

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1375

S.P. 482

In Senate, April 9, 2013

An Act To Enhance Maine's Economy and Environment

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PATRICK of Oxford.

Cosponsored by Senators: GERZOFSKY of Cumberland, JACKSON of Aroostook,
Representative: BRIGGS of Mexico.

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

2 **PART A**

3 **Sec. A-1. 2 MRSA §9, sub-§3, ¶C**, as amended by PL 2011, c. 400, §1, is further
4 amended to read:

5 C. In consultation with the Efficiency Maine Trust Board, established in Title 5,
6 section 12004-G, subsection 10-C, prepare and submit a comprehensive state energy
7 plan to the Governor and the Legislature by January 15, 2009 and submit an updated
8 plan every 2 years thereafter. Within the comprehensive state energy plan, the
9 director shall identify opportunities to lower the total cost of energy to consumers in
10 this State and transmission capacity and infrastructure needs and recommend
11 appropriate actions to lower the total cost of energy to consumers in this State and
12 facilitate the development and integration of new renewable energy generation within
13 the State and support the State's renewable resource portfolio requirements specified
14 in Title 35-A, section 3210 ~~and wind energy development goals specified in Title~~
15 ~~35-A, section 3404~~. The comprehensive state energy plan must include a section that
16 specifies the State's progress in meeting the oil dependence reduction targets in
17 subsection 5. The office shall make recommendations, if needed, for additional
18 legislative and administrative actions to ensure that the State can meet the reduction
19 targets in subsection 5. The recommendations must include a cost and resource
20 estimate for technology development needed to meet the reduction targets;

21 **Sec. A-2. 12 MRSA §1862, sub-§13, ¶B**, as enacted by PL 2009, c. 615, Pt. B,
22 §1 and amended by PL 2011, c. 657, Pt. W, §7 and c. 682, §38, is further amended to
23 read:

24 B. In accordance with the findings in paragraph A, the following provisions apply to
25 an application for a lease or easement for a renewable ocean energy project.

26 (1) No more than 30 days prior to filing applications in accordance with this
27 paragraph, an applicant for a lease or easement for a renewable ocean energy
28 project shall participate in a joint interagency preapplication meeting that
29 includes the Department of Marine Resources and is in accordance with
30 permitting procedures of the Department of Environmental Protection or the
31 Maine Land Use Planning Commission, as applicable.

32 (2) An applicant for a lease or easement for a renewable ocean energy project
33 must file and certify to the director that it has filed completed applications for
34 requisite state permits under chapter 206-A or Title 38, chapter 3, subchapter 1,
35 article 5-A or 6 or Title 38, chapter 5, subchapter 1, article 1, subarticle 1-B, as
36 applicable, prior to or concurrently with submission of its submerged lands lease
37 application under this section and shall provide a copy of any such applications to
38 the director upon request.

39 (3) The director shall provide notice to the Marine Resources Advisory Council
40 under section 6024 and any lobster management policy council established
41 pursuant to section 6447 in whose or within 3 miles of whose designated lobster
42 management zone created pursuant to section 6446 the proposed development is

1 located. The Marine Resources Advisory Council and any lobster management
2 policy council notified pursuant to this subparagraph may provide comments
3 within a reasonable period established by the director, and the director shall
4 consider the comments in making findings pursuant to subsection 2, paragraph A,
5 subparagraph (6).

6 (4) The director may issue a lease or easement for a hydropower project, as
7 defined in Title 38, section 632, subsection 3, that uses tidal or wave action as a
8 source of electrical or mechanical power, for a term not to exceed 50 years, as
9 long as the lease term is less than or equal to the term of the license for the
10 project issued by the Federal Energy Regulatory Commission.

