

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (S-480) (LD 1893 2020)

Date: 8/18/2020

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Date: (Filing No. S-)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 645, L.D. 1893, Bill, “An Act To Require a Lease of Public Lands To Be Based on Reasonable Market Value and To Require Approval of Such Leases for Commercial Purposes”

Amend the bill by striking out the title and substituting the following:

'Resolve, Regarding Legislative Review of the Lease to Central Maine Power Company of Constitutionally Protected Public Lands'

Amend the bill by striking out everything after the title and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands in December 2014 leased to Central Maine Power Company a 300-foot-wide, approximately one-mile-long transmission corridor across public reserved lands in West Forks Plantation and in Johnson Mountain Township; and

Whereas, the clearing and placement of large transmission towers and lines on a 300-foot-wide, approximately one-mile-long strip of land across constitutionally protected and unique public reserved lands is a substantially different use of these public lands; and

Whereas, the Constitution of Maine, Article IX, Section 23 and the implementing law, the Maine Revised Statutes, Title 12, section 598-A, require a vote of 2/3 of all the members elected to each House of the Legislature to approve any substantial alteration in the use of designated public reserved lands; and

Whereas, the Legislature did not have an opportunity to review or approve the lease to Central Maine Power Company of the above-mentioned designated public reserved lands, which will be substantially altered by the New England Clean Energy Connect project, a proposed 145-mile, 1,200-megawatt, high-voltage, direct-current transmission line passing through approximately 36 acres of designated public reserved lands; and

COMMITTEE AMENDMENT

1 **Whereas**, Central Maine Power Company on May 3, 2019 received a certificate of
2 public convenience and necessity from the Public Utilities Commission for the
3 construction of the New England Clean Energy Connect project, also known as the
4 transmission corridor project, to run from the Canadian border at the Province of Quebec
5 to a conversion station in Lewiston; and

6 **Whereas**, Title 35-A, section 3132 prohibits leases of state public lands to any
7 person for the purpose of constructing a transmission line that requires a certificate of
8 public convenience and necessity from the Public Utilities Commission prior to the
9 issuance of that certificate; and

10 **Whereas**, the Legislature has received a great deal of direct testimony and evidence
11 raising significant doubt about the legality and validity of the lease under the Constitution
12 of Maine and current state law; and

13 **Whereas**, in order to protect and preserve the public's vital interests in its public
14 reserved lands and ensure the Legislature's constitutional responsibilities with regard to
15 those lands is not usurped or undermined by potentially invalid leases of those lands, it is
16 immediately necessary to direct the termination of the transmission corridor project
17 across public reserved lands in West Forks Plantation and in Johnson Mountain Township
18 before the use of the lands is substantially and immutably altered; and

19 **Whereas**, Central Maine Power Company is awaiting permits for the transmission
20 corridor project from the Department of Environmental Protection and the United States
21 Army Corps of Engineers and expects the approvals to be granted this spring and plans to
22 begin construction of the transmission corridor project once the permits are issued; and

23 **Whereas**, in the judgment of the Legislature, these facts create an emergency within
24 the meaning of the Constitution of Maine and require the following legislation as
25 immediately necessary for the preservation of the public peace, health and safety; now,
26 therefore, be it

27 **Sec. 1. Lease agreement between the Bureau of Parks and Lands and**
28 **Central Maine Power Company. Resolved:** That the Department of Agriculture,
29 Conservation and Forestry, Bureau of Parks and Lands, referred to in this resolve as "the
30 bureau," shall immediately terminate its lease to Central Maine Power Company of a
31 portion of public reserved lands in West Forks Plantation and in Johnson Mountain
32 Township in Somerset County for a 300-foot-wide and approximately one-mile-long
33 transmission line corridor. The bureau may renegotiate a lease agreement with Central
34 Maine Power Company for the same or a different portion of public reserved lands; and

35 **Sec. 2. Considerations if lease renegotiated. Resolved:** That, if the bureau
36 renegotiates a lease agreement under section 1 with Central Maine Power Company,
37 referred to in this resolve as "the lessee," the bureau shall consider post-completion rental
38 payments and annual funding payments. Annual funding payments must be made to the
39 bureau for funding recreation infrastructure on public lands for increased public access
40 for recreational opportunities.

41 For purposes of this section, the following terms have the following meanings:



129th MAINE LEGISLATURE

LD 1893

LR 2903(02)

An Act To Require a Lease of Public Lands To Be Based on Reasonable Market Value and To Require Approval of Such Leases for Commercial Purposes

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

Minor revenue increase - Other Special Revenue Funds

Minor cost increase - General Fund

Fiscal Detail and Notes

This bill directs the Department of Agriculture, Conservation and Forestry (ACF) to terminate the existing lease agreement with Central Maine Power Company related to a certain portion of public reserved lands and to renegotiate a new lease more favorable to the State. At the time this bill was introduced in December of 2019, the ACF was receiving less than \$4,000 annually from this lease. In June of 2020 the lease agreement between the ACF and Central Maine Power Company was renegotiated independently of this bill. Under the terms of the new lease agreement, ACF will receive \$65,000 annually. Passage of this resolve will require the new lease be terminated and subsequently renegotiated. No estimate is made at this time on the amount of any costs incurred or revenue gained by a new round of negotiation of the lease in question.

Any additional costs to the Legislature for "the vote of 2/3 of all the members elected to each House" are assumed to be absorbed within exiting budgeted resources.