

# MAINE STATE LEGISLATURE

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SAC  
ROS

L.D. 856

Date: 3/22/22 Majority

(Filing No. H- 826)

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**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE**

6

**HOUSE OF REPRESENTATIVES**

7

**130TH LEGISLATURE**

8

**SECOND REGULAR SESSION**

9

COMMITTEE AMENDMENT "A" to H.P. 624, L.D. 856, "An Act To Balance Renewable Energy Development with Natural and Working Lands Conservation"

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

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'Sec. 1. 2 MRSA §9, sub-§3, ¶I, as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read:

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I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; ~~and~~

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Sec. 2. 2 MRSA §9, sub-§3, ¶J, as amended by PL 2011, c. 55, §2, is further amended to read:

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J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C including lowering the total cost of energy to consumers in this State; and

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Sec. 3. 2 MRSA §9, sub-§3, ¶K is enacted to read:

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K. Create and maintain a publicly accessible database of fully permitted or constructed energy facilities that may be used to identify land use and other energy trends. For purposes of this paragraph, "energy facility" means a facility constructed and operated for the purpose of generating energy for sale and that is connected to the electric transmission and distribution utility system within the State. The database must include key characteristics, including, but not limited to, geospatial data. The director may collect the data from state permitting agencies, the Public Utilities Commission and other relevant entities and may determine the format and schedule of data collection.

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Sec. 4. 38 MRSA §344, sub-§2-A, ¶B, as enacted by PL 1989, c. 890, Pt. A, §22 and affected by §40, is amended to read:

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**COMMITTEE AMENDMENT**

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B. The commissioner shall decide whether an application meets the permit by rule provisions under subsection 7 within 20 working days after notifying the applicant of acceptance of the application, except that the commissioner shall decide whether an application to undertake an activity that requires a permit pursuant to chapter 3, subchapter 1, article 6 meets the permit by rule provisions under subsection 7 within a time period set pursuant to the provisions of section 344-B.

**Sec. 5. Governor's Energy Office to plan for pilot program to study feasibility of dual-use projects.** The Governor's Energy Office, referred to in this section as "the office," in collaboration with the Department of Agriculture, Conservation and Forestry, the Public Utilities Commission and other state agencies and stakeholders, including research institutions, shall develop a plan to implement a dual-use energy pilot program, referred to in this section as "the pilot program plan," to test and study the efficacy and potential benefits of innovative solar energy systems that are connected to the electric transmission and distribution utility system and are located on natural and developed areas, including, but not limited to, farmland that is maintained in active agricultural or horticultural use, parking lots and aquatic sites. For purposes of this section, "dual-use project" means a mixed-use system combining use of land or aquatic sites with solar energy production.

The pilot program plan must:

- 1. Identify potential dual-use projects that collectively have a total capacity of 30 megawatts, with at least 20 megawatts reserved for dual-use projects on agricultural land, and that may warrant inclusion in a pilot program based on criteria including but not limited to emerging or potential commercial viability, potential applicability to the State, and potential to contribute meaningfully and cost-effectively to achievement of the goals established in the Maine Revised Statutes, Title 35-A, section 3210, subsection 1-A;
- 2. Identify and include eligibility criteria for dual-use projects to be included in the pilot program, including, but not limited to, the continuation of agricultural or horticultural uses of the affected land;
- 3. Identify if financial incentives, location-based incentives or other incentives to dual-use projects that would be considered for inclusion in the pilot program would be necessary, including mechanisms to minimize the cost of the pilot program to electric ratepayers in the State;
- 4. Ensure all approved agricultural dual-use projects permit the Department of Agriculture, Conservation and Forestry to conduct or direct research on compatible crops, grazing operations and other agricultural or horticultural uses of the land to determine best practices for dual-use projects. The determination of best practices must consider both the duration of uses of the land and the energy production of the solar energy system;
- 5. Include an application process for landowners seeking to be included in the pilot program, including landowners who have already deployed or are planning to deploy solar energy systems;
- 6. Examine benefits of dual-use project applications to individual landowners, the electric transmission and distribution utility system and the State's ability to meet clean energy and climate goals; and

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2 7. Include an evaluation process and selection criteria that may result in the approval  
3 of dual-use projects of varying sizes, in different geographic locations, that involve diverse  
4 types of sites and, if applicable, minimize negative impacts to farmland and the  
5 environment, and ensure appropriate innovation as well as planning for technical and  
6 financial feasibility, including interconnection with the electric transmission and  
distribution utility system.