11 (5) If requested by an applicant, and with provision for public notice and
12 comment, the director may issue one or more of the following for a renewable
13 ocean energy project prior to issuance of a 30-year lease for the project:

14 (a) A lease option, for a term not to exceed 2 years, that establishes that the
15 leaseholder, for purposes of consideration of its application for state permit
16 approvals under chapter 206-A or Title 38, chapter 3, subchapter 1, article
17 5-A or 6 or Title 38, chapter 5, subchapter 1, article 1, subarticle 1-B, as
18 applicable, has title, right or interest in a specific area of state submerged
19 lands needed to achieve the purposes of the project as described in
20 conceptual plans in the lease application;

21 (b) A submerged lands lease, for a term not to exceed 3 years, that authorizes
22 the leaseholder to undertake feasibility testing and predevelopment
23 monitoring for ecological and human use impacts as described in conceptual
24 plans in the lease application and conditioned on receipt of requisite federal,
25 state and local approvals; and

26 (c) A submerged lands lease, for a term not to exceed 5 years, that authorizes
27 the leaseholder to secure requisite federal, state and local approvals and
28 complete preoperation construction, as long as the applicant provides detailed
29 development plans describing all operational conditions and restrictions.

30 (6) Except as otherwise provided in this paragraph, the annual rent for a wind
31 energy demonstration project for which a general permit has been issued under
32 Title 38, section 480-HH is \$10,000 per year for the term of the general permit.
33 The annual rent for a tidal energy demonstration project for which a general
34 permit has been issued under Title 38, section 636-A is \$100 per acre of
35 submerged lands occupied by the project for the term of the general project,
36 except that the annual rent may not exceed \$10,000. As used in this paragraph,
37 "submerged lands occupied" includes the sum of the area on which turbines,
38 testing and monitoring equipment, anchoring or mooring lines, submerged
39 transmission cables or other structures are placed and any additional area from
40 which the director finds it necessary to exclude transient public trust uses to
41 avoid unreasonable interference with the project's purposes. An annual rent is
42 not required for an offshore wind energy demonstration project located in the
43 Maine Offshore Wind Energy Research Center, as designated by the department
44 under section 1868, subsection 2.

1 (7) The director shall charge a lessee an annual rent in accordance with a fee
2 schedule, established by the division by rule, that balances state goals of
3 assurance of fair compensation for use and mitigation of potential adverse effects
4 on or conflict with existing uses of state-owned submerged lands that are held in
5 trust for the people of the State with state renewable ocean energy-related goals;
6 ~~including state wind energy generation goals established in Title 35-A, section~~
7 ~~3404, subsection 2.~~ Rules adopted pursuant to this subparagraph are routine
8 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

9 (8) The director may not require additional public compensation pursuant to
10 subsection 9.

11 (9) The director may issue a lease for a buffer zone comprising a land or water
12 area around permanent structures located on submerged or intertidal land if:

13 (a) The director determines such a buffer zone is necessary to preserve the
14 integrity or safety of the structure or fulfill the purposes of the project; and

15 (b) The director consults with the Commissioner of Marine Resources
16 regarding the need for such a buffer, its location and size and options to
17 minimize its potential effects on existing uses.

18 **Sec. A-3. 35-A MRSA §3143, sub-§3, ¶B**, as enacted by PL 2009, c. 539, §2, is
19 amended to read:

20 B. Deployment and integration into the electric system of renewable capacity
21 resources, as defined in section ~~3210-C~~ 3210, subsection ~~1~~ 2, paragraph ~~E~~ B-3, that
22 are interconnected to the electric grid at a voltage level less than 69 kilovolts;

23 **Sec. A-4. 35-A MRSA §3210, sub-§2, ¶B-4**, as amended by PL 2011, c. 413,
24 §1, is further amended to read:

25 B-4. "New" as applied to any renewable capacity resource means a renewable
26 capacity resource that:

27 (1) Has an in-service date after September 1, 2005;

28 (2) Was added to an existing facility after September 1, 2005;

29 (3) For at least 2 years was not operated or was not recognized by the New
30 England independent system operator as a capacity resource and, after September
31 1, 2005, resumed operation or was recognized by the New England independent
32 system operator as a capacity resource; or

33 (4) Was refurbished after September 1, 2005 and is operating beyond its
34 previous useful life or is employing an alternate technology that significantly
35 increases the efficiency of the generation process.

