

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1517

H.P. 1090

House of Representatives, May 8, 2013

**An Act To Amend the Laws Governing Decision-making Authority
Regarding Energy Infrastructure Corridors**

Submitted by the Governor's Energy Office pursuant to Joint Rule 204.
Reference to the Committee on Energy, Utilities and Technology suggested and ordered
printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HARVELL of Farmington.

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

2 **Sec. 1. 35-A MRSA §122, sub-§1-B, ¶A**, as amended by PL 2011, c. 655, Pt.
3 MM, §14 and affected by §26, is further amended to read:

4 A. The panel includes the following members:

5 (1) The Director of the Governor's Energy Office within the Executive
6 Department or the director's designee;

7 (2) The Commissioner of Administrative and Financial Services or the
8 commissioner's designee;

9 (3) The commissioner of each department or the director of any other state
10 agency or authority that owns or controls land or assets within the statutory
11 corridor under consideration or that commissioner's or director's designee; ~~and~~

12 (4) ~~Four~~ Three members of the public appointed by the Governor in accordance
13 with this subparagraph, subject to review by the joint standing committee of the
14 Legislature having jurisdiction over utilities and energy matters and to
15 confirmation by the Senate:

16 (a) One member with expertise in energy and utilities selected from
17 candidates nominated by the President of the Senate;

18 ~~(b) One member with expertise in real estate or finance selected from~~
19 ~~candidates nominated by the President of the Senate;~~

20 (c) One member representing industrial or commercial energy consumers
21 selected from candidates nominated by the Speaker of the House; and

22 (d) One member representing residential energy consumers selected from
23 candidates nominated by the Speaker of the House.

24 Public members serve 3-year terms, except that a vacancy must be filled for the
25 unexpired portion of the term. A public member serves until a successor is
26 appointed. A public member may serve a maximum of 2 consecutive terms.
27 Compensation of public members is as provided in Title 5, section 12004-G,
28 subsection 30-D;

29 (5) The Governor's senior economic advisor; and

30 (6) The Director of the Governor's Office of Policy and Management within the
31 Executive Department or the director's designee.

32 **Sec. 2. 35-A MRSA §122, sub-§1-B, ¶D**, as enacted by PL 2009, c. 655, Pt. A,
33 §2, is amended to read:

34 D. The panel shall evaluate and render a decision on an energy infrastructure
35 proposal for use of a statutory corridor in accordance with subsection 1-D. The
36 decision must be approved by the Governor prior to the entry by the State into a
37 binding contract for use of a statutory corridor pursuant to this section.

1 **Sec. 3. 35-A MRSA §122, sub-§1-B, ¶F**, as enacted by PL 2009, c. 655, Pt. A,
2 §2, is amended to read:

3 F. The panel shall contract for the services of a professional appraiser or appraisers
4 to assist the panel in its duties under this subsection. The professional appraiser
5 contracted under this paragraph must:

6 (1) Have demonstrated experience in the valuation and evaluation of utility
7 corridors or transportation corridors;

8 (2) Hold a professional designation from a nationally recognized organization of
9 appraisers; and

10 (3) Be licensed by this State as a certified general real property appraiser in
11 accordance with Title 32, section 14035 or hold a comparable license from
12 another state.

13 The cost of the services of a professional appraiser who provides services in
14 accordance with this paragraph must be paid by potential developers submitting
15 proposals for use of the corridor under this subsection in proportion to the amount of
16 time spent by the appraiser on each potential developer's proposal. Payments for
17 appraisal costs collected from potential developers must be deposited in the energy
18 infrastructure benefits fund established in Title 5, section 282, subsection 9 and may
19 be expended in accordance with the responsibilities of the panel.

