

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1325

H.P. 949

House of Representatives, April 3, 2013

**Resolve, To Place a Temporary Suspension on Permitting of Certain
Expedited Grid-scale Wind Energy Developments**

(EMERGENCY)

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KAENRATH of South Portland.
Cosponsored by Representatives: DUNPHY of Embden, HARLOW of Portland, JONES of Freedom, MORRISON of South Portland.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the 125th Legislature ordered an independent review of the State's current
4 wind energy development permitting goals and process; and

5 **Whereas,** the legislatively ordered review, completed in 2012, concluded that there
6 was sufficient cause to reconsider key elements of the State's wind energy development
7 goals and permitting process; and

8 **Whereas,** the Governor's Energy Office, in response to the Legislature's directive,
9 published a list of recommendations addressing aspects of current wind energy
10 development permitting; and

11 **Whereas,** the Legislature has not yet acted on the recommendations made by the
12 Governor's Energy Office; and

13 **Whereas,** onshore wind energy development has proven to be controversial in some
14 locations in the State and elsewhere; and

15 **Whereas,** the legislatively ordered review revealed that significant disagreement
16 exists with regard to the effects on humans and the environment and the net economic
17 effects of large-scale expansion of onshore wind energy projects within the State; and

18 **Whereas,** a significant body of information exists pertaining to the human, wildlife,
19 environmental and economic impacts of onshore wind energy development that was
20 unavailable during the creation of the State's current policy and laws; and

21 **Whereas,** it is in the immediate interests of public and environmental well-being
22 that the expedited wind energy permitting process be interrupted in certain sensitive
23 locations pending the necessary review; and

24 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
25 the meaning of the Constitution of Maine and require the following legislation as
26 immediately necessary for the preservation of the public peace, health and safety; now,
27 therefore, be it

28 **PART A**

29 **Sec. A-1. Definitions. Resolved:** That, as used in this Part, unless the context
30 otherwise indicates, the following terms have the following meanings.

- 31 1. "Expedited permitting area" has the same meaning as in the Maine Revised
32 Statutes, Title 35-A, section 3451, subsection 3.
- 33 2. "Expedited wind energy development" has the same meaning as in Title 35-A,
34 section 3451, subsection 4.
- 35 3. "Generating facilities" means wind turbines and towers.

1 4. "Grid-scale wind energy development" has the same meaning as in Title 35-A,
2 section 3451, subsection 6.

3 5. "Occupied dwelling" means any legally permitted residential or commercial
4 structure that includes an area designated for sleeping and is continuously or temporarily
5 occupied.

6 6. "Primary siting authority" has the same meaning as in Title 35-A, section 3451,
7 subsection 8.

8 7. "Scenic resource of state or national significance" has the same meaning as in
9 Title 35-A, section 3451, subsection 9; and be it further

10 **Sec. A-2. Temporary suspension of certain expedited permitting.**
11 **Resolved:** That, notwithstanding the Maine Revised Statutes, Title 35-A, chapter 34-A,
12 during the period beginning on the effective date of this resolve and ending on the date of
13 adjournment of the Second Regular Session of the 126th Legislature, a primary siting
14 authority may not:

15 1. Accept an application for a permit for an expedited wind energy development that
16 includes:

- 17 A. Development-related activity in a location at an elevation at or above 2,700 feet;
- 18 B. Placement of any generating facilities within 2 miles of an occupied dwelling; or
- 19 C. Placement of any generating facilities within 15 miles of a scenic resource of state
20 or national significance; or

21 2. Issue a permit for an application that was received after December 31, 2012 for an
22 expedited wind energy development that is described in subsection 1, paragraph A, B or
23 C; and be it further

24 **Sec. A-3. Application of laws and rules. Resolved:** That, after the suspension
25 period under section 2 concludes, an application for an expedited wind energy
26 development permit that is received after December 31, 2012 that is described in section
27 2, subsection 1, paragraph A, B or C will be subject to the laws and rules in effect at the
28 expiration of the suspension period; and be it further

29 **Sec. A-4. Application; construction. Resolved:** That this resolve applies to
30 applications for grid-scale wind energy development within the expedited permitting
31 area. Nothing in this resolve may be construed to prevent or impede any individual or
32 entity from pursuing a permit for a grid-scale wind energy development that is outside the
33 expedited permitting area or that is undertaken pursuant to the laws and rules in effect
34 prior to April 18, 2008.

