

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Utilities and Energy*

*July 2006*

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# Maine State Legislature



## Office of Policy and Legal Analysis Office of Fiscal and Program Review

### 122nd Maine Legislature Second Regular Session

#### Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP.....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

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3. Set limits on actions a transmission and distribution utility may take in connection with a municipal acquisition of lighting equipment.

The committee, by letter dated December 13, 2005, notified the Public Utilities Commission that the committee's vote of Ought-Not-To-Pass was made with the understanding the commission would continue discussions with the Maine Municipal Association and Central Maine Power Company to examine the issues raised by the bill.

**LD 1379**

### **An Act To Amend the Maine Wind Energy Act**

**PUBLIC 646**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM MAJ	H-1108 BLISS
FLETCHER	OTP-AM MIN	S-365 BARTLETT

LD 1379 was carried over from the First Regular Session on the Special Appropriations Table by S.P. 640. At that time, both the House and Senate had passed the bill as amended by Senate Amendment "A" (S-365). There were many amendments to this bill proposed during the First Regular Session; only the committee amendments and Senate Amendment "A" (S-365) are included here; for a summary of other proposed amendments offered during the First Regular Session, reference may be made to the LD 1379 bill summary for First Regular Session. When LD 1379 came off the Special Appropriations Table at the end of the Second Regular Session, it was further amended by House Amendment "A" to Senate Amendment "A" (H-1108); Senate Amendment "A" to Senate Amendment "A" was also proposed but was not adopted; both of these amendments from the Second Regular Session are included in this summary.

LD 1379 proposed to establish various policies and incentives to promote the construction of wind generation facilities as well as wind energy equipment manufacturing facilities. It also proposed a legislative finding regarding transmission upgrades connecting northern and eastern Maine and southern Maine. Specifically, the bill proposed to:

1. Authorize the transfer of up to \$2 million/year for up to 10 years from the Public Utilities Commission's conservation program fund to the Finance Authority of Maine (FAME) to provide capitalization for FAME financing of wind energy projects. It proposed to direct FAME and the Public Utilities Commission to determine the most cost effective ways to use FAME authority to assist in financing wind development;
2. Allow a business to be designated to receive Pine Tree Development Zone benefits if it would support the construction by that business of a wind-powered generator;
3. Allow a competitive electricity provider to meet the resource portfolio requirements of Title 35-A, section 3210 through renewable credits, if a reliable credit-trading system exists;
4. Create legislative findings that it is in the public interest to encourage the construction of 300 megawatts of wind generation by 2010 and that it is in the public interest to encourage the development of wind energy research and generation equipment manufacturing facilities;
5. Create a legislative finding that enhancement of transmission from northern and eastern Maine to southern Maine is essential to wind development and to the efficient connection of northern and eastern Maine with the rest of the U.S.;

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6. Establish as the policy of the State that political subdivisions, agencies and public officials “take every reasonable action to encourage and expedite” permitting and financing of wind projects and siting, permitting, financing and construction of wind energy research and manufacturing facilities; and
7. Direct the Board of Environmental Protection to adopt by January 15, 2006 major substantive rules to streamline the process for reviewing and permitting wind-power generation projects up to 100 megawatts, deal on a general basis with wind permitting issues in order to “narrow the regulatory focus,” and determine, in consultation with LURC, “preferred” wind project siting areas (areas 50,000 acres or more in size).

**Committee Amendment “A” (S-283)** (not adopted) was the majority report of the Joint Standing Committee on Utilities and Energy; it proposed to replace the bill. The amendment proposed to establish as 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 high environmental standards; the permitting and financing of wind energy projects; and the siting, permitting, financing and construction of wind energy research and manufacturing facilities where appropriate.

This amendment also proposed to direct the Energy Resources Council to study and report on the type of electricity generation referred to as “community wind.” The Joint Standing Committee on Utilities and Energy would be authorized to report out legislation regarding community wind to the Second Regular Session of the 122nd Legislature.