20 **Sec. 4. 35-A MRSA §122, sub-§1-D**, as enacted by PL 2009, c. 655, Pt. A, §2, is
21 amended to read:

22 **1-D. Energy infrastructure proposal; decision criteria.** The deciding authority
23 shall evaluate and render a decision on an energy infrastructure proposal in accordance
24 with this subsection. For the purposes of this subsection, "deciding authority" means the
25 Interagency Review Panel acting under subsection 1-B, paragraph D and subject to the
26 approval of the Governor, or the Public Utilities Commission acting under subsection 5-A
27 or section 3132, subsection 6-A.

28 A. The deciding authority may approve an energy infrastructure proposal only if the
29 deciding authority finds that the proposal:

30 (1) Materially enhances or does not harm transmission opportunities for energy
31 generation within the State;

32 (2) Is reasonably likely to reduce electric rates or other relevant energy prices or
33 costs for residents and businesses within the State relative to the value of those
34 rates, prices or costs but for the proposed energy infrastructure development or, if
35 the deciding authority is unable to determine to its satisfaction the impact of the
36 proposal on rates, prices or costs, the owner or operator of the proposed energy
37 infrastructure agrees to pay annually an amount of money, determined by the
38 deciding authority, to reduce rates, prices or costs over the life of the proposed
39 energy infrastructure; and

40 (3) Is in the long-term public interest of the State, based on a determination made
41 in accordance with paragraph B.

1 B. The deciding authority shall determine whether an energy infrastructure proposal
2 is in the long-term public interest of the State. In making that determination, the
3 deciding authority shall, at a minimum, consider the extent to which the proposal:

4 (1) Materially enhances or does not harm transmission opportunities for energy
5 generation within the State;

6 (2) Is reasonably likely to reduce electric rates or other relevant energy prices or
7 costs for residents and businesses within the State relative to the expected value
8 of those electric rates or other energy prices or costs but for the proposed energy
9 infrastructure development;

10 (3) Increases long-term economic benefits for the State, including but not limited
11 to direct financial benefits, employment opportunities and economic
12 development;

13 (4) Ensures efficient use of the statutory corridor through collocation of energy
14 infrastructure, collaboration between energy infrastructure developers and the
15 preservation of options for future uses;

16 (5) Minimizes conflict with the public purposes for which the state-owned land
17 or asset is owned and any management plans for the land or asset within the
18 statutory corridor and, when necessary, mitigates unavoidable impacts;

19 (6) Limits and mitigates the effects of energy infrastructure on the landscape,
20 including but not limited to using underground installation when economically
21 and technically feasible;

22 (7) Increases the energy reliability, security and independence of the State; and

23 (8) Reduces the release of greenhouse gases.

24 **Sec. 5. 35-A MRSA §122, sub-§10**, as amended by PL 2009, c. 655, Pt. A, §2, is
25 further amended to read:

26 **10. Repeal.** This section is repealed July 30, ~~2015~~ 2017.

27 **Sec. 6. Transition.** Notwithstanding the provisions of this Act, the member
28 serving on the Interagency Review Panel pursuant to the Maine Revised Statutes, former
29 Title 35-A, section 122, subsection 1-B, paragraph A, subparagraph (4), division (b)
30 immediately prior to the effective date of this Act continues to serve until the expiration
31 of the member's term or the resignation of the member, whichever occurs first.

32 SUMMARY

33 This bill makes the following changes to the laws governing the Interagency Review
34 Panel.

35 1. It adds as members of the panel the Governor's senior economic advisor and the
36 Director of the Governor's Office of Policy and Management within the Executive
37 Department or the director's designee.

38 2. It eliminates one of the public members of the panel.

1 3. It requires that a decision by the panel regarding an energy infrastructure corridor
2 proposal be approved by the Governor before the State may enter into a binding contract
3 with respect to the proposal.

4 4. It specifies that payments for appraisal costs collected from potential developers
5 of an energy infrastructure corridor must be deposited in the energy infrastructure
6 benefits fund.

7 This bill also changes the date on which the section of law governing energy
8 infrastructure corridors is scheduled to be repealed from July 30, 2015 to July 30, 2017.