

MAINE STATE LEGISLATURE

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SMG
R. 100

L.D. 616

Date: 2/27/14

Majority

(Filing No. H- 638)

ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "C" to H.P. 435, L.D. 616, Bill, "An Act To Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 12 MRSA §685-B, sub-§1-A, ¶B-1, as corrected by RR 2011, c. 2, §9, is amended to read:

B-1. Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit from the commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1. A person submitting a development proposal to the Department of Environmental Protection under Title 38, section 489-A-1 shall file a notice of the intent to develop and a map indicating the location of the proposed development with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection. The Department of Environmental Protection must receive certification from the commission that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed and the proposed development meets any land use standard established by the commission that is not considered in the department's review under Title 38, section 489-A-1, subsection 1 before issuing a permit. The commission may not certify that a proposed expedited wind energy development as defined in Title 35-A, section 3451, subsection 4 within the expedited permitting area as defined in Title 35-A, section 3451, subsection 3 is an allowed use if a petition is pending under Title 35-A, section 3453-A. Nothing in this subsection may be construed as prohibiting the commission from enforcing the land use standards certified to the Department of Environmental Protection under this paragraph;

COMMITTEE AMENDMENT

1 **Sec. 2. 35-A MRSA §3451, sub-§3, ¶B**, as enacted by PL 2007, c. 661, Pt. A, §7
2 and amended by PL 2011, c. 682, §38, is further amended to read:

3 B. Specific places within the State's unorganized and deorganized areas, ~~as defined~~
4 ~~by Title 12, section 682, subsection 1,~~ that are identified by rule by the Maine Land
5 Use Planning Commission in accordance with this chapter.

6 **Sec. 3. 35-A MRSA §3451, sub-§10-A** is enacted to read:

7 **10-A. Unorganized and deorganized areas.** "Unorganized and deorganized areas"
8 has the same meaning as in Title 12, section 682, subsection 1.

9 **Sec. 4. 35-A MRSA §3453-A** is enacted to read:

10 **§3453-A. Removal of location from the expedited permitting area**

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

13 A. "Location" means, within the unorganized and deorganized areas:

14 (1) Any individual township, plantation or municipality located in the expedited
15 permitting area; or

16 (2) If the township, plantation or municipality in its entirety is not within the
17 expedited permitting area, that portion of the township, plantation or municipality
18 that is within the expedited permitting area.

19 **2. Removal from expedited permitting area.** The Maine Land Use Planning
20 Commission may by rule adopted in accordance with Title 5, chapter 375 remove a
21 location from the expedited permitting area in accordance with the procedures adopted
22 pursuant to subsection 3, except that, notwithstanding Title 5, chapter 375, the Maine
23 Land Use Planning Commission is not required to meet the requirements of Title 5,
24 sections 8053-A and 8060.

25 **3. Maine Land Use Planning Commission to adopt rules governing removal;**
26 **requirements.** The Maine Land Use Planning Commission shall adopt rules governing
27 the procedure for removing a location from the expedited permitting area. Rules adopted
28 pursuant to this subsection must include provisions that:

29 A. Notwithstanding Title 5, section 8055, establish a process for petitioning for the
30 removal of a location from the expedited permitting area. The rules must require that
31 the petition:

32 (1) Clearly state that those signing the petition are in support of the removal of
33 the location from the expedited permitting area;

34 (2) Be signed by registered voters legally residing in the location named in the
35 petition;

36 (3) Be signed by a number of registered voters equal to or greater than 50% of
37 the number of registered voters in that location that voted in the most recent
38 gubernatorial election; and

1 (4) Include a notarized letter from the person submitting the petition stating the
2 following:

3 (a) The person submitting the petition is a resident of the location for which
4 the petition is being submitted;

5 (b) The information contained within the petition is accurate to the best of
6 the knowledge of the person submitting the petition; and

7 (c) The petition signatures have been certified by an appropriate authority to
8 be signatures of legal registered voters residing in the location named in the
9 petition;

