

MAINE STATE LEGISLATURE

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JMS
RORS

L.D. 828

Date: 6/9/15

Majority

(Filing No. H-374)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

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

Sec. 1. 12 MRSA §685-A, sub-§13, as enacted by PL 2007, c. 661, Pt. C, §1, is amended to read:

13. Additions to and removals from the expedited permitting area for wind energy development. The commission may add or remove areas in the State's unorganized and deorganized areas to or from the expedited permitting area for wind energy development in accordance with Title 35-A, ~~section 3453~~ chapter 34-A.

Sec. 2. 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

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1 35-A, section 3451, subsection 4, within the expedited permitting area, as defined in
2 Title 35-A, section 3451, subsection 3, is an allowed use if a relevant petition is
3 pending under Title 35-A, section 3453-A. Nothing in this subsection may be
4 construed as prohibiting the commission from enforcing the land use standards
5 certified to the Department of Environmental Protection under this paragraph;

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

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

11 **Sec. 4. 35-A MRSA §3451, sub-§8, ¶B,** as amended by PL 2011, c. 682, §26, is
12 further amended to read:

13 B. The Maine Land Use Planning Commission, in the case of a community-based
14 offshore wind energy project as defined in Title 12, section 682, subsection 19 and a
15 wind energy development in the unorganized and deorganized areas ~~as defined in~~
16 ~~Title 12, section 682, subsection 1~~ that is not grid-scale wind energy development.

17 **Sec. 5. 35-A MRSA §3451, sub-§9-A** is enacted to read:

18 **9-A. Specified place.** "Specified place" means the entirety or a portion of a
19 township, plantation or municipality in the unorganized and deorganized areas, or a
20 combination thereof.

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

22 **10-A. Unorganized and deorganized areas.** "Unorganized and deorganized areas"
23 has the same meaning as in Title 12, section 682, subsection 1.

24 **Sec. 7. 35-A MRSA §3453,** as enacted by PL 2007, c. 661, Pt. A, §7 and amended
25 by PL 2011, c. 682, §38, is further amended to read:

26 **§3453. Additions to the expedited permitting area**

27 The Maine Land Use Planning Commission may, by rule adopted in accordance with
28 Title 5, chapter 375, establish standards for the addition of and add a specified place in
29 the State's unorganized ~~or~~ and deorganized areas to the expedited permitting area. In
30 order to add a specified place to the expedited permitting area, the Maine Land Use
31 Planning Commission must determine that the proposed addition to the expedited
32 permitting area:

33 **1. Geographic extension.** Involves a logical geographic extension of the currently
34 designated expedited permitting area, except that the addition of a specified place that
35 was previously removed from the expedited permitting area in accordance with section
36 3453-A need not satisfy this requirement;

37 **2. Meets state goals.** Is important to meeting the state goals for wind energy
38 development established in section 3404; and

39 **3. Consistent with comprehensive land use plan.** ~~Would not compromise the~~
40 ~~principal values and the goals identified in~~ Is consistent with the comprehensive land use

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1 plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section
2 685-C.

3 Rules adopted by the Maine Land Use Planning Commission pursuant to this section
4 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

6 **§3453-A. Removals from the expedited permitting area**

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

11 **1. Transition process for removal.** The Maine Land Use Planning Commission
12 shall, by rule, remove a specified place in the unorganized and deorganized areas from
13 the expedited permitting area if:

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

16 B. The Maine Land Use Planning Commission receives a petition on or before May
17 31, 2016 requesting the removal of the specified place from the expedited permitting
18 area that:

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

21 (2) Is signed by at least 50% of the number of registered voters residing in the
22 township, plantation, municipality or portion thereof that voted in the most recent
23 gubernatorial election. All signers of the petition must at the time of signing the
24 petition be permanent residents of the township, plantation, municipality or
25 portion thereof who are registered to vote; and

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

30 A petition under this subsection for removal of a specified place from the expedited
31 permitting area is considered pending if the Maine Land Use Planning Commission has
32 accepted the petition as complete for processing but has not taken final action on the
33 proposed rule to remove the specified place from the expedited permitting area.

34 **2. Exceptions.** The following specified places may not be removed from the
35 expedited permitting area under this section:

36 A. Any specified place within the project boundary of a legally permitted expedited
37 wind energy development, existing or proposed, unless the development permit is
38 revoked or withdrawn;

39 B. Any specified place within the project boundary of a proposed expedited wind
40 energy development, as described in the development permit application that has

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1 been accepted for processing by the Department of Environmental Protection, unless
2 the development permit application is denied; and

3 C. Any specified place added by rule to the expedited permitting area in accordance
4 with section 3453 prior to the effective date of this section.

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

9 3. Rulemaking. The Maine Land Use Planning Commission may adopt rules
10 implementing this section. Rules adopted pursuant to this section are routine technical
11 rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to
12 subsection 1 need not meet the requirements of Title 5, section 8053-A or 8060 but must
13 meet all other applicable requirements in Title 5, chapter 375.

14 **Sec. 9. PL 2007, c. 661, Pt. C, §6, first ¶** is amended to read:

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

22 **SUMMARY**

23 This amendment, which is the majority report of the committee, replaces the bill and
24 amends the laws governing expedited permitting of wind energy development in the
25 Maine Revised Statutes, Title 35-A, chapter 34-A, as follows:

- 26 1. It amends existing and adds new definitions; and
27 2. It provides the Maine Land Use Planning Commission with the authority to
28 remove, by rule, a specified place within the unorganized and deorganized areas from the
29 expedited permitting area. It provides that the Maine Land Use Planning Commission is
30 not required to provide notice to the Legislature when it adopts a rule to remove a
31 specified place from the expedited permitting area.

32 The amendment also provides corresponding cross-references in Title 12 and in the
33 public law that enacted Title 35-A, chapter 34-A to the new removal process.

34 **FISCAL NOTE REQUIRED**

35 (See attached)



Approved: 06/08/15 *MAC*

127th MAINE LEGISLATURE

LD 828

LR 1175(02)

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

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

A(H-374)

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Agriculture, Conservation and Forestry from allowing the Land Use Planning Commission to adopt rules and remove certain areas from the expedited permitting area are expected to be minor and can be absorbed within existing budgeted resources.