

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the Second Regular Session of the 124th Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON UTILITIES AND
ENERGY**

April 2010

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STATE OF MAINE

124TH LEGISLATURE
SECOND REGULAR SESSION



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 Session of the 124th 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>CARRIED OVER</i> | <i>Carried over to a subsequent session of the Legislature</i> |
| <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 HOUSES</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 of the 124th Legislature is Monday, July 12, 2010. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Utilities and Energy

resources.

LD 1504

An Act To Provide Predictable Benefits to Maine Communities That Host Wind Energy Developments

PUBLIC 642

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| MILLS P | OTP-AM | H-829 FITTS S-501 |

This bill requires that proposals for expedited wind energy development projects must demonstrate to the siting authority that the proposed generating facility will provide a tangible benefit to Maine ratepayers in the form of a reduction in long-term electric rates.

Committee Amendment "A" (S-501)

This amendment replaces the bill. Part A of the amendment does the following.

1. It requires an applicant for an expedited wind energy development to establish a community benefits package in an amount of no less than \$4,000 per year per wind turbine. The package is an aggregate collection of tangible benefits resulting from an expedited wind energy development from: payments to the host community or communities; payments that reduce energy costs in the host community or communities; and donations for land or natural resource conservation.
2. It also requires an applicant for an expedited wind energy developments to provide, as part of any permit application, detailed documentation of tangible benefits to be provided.
3. It provides certain exceptions from the community benefits package requirement. Specifically, the requirement is waived for any development that has an installed capacity of less than 20 megawatts or is owned by a nonprofit, public or quasi-public entity, and the requirement does not apply to those turbines included in the development that are located in a host community in which the legislative body has voted to waive or reduce the requirement or located on Passamaquoddy Indian territory or Penobscot Indian territory at the option of the respective tribe or nation. It also allows the Aroostook Band of Micmacs to be treated as a host community with respect to expedited wind energy developments on Band Trust Land, as defined in the federal Aroostook Band of Micmacs Settlement Act, Public Law 102-171, 105 Stat. 1143 (1991), if the band obtains through appropriate legislation municipal authority that is substantially equivalent to the authority possessed by the Penobscot Nation and the Passamaquoddy Tribe under the Maine Revised Statutes, Title 30, section 6206 within their respective Indian territories.
4. It specifies that community benefit agreement payments to counties acting as host communities may be used for projects and programs of public benefit located anywhere within that county.
5. It requires the Department of Economic and Community Development and the Executive Department, State Planning Office, to the extent practicable within existing resources, to provide assistance to host communities, upon a community's request, in connection with benefits from expedited wind energy developments.
6. It requires the Executive Department, Governor's Office of Energy Independence and Security, in its annual assessment and report on wind energy, to include a summary of tangible benefits provided, including community benefits packages and community benefit agreement payments and to review the community benefits package requirement and actual amounts of negotiated community benefits packages relative to the required minimum.

Part B of the amendment amends the law governing appeals of final actions of the Commissioner of Environmental

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Protection, the Board of Environmental Protection and the Maine Land Use Regulation Commission regarding an application for an expedited wind energy development. The amendment requires that any appeal of final action in these instances be taken to the Supreme Judicial Court and specifies that the Law Court has exclusive jurisdiction over requests for judicial review of final agency action regarding expedited wind energy developments. Part B also requires that any judicial appeal of a municipal decision regarding permitting of an expedited wind energy development be heard and determined by the Superior Court as expeditiously as possible.

House Amendment "A" To Committee Amendment "A" (H-829)

This amendment addresses the costs of and fees for certain applications before the Maine Land Use Regulation Commission and the Department of Environmental Protection. It requires that the director of the Maine Land Use Regulation Commission shall keep billing statements from other state agencies for the actual cost of the application review for a project designated as an extraordinary project. For an application to the Department of Environmental Protection that has been designated by the Commissioner of Environmental Protection as subject to special fees, the amendment requires:

1. Staff of the Department of Environmental Protection, as well as staff of the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources to submit quarterly reports to the Commissioner of Environmental Protection detailing the time spent on that application;
2. That the processing fee for such an application be equal to the actual cost to the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources;
3. That the processing fee be distributed to each department that incurs a cost to be deposited in the account in which the expenses were incurred in that department to reimburse the actual cost to that department; and
4. That any appeal of an application fee must be made to the agency of jurisdiction of the application.