10 B. Require a public hearing on the petition under paragraph A at which supporters
11 and opponents of the removal of the location from the expedited permitting area are
12 permitted to speak. Speakers at the public hearing are not required to be residents of
13 the location;

14 C. Notwithstanding Title 5, chapter 375, establish appropriate time frames for
15 conducting rulemaking for the removal of a location from the expedited permitting
16 area;

17 D. Provide that, after a hearing held in accordance with paragraph B, the Maine Land
18 Use Planning Commission must remove a location from the expedited permitting area
19 upon finding that the requirements of paragraph A have been met and that, based
20 upon substantial evidence on the record, removing the location from the expedited
21 permitting area will not have an unreasonable and significant impact on the State's
22 ability to meet the state goals for wind energy development under section 3404,
23 subsection 2, paragraph C in effect on January 1, 2014;

24 E. Provide that the Maine Land Use Planning Commission may not accept a petition
25 under paragraph A to remove a location from the expedited permitting area later than
26 2 years following the date on which the rules under this subsection are finally
27 adopted; and

28 F. Provide that a petition under this subsection is considered pending if the Maine
29 Land Use Planning Commission has received in its office a petition that meets the
30 requirements of paragraph A and the commission has not yet taken action on the
31 petition in accordance with paragraph D.

32 4. Rulemaking. Rules adopted under this section are routine technical rules
33 pursuant to Title 5, chapter 375, subchapter 2-A.

34 **Sec. 5. PL 2007, c. 661, Pt. C, §6, first paragraph** is amended to read:

35 **Sec. C-6. Expedited permitting area designation; permitted use.** No later
36 than September 1, 2008, the Maine Land Use ~~Regulation~~ **Planning** Commission shall
37 adopt a rule listing the following specific places within the State's unorganized and
38 deorganized areas, which comprise the expedited permitting area for purposes of this Act,
39 except that the commission may subsequently add additional areas to this list or remove
40 areas from this list by rule in the manner provided by this Act in accordance with the
41 Maine Revised Statutes, Title 35-A, chapter 34-A:

COMMITTEE AMENDMENT "C" to H.P. 435, L.D. 616

8. 0. 3.

1 that an expedited wind energy development is an allowable use in a location for which a
2 petition is pending for removal from the expedited permitting area. The amendment also
3 adds an appropriations and allocations section.

4

FISCAL NOTE REQUIRED

5

(See attached)



126th MAINE LEGISLATURE

LD 616

LR 1088(05)

An Act To Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission

Fiscal Note for Bill as Amended by Committee Amendment 'C' (H-638)
 Committee: Energy, Utilities and Technology
 Fiscal Note Required: Yes

Fiscal Note

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
Net Cost (Savings)				
General Fund	\$0	\$18,944	\$51,954	\$32,192
Appropriations/Allocations				
General Fund	\$0	\$18,944	\$51,954	\$32,192

Fiscal Detail and Notes

The bill requires the Land Use Planning Commission (LUPC) under the Department of Agriculture, Conservation and Forestry to conduct rulemaking related to removing a township, plantation or municipality from the expedited permitting area. This bill requires the LUPC to establish a petitioning process allowing a location to request removal from the expedited permitting area, as well as to hold a public hearing when the petition has been received. The bill includes a General Fund appropriation of \$9,644 in fiscal year 2014-15, as well as requiring appropriations of \$13,538 in fiscal year 2015-16 and \$3,572 in fiscal year 2016-17, for costs related to rulemaking, public hearings, commissioner meetings and newspaper advertising. This bill includes a General Fund appropriation of \$9,300 in fiscal year 2014-15, and will require appropriations of \$38,416 in fiscal year 2015-16 and \$28,620 in fiscal year 2016-17, for the hiring of a half-time Planning & Research Associate II position to assist with the removal process of locations from the expedited permitting area. This position is anticipated to be filled in April 2015 and is expected to be terminated in March 2017.