36 For the purposes of this paragraph, "capacity resource" ~~has the same meaning as in~~
37 ~~section 3210-C, subsection 1, paragraph A~~ means an interruptible, demand response
38 or energy efficiency capacity resource that is recognized by the commission, a
39 renewable capacity resource or an electric generation source other than a renewable
40 capacity resource. For the purposes of this paragraph, "to refurbish" means to make

1 an investment in equipment or facilities, other than for routine maintenance and
2 repair, to renovate, reequip or restore the renewable capacity resource.

3 **Sec. A-5. 35-A MRSA §3210-C**, as amended by PL 2011, c. 273, §§1 and 2 and
4 affected by §3 and amended by c. 413, §§2 and 3, is repealed.

5 **Sec. A-6. 35-A MRSA §3212, sub-§4-C**, as enacted by PL 2005, c. 677, Pt. B,
6 §2, is amended to read:

7 **4-C. Authority to establish various contract lengths and terms.** For the purpose
8 of providing over a reasonable time period the lowest price for standard-offer service to
9 residential and small commercial customers, the commission, with respect to residential
10 and small commercial standard-offer service, may, in addition to incorporating cost-
11 effective demand response and energy efficiency pursuant to subsection 4-B ~~and to the~~
12 ~~extent authorized in section 3210-C, incorporating the energy portion of any contracts~~
13 ~~entered into pursuant to section 3210-C~~, establish various standard-offer service contract
14 lengths and terms.

15 **Sec. A-7. 35-A MRSA §3402**, as amended by PL 2009, c. 615, Pt. A, §2 and PL
16 2011, c. 682, §38, is repealed.

17 **Sec. A-8. 35-A MRSA §3404**, as amended by PL 2009, c. 615, Pt. A, §§3 and 4,
18 is repealed.

19 **Sec. A-9. 35-A MRSA §3451, sub-§1-B**, as enacted by PL 2009, c. 642, Pt. A,
20 §2, is repealed.

21 **Sec. A-10. 35-A MRSA §3451, sub-§1-C**, as enacted by PL 2009, c. 642, Pt. A,
22 §3, is repealed.

23 **Sec. A-11. 35-A MRSA §3451, sub-§7**, as amended by PL 2009, c. 642, Pt. A,
24 §4, is repealed.

25 **Sec. A-12. 35-A MRSA §3451, sub-§8-A**, as enacted by PL 2009, c. 642, Pt. A,
26 §5, is repealed.

27 **Sec. A-13. 35-A MRSA §3451, sub-§10**, as amended by PL 2009, c. 642, Pt. A,
28 §6, is repealed.

29 **Sec. A-14. 35-A MRSA §3453, sub-§1**, as enacted by PL 2007, c. 661, Pt. A, §7,
30 is amended to read:

31 **1. Geographic extension.** Involves a logical geographic extension of the currently
32 designated expedited permitting area; and

33 **Sec. A-15. 35-A MRSA §3453, sub-§2**, as enacted by PL 2007, c. 661, Pt. A, §7,
34 is repealed.

35 **Sec. A-16. 35-A MRSA §3454**, as amended by PL 2011, c. 655, Pt. DD, §§14
36 and 15 and affected by §24 and amended by c. 682, §§27 and 28, is repealed.