Enacted Law Summary

Public Law 2009, chapter 642 establishes a community benefits package requirement for expedited wind energy developments as follows.

1. It requires an applicant for an expedited wind energy development to establish a community benefits package in an amount of no less than \$4,000 per year per wind turbine. The package is an aggregate collection of tangible benefits resulting from an expedited wind energy development from: payments to the host community or communities; payments that reduce energy costs in the host community or communities; and donations for land or natural resource conservation.
2. It also requires an applicant for an expedited wind energy developments to provide, as part of any permit application, detailed documentation of tangible benefits to be provided.
3. It provides certain exceptions from the community benefits package requirement. Specifically, the requirement is waived for any development that has an installed capacity of less than 20 megawatts or is owned by a nonprofit, public or quasi-public entity, and the requirement does not apply to those turbines included in the development that are located in a host community in which the legislative body has voted to waive or reduce the requirement or located on Passamaquoddy Indian territory or Penobscot Indian territory at the option of the respective tribe or nation. It also allows the Aroostook Band of Micmacs to be treated as a host community with respect to expedited wind energy developments on Band Trust Land, as defined in the federal Aroostook Band of Micmacs Settlement Act, Public Law 102-171, 105 Stat. 1143 (1991), if the band obtains through appropriate legislation municipal authority that is substantially equivalent to the authority possessed by the Penobscot Nation and the Passamaquoddy Tribe under the Maine Revised Statutes, Title 30, section 6206 within their respective Indian territories.

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4. It specifies that community benefit agreement payments to counties acting as host communities may be used for projects and programs of public benefit located anywhere within that county.
5. It requires the Department of Economic and Community Development and the Executive Department, State Planning Office, to the extent practicable within existing resources, to provide assistance to host communities, upon a community's request, in connection with benefits from expedited wind energy developments.
6. It requires the Executive Department, Governor's Office of Energy Independence and Security, in its annual assessment and report on wind energy, to include a summary of tangible benefits provided, including community benefits packages and community benefit agreement payments and to review the community benefits package requirement and actual amounts of negotiated community benefits packages relative to the required minimum.

The law also includes several provisions regarding appeals of final actions of the Commissioner of Environmental Protection, the Board of Environmental Protection and the Maine Land Use Regulation Commission with respect to applications for expedited wind energy developments. Specifically, it requires that any appeal of final action in these instances be taken to the Supreme Judicial Court and specifies that the Law Court has exclusive jurisdiction over requests for judicial review of final agency action regarding expedited wind energy developments. It also requires that any judicial appeal of a municipal decision regarding permitting of an expedited wind energy development be heard and determined by the Superior Court as expeditiously as possible.

The law also addresses the costs of and fees for certain applications before the Maine Land Use Regulation Commission and the Department of Environmental Protection. It requires that the director of the Maine Land Use Regulation Commission shall keep billing statements from other state agencies for the actual cost of the application review for a project designated as an extraordinary project. For an application to the Department of Environmental Protection that has been designated by the Commissioner of Environmental Protection as subject to special fees, the law requires:

1. Staff of the Department of Environmental Protection, as well as staff of the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources to submit quarterly reports to the Commissioner of Environmental Protection detailing the time spent on that application;
2. That the processing fee for such an application be equal to the actual cost to the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources;
3. That the processing fee be distributed to each department that incurs a cost to be deposited in the account in which the expenses were incurred in that department to reimburse the actual cost to that department; and
4. That any appeal of an application fee must be made to the agency of jurisdiction of the application.

LD 1515 An Act To Amend the Charter of the Caribou Utilities District

**P & S 29
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| EDGECOMB | OTP-AM | H-614 |

This bill amends the charter of the Caribou Utilities District by allowing the district to disconnect the water service of a consumer for nonpayment of sewer services and also allows the district to enter into contracts for the disposal of