**Committee Amendment “B” (S-284)** (not adopted) was the minority report of the Joint Standing Committee on Utilities and Energy; it proposed to replace the bill. The amendment proposed to:

1. Authorize the granting of Pine Tree Development Zone benefits to an entity if granting such benefits would support construction in the State by that entity of a community wind power generator with a capacity of no more than 10 megawatts;
2. Direct the Public Utilities Commission to adopt rules allowing the use of renewable energy credits to satisfy the resource portfolio requirements of Title 35-A, section 3210;
3. Require the Public Utilities Commission, in consultation with the Department of Environmental Protection and the Finance Authority of Maine, to develop recommendations on ways of promoting community wind power generator projects of up to 10 megawatts;
4. Establish a legislative finding that it is in the public interest to encourage the construction in the State by 2010 of up to 300 megawatts of wind energy capacity, including but not limited to community wind power generator capacity;
5. Establish as 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 high environmental standards; the permitting and financing of wind energy projects; and the siting, permitting, financing and construction of wind energy research and manufacturing facilities;
6. Require the Board of Environmental Protection to adopt by January 15, 2006 rules that deal on a general basis with issues that arise in the permitting of wind energy facilities of any size;
7. Direct the Public Utilities Commission to determine the most effective ways for the commission to assist in the financing of wind energy projects; and

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8. Direct the Department of Environmental Protection and the Maine Land Use Regulation Commission to provide a report to the Joint Standing Committee on Utilities and Energy on the agencies' siting guidelines and authorize the committee to report out legislation on wind energy to the Second Regular Session of the 122nd Legislature.

**Senate Amendment “A” (S-365)** proposed to replace the bill. The amendment proposed to incorporate the provisions of Committee Amendment “B” with other proposed House and Senate amendments and make further changes to the bill. Specifically, it proposed the following:

1. To exempt from the provisions of Title 30-A, section 5223(3) (relating to municipal establishment of development districts) tax increment financing districts consisting solely of community wind power generators certified by the Commissioner of Economic and Community Development;
2. To direct the Public Utilities Commission to allow the use of renewable energy credits (RECs) to satisfy resource portfolio requirements if the commission determined a reliable system of RECs exists. It proposed to require the commission to adopt rules on this matter;
3. To establish legislative findings that it is in the public interest to encourage the construction of community wind power generators. It also proposed to establish a finding that it is in the public interest to encourage wind energy research and the development of wind generation equipment manufacturing facilities in the state;
4. To establish as 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 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;
5. To create a sales and use tax exemption for sales to construction contractors of personal property made a permanent part of real property owed by a community wind power generator. The tax exemption would be available between October 1, 2005 and December 31, 2010;
6. To create a sales and use tax exemption for sales to a community wind power generator of personal property for use in the generation of electricity by the community wind power generator. The tax exemption would be available between October 1, 2005 and December 31, 2010;
7. To provide an income tax credit to community wind power generators certified by the Commissioner of Economic and Community Development. The amount of the credit would be 100% of the income tax that would otherwise be due from the entity. The credit would be available for 10 years following commencement of operation of the wind power generator. To qualify a generator would be required to be certified before January 1, 2010;
8. To require the Board of Environmental Protection to adopt by March 1, 2006 rules that deal on a general basis with issues that arise in the permitting of wind energy facilities. The guidelines would not affect the municipal permitting process;
9. To direct the Department of Environmental Protection and the Maine Land Use Regulation Commission to provide a report to the Joint Standing Committee on Utilities and Energy by March 1, 2006 on the agencies' wind energy project siting guidelines, including procedures when projects are located within the jurisdiction

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of both agencies. It proposed to authorize the committee to report out legislation on this matter to the 2<sup>nd</sup> Regular Session of the 122<sup>nd</sup> Legislature;

10. To direct the Public Utilities Commission to determine the most effective ways for the commission to assist in the financing of wind energy projects;
11. To direct the Public Utilities Commission to examine issues related to impediments to community wind power; and
12. To direct the Public Utilities Commission, in consultation with other agencies, to develop creative ways to promote and finance the development of community wind power.

