

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

**JOINT STANDING COMMITTEE ON UTILITIES AND
ENERGY**

May 2008

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STATE OF MAINE
123RD LEGISLATURE
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**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

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

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Utilities and Energy

LD 2283

An Act To Implement Recommendations of the Governor's Task Force on Wind Power Development

**PUBLIC 661
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM	S-581

This bill implements recommendations of the Governor's Task Force on Wind Power Development in Maine.

Part A of this bill sets as a goal for the State the development of at least 2,000 megawatts of installed wind power capacity by 2015 and at least 3,000 megawatts of installed wind power capacity by 2020. Part A provides for expedited permitting of grid-scale wind energy development and establishes an expedited permitted area consisting of all organized areas of the state excluding waters subject to tidal influence and specific places within unorganized and deorganized areas of the state. It establishes the Department of Environmental Protection (DEP) as the primary siting authority for wind energy development in the organized areas and the Maine Land Use Regulation Commission (LURC) as the primary siting authority in the unorganized and deorganized areas of the state. It specifies how the primary siting authority must look at the effects of a wind energy development on scenic resources. It specifically requires that the primary siting authority determine whether the development has an unreasonable adverse effect on scenic values and existing uses related to the scenic character of a scenic resource of state or national significance but does not require that a development "fits harmoniously" into the existing natural environment. It outlines the siting considerations for smaller-scale wind energy developments in organized areas of the State and establishes DEP certification requirements for the construction and operation of such developments. A development with a generating capacity of less than 100 kilowatts is exempted from these certification requirements. Part A of the bill also requires the Governor's Office of Energy Independence and Security on an annual basis to monitor and make an assessment of progress toward meeting the state's wind energy development goals.

Part B of this bill specifies the process and criteria for the DEP review of wind energy development applications, including review of expedited wind energy development proposals under the Natural Resources Protection Act and the Site Location of Development Law. It also prohibits the Board of Environmental Protection from assuming jurisdiction over an application for an expedited wind energy development of certification of a smaller-scale wind energy development. Part B of the bill also specifies that a decision regarding an expedited wind energy development application may be appealed directly to the Supreme Judicial Court sitting as the Law Court. Part B requires the DEP and LURC, no later than September 1, 2008, to jointly specify submission requirements for wind energy development applications.

Part C of this bill authorizes the Maine Land Use Regulation Commission to add areas to the expedited permitting areas for wind energy development. It requires LURC to adopt rules no later than September 1, 2008 listing specified places that comprise the expedited permitting area. It also specifies the process and criteria for LURC review of proposed wind energy developments of greater than 100 kilowatts. Part C also directs LURC to amend its comprehensive land use plan to conform with the provisions of this bill.

Part D of this bill adds wind energy systems to the Public Utilities Commission's existing solar energy rebate program. To qualify for a rebate, a wind energy system must be installed by a master electrician or a factory-trained and approved dealer working under the supervision of a master electrician. Part D divides the funding for rebates equally between solar energy systems and wind energy systems.

Part E of this bill specifies that the Act applies to a proposed development for which the DEP or LURC has not accepted an application as complete for processing as of the effective date of the Act and specifies any rules adopted pursuant to this Act by DEP or LURC as routine technical rules.

Committee Amendment "A" (S-581)

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This amendment makes the following changes to the bill.

1. It clarifies the definition of "scenic resource of state or national significance" to specify that it is limited to areas that are owned by the public or to which the public has legal right of access and to clarify that it includes scenic viewpoints on pedestrian trails that the Department of Conservation designates by rule as having state or national significance, as well as scenic viewpoints on state public reserved land as provided in the bill.
2. It clarifies that the rulemaking of the Executive Department, State Planning Office with respect to the methodology for conducting a scenic inventory of scenic resources is limited to those resources located in the coastal area.
3. It clarifies the application of the scenic standard regarding the effect of an expedited wind energy development to require the primary siting authority to determine whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of the scenic resource.
4. It clarifies that municipalities are permitted but not required to enforce the standards for a wind energy development certification issued by the Department of Environmental Protection for a smaller-scale wind energy development and that the department is not responsible for enforcement of such standards.
5. It adds language to require the Executive Department, Governor's Office of Energy Independence and Security to submit its findings and recommendations from its annual assessment of progress toward reaching the State's wind energy goals to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and to require the office in its the first report, due January 15, 2009, to include an assessment of whether additional funding is needed to analyze the tangible benefits realized by wind energy developments.
6. It clarifies, with respect to appeals to the Board of Environmental Protection of license or permit decisions of the Commissioner of Environmental Protection regarding wind energy developments, that the administrative record of the department includes the record of any adjudicatory hearing of the department.
7. It amends the provision in the bill regarding the special fee that may be required by the DEP to provide a maximum fee of \$250,000 until September 1, 2009 and \$75,000 beginning September 1, 2009, rather than an unlimited fee for wind energy development as proposed in the bill. It also adds language to clarify that the Commissioner of Environmental Protection has the authority to enter into an agreement with an applicant for a payment of costs in excess of the maximum special fee.
8. It adds to the provision in the bill regarding submission requirements to be specified by the DEP and LURC for applications for wind energy developments to include as additional submission requirements postconstruction reporting of tangible benefits from wind energy development and decommissioning plans, including demonstration of ability to fully fund any necessary future decommissioning costs.
9. It clarifies that LURC's authority to amend the list of places included in the expedited permitting area is limited to adding additional areas to the list, and it clarifies the reference to the portion of Skinner Township included in the expedited permitting area.
10. It amends the provision in the bill regarding the establishment of a wind energy rebate to limit qualified wind energy systems to those with a peak generating capacity of 100 kilowatts or less and to specify that a qualified system is one that is located in an area with demonstrated wind energy potential rather than an area with a specific wind energy classification based on United States Department of Energy maps as provided in the bill. It revises the installation requirements for wind energy systems to narrow the requirement to the installation of the electrical components of the system. It also amends the allotment of the solar and wind energy rebate program funds between the different rebates to require the Public Utilities Commission to determine for each fiscal year the allotment of

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funds between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the fund provided to each of the 3 types of rebates.

