

MAINE STATE LEGISLATURE

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L.D. 828

Date: 6/19/15

(Filing No. S-307)

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STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 562,
L.D. 828, Bill, "An Act To Improve Regulatory Consistency within the Jurisdiction of the
Maine Land Use Planning Commission"

Amend the amendment in section 7 in §3453 in subsection 1 in the last line (page 2,
line 36 in amendment) by inserting after the following: "3453-A" the following: '
subsection 1'

Amend the amendment in section 7 in §3453 by striking out all of subsection 3 (page
2, lines 39 and 40 and page 3, lines 1 and 2 in amendment) and inserting the following:

'3. Consistent with comprehensive land use plan. ~~Would not compromise~~ Is
consistent with the principal values and the goals identified in the comprehensive land
use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12,
section 685-C.'

Amend the amendment by striking out all of section 8 and inserting the following:

'Sec. 8. 35-A MRSA §3453-A is enacted to read:

§3453-A. Removal from the expedited permitting area

The Maine Land Use Planning Commission may, by rule adopted in accordance with
Title 5, chapter 375, remove a specified place in the unorganized and deorganized areas
from the expedited permitting area as described in this section.

1. Removal by petition. The Maine Land Use Planning Commission shall, by rule,
remove a specified place in the unorganized and deorganized areas from the expedited
permitting area if:

A. The specified place is a township, plantation, municipality or portion thereof that
has been identified pursuant to section 3451, subsection 3, paragraph B;

B. The Maine Land Use Planning Commission receives a petition on or before June
30, 2016 requesting the removal of the specified place from the expedited permitting
area that:

(1) Clearly states that the persons signing the petition are requesting the removal
of the specified place from the expedited permitting area;

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(2) Is signed by at least 10% of the number of registered voters residing in the township, plantation, municipality or portion thereof that voted in the most recent gubernatorial election; and

(3) Is on a form consistent with Title 5, section 8055, a form provided by the Maine Land Use Planning Commission or a form otherwise determined to be sufficient for the purposes of this subsection by the Maine Land Use Planning Commission; and

C. A person does not request substantive review of the petition for removal pursuant to subsection 3 within 45 days of the Maine Land Use Planning Commission posting notice of receipt of the petition on its publicly accessible website.

The removal of a specified place from the expedited permitting area under this subsection may not prejudice any subsequent petition presented to the Maine Land Use Planning Commission to add the specified place back into the expedited permitting area under section 3453.

2. Notice of receipt of petition. Within 5 business days of receipt of a petition for removal under subsection 1, the Maine Land Use Planning Commission shall post notice of receipt of the petition, along with a copy of the petition, on its publicly accessible website. The notice must specify that a person may request substantive review of the petition pursuant to subsection 3. A petition for removal of a specified place from the expedited permitting area is considered pending upon notice of receipt of a petition being posted on the commission's publicly accessible website. The Maine Land Use Planning Commission shall maintain a distribution list of persons who have requested to receive notice of commission receipt of petitions for removal and promptly notify persons on the list when a petition is received. Notwithstanding any other law to the contrary, additional notice of receipt of a petition for removal and additional notice associated with rulemaking to remove a specified place pursuant to subsection 1 is not required.

3. Removal by petition with review. A person may, in writing, request substantive review of a petition for removal under subsection 1 by the Maine Land Use Planning Commission. Upon receipt of a timely filed request for substantive review, if the commission finds the requirements of subsection 1, paragraphs A and B are satisfied, the commission shall, by rule, remove a specified place in the unorganized and deorganized areas from the expedited permitting area if it finds the proposed removal:

A. Will not have an unreasonable adverse effect on the State's ability to meet the state goals for wind energy development in section 3404, subsection 2, paragraph C; and

B. Is consistent with the principal values and the goals in the comprehensive land use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section 685-C.

4. Notice of petition review and opportunity for public hearing. Upon receipt of a request for substantive review of a petition for removal pursuant to subsection 3, the Maine Land Use Planning Commission shall, based on available tax records, notify property owners in the specified place of the petition and the request for review, provide

SENATE AMENDMENT

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1 an opportunity for public comment on the petition and conduct a public hearing if 5 or
2 more persons request a hearing.