1 **Sec. A-17. 35-A MRSA §10104, sub-§4, ¶D**, as amended by PL 2009, c. 518,
2 §8, is further amended to read:

3 D. Prior to submission of the triennial plan to the commission, the trust shall offer to
4 provide a detailed briefing on the draft plan to the joint standing committee of the
5 Legislature having jurisdiction over energy matters and, at the request of the
6 committee, shall provide such a briefing and opportunity for input from the
7 committee. After providing such opportunity for input and making any changes as a
8 result of any input received, the board shall deliver the plan to the commission for its
9 review and approval. The commission shall open a proceeding and issue an order
10 either approving the plan or rejecting the plan and stating the reasons for the
11 rejection. The commission shall reject elements of the plan that propose to use funds
12 generated pursuant to ~~sections 3240-C~~, section 10110, 10111 or 10119 if the plan
13 fails to reasonably explain how these elements of the program would achieve the
14 objectives and implementation requirements of the programs established under those
15 sections or the measures of performance under subsection 3. Funds generated under
16 these statutory authorities may not be used pursuant to the triennial plan unless those
17 elements of the plan proposing to use the funds have been approved by the
18 commission. The commission shall approve or reject any elements of the triennial
19 plan within 60 days of its delivery to the commission. The board, within 15 days of
20 final commission approval of its plan, shall submit the plan to the joint standing
21 committee of the Legislature having jurisdiction over energy matters together with
22 any explanatory or other supporting material as the committee may request and, at the
23 request of the committee, shall provide a detailed briefing on the final plan. After
24 receipt of the plan, the joint standing committee of the Legislature having jurisdiction
25 over energy matters may submit legislation relating to the plan.

26 **Sec. A-18. 38 MRSA §342, sub-§18** is enacted to read:

27 **18. Wind energy development complaints.** The commissioner shall establish
28 protocols for accepting and addressing public complaints related to wind energy
29 developments as defined in Title 35-A, section 3451, subsection 11.

30 **Sec. A-19. 38 MRSA §345-A, sub-§1-A**, as enacted by PL 1989, c. 890, Pt. A,
31 §29 and affected by §40, is amended to read:

32 **1-A. Department hearings.** The Except for public hearings related to wind energy
33 developments as defined in Title 35-A, section 3451, subsection 11 that have generated
34 significant public interest as provided for in section 345-B, the board and commissioner
35 may hold public hearings as necessary to carry out responsibilities under this Title in
36 accordance with this section.

37 **Sec. A-20. 38 MRSA §345-B** is enacted to read:

38 **§345-B. Public hearings for wind energy developments**

39 **1. Public hearing.** If the department determines there is significant public interest in
40 a wind energy development, the department must hold a public hearing before approving
41 a permit for a wind energy development.

1 **2. Neutral party.** The public hearing under subsection 1 must be presided over by a
2 neutral party that is not the department, the commissioner, the board or the applicant for
3 the permit for the wind energy development.

4 **3. Procedural requirements.** Except as otherwise provided by this section, the
5 public hearing under subsection 1 must be conducted in accordance with the procedural
6 requirements of Title 5, chapter 375, subchapter 4.

7 **4. Intervenor procedures.** The board shall adopt rules that define the procedures
8 and scope of participation for intervenors.

9 **5. Fee.** The cost of a public hearing under subsection 1 may be charged to an
10 applicant for a permit for a wind energy development as a component of the application
11 fee. Notwithstanding section 352, subsection 3, the maximum fee for processing an
12 application for a wind energy development that is subject to a public hearing under this
13 section may not exceed \$500,000.

14 **6. Subpoena power.** The neutral party presiding over the public hearing under
15 subsection 1 may issue subpoenas to compel the production of books, records and other
16 data related to the matters in issue at any hearing. If a person served with a subpoena
17 demonstrates to the satisfaction of the neutral party that the production of the information
18 would, if made public, divulge methods or processes that are entitled to protection as
19 trade secrets, the information may be disclosed only at a nonpublic portion of the hearing
20 and is confidential and may not be available for public inspection. If any person fails or
21 refuses to obey such a subpoena, the issuer of the subpoena may apply to any Justice of
22 the Superior Court for an order compelling that person to comply with the subpoena. The
23 Superior Court may issue an order and may punish failure to obey the order as civil
24 contempt.

