department shall consider the recommendation
13 of a professional, licensed civil engineer as well as any applicable setback
14 recommended by a manufacturer of the generating facilities.

15 A person proposing a wind energy development subject to certification under this section
16 shall apply to the department for certification using an application provided by the
17 department and may not begin construction until the certification is received.

18 **Sec. 36. 38 MRSA §480-E-1, sub-§4** is enacted to read:

19 **4. Projects reviewed under site location of development laws.** The department
20 issues all permits required under this article for projects wholly or in part in the
21 jurisdiction of the Maine Land Use Planning Commission that are subject to review and
22 permitting under article 6.

23 Amend the bill by striking out all of sections 34 and 35 and inserting the following:

24 **'Sec. 34. 38 MRSA §488, sub-§9-A** is enacted to read:

25 **9-A. Development within unorganized areas.** Except for development described
26 in paragraphs A, B and C, development located within the unorganized and deorganized
27 areas, as defined in Title 12, section 682, subsection 1, is subject to review by the
28 department for compliance with this article. The department shall review development
29 within the unorganized and deorganized areas in accordance with section 489-A-1.

30 A. A community-based offshore wind energy project, as defined in Title 12, section
31 682, subsection 19, is reviewed under Title 12, section 685-B, subsection 2-C and is
32 exempt from the requirements of this article.

33 B. Except for grid-scale wind energy development, development within a planned
34 subdistrict as defined in Title 12, section 682, subsection 20 and approved or
35 accepted for processing prior to September 1, 2012 is reviewed by the commission
36 and is exempt from the requirements of this article.

37 C. An amendment or revision to a development approved by the Maine Land Use
38 Regulation Commission prior to September 1, 2012 is exempt from review under this
39 article unless the proposed revision by itself is a development of state or regional
40 significance that may substantially affect the environment.

1 Subdivision plans approved and orders issued by the department under this article must
2 be recorded in the registry of deeds in the county in which the development is located
3 within 90 days.

4 Violation and enforcement provisions in chapter 2, subchapter 1 apply to development
5 reviewed by the department under this subsection.

6 **Sec. 35. 38 MRSA §489-A-1** is enacted to read:

7 **§489-A-1. Department review of development within the unorganized and**
8 **deorganized areas**

9 **1. Review.** Except as provided in section 488, subsection 9-A, paragraphs A, B and
10 C, the department shall review development within the unorganized and deorganized
11 areas as defined in Title 12, section 682, subsection 1.

12 **2. Criteria for approval.** The department shall approve a development proposal
13 under this section if:

14 A. The proposed development is an allowed use within the subdistrict or subdistricts
15 in which it is to be located. Subdistricts and allowed uses are established in rule by
16 the Maine Land Use Planning Commission in accordance with Title 12, section
17 685-A;

18 B. The standards established under section 484 are met;

19 C. The standards established in rules adopted under section 489-E to implement this
20 section are met; and

21 D. The Maine Land Use Planning Commission has certified that the proposed
22 development meets any land use standard established by the commission and
23 applicable to the project that is not considered in the department's review under
24 subsection 1.

25 For a development or part of a development within the unorganized or deorganized areas
26 as defined in Title 12, section 682, subsection 1, the department may request and obtain
27 technical assistance and recommendations from the Maine Land Use Planning
28 Commission. The commission shall respond to the requests within 90 days. The
29 department shall consider the recommendations of the commission in acting upon a
30 development application.

31 Violation and enforcement provisions in chapter 2, subchapter 1 apply to
32 development reviewed by the department under this section.

33 **Sec. 36. Directive to initiate prospective zoning.** The Maine Land Use
34 Planning Commission shall initiate prospective zoning in the unorganized and
35 deorganized areas of the State. The commission shall allocate staff resources to
36 prospective zoning in areas prioritized by the commission and shall coordinate
37 prospective zoning in cooperation with efforts of local planning organizations and
38 regional planning and development districts. In the 2013 annual report submitted under
39 the Maine Revised Statutes, Title 12, section 685-H, the commission shall identify the
40 area or areas for which prospective zoning has begun and provide a timeline for
41 completion of these initiatives.

Sec. 37. Directive to provide opportunities for preapplication discussions.
 The Maine Land Use Planning Commission shall establish a process by which an applicant can request a public preapplication meeting with the commissioners to discuss a proposed project.

Sec. 38. Designation of planned subdistricts. The term "planned subdistrict" as defined in the Maine Revised Statutes, Title 12, section 682, subsection 20 and used in Title 12, chapter 206-A includes, but is not limited to, the following concept plans, resources protection plans and planned development districts approved or accepted for processing by the Maine Land Use Regulation Commission as of March 16, 2012:

Planned subdistricts in Maine Land Use Regulation Commission jurisdiction as of March 16, 2012: Includes Resource Protection Plans (P-RP), Concept Plans (P-RP), and Planned Development Subdistricts (D-PD). Plan and permit numbers are provided.

