

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1547

H.P. 1065

House of Representatives, April 27, 2017

### An Act To Establish Primary Energy Goals for the State

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative WADSWORTH of Hiram. (GOVERNOR'S BILL)  
Cosponsored by Senator WOODSOME of York and  
Representatives: BERRY of Bowdoinham, HANLEY of Pittston, HARVELL of Farmington,  
O'CONNOR of Berwick.

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

2 **Sec. 1. 2 MRSA §9, sub-§3, ¶C**, as amended by PL 2013, c. 541, §1, is further  
3 amended to read:

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

20 (1) Beginning in 2015, the update to the plan must:

21 (a) Be submitted to the joint standing committee of the Legislature having  
22 jurisdiction over utilities and energy matters and the joint standing committee  
23 of the Legislature having jurisdiction over natural resources matters;

24 (b) Address the association between energy planning and meeting the  
25 greenhouse gas reduction goals in the state climate action plan pursuant to  
26 Title 38, section 577. The director shall consult with the Department of  
27 Environmental Protection in developing this portion of the plan;

28 (c) Include a section devoted to wind energy development, including:

29 ~~(i) The State's progress toward meeting the wind energy development~~  
30 ~~goals established in Title 35-A, section 3404, subsection 2, including an~~  
31 ~~assessment of the likelihood of achieving the goals and any~~  
32 ~~recommended changes to the goals;~~

33 (ii) Examination of the permitting process and any recommended  
34 changes to the permitting process;

35 (iii) Identified successes in implementing the recommendations  
36 contained in the February 2008 final report of the Governor's Task Force  
37 on Wind Power Development created by executive order issued May 8,  
38 2007;

39 (iv) A summary of tangible benefits provided by expedited wind energy  
40 developments, including, but not limited to, documentation of  
41 community benefits packages and community benefit agreement  
42 payments provided;

1 (v) A review of the community benefits package requirement under Title  
2 35-A, section 3454, subsection 2, the actual amount of negotiated  
3 community benefits packages relative to the statutorily required  
4 minimum amount and any recommended changes to community benefits  
5 package policies;

6 (vi) Projections of wind energy developers' plans, as well as technology  
7 trends and their state policy implications; and

8 (vii) Recommendations, including, but not limited to, identification of  
9 places within the State's unorganized and deorganized areas for inclusion  
10 in the expedited permitting area established pursuant to Title 35-A,  
11 chapter 34-A and the creation of an independent siting authority to  
12 consider wind energy development applications;

13 (d) Include a description of activities undertaken pursuant to paragraph H;  
14 and

15 (e) Include a description of the State's activities relating to the expansion of  
16 natural gas service, any actions taken by the office to expand access to  
17 natural gas in the State and any recommendations for actions by the  
18 Legislature to expand access to natural gas in the State.

19 The joint standing committee of the Legislature having jurisdiction over utilities and  
20 energy matters may report out legislation by February 1st of each odd-numbered year  
21 relating to the content of the plan. The joint standing committee of the Legislature  
22 having jurisdiction over natural resources matters may make recommendations  
23 regarding that legislation to the joint standing committee of the Legislature having  
24 jurisdiction over energy matters.

25 **Sec. 2. 12 MRSA §1862, sub-§13, ¶B,** as enacted by PL 2009, c. 615, Pt. B, §1  
26 and amended by PL 2011, c. 657, Pt. W, §7 and c. 682, §38 and PL 2013, c. 405, Pt. A,  
27 §24, is further amended to read:

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

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

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

- 1 (3) The director shall provide notice to the Marine Resources Advisory Council  
2 under section 6024 and any lobster management policy council established  
3 pursuant to section 6447 in whose or within 3 miles of whose designated lobster  
4 management zone created pursuant to section 6446 the proposed development is  
5 located. The Marine Resources Advisory Council and any lobster management  
6 policy council notified pursuant to this subparagraph may provide comments  
7 within a reasonable period established by the director, and the director shall  
8 consider the comments in making findings pursuant to subsection 2, paragraph A,  
9 subparagraph (6).
- 10 (4) The director may issue a lease or easement for a hydropower project, as  
11 defined in Title 38, section 632, subsection 3, that uses tidal or wave action as a  
12 source of electrical or mechanical power, for a term not to exceed 50 years, as  
13 long as the lease term is less than or equal to the term of the license for the  
14 project issued by the Federal Energy Regulatory Commission.
- 15 (5) If requested by an applicant, and with provision for public notice and  
16 comment, the director may issue one or more of the following for a renewable  
17 ocean energy project prior to issuance of a 30-year lease for the project:
- 18 (a) A lease option, for a term not to exceed 2 years, that establishes that the  
19 leaseholder, for purposes of consideration of its application for state permit  
20 approvals under chapter 206-A or Title 38, chapter 3, subchapter 1, article  
21 5-A or 6 or Title 38, chapter 5, subchapter 1, article 1, subarticle 1-B, as  
22 applicable, has title, right or interest in a specific area of state submerged  
23 lands needed to achieve the purposes of the project as described in  
24 conceptual plans in the lease application;
- 25 (b) A submerged lands lease, for a term not to exceed 3 years, that authorizes  
26 the leaseholder to undertake feasibility testing and predevelopment  
27 monitoring for ecological and human use impacts as described in conceptual  
28 plans in the lease application and conditioned on receipt of requisite federal,  
29 state and local approvals; and
- 30 (c) A submerged lands lease, for a term not to exceed 5 years, that authorizes  
31 the leaseholder to secure requisite federal, state and local approvals and  
32 complete preoperation construction, as long as the applicant provides detailed  
33 development plans describing all operational conditions and restrictions.
- 34 (6) Except as otherwise provided in this paragraph, the annual rent for a wind  
35 energy demonstration project for which a general permit has been issued under  
36 Title 38, section 480-HH is \$10,000 per year for the term of the general permit.  
37 The annual rent for a tidal energy demonstration project for which a general  
38 permit has been issued under Title 38, section 636-A is \$100 per acre of  
39 submerged lands occupied by the project for the term of the general project,  
40 except that the annual rent may not exceed \$10,000. As used in this paragraph,  
41 "submerged lands occupied" includes the sum of the area on which turbines,  
42 testing and monitoring equipment, anchoring or mooring lines, submerged  
43 transmission cables or other structures are placed and any additional area from  
44 which the director finds it necessary to exclude transient public trust uses to  
45 avoid unreasonable interference with the project's purposes. An annual rent is

1 not required for an offshore wind energy demonstration project located in the  
2 Maine Offshore Wind Energy Research Center, as designated by the department  
3 under section 1868, subsection 2.

4 (7) The director shall charge a lessee an annual rent in accordance with a fee  
5 schedule, established by the bureau by rule, that balances state goals of assurance  
6 of fair compensation for use and mitigation of potential adverse effects on or  
7 conflict with existing uses of state-owned submerged lands that are held in trust  
8 for the people of the State with state renewable ocean energy-related goals,  
9 ~~including state wind energy generation goals established in Title 35-A, section~~  
10 ~~3404, subsection 2.~~ Rules adopted pursuant to this subparagraph are routine  
11 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

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

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

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

21 **Sec. 3. 35-A MRSA §3152**, as amended by PL 2013, c. 369, Pt. F, §§2 to 4, is  
22 repealed.

23 **Sec. 4. 35-A MRSA §3152-A** is enacted to read:

24 **§3152-A. Policy and findings**

25 **1. State energy policy.** The Legislature declares that the primary energy policy of  
26 the State is to reduce electric rates and costs for businesses and households in the State  
27 and to reduce air pollution and greenhouse gas emissions pursuant to Title 38, section 576  
28 cost-effectively and to the maximum extent practicable.

29 **2. Increased efficiency.** The Legislature declares and finds that improvements in  
30 transmission and distribution utility rate design and related regulatory programs have  
31 great potential for reducing the cost of electric utility services to consumers, for  
32 encouraging energy conservation and efficient use of existing facilities and for  
33 minimizing the need for expensive new electric transmission capacity. It is the purpose  
34 of this chapter to:

35 A. Require the commission to relate transmission and distribution rates more closely  
36 to the costs of providing transmission and distribution service;

37 B. Require the commission to consider the ability of low-income residential  
38 customers to pay in full for electric services as transmission and distribution rates are  
39 redesigned consistent with these policies; and