7 The office, in coordination with the Department of Agriculture, Conservation and  
8 Forestry, shall submit a report with a plan for implementing the pilot program to the joint  
9 standing committees of the Legislature having jurisdiction over agriculture, conservation  
10 and forestry matters; energy and utilities matters; and environment and natural resources  
11 matters no later than March 1, 2023 and each joint standing committee may submit  
12 legislation relating to the subject matter of the report to the First Regular Session of the  
13 131st Legislature.

14 **Sec. 6. Governor's Energy Office to include agricultural and natural**  
15 **resource stakeholders in distributed generation project programs stakeholder**  
16 **group siting work sessions.** The Governor's Energy Office, referred to in this section  
17 as "the office," shall convene, no later than September 1, 2022, siting work sessions of the  
18 distributed generation project programs stakeholder group convened by the office pursuant  
19 to Public Law 2021, chapter 390, section 4. These siting work sessions must include  
20 representatives from natural resource agencies, stakeholders representing agricultural and  
21 natural resource interests and members of the distributed generation project programs  
22 stakeholder group. The siting work sessions must focus on land use considerations and  
23 how such considerations may be incorporated into distributed generation policy, including  
24 siting distributed generation facilities and electric grid planning. Such land use  
25 considerations may include the prioritization of the use of contaminated lands, such as  
26 brownfields and land contaminated with perfluoroalkyl and polyfluoroalkyl substances,  
27 rooftops, gravel pits and previously developed parcels, and other criteria that safeguard or  
28 avoid valuable agricultural land, rare, threatened and endangered species and rare and  
29 exemplary natural communities. The office shall convene at least 3 siting work sessions  
30 to develop recommendations to avoid, minimize and compensate for agricultural and  
31 natural resource impacts, including, but not limited to, an in-lieu fee mitigation program  
32 and preference in procurement or tariff programs. No later than January 1, 2023, the siting  
33 work sessions must result in a report, with findings and recommendations, to the distributed  
34 generation project programs stakeholder group.

35 **Sec. 7. Appropriations and allocations.** The following appropriations and  
36 allocations are made.

37 **AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF**

38 **Bureau of Agriculture 0393**

39 Initiative: Provides ongoing funding for one Public Service Coordinator I position to  
40 support the design and establishment of a pilot program to study the feasibility of dual-use  
41 projects, provide technical assistance to municipalities considering proposals for utility-  
42 scale solar energy projects on agricultural, forested and natural lands, analyze impacts to  
43 agricultural and natural resources and assist with further solar policy development for the  
44 department.

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COMMITTEE AMENDMENT "A" to H.P. 624, L.D. 856

1	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
2	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
3	Personal Services	\$0	\$103,622
4			
5	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$103,622</u>
6	<b>Office of the Commissioner 0401</b>		
7	Initiative: Provides ongoing funding for related All Other costs to support the design and		
8	establishment of a pilot program to study the feasibility of dual-use projects, provide		
9	technical assistance to municipalities considering proposals for utility-scale solar energy		
10	projects on agricultural, forested and natural lands, analyze impacts to agricultural and		
11	natural resources and assist with further solar policy development for the department.		
12	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
13	All Other	\$0	\$3,902
14			
15	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$3,902</u>
16			
17	<b>AGRICULTURE, CONSERVATION AND</b>		
18	<b>FORESTRY, DEPARTMENT OF</b>		
19	<b>DEPARTMENT TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
20			
21	GENERAL FUND	\$0	\$103,622
22	OTHER SPECIAL REVENUE FUNDS	\$0	\$3,902
23			
24	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$107,524</u>
25	<b>EXECUTIVE DEPARTMENT</b>		
26	<b>Governor's Energy Office Z122</b>		
27	Initiative: Provides ongoing funding for one Public Service Coordinator II position and		
28	associated All Other costs to develop and maintain information technology and databases,		
29	including publicly accessible databases, and to coordinate engagement with municipalities		
30	and respond to other research needs.		
31	<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
32	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
33	Personal Services	\$0	\$150,000
34	All Other	\$0	\$100,000
35			
36	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$250,000</u>
37			
38	<b>EXECUTIVE DEPARTMENT</b>		
39	<b>DEPARTMENT TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
40			
41	GENERAL FUND	\$0	\$250,000
42			
43	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$250,000</u>