25 **7. Public meetings.** At the discretion of the neutral party presiding over the public
26 hearing under subsection 1, public meetings may be held in the geographic areas of a
27 proposed wind energy development for the purpose of collecting comments that become
28 part of the record in a pending action. Any such meeting must be held during the period
29 when written public comments may be submitted to the department. A public meeting is
30 not an alternative to a public hearing and may not be held in lieu of a public hearing.

31 **8. Rulemaking.** The board shall adopt major substantive rules pursuant to Title 5,
32 chapter 375, subchapter 2-A to implement this section. The rules must include, but are
33 not limited to, the criteria to determine if an application for a wind energy development
34 has generated significant public interest under subsection 1, the process for obtaining a
35 neutral party to preside over the public hearing under subsection 2 and intervenor
36 procedures under subsection 4.

37 For the purposes of this section, "wind energy development" has the same meaning as
38 in Title 35-A, section 3451, subsection 11.

39 **Sec. A-21. 38 MRSA §484, sub-§10**, as amended by PL 2011, c. 655, Pt. DD,
40 §18 and affected by §24, is further amended to read:

1 **PROPERTY VALUE GUARANTEE AND COMPENSATION PROGRAM**

2 **§3471. Definitions**

3 As used in this chapter, unless the context otherwise indicates, the following terms
4 have the following meanings.

5 **1. Asking price.** "Asking price" means the value of the eligible property at the time
6 that the landowner decides to sell that property as established under section 3474.

7 **2. Eligible property.** "Eligible property" means a real property parcel a boundary
8 line of which is within an 8-mile radius of the base of a wind turbine, either constructed
9 or proposed to be constructed under an expedited wind energy development permit.
10 "Eligible property" includes any real property parcel within 8 miles of a wind turbine
11 from which any portion of the generating facility is visible.

12 **3. Landowner.** "Landowner" means a person who owns eligible property.

13 **4. Permit.** "Permit" means the appropriate authorization from the primary siting
14 authority under chapter 34-A to construct a wind energy development.

15 **5. Program.** "Program" means the property value guarantee program established in
16 section 3472.

17 **6. Property value guarantee agreement.** "Property value guarantee agreement" or
18 "agreement" means a contract entered into by a landowner and a wind energy
19 development owner or operator that documents the responsibility of the wind energy
20 development owner or operator to compensate the landowner for the reduction in
21 property value of eligible property.

22 **7. Wind energy development.** "Wind energy development" means a development
23 under chapter 34-A that uses one or more wind turbines to convert wind energy into
24 electrical energy for sale or use by a person other than the wind energy development
25 owner or operator. A wind energy development includes generating facilities and
26 associated facilities.

27 **§3472. Program established; process**

28 **1. Established.** The property value guarantee program is established as provided in
29 this section to provide compensation for the reduction in property value experienced by
30 landowners within close proximity to one or more wind turbines.

31 **2. Notice to landowners.** Within 30 days of submitting a permit application, a wind
32 energy development applicant shall provide notice to all landowners about the program as
33 provided in this subsection.

34 A. All notices must be sent to each landowner by certified mail, return receipt
35 requested.

36 B. The notice must include a detailed description of the program, including a clear
37 explanation of landowner responsibilities and directions for participating in the

1 program. An additional notice must be sent within 14 days of the issuance of a
2 development permit advising that interested landowners must enter into a property
3 value guarantee agreement within 180 days of the issuance of the permit.

4 C. The notice must include a description of the process to establish predevelopment
5 baseline property values as provided in section 3473, including a clear explanation
6 that a landowner interested in participating in the predevelopment baseline property
7 value process must provide notice to the wind energy development owner or operator
8 within 30 days of receiving the notice.

9 **3. Agreement.** If a landowner chooses to enter into a property value guarantee
10 agreement, the wind energy development owner or operator shall enter into the
11 agreement, and both parties shall execute the agreement according to subsection 4.