Project	P-RP Resource Protection Plan	P-RP Concept Plan	D-PD Planned Development Subdistrict
Dix Island Resource Plan (Multiple landowners)	Plan #001 ZP 089		
Hewett Island Resource Plan (Multiple landowners)	Plan #002 ZP 057		
St. John River Resource Plan (Multiple landowners)	Plan #004 ZP 224		
White Mountain National Forest Resource Plan (U.S. Forest Service)	Plan #005 ZP 155		
Metinic Island Resource Plan - North Half (Multiple landowners)	Plan #006 ZP 531		
Attean Twp. and Dennistown Plt. Concept Plan (Lowell & Co. Timber Associates)		Plan #007 ZP 532	
Metinic Island Resource Plan - South Half (Multiple landowners)	Plan #008 ZP 578		

1		
2	First Roach Pond Concept Plan	Plan #009
3	(Plum Creek Land Co.)	ZP 659
4		
5		
6	Penobscot River Resource Plan -	Plan #011
7	Lower West Branch (Multiple	ZP 671
8	landowners)	
9		
10	Brassua Lake Concept Plan	Plan #012
11	(Moosehead Wildlands, Inc.)	ZP 682
12		
13		
14	Foss Pond, Hilton Ponds and	Plan #013
15	portions of Whetstone Pond Concept	ZP 693
16	Plan (Kingsbury Plt.) (Linkletter &	
17	Sons, Inc.)	
18		
19	Moosehead Lake Region Concept	Plan #014
20	Plan (Plum Creek Maine	ZP 707
21	Timberlands, LLC and Plum Creek	
22	Land Co.)	
23		
24	Kibby Wind Power Project	ZP 709
25	(TransCanada Maine Wind	DP 4794
26	Development, Inc.)	
27		
28	Stetson Wind Power Project	ZP 713
29	(Evergreen Wind Power V,	DP 4788
30	LLC/First Wind)	
31		
32	Saddleback Ski Resort (Saddleback	ZP 372
33	Land & Timber Corp.)	DP 4131
34		
35		

36 Amend the bill in section 36 by striking out all of subsection 1 (page 17, lines 38 to
37 40 and page 18, lines 1 to 9 in L.D.) and inserting the following:

38 '1. The members of the Maine Land Use Regulation Commission serving on the
39 effective date of this Act continue as members of the Maine Land Use Planning
40 Commission until the expiration of their terms under the Maine Revised Statutes, former
41 Title 12, section 683. The term of any member that expires after the effective date of this
42 Act but before December 15, 2012 is extended until December 15, 2012. To implement
43 the difference in the number of members of the Maine Land Use Regulation Commission
44 and the Maine Land Use Planning Commission, beginning December 15, 2012, 2
45 additional members must be nominated under Title 12, section 683-A from the 2 counties
46 with the highest acreage of unorganized and deorganized areas. When the term of a

1 member serving on the commission under former Title 12, section 683 expires, a member
2 must be nominated from the county with the next highest acreage of unorganized and
3 deorganized areas until all 6 county nominations have been completed. When all county
4 positions have been nominated, the next vacancy must be filled by the nomination of the
5 member nominated by the Governor. Notwithstanding Title 12, section 684, until 9
6 members have been confirmed as members of the commission, a quorum of the
7 commission for the transaction of business is 4 and no action may be taken by the
8 commission unless approved by a vote of 4 members.'

9 Amend the bill in section 36 in subsection 8 in the 3rd line (page 18, line 38 in L.D.)
10 by striking out the following: "and in effect"

11 Amend the bill in section 36 in subsection 8 in the 2nd line from the end (page 19,
12 line 1 in L.D.) by striking out the following: "routine technical" and inserting the
13 following: 'major substantive'

14 Amend the bill by striking out all of sections 37 and 38 and inserting the following:

15 '**Sec. 37. Maine Revised Statutes amended; revision clause.** Wherever in the
16 Maine Revised Statutes the words "Maine Land Use Regulation Commission" appear or
17 reference is made to that entity or those words, those words are amended to read or mean,
18 as appropriate, "Maine Land Use Planning Commission" or "commission," and the
19 Revisor of Statutes shall implement this revision when updating, publishing or
20 republishing the statutes.

21 **Sec. 38. Appropriations and allocations.** The following appropriations and
22 allocations are made.

23 **CONSERVATION, DEPARTMENT OF**
24 **Land Use Regulation Commission 0236**

25 Initiative: Transfers 2 Environmental Specialist III positions from the Land Use
26 Regulation Commission program in the Department of Conservation to the Land and
27 Water Quality program in the Department of Environmental Protection effective
28 November 1, 2012. Also transfers All Other related to these positions.