11. It adds language to specify that this Act does not apply to a smaller-scale wind energy development in the organized areas subject to certification by the DEP if a municipality has accepted an application for that proposed development as complete for processing as of the effective date of the Act. It also adds language to clarify that the Act is not intended to limit municipal authority to regulate wind energy development.

Enacted Law Summary

Public Law 2007, chapter 661 implements recommendations of the Governor's Task Force on Wind Power Development in Maine.

Part A of this law sets as a goal for the State the development of at least 2,000 megawatts of installed wind power capacity by 2015 and at least 3,000 megawatts of installed wind power capacity by 2020. Part A provides for expedited permitting of grid-scale wind energy development and establishes an expedited permitted area consisting of all organized areas of the state excluding waters subject to tidal influence and specific places within unorganized and deorganized areas defined in rule. It establishes the Department of Environmental Protection (DEP) as the primary siting authority for wind energy development in the organized areas and the Maine Land Use Regulation Commission (LURC) as the primary siting authority in the unorganized and deorganized areas of the State. It specifies how the primary siting authority must look at the effects of a wind energy development on scenic resources. It specifically requires that the primary siting authority determine whether the development significantly compromises views from a scenic resource of state or national significance such that the development has an unreasonable adverse effect on scenic values and existing uses related to the scenic character of a scenic resource of state or national significance; it does not require that a development "fits harmoniously" into the existing natural environment. It outlines the siting considerations for smaller-scale wind energy developments in organized areas of the State. It establishes certification requirements under the DEP for the construction and operation of smaller-scale wind energy development located in the organized areas of the State. A development with a generating capacity of less than 100 kilowatts is exempted from these requirements. Part A of the law also requires the Governor's Office of Energy Independence and Security on an annual basis to monitor and make an assessment of progress toward meeting the state's wind energy development goals and to submit its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15th of each year.

Part B of this law prohibits the Board of Environmental Protection from assuming jurisdiction over an application for an expedited wind energy development or certification of a smaller-scale wind energy development. It also specifies the process and criteria for the DEP review of wind energy development applications, including review of expedited wind energy development proposals under the Natural Resources Protection Act and the Site Location of Development Law. Part B of the law also specifies that a decision regarding an expedited wind energy development application may be appealed directly to the Supreme Judicial Court sitting as the Law Court. Part B requires the DEP and LURC, no later than September 1, 2008, to jointly specify submission requirements for wind energy development applicants, including postconstruction reporting of tangible benefits and decommissioning plans.

Part C of this law authorizes the LURC to add areas to the expedited permitting areas for wind energy development. It requires LURC to adopt rules no later than September 1, 2008 listing specified places that comprise the expedited permitting area. It also specifies the process and criteria for LURC review of proposed wind energy developments of greater than 100 kilowatts. Part C also directs LURC to amend its comprehensive land use plan to conform with the provisions of this bill.

Part D of this law adds wind energy systems to the Public Utilities Commission's existing solar energy rebate program. To qualify for a rebate, a wind energy system must have a peak generating capacity of 100 kilowatts or less and the electrical components of the system must be installed by a master electrician or a factory-trained and approved dealer working under the supervision of a master electrician. Part D authorizes the Public Utilities

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Commission to determine for each fiscal year the allotment of funds between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the funds provided to each of the three types of rebates.

Part E of this law specifies that the Act applies to a proposed development for which the DEP or LURC has not accepted an application as complete for processing as of the effective date of the Act and specifies any rules adopted pursuant to this Act by DEP or LURC as routine technical rules. It also specifies that the Act does not apply to a proposed wind energy development of a type that is subject to a smaller-scale wind energy development in the organized areas subject to DEP certification, if a municipality has accepted an application for that proposed development as complete for processing as of the effective date of the Act. It also adds language to clarify that the Act is not intended to limit municipal authority to regulate wind energy development.

Public Law 2007, chapter 661 was enacted as an emergency measure effective April 18, 2008.

LD 2292 Resolve, To Establish a Stakeholder Group To Study the Sale or Lease of the State's Excess Broadband Capacity

ONTP

Sponsor(s)

DILL

Committee Report

ONTP

Amendments Adopted

This resolve directs the Governor's Office of Energy Independence and Security to create a stakeholder group to review the potential sale of the excess capacity that occurs during the transition from analog broadcasting to digital broadcasting and to report its findings and recommendations and any suggested legislation to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.

The Joint Standing Committee on Utilities and Energy, by letter dated April 14, 2008, requested that the ConnectME Authority convene a stakeholder group to examine the issues presented in the bill and report back to the committee by January 15, 2009.