

Office of Policy and Legal Analysis

Date: November 17, 2021
To: Joint Standing Committee on Energy, Utilities and Technology
From: Deirdre Schneider, Legislative Analyst
Re: LD 170, An Act Pertaining to Transmission Lines Not Needed for Reliability or Local Generation and LD 1587, An Act To Remove the Municipal Ordinance Exemption for the Development of Nonessential Transmission Lines

LD 170, An Act Pertaining to Transmission Lines Not Needed for Reliability or Local Generation (Rep. Grohoski)

Summary

This bill establishes requirements for the approval of construction of nonessential transmission lines by the Public Utilities Commission when a transmission and distribution utility is seeking a certificate of public convenience and necessity.

The bill defines "nonessential transmission line" as a transmission line that is not being constructed primarily for reliability purposes or to serve retail customers in the State.

It also specifies that a generator interconnection transmission facility is not a nonessential transmission line.

It requires that when a transmission and distribution utility is petitioning for commission approval of a nonessential transmission line, the utility is required to demonstrate that it will provide a minimum benefit to ratepayers in the State of equal value to the ratepayer-funded physical assets used to construct the nonessential transmission line.

The bill also requires the commission to conduct an inquiry to determine statutory or rule changes needed to ensure that nonessential transmission lines are built in the most competitive and cost-effective manner and with consideration given to ratepayer benefits and greenhouse gas reduction goals and to report the results of the inquiry to the Joint Standing Committee on Energy, Utilities and Technology.

Lastly, it repeals two subsections of law that are remnants of a law that was repealed (35-A MRSA §122), but has now been amended by the initiated ballot measure.

Actions taken last session

The committee held a work session on this bill on March 25, 2021, and subsequently voted to carry it over to next session.

Comparison of LD 170 to the Initiated Ballot Measure

The initiated ballot measure, which appears to have been approved at referendum but is not yet law, includes the following definition for “high impact transmission line”:

4-A. High-impact electric transmission line. "High-impact electric transmission line" means a transmission line greater than 50 miles in length that is:

- A. Constructed to transmit direct current electricity; or
- B. Capable of operating at 345 kilovolts or more and:
 - (1) Is not a generator interconnection transmission facility as defined in section 3132, subsection 1-B; and
 - (2) Is not constructed primarily to provide electric reliability, as determined by the commission.

This is similar to the definition of nonessential transmission line in the LD 170. The ballot measure requires a high-impact transmission line to receive a certificate of public necessity and convenience (CPCN) and also requires approval of the Legislature and a 2/3 approval of the Legislature if the line crosses public lands.

LD 170 proposes to repeal a section of law defining “high impact transmission line” and a section of law regarding high-impact transmission lines and the need for a CPCN. Both of those sections were amended by the ballot measure.

Furthermore, LD 170 and the ballot measure each enact a new section of law (35-A MRSA § 3132(6-C)) applicable to the review and approval process for these types of transmission lines. If moving forward with LD 170, this overlap would need to be reconciled.

As both LD 170 and the ballot measure appear to address a similar situation in different ways, in light of the approval of the ballot measure by the voters, if the committee wants to move forward with LD 170, it should consider how to avoid creating conflicts or ambiguity with the ballot measure.

LD 1587, An Act To Remove the Municipal Ordinance Exemption for the Development of Nonessential Transmission Lines (Rep. Landry)

Summary

This bill removes the construction of a nonessential transmission line by an investor-owned transmission and distribution utility for the transmission and distribution of electricity from a generation source located outside of the State from the whole or partial exemption from an ordinance when the Public Utilities Commission determines that the exemption is reasonably necessary for public welfare and convenience. It also changes the rulemaking authority under the Maine Revised Statutes, Title 30-A, section 4352, subsection 4 from routine technical to major substantive.

Actions taken last session

The committee held a work session on this bill on May 13, 2021 and voted to seek an opinion from the AGs Office as to whether this bill could be classified as a competing measure. The committee did not receive a response to this request and it subsequently voted to carry the bill over to next session.

Comparison of LD 1587 to the Initiated Ballot Measure

This bill uses and defines the term nonessential transmission line in the same way as LD 170. Section 2 of LD 1587 amends the definition of “high-impact transmission line” in the same way that this term was amended in the initiated ballot measure. If the committee moves forward with this bill, it may want to remove section 2 as it does not appear to be necessary in light of the presumed approval of the ballot measure.

Like LD 170, LD 1587 also repeals a section of law regarding high-impact transmission lines and the need for a CPCN that is amended in the ballot measure.

It appears that there is some overlap between LD 1587 and the ballot measure so the committee may want to consider reconciling LD 1587, if moving forward, in light of the presumed approval of the ballot measure by voters to avoid creating conflicts or ambiguity.