35 **PART B**

36 **Sec. B-1. Review panel. Resolved:** That the Panel to Review the Permitting of
37 Expedited Wind Energy Development, referred to in this resolve as "the panel" is
38 established; and be it further

1 **Sec. B-2. Panel membership. Resolved:** That the panel consists of 13
2 members appointed as follows:

3 1. Four members of the Senate appointed by the President of the Senate, including
4 members from each of the 2 parties holding the largest number of seats in the Legislature;

5 2. Four members of the House of Representatives appointed by the Speaker of the
6 House, including members from each of the 2 parties holding the largest number of seats
7 in the Legislature;

8 3. Three members appointed by the Governor;

9 4. The Commissioner of Environmental Protection or a designee; and

10 5. The Director of the Maine Land Use Planning Commission or a designee; and be
11 it further

12 **Sec. B-3. Chairs. Resolved:** That the first-named Senate member is the Senate
13 chair and the first-named House of Representatives member is the House chair of the
14 panel; and be it further

15 **Sec. B-4. Appointments; convening of panel. Resolved:** That all
16 appointments must be made no later than 30 days following the effective date of this
17 resolve. The appointing authorities shall notify the Executive Director of the Legislative
18 Council once all appointments have been completed. After appointment of all members,
19 the chairs shall call and convene the first meeting of the panel. If 30 days or more after
20 the effective date of this resolve a majority of but not all appointments have been made,
21 the chairs may request authority and the Legislative Council may grant authority for the
22 panel to meet and conduct its business; and be it further

23 **Sec. B-5. Duties. Resolved:** That the panel shall review the report issued in
24 March 2012 by the Governor's Office of Energy Independence and Security entitled
25 "Maine Wind Energy Development Assessment: Report and Recommendations." The
26 panel shall specifically evaluate the 25 separate recommendations contained in the report,
27 and shall develop recommendations regarding implementation of each of the
28 recommendations. The panel shall schedule opportunities for public participation in those
29 areas of the State where expedited grid-scale wind energy development is under
30 consideration; and be it further

31 **Sec. B-6. Staff assistance. Resolved:** That the Legislative Council shall
32 provide necessary staffing services to the panel; and be it further

33 **Sec. B-7. Report. Resolved:** That, no later than December 4, 2013, the panel
34 shall submit a report that includes its findings and recommendations, including suggested
35 legislation and a recommendation regarding the termination or extension of the
36 suspension period established in Part A, section 2, for presentation to the Second Regular
37 Session of the 126th Legislature. In making its recommendation regarding extending or
38 terminating the suspension period, the panel shall evaluate the suspension period
39 established in Part A, section 2 and shall consider whether there exists the need for

1 additional statutory changes or agency rulemaking and whether, in order to accommodate
2 the implementation of any such necessary changes, the period of suspension should be
3 extended; if the panel concludes that no additional statutory changes or agency
4 rulemaking is necessary, the panel may recommend early termination of the suspension
5 period.

6 **Emergency clause.** In view of the emergency cited in the preamble, this
7 legislation takes effect when approved.

8 **SUMMARY**

9 This resolve establishes a temporary suspension on the expedited permitting of
10 specified grid-scale wind energy developments and establishes the Panel to Review the
11 Permitting of Expedited Wind Energy Development to review the recommendations of
12 the report issued in March 2012 by the Governor's Office of Energy Independence and
13 Security entitled "Maine Wind Energy Development Assessment: Report and
14 Recommendations." The panel is directed to evaluate specifically the 25 separate
15 recommendations contained in the report and to develop recommendations regarding
16 implementation of each of the recommendations and to include in its report any
17 recommendations to extend or terminate early the temporary suspension.