**House Amendment “A” to Senate Amendment “A” (H-1108)** proposed the following changes to Senate Amendment “A”:

1. To add a provision providing reimbursement of sales taxes with respect to personal property that is made a permanent part of real property owned by a qualified community wind power generator and that is used by the generator;
2. To give the Public Utilities Commission, not the Commissioner of Economic Community Development, authority to certify entities as qualified community wind power generators for purposes of qualifying for the tax benefits provided under the amended bill. It proposed to repeal the authority to make such certifications on December 31, 2007;
3. To exclude a community wind power generator from certification and tax benefits if the entity had commenced the site permit application process for the project prior to the effective date of the Act;
4. To delay from October 1, 2005 to October 1, 2006 the sales tax benefits provided to qualified community wind power generators and delay from December 31, 2010 to December 31, 2011 the elimination of the sales tax exemption;
5. To repeal the community wind power generator income tax credit on December 31, 2007; and
6. To remove those provisions of Senate Amendment “A” that would require: rulemaking regarding improved permitting guidance; environmental siting guidelines for wind energy projects; Public Utilities Commission assistance in financing wind energy projects; rulemaking regarding allowing credit trading; examination by the Public Utilities Commission of community wind; and a study of incentives to facilitate the development of community wind power generator projects.

**Senate Amendment “A” to Senate Amendment “A” (S-696)** (not adopted) proposed to make the same changes to Senate Amendment “A” as proposed by House Amendment “A” to Senate Amendment “A” (H-1108) except that it did not propose to give the Public Utilities Commission the authority to certify entities as community wind power generators for purposes to qualifying for the tax benefits.

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### ***Enacted law summary***

Public Law 2005, chapter 646 does the following:

1. Exempts from the provisions of Title 30-A, section 5223(3) (relating to municipal establishment of development districts) tax increment financing districts consisting solely of community wind power generators certified by the Public Utilities Commission under Title 36, section 5211-AA (a provision repealed on December 31, 2007);
2. Directs the Public Utilities Commission to allow the use of renewable energy credits (RECs) to satisfy the resource portfolio requirements if the commission determines a reliable system of RECs exists;
3. Establishes legislative findings that it is in the public interest to encourage the construction of community wind power generators. It also establishes a finding that it is in the public interest to encourage wind energy research and the development of wind generation equipment manufacturing facilities in the state;
4. Establishes as 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 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;
5. Creates a sales and use tax exemption for sales of equipment for use in the generation of electricity by a community wind power generator certified by the Public Utilities Commission under Title 36, section 5211-AA (a provision repealed on December 31, 2007). The tax exemption is available for up to five years from the date of certification by the Public Utilities Commission or until December 31, 2011, whichever comes first;
6. Provides sales and use tax reimbursement for equipment incorporated into property owned by a community wind power generator certified by the Public Utilities Commission under Title 36, section 5211-AA (a provision repealed on December 31, 2007) if the equipment is used by the generator more than 50% of the time during the first 2 years the property is owned by the generator. The reimbursement is available for up to five years from the date of certification by the Public Utilities Commission or until December 31, 2011, whichever comes first;
7. Provides an income tax credit to community wind power generators certified by the Public Utilities Commission under Title 36, section 5211-AA in the amount of 100% of the income tax that would otherwise be due. This provision provides that the credit is available for 10 years following commencement of operation of the generator, however the entire provision is repealed December 31, 2007; and
8. Directs the Public Utilities Commission to certify community wind power generators for purposes of the above-mentioned tax benefits. The commission is directed to certify generators only if construction of the facility would not likely occur absent the tax benefits. The provision does not permit the Public Utilities Commission to certify any community wind power generator if the site permit application process for the project had commenced prior to the effective date of the Act. This provision (Title 36, section 5211-AA) is repealed December 31, 2007.