

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Reform Land Use Planning in the Unorganized Territory**

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

**Sec. 1. 5 MRSA §12004-D, sub-§1**, as amended by PL 2007, c. 617, §1, is repealed.

**Sec. 2. 5 MRSA §12004-D, sub-§1-A** is enacted to read:

**1-A.**

12 MRSA §683-A

Maine Land Use Planning  
Commission

Legislative Per Diem Plus  
Expenses. Notwithstanding  
any limitation on noontime  
meal expenses in section  
12002, subsection 2, for  
each day in attendance at  
a commission meeting or  
hearing, each member is  
entitled to a meal allowance  
not to exceed the legislative  
meal allowance for each  
session day as provided for in  
Title 3, section 2.

**Sec. 3. 12 MRSA §681**, as amended by PL 2009, c. 401, §1, is further amended to read:

### **§ 681. Purpose and scope**

The Legislature finds that it is desirable to extend principles of sound planning, zoning and ~~subdivision control~~development to the unorganized and deorganized townships of the State: To preserve public health, safety and general welfare; to support and encourage Maine's natural resource-based economy and strong environmental protections; to encourage appropriate residential, recreational, commercial and industrial land uses; to honor the rights and participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the State; to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper long-term health, use and value of these areas and to Maine's natural resource-based economy; to prevent discourage the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses; to prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads; to prevent the despoliation, pollution and inappropriate usedetrimental uses of the water in these areas; and to preserveconserve ecological and natural values.

The Legislature declares it to be in the public interest, for the public benefit, for the good order of the people of this State and for the benefit of the property owners and residents of the unorganized and deorganized townships of the State, to encourage the well-planned and well-managed multiple use, including conservation, of land and resources and to encourage and facilitate regional economic viability. The Legislature acknowledges the importance of these areas in the continued vitality of the State and to local economies. Finally, the Legislature desires to encourage the appropriate use of these lands by the residents of Maine and visitors in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

**Sec. 4. 12 MRSA §682, sub-§1**, as amended by PL 2009, c. 615, Pt. D, §1, is repealed and the following enacted in its place:

- 1. Unorganized and deorganized areas.** "Unorganized and deorganized areas" includes:
  - A. All unorganized and deorganized townships;
  - B. Plantations that have not received commission approval under section 685-A, subsection 4-A to implement their own land use controls;
  - C. Municipalities that have organized since 1971 that have not received commission approval under section 685-A, subsection 4-A to implement their own land use controls; and
  - D. All other areas of the State that are not part of a municipality except Indian reservations.

For the purposes of permitting a community-based offshore wind energy project and structures associated with resource analysis activities necessary for such an intended project, the area of submerged land to be occupied for such a project and resource analysis structures is considered to be in the unorganized or deorganized areas.

**Sec. 5. 12 MRSA §682, sub-§20** is enacted to read:

**20. Planned subdistrict.** "Planned subdistrict" means a delineated area for which a specific land use plan and standards have been approved by the commission.

**Sec. 6. 12 MRSA §683**, as amended by PL 2009, c. 328, §1, is repealed.

**Sec. 7. 12 MRSA §683-A** is enacted to read:

### **§ 683-A. Creation of Maine Land Use Planning Commission**

The Maine Land Use Planning Commission, as established by Title 5, section 12004-D, subsection 1-A to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called "the commission." The commission is charged with implementing this chapter. The commission consists of 9 members, appointed or designated in accordance with subsections 1 and 2.

**1. Appointments by the Governor.** The Governor shall appoint 3 members to the commission. Gubernatorial appointments are subject to review by the joint standing committee of the Legislature having jurisdiction over conservation matters and to confirmation by the Legislature. In

selecting appointees, the Governor shall actively seek and give consideration to persons residing in or near the unorganized and deorganized areas of the State and to persons residing on unorganized coastal islands. Appointees to the commission must be familiar with the needs and issues affecting the commission's jurisdiction. All appointees must:

- A. Reside in the commission's jurisdiction;
- B. Work in the commission's jurisdiction;
- C. Be a former resident or be retired after working within the commission's jurisdiction for a minimum of 5 years; or
- D. Have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as these activities affect the commission's jurisdiction.