29	GENERAL FUND	2011-12	2012-13
30	POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
31	Personal Services	\$0	(\$98,079)
32			
33	GENERAL FUND TOTAL	\$0	(\$98,079)

34 **Office of the Commissioner 0222**

35 Initiative: Transfers 2 Environmental Specialist III positions from the Land Use
36 Regulation Commission program in the Department of Conservation to the Land and
37 Water Quality program in the Department of Environmental Protection effective
38 November 1, 2012. Also transfers All Other related to these positions.

COMMITTEE AMENDMENT "A" to H.P. 1325, L.D. 1798

1	GENERAL FUND	2011-12	2012-13
2	All Other	\$0	(\$2,323)
3			
4	GENERAL FUND TOTAL	<u>\$0</u>	<u>(\$2,323)</u>
5	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
6	All Other	\$0	(\$410)
7			
8	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>(\$410)</u>
9	CONSERVATION, DEPARTMENT OF		
10	DEPARTMENT TOTALS	2011-12	2012-13
11			
12	GENERAL FUND	\$0	(\$100,402)
13	OTHER SPECIAL REVENUE FUNDS	\$0	(\$410)
14			
15	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$100,812)</u>

16 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**
 17 **Administration - Environmental Protection 0251**

18 Initiative: Transfers 2 Environmental Specialist III positions from the Land Use
 19 Regulation Commission program in the Department of Conservation to the Land and
 20 Water Quality program in the Department of Environmental Protection effective
 21 November 1, 2012. Also transfers All Other related to these positions.

22	GENERAL FUND	2011-12	2012-13
23	All Other	\$0	\$1,222
24			
25	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$1,222</u>

26	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
27	All Other	\$0	\$963
28			
29	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$963</u>

30 **Land and Water Quality 0248**

31 Initiative: Transfers 2 Environmental Specialist III positions from the Land Use
 32 Regulation Commission program in the Department of Conservation to the Land and
 33 Water Quality program in the Department of Environmental Protection effective
 34 November 1, 2012. Also transfers All Other related to these positions.

1 located assumes authority for land use planning and regulation unless the owner of the
2 land delineated as a planned subdistrict agrees to the transfer of authority.

3 It clarifies which projects will be reviewed and permitted by the Department of
4 Environmental Protection. It clarifies that the Maine Land Use Planning Commission
5 must receive certification from the Department of Environmental Protection prior to
6 permitting non-grid-scale wind energy development. It clarifies that certification from
7 the Maine Land Use Planning Commission is needed prior to the Department of
8 Environmental Protection's issuing permits under the site location of development laws.
9 The Maine Land Use Planning Commission retains responsibility for the review and
10 permitting of projects that would otherwise be reviewed by the Department of
11 Environmental Protection under the site location of development laws in planned
12 subdistricts approved or accepted for review prior to September 1, 2012.

13 It adds a section of unallocated law that directs the Maine Land Use Planning
14 Commission to establish a process by which a landowner can request a preapplication
15 meeting to discuss a potential project with the commission and a section directing the
16 Maine Land Use Planning Commission to initiate prospective zoning and to provide
17 information on the process of zoning in its January 2013 report. It lists in unallocated law
18 all planned subdistricts that have been approved and proposals for planned subdistricts
19 that have been accepted for processing as of March 16, 2012. It adds an appropriations
20 and allocations section.

21

FISCAL NOTE REQUIRED

22

(See attached)



125th MAINE LEGISLATURE

LD 1798

LR 2697(02)

An Act To Reform Land Use Planning in the Unorganized Territory

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-918)
Committee: Agriculture, Conservation and Forestry
Fiscal Note Required: Yes

Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
Net Cost (Savings)				
General Fund	\$0	(\$416)	\$1,446	\$3,459
Appropriations/Allocations				
General Fund	\$0	(\$416)	\$1,446	\$3,459
Other Special Revenue Funds	\$0	\$553	\$553	\$553

Fiscal Detail and Notes

This legislation transfers review and permitting authority for certain projects from the Department of Conservation, Land Use Regulation Commission to the Department of Environmental Protection, Land and Water Quality. It includes a General Fund deappropriation and Other Special Revenue Funds deallocation to the Department of Conservation of \$100,402 and \$410 in fiscal year 2012-13 as a result of transferring 2 Environmental Specialist II positions and related administrative costs from the Department of Conservation to the Department of Environmental Protection. The bill includes a fiscal year 2012-13 General Fund appropriation of \$99,986 and an Other Special Revenue Funds allocation of \$963 to the Department of Environmental Protection.

Additional costs to the Department of Conservation associated with initiating prospective zoning in unorganized and deorganized areas, establishing a process by which an applicant can request a public preapplication meeting and preparing an annual performance report can be absorbed within existing budgeted resources.