**COMMITTEE AMENDMENT**

ROS  
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2	<b>SECTION TOTALS</b>	<b>2021-22</b>	<b>2022-23</b>
3			
4	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$353,622</b>
5	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$3,902</b>
6			
7	<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$357,524</b>

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9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
10 number to read consecutively.

11 **SUMMARY**

12 This amendment replaces the bill, which is a concept draft.

13 The amendment directs the Governor's Energy Office to create and maintain a publicly  
14 accessible database of fully permitted or constructed energy facilities using renewable  
15 resources that may be used to identify land use trends.

16 Current law requires the Commissioner of Environmental Protection to decide whether  
17 an application for a permit under the Maine Revised Statutes, Title 38 meets the permit by  
18 rule requirements in statute within 20 working days after notifying the applicant of  
19 acceptance of the application. The amendment requires the commissioner to decide  
20 whether an application to undertake an activity that requires a permit pursuant to the site  
21 location of development law in Title 38, chapter 3, subchapter 1, article 6 meets the permit  
22 by rule requirements in statute within a time period set pursuant to Title 38, section 344-B,  
23 which regulates timetables for processing permit applications.

24 The amendment requires the Governor's Energy Office, in collaboration with the  
25 Department of Agriculture, Conservation and Forestry and the Public Utilities Commission  
26 and other state agencies, stakeholders and research institutions, to develop a plan to  
27 implement a dual-use energy pilot program and requires the office to submit a report with  
28 a plan for implementing a pilot program to the joint standing committees of the Legislature  
29 having jurisdiction over agriculture, conservation and forestry matters; energy and utilities  
30 matters; and environment and natural resources matters no later than March 1, 2023. Each  
31 joint standing committee is authorized to submit a bill relating to the subject matter of the  
32 report to the First Regular Session of the 131st Legislature.

33 The amendment directs the Governor's Energy Office to convene siting work sessions,  
34 no later than September 1, 2022, of the distributed generation project programs stakeholder  
35 group convened by the office pursuant to Public Law 2021, chapter 390, section 4.

36 The amendment establishes a Public Service Coordinator I position in the Department  
37 of Agriculture, Conservation and Forestry, Bureau of Agriculture, Food and Rural  
38 Resources to support the design and establishment of a pilot program to study the feasibility  
39 of dual-use projects, provide technical assistance to municipalities considering proposals  
40 for utility-scale solar energy projects and assist with further solar policy development for  
41 the department.

42 The amendment also establishes one position in the Governor's Energy Office to  
43 develop and maintain information technology and databases, including publicly accessible

**COMMITTEE AMENDMENT**

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COMMITTEE AMENDMENT "A" to H.P. 624, L.D. 856

databases, and to coordinate management with municipalities and respond to other research needs.

**FISCAL NOTE REQUIRED**

**(See attached)**

**COMMITTEE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 856

LR 41(02)

## An Act To Balance Renewable Energy Development with Natural and Working Lands Conservation

Fiscal Note for Bill as Amended by Committee Amendment *A (H-826)*

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$353,622	\$356,938	\$360,360
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$353,622	\$356,938	\$360,360
Other Special Revenue Funds	\$0	\$3,902	\$3,902	\$3,902

### Fiscal Detail and Notes

This bill includes ongoing appropriations beginning in fiscal year 2022-23 to the Department of Agriculture, Conservation and Forestry of \$103,622 for one Public Service Coordinator I position and ongoing allocations of \$3,902 for the associated All Other costs for the position. The bill also includes ongoing appropriations beginning in fiscal year 2022-23 of \$150,00 to the Governor's Energy Office for one Public Service Coordinator II position and appropriations of \$100,000 for the costs associated with the development and maintenance of a database of fully permitted or constructed energy facilities utilizing renewable resources that may be used to identify land use trends and potential natural resources impacts.