12 **4. Guarantee.** An agreement must provide that, if the landowner lists for sale that
13 landowner's eligible property within 10 years of entering into the agreement and the
14 actual sale price is less than the asking price established under section 3474, the wind
15 energy development owner or operator shall pay to the landowner the difference between
16 the actual sale price and the asking price. The wind energy development owner or
17 operator may make a counteroffer on any offer of purchase that is below the asking price;
18 the counteroffer must be made within 48 hours of the submitted offer.

19 **5. Claim; payment; interest.** If a property subject to an agreement sells for less
20 than the asking price, the landowner shall make a claim to the wind energy development
21 owner or operator for the difference between the asking price and the actual sale price,
22 after deducting real estate commissions and normal costs associated with the sale of real
23 estate in the county in which the property is located. If the wind energy development
24 owner or operator does not pay the amount owed within 10 days of the sale, the wind
25 energy development owner or operator is responsible for paying interest on the amount
26 owed equal to one percent per month and is responsible for attorney's fees and other costs
27 associated with collecting the payment and interest required under this subsection.

28 **6. Buyout.** If a landowner's eligible property fails to sell within 6 months of the
29 property's being listed at the asking price, the wind energy development owner or
30 operator shall purchase the property at the asking price.

31 **§3473. Predevelopment baseline property values**

32 **1. Panel.** A panel of 3 real estate appraisers shall determine the predevelopment
33 baseline property value of the eligible property of a landowner who has provided notice
34 to the wind energy development owner or operator that the landowner chooses to
35 participate in the predevelopment baseline property value process. The wind energy
36 development owner or operator and the landowner shall each select a neutral real estate
37 appraiser and shall jointly select a neutral real estate appraiser. Each real estate appraiser
38 must be licensed in this State and must conduct business in the general area of the
39 property in question.

40 **2. Comparative market analysis.** Each real estate appraiser selected under
41 subsection 1 shall perform a comparative market analysis of the property that compares
42 the property size and improvements to no less than 3 similar properties that are listed for

1 sale, using generally accepted comparative market analysis methods. The comparative
2 market analyses must be based on comparable areas not affected by wind energy
3 development. The comparative market analyses must be performed at the expense of the
4 wind energy development owner or operator.

5 **3. Access to property.** The landowner shall permit access to the eligible property as
6 required to perform inspections for comparative market analysis under subsection 2. The
7 landowner shall provide full disclosure of known defects of the property required under
8 law in this State for residential real property being offered for sale.

9 **4. Reports.** Each real estate appraiser selected under subsection 1 shall provide a
10 written copy of the comparative market analysis report to both the landowner and the
11 wind energy development owner or operator. The landowner and the wind energy
12 development owner or operator have the right to reject comparative market analysis
13 results only in the instance of a clear mistake by the real estate appraiser.

14 **5. Determination of predevelopment baseline property value.** The 2 highest
15 property valuations determined from each comparative market analysis made under
16 subsection 2 are averaged to determine the predevelopment baseline property value.

17 **6. Part of application record.** All results of the predevelopment baseline property
18 value determinations made under subsection 2 become part of the permit application
19 record.

20 **§3474. Asking price determination**

21 **1. Agreed-to asking price.** If the landowner and the wind energy development
22 owner or operator agree on the asking price of the landowner's eligible property, the
23 agreed-to amount must be used as the asking price under the program.

24 **2. Determination of asking price by appraisal.** If the wind energy development
25 owner or operator and the landowner do not agree to the asking price, a panel of 3 real
26 estate appraisers shall determine the asking price by appraisal.

27 A. The wind energy development owner or operator and the landowner shall each
28 select a neutral real estate appraiser and shall jointly select a neutral real estate
29 appraiser. Each real estate appraiser must be licensed in this State and must conduct
30 business in the general area of the eligible property.

31 B. Each real estate appraiser shall perform a comparative market analysis of the
32 eligible property that compares the property size and improvements to no less than 3
33 similar properties that are listed for sale, using generally accepted comparative
34 market analysis methods. The comparative market analyses must be based on
35 comparable areas not affected by wind energy development.

