

# MAINE STATE LEGISLATURE

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Date: 10/2/15

**ENVIRONMENT AND NATURAL RESOURCES**

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

COMMITTEE AMENDMENT "A" to H.P. 631, L.D. 911, Bill, "An Act Concerning the Review of Certain Projects under the Site Location of Development Laws"

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

**Sec. 1. 35-A MRSA §3451, sub-§§1-D and 1-E are enacted to read:**

**1-D. Combined observation.** "Combined observation" means a view from a scenic resource of state or national significance of more than one group of generating facilities located within the viewshed of the scenic resource of state or national significance within the field of view of a stationary viewer.

**1-E. Cumulative scenic impact or effect.** "Cumulative scenic impact or effect" means the potential adverse effect on the scenic character and existing uses related to the scenic character of scenic resources of state or national significance resulting from the incremental impact of a proposed wind energy development when added to the effects of other existing, permitted or pending wind energy developments within the viewshed of a scenic resource of state or national significance. For the purposes of this subsection, a pending wind energy development is a wind energy development for which an application has been submitted to and determined complete for processing by the department. A determination of cumulative scenic impact or effect may be based upon the combined observation, successive observation or sequential observation of wind energy developments located within the viewshed of a scenic resource of state or national significance as viewed from a scenic resource of state or national significance.

**Sec. 2. 35-A MRSA §3451, sub-§§9-A and 9-B are enacted to read:**

**9-A. Sequential observation.** "Sequential observation" means a view of more than one group of generating facilities located within the viewshed of a scenic resource of state or national significance as the viewer travels along the portion of a linear route that is located within the viewshed of a scenic resource of state or national significance. For the purposes of this subsection, a linear route is a scenic resource of state or national

1 significance that is a trail that is used exclusively for pedestrian use and has been  
2 designated as a national scenic trail.

3 **9-B. Successive observation.** "Successive observation" means views from a scenic  
4 resource of state or national significance of more than one group of generating facilities  
5 located within the viewshed of a scenic resource of state or national significance from a  
6 single viewpoint as a result of a viewer turning the viewer's head or body.

7 **Sec. 3. 35-A MRSA §3451, sub-§10-A** is enacted to read:

8 **10-A. Viewshed of a scenic resource of state or national significance.** "Viewshed  
9 of a scenic resource of state or national significance" means the geographic area as  
10 viewed from a scenic resource of state or national significance that includes the proposed  
11 wind energy development. The viewshed of a scenic resource of state or national  
12 significance may include the proposed wind energy development visible from a single  
13 viewer position or the proposed wind energy development visible from multiple viewer  
14 positions. The viewshed of a scenic resource of state or national significance is limited to  
15 the geographic area within 8 miles, measured horizontally, from the proposed wind  
16 energy development's generating facilities.

17 **Sec. 4. 35-A MRSA §3452, sub-§3**, as enacted by PL 2007, c. 661, Pt. A, §7, is  
18 amended to read:

19 **3. Evaluation criteria.** In making its determination pursuant to subsection 1, and in  
20 determining whether an applicant for an expedited wind energy development must  
21 provide a visual impact assessment in accordance with subsection 4, the primary siting  
22 authority shall consider:

- 23 A. The significance of the potentially affected scenic resource of state or national  
24 significance;
- 25 B. The existing character of the surrounding area;
- 26 C. The expectations of the typical viewer;
- 27 D. The expedited wind energy development's purpose and the context of the  
28 proposed activity;
- 29 E. The extent, nature and duration of potentially affected public uses of the scenic  
30 resource of state or national significance and the potential effect of the generating  
31 facilities' presence on the public's continued use and enjoyment of the scenic resource  
32 of state or national significance; and
- 33 F. The scope and scale of the potential effect of views of the generating facilities on  
34 the scenic resource of state or national significance, including but not limited to  
35 issues related to the number and extent of turbines visible from the scenic resource of  
36 state or national significance, the distance from the scenic resource of state or  
37 national significance and the effect of prominent features of the development on the  
38 landscape.

39 In applying these criteria, the primary siting authority shall consider the primary impact  
40 and the cumulative scenic impact or effect of the development during both day and night  
41 on scenic resources of state or national significance. In evaluating cumulative scenic  
42 impact or effect associated with sequential observation, the department shall consider, in

1 addition to the criteria in this subsection, the distance between viewpoints on the linear  
2 route and other forms of development along the linear route that effect the expectation of  
3 the user of the scenic resource of state or national significance. A finding by the primary  
4 siting authority that the development's generating facilities are a highly visible feature in  
5 the landscape is not a solely sufficient basis for determination that an expedited wind  
6 energy project has an unreasonable adverse effect on the scenic character and existing  
7 uses related to scenic character of a scenic resource of state or national significance. In  
8 making its determination under subsection 1, the primary siting authority shall consider  
9 insignificant the effects of portions of the development's generating facilities located  
10 more than 8 miles, measured horizontally, from a scenic resource of state or national  
11 significance.'

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### SUMMARY

13 This amendment replaces the bill and amends the laws regarding the expedited  
14 permitting of grid-scale wind energy development as follows:

15 1. It creates new definitions relating to the scenic impact of a wind energy  
16 development project; and

17 2. It allows for the consideration of cumulative scenic impacts in the permitting of  
18 wind energy development projects.

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### FISCAL NOTE REQUIRED

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(See attached)



Approved: 05/29/15 *mac*

# 127th MAINE LEGISLATURE

LD 911

LR 1529(02)

**An Act Concerning the Review of Certain Projects under the Site Location of Development Laws**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (H-271)**  
**Committee: Environment and Natural Resources**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection from considering certain additional impacts and effects from proposed expedited wind energy developments are expected to be minor and can be absorbed within existing budgeted resources.