

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION

July 29, 2005

SECOND REGULAR SESSION

January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR

SECOND SPECIAL SESSION

NON-EMERGENCY LAWS IS

OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR

SECOND REGULAR SESSION

NON-EMERGENCY LAWS IS

AUGUST 23, 2006

**PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.**

Penmor Lithographers

Lewiston, Maine

2006

expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 36 MRSA §652, sub-§1, ¶E, as amended by PL 1979, c. 467, §4, is further amended to read:

E. The real estate and personal property owned ~~and~~ occupied and used for their own purposes by posts of the American Legion, Veterans of Foreign Wars, American Veterans of World War II, Grand Army of the Republic, Sons of Union Veterans of the Civil War, Spanish War Veterans, Disabled American Veterans and Navy Clubs of the U.S.A., ~~which shall be that are~~ used solely by those organizations for meetings, ceremonies or instruction or to further the charitable activities of the organization, including all facilities appurtenant to such use and used in connection therewith. ~~If any building shall not be used in its entirety for those purposes, but shall be used in part for those purposes and in part for any other purpose, exemption shall only be of the part used for those purposes. If an organization is not the sole occupant of the property, the exemption granted under this paragraph applies only to that portion of the property owned, occupied and used by the organization for its purposes.~~

Further conditions to the right of exemption are that:

- (1) ~~No~~ A director, trustee, officer or employee of any organization claiming exemption ~~shall~~ may not receive directly or indirectly any pecuniary profit from the operation thereof, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary of its purposes;
- (2) All profits derived from the operation thereof and the proceeds from the sale of its property are devoted exclusively to the purposes for which it is organized; and
- (3) The institution, organization or corporation claiming exemption under this subsection shall file with the tax assessors upon their request a report for its preceding fiscal

year in such detail as the tax assessors may reasonably require.

See title page for effective date.

CHAPTER 646

S.P. 477 - L.D. 1379

An Act To Amend the Maine Wind Energy Act

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

Sec. 1. 30-A MRSA §5223, sub-§3, as amended by PL 2003, c. 451, Pt. NNN, §1, is further amended by amending the last blocked paragraph to read:

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts ~~or~~ tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 or tax increment financing districts that consist solely of a community wind power generator or generators certified pursuant to Title 36, section 5219-AA, subsection 3.

Sec. 2. 35-A MRSA §3210, sub-§8 is enacted to read:

8. Credit trading. The commission shall allow competitive electricity providers to satisfy the portfolio requirements of subsection 3 through the use of renewable energy credits if the commission determines that a reliable system of electrical attribute trading exists.

Sec. 3. 35-A MRSA §3402, as enacted by PL 2003, c. 665, §3, is amended to read:

§3402. Legislative findings

The Legislature finds that it is in the public interest to explore opportunities for and encourage the development, where appropriate, of wind energy production in the State in a manner that is consistent with ~~high all state and federal~~ environmental standards and that achieves reliable, cost-effective, sustainable energy production on those sites in the State that will attract investment and permit the development of viable wind energy projects. The Legislature finds that the development of the wind energy potential in the State needs to be integrated into the existing energy supply and transmission systems in a way that achieves system reliability, total capital cost-effectiveness and optimum short-term and long-term benefits to Maine people. The Legislature finds it is in the public interest to encourage the construction and operation of

community wind power generator projects. For the purposes of this section, "community wind power generator" means an electricity-generating facility at any one site with instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy. The Legislature also finds it is in the public interest to encourage wind energy research and the development of wind generation equipment manufacturing facilities in the State.

Sec. 4. 35-A MRSA §3404 is enacted to read:

§3404. Determination of public policy

It is the policy of the State that its political subdivisions, agencies and public officials take every reasonable action to encourage the attraction of appropriately sited wind-energy-related development consistent with all state and federal environmental standards; the permitting and financing of wind energy projects; and the siting, permitting, financing and construction of wind energy research and manufacturing facilities.

Sec. 5. 36 MRSA §1760, sub-§89 is enacted to read:

89. Sales of tangible personal property to qualified community wind power generators. Beginning October 1, 2006, sales of tangible personal property to a qualified community wind power generator, as defined in section 5219-AA, for use directly and primarily in the generation of electricity by that community wind power generator. The exemption provided by this subsection is limited for each qualified community wind power generator to sales occurring on or before December 31, 2011.

Sec. 6. 36 MRSA §2017 is enacted to read:

§2017. Qualified community wind power generator; reimbursement of certain taxes

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Primarily" means more than 50% of the time during the period that begins on the date on which the property is first placed in service by the purchaser and ends 2 years from that date or at the time the property is sold, destroyed or otherwise permanently removed from service by the purchaser, whichever occurs first.