36 C. The comparative market analyses under paragraph B must be performed at the
37 expense of the wind energy development owner or operator.

38 D. The landowner shall permit access to the eligible property for inspections as
39 required to perform the comparative market analysis under paragraph B. The

1 landowner shall provide full disclosure of known defects of the property as required
2 under law in this State for residential real property being offered for sale.

3 E. Each real estate appraiser shall provide a written copy of the comparative market
4 analysis report under paragraph B to the landowner and the wind energy development
5 owner or operator. The landowner and the wind energy development owner or
6 operator have the right to reject comparative market analysis results only in the
7 instance of a clear mistake by the real estate appraiser.

8 F. The 2 highest property valuations determined from each comparative market
9 analysis must be averaged to determine the asking price.

10 **§3475. Compensation contract**

11 If a landowner enters into a contract with the wind energy development owner or
12 operator in which the landowner allows the placement of a wind turbine closer than 8
13 miles to a boundary line of that landowner's property in exchange for any compensation
14 from the wind energy development owner or operator, the landowner is ineligible to
15 participate in the program unless the wind energy development owner or operator waives
16 this provision and allows the landowner to enter into an agreement under the program.

17 **§3476. Compensation for property value loss before the program**

18 **1. Permit issued before effective date.** A landowner who owns property a
19 boundary line of which is within an 8-mile radius of the base of a wind turbine that was
20 constructed or proposed under a permit issued prior to the effective date of this chapter
21 may seek compensation from the State for any loss in property value due to the proximity
22 to the wind turbine.

23 **2. Process.** The process of determining the asking price by appraisal under section
24 3474 for property described in subsection 1 must be used to determine the diminution in
25 property value, with the Department of Environmental Protection acting as the wind
26 energy development owner or operator for the purposes of the appraisal and payment of
27 compensation.

28 **SUMMARY**

29 Part A of this bill repeals the Public Utilities Commission's authority to direct electric
30 transmission and distribution utilities to enter into long-term contracts. It repeals the
31 requirement that grid-scale wind energy developments provide tangible benefits to host
32 communities and repeals the State's wind energy generation goals. It directs the
33 Commissioner of Environmental Protection to develop protocols to accept public
34 complaints related to wind energy developments and directs the Department of
35 Environmental Protection to develop a process for a neutral party to conduct a public
36 hearing on any wind energy development that generates significant public interest. The
37 public hearing must be held before the department may approve an application or issue a
38 permit related to a wind energy development. Part A includes provisions to decrease the
39 visual impact of wind turbines at night. It also fixes cross-references.

1 Part B of this bill establishes a property value guarantee program to ensure that a
2 landowner whose real property is located within 8 miles of the base of a wind turbine is
3 compensated for any reduction in property value resulting from the proximity of the wind
4 turbine. A wind energy development owner or operator is required to notify landowners
5 within an 8-mile radius of a planned wind turbine of the property value guarantee
6 program. Landowners may choose to enter into a property value guarantee agreement
7 with the wind energy development owner or operator under which the wind energy
8 development owner or operator must pay the difference in property value if the
9 landowner's real property is sold within 10 years of entering into the agreement for less
10 than the asking price that is either agreed to by the parties or determined by appraisal. A
11 landowner who receives compensation for the location of the wind turbine directly from
12 the wind energy development owner or operator is not eligible to participate in the
13 program unless the wind energy development owner or operator waives the
14 disqualification.

15 Part B of the bill requires sellers of residential real property to disclose to the
16 purchasers whether the property to be sold is located within the State's expedited wind
17 energy development permitting area or to provide information regarding an existing
18 permit or a pending permit application for a grid-scale wind energy development within 8
19 miles of the property.

20 Part B of the bill provides a compensation provision for landowners whose property
21 values have diminished due to the location of wind turbines permitted before the effective
22 date of the new program.