3 5. Exceptions. The following specified places may not be removed from the
4 expedited permitting area under this section:

5 A. Any specified place within the project boundary of an existing or proposed,
6 legally permitted expedited wind energy development, unless the development permit
7 is revoked or withdrawn;

8 B. Any specified place within the project boundary of a proposed expedited wind
9 energy development, as described in the development permit application, that has
10 been accepted for processing by the Department of Environmental Protection, unless
11 the development permit application is denied; and

12 C. Any specified place added by rule to the expedited permitting area in accordance
13 with section 3453 prior to January 1, 2016.

14 As used in this subsection, "project boundary" means the geographic limits of an existing
15 or proposed expedited wind energy development, as defined by the deeded geographic
16 boundaries of the parcel or parcels of land on which the development or portions thereof
17 are located or proposed to be located.

18 6. Fee. If a person requests substantive review of a petition for removal under
19 subsection 3, notwithstanding Title 12, section 685-F, subsection 1 or any other provision
20 of law to the contrary, the director of the Maine Land Use Planning Commission may
21 assess a processing fee associated with the rulemaking, consistent with the fee that may
22 be collected under Title 12, section 685-F, subsection 2, to cover actual costs, including
23 costs associated with any notice or public hearing and the processing of the rule-making
24 petition for removal. The director also may assess a similar fee to cover actual costs
25 associated with petitions to add a specified place to the expedited permitting area under
26 section 3453.

27 7. Rulemaking. The Maine Land Use Planning Commission may adopt rules
28 implementing this section. Rules adopted pursuant to this section are routine technical
29 rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to
30 subsection 3 need not meet the requirements of Title 5, section 8053-A or 8060 but must
31 meet all other applicable requirements in Title 5, chapter 375.'

32 Amend the amendment by inserting after section 9 the following:

33 '**Sec. 10. Effective date.** This Act takes effect January 1, 2016.'

34 **SUMMARY**

35 This amendment establishes consistency between the review processes for adding and
36 removing specified places from the expedited permitting area. The amendment also
37 establishes that when 10%, instead of 50% as in the committee amendment, of the
38 registered voters in a township, plantation or municipality that voted in the most recent
39 gubernatorial election petition for removal of a specified place in the unorganized and
40 deorganized areas from the expedited permitting area, after the required notice, if no
41 person requests substantive review of the petition the specified place must be removed. If

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SENATE AMENDMENT "A " to COMMITTEE AMENDMENT "A" to H.P. 562, L.D. 828

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review is requested, there must be an opportunity for public comment and, if requested by 5 or more persons, a public hearing. The Maine Land Use Planning Commission may recover the actual cost of a requested review of a petition from the person making the request. When conducting substantive review of a petition for removal, the commission must grant the petition and remove the specified place from the expedited permitting area if the commission determines the removal will not have an unreasonable adverse effect on the State's ability to meet its goals for wind energy development and is consistent with the principal values and the goals of the commission's comprehensive land use plan. The amendment removes the requirement that all signers of a petition must be permanent residents of the township, plantation or municipality, extends the deadline by which petitions may be filed to June 30, 2016 and establishes an effective date of the legislation of January 1, 2016.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY: *Smittle*

(Senator SAVIELLO)

COUNTY: Franklin



127th MAINE LEGISLATURE

LD 828

LR 1175(09)

An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission

Fiscal Note for Senate Amendment "A" to Committee Amendment "A" (S-307)

Sponsor: Sen. Saviello of Franklin

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - Other Special Revenue Funds
Current biennium revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This amendment requires the Land Use Planning Commission (LUPC) within the Department of Agriculture, Conservation and Forestry to conduct public hearings if the LUPC receives a request for substantive review of a petition for removal. The LUPC is allowed to assess a processing fee to cover costs for notices, public hearings and processing of rulemaking petitions for removal. This amendment takes effect on January 1, 2016.