B. "Qualified community wind power generator" has the meaning given to it in section 5219-AA.

2. Reimbursement allowed. A reimbursement is allowed as provided in this section for a tax paid

pursuant to this Part with respect to the sale or use of tangible personal property that is physically incorporated in and becomes a permanent part of real property that is owned by or sold to a qualified community wind power generator and that is used directly and primarily by the qualified community wind power generator.

3. Claim for reimbursement. Claims under this section for reimbursement of taxes are controlled by this subsection.

A. A claim for reimbursement under this section must be filed by the contractor or subcontractor with the State Tax Assessor within 3 years from the date on which the tangible personal property was incorporated into real property. The reimbursement claim must be submitted on a form prescribed by the assessor and must be accompanied by a statement from a qualified community wind power generator certifying, under penalties of perjury, that the personal property with respect to which the tax was paid by the claimant has been placed in use directly and primarily by the qualified community wind power generator. All records pertaining to such certification and to the transactions in question must be retained for at least 6 years by the contractor or subcontractor, by the qualified community wind power generator and by the person, if any, that sold the real property in question to that business. The reimbursement claim must be accompanied by such additional information as the assessor may require. If a sales or use tax is included in the contractor's or subcontractor's contract price, the contractor or subcontractor shall file, at the request of the qualified community wind power generator, a claim for reimbursement in accordance with this section and pay the reimbursement to the qualified community wind power generator.

B. If, by agreement between the contractor or subcontractor and the qualified community wind power generator, the contractor or subcontractor assigns its right to claim and receive reimbursement, the qualified community wind power generator must file a claim for reimbursement in accordance with this subsection. Reimbursement may not be issued to a qualified community wind power generator under this paragraph unless the contractor or subcontractor has previously submitted to the bureau a certificate, signed by the contractor or subcontractor, releasing the contractor's or subcontractor's claim to the reimbursement. The certificate must be in a format prescribed by the State Tax Assessor.

4. Limitations. Limitations on reimbursements made pursuant to this section are governed by this subsection.

A. Reimbursements made by the State Tax Assessor pursuant to this section are limited to taxes paid in connection with sales of tangible personal property that occur within a period of 5 years from the date the qualified community wind power generator receiving the property is certified pursuant to section 5219-AA or by December 31, 2011, whichever occurs first.

B. Reimbursement pursuant to this section of taxes paid in connection with the sale of tangible personal property subsequently attached to real property may not be made when those real property improvements:

(1) Are owned by more than one person prior to their acquisition by the qualified community wind power generator whose certification accompanies the reimbursement claim pursuant to subsection 3; or

(2) Have been used for a business purpose by a person other than the qualified community wind power generator whose certification accompanies the reimbursement claim pursuant to subsection 3.

5. Audit. The State Tax Assessor has the authority to audit any claim filed under this section. If the assessor determines that the amount of the claimed reimbursement is incorrect, the assessor shall redetermine the claim and notify the claimant in writing of the redetermination. If the claimant has received reimbursement of an amount that the assessor concludes should not have been reimbursed, the assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

6. Payment of claims. The State Tax Assessor shall determine the benefit for each claimant under this section and certify to the State Controller the amount to be transferred to the qualified community wind power generator reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the sales tax category. The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

Sec. 6. 36 MRSA §5219-AA is enacted to read:

§5219-AA. Community wind power generator credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Public Utilities Commission.

B. "Community wind power generator" means an electricity-generating facility at any one site with an instantaneous generating nameplate capacity of not more than 10 megawatts that is powered entirely by wind energy.

2. Credit. An entity that is a qualified community wind power generator is allowed a credit in the amount of 100% of the tax that would otherwise be due under this Part for each of the taxable years that the entity is required to file a return pursuant to this Part beginning after the entity commences operation as a community wind power generator. The credit authorized under this section is limited to 10 consecutive years following commencement of operation as a community wind power generator.

3. Qualification. The credit available under this section is available only to those community wind power generators qualified as such by the commission prior to January 1, 2011. The commission may certify any legal entity as a community wind power generator if the commission determines that such certification would support construction of a community wind power generator in this State by that entity and the entity will own title or controlling interest in that generator. The entity must demonstrate to the commission that the construction of the facility would not be likely to occur absent the availability of the benefits under this section, section 1760, subsection 89 and section 2017. The commission may not certify a legal entity as a qualified community wind power generator if that entity commenced the site permit application process for the project prior to the effective date of this subsection.

4. Repeal. This section is repealed December 31, 2007.

See title page for effective date.