**2. Members representing a county.** Except as provided in subsection 5, one member must be appointed by each of the 6 counties with the most acreage in the unorganized or deorganized areas subject to the jurisdiction of the commission. The county commissioners of each of the counties shall select one among them or appoint another resident of that county to serve as a member of the commission.

**3. Eligibility.** A state employee may not be appointed to or serve as a member of the commission. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

**4. Terms.** All members are appointed to 4-year terms. Any member who has not been renominated by the Governor or the county commissioners prior to the expiration of that member's term may not continue to serve on the commission, unless the Governor notifies the Legislature in writing prior to the expiration of that member's term that extension of that member's term is required to ensure fair consideration of specific major applications pending before the commission. That member's term ends upon final commission decisions on the specific applications identified in the Governor's communication. Any member renominated by the Governor prior to the expiration of that member's term shall continue to serve on the commission until the nomination is acted upon by the Legislature. A vacancy during an unexpired term is filled as provided in this section, but only for the unexpired portion of the term.

**5. Replacement of a county representative.** If a county with a representative serving on the commission under subsection 2 assumes authority for land use planning and regulation under section 685-A, subsection 4-B, that county is no longer entitled to a member on the commission. The county commissioners of the county with the next highest acreage in the unorganized and deorganized areas without a representative on the commission shall appoint a person to represent that county as soon as practicable.

**6. Rules.** Unless otherwise provided in this chapter, rules adopted by the commission under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. 12 MRSA §684, first ¶**, as amended by PL 1999, c. 333, §4, is further amended to read:

The commission shall elect annually, from its own membership, a chair and such other officers it considers necessary. Meetings are held at the call of the chair or at the call of more than 1/2 of the membership. Meetings must be held at a location within the jurisdiction of the commission or another convenient location approved by the chair. The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter H~~2~~, may adopt whatever rules it considers necessary for the conduct of its business. The commission shall keep minutes of all proceedings, which are a public record available and on file in the office of the commission. Members of the commission are compensated as provided in Title 5, chapter 379. Commission members must receive an orientation and annual continuing education on this chapter, commission rules and planning and regulatory processes. A quorum of the commission for the transaction of business is ~~4~~5 members. No action may be taken by the commission unless upon approval by a vote of ~~4~~5 members.

**Sec. 9. 12 MRSA §685**, as amended by PL 1987, c. 308, §5 and c. 508, is further amended to read:

### **§ 685. Commission budget, financing and personnel**

The Commissioner of Conservation shall prepare a biennial budget and shall submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks. The commission may accept contributions of any type from any source to assist it in carrying out its assigned tasks, and make such requirements in respect to the administration of such funds, not inconsistent with this subchapter, as are required as conditions precedent to receiving such funds, federal or otherwise. The commission shall give public notice of all contributions, in the state paper, stating the source, the amount and the purpose of such contributions. The commission may contract with municipal, ~~State~~county, state and ~~Federal Governments~~federal governments or their agencies to assist in the carrying out of any of its assigned tasks. The Commissioner of Conservation, with the consent of a majority of the commission, shall appoint a director who ~~shall be~~ the principal administrative, operational and executive employee of the commission. The director shall attend all meetings of the commission and ~~be~~is permitted to participate fully but ~~shall~~is not be a voting member of the commission.

The commission shall establish and maintain at least 2 field offices, one in Greenville and one in Ashland, designed principally to provide assistance to the public on permit applications and to carry out such other functions of the commission as appropriate. These field offices ~~shall~~must be established ~~in at~~ locations in or close to the commission's jurisdiction and chosen to provide the maximum benefit to the public while minimizing costs. Historic levels of permitting activity, the convenience of access and the availability and cost of office facilities ~~shall~~must be considered in choosing the field office locations. Each office ~~shall~~must be open on a part-time basis at least 2 days a month or as public demand for the services of such field offices ~~warrant~~warrants and as resources allow. Whenever practicable, the commission shall make use of existing personnel to staff these field offices. Personnel must receive regular training to address customer service and other needs.

**Sec. 10. 12 MRSA §685-A, sub-§1**, as amended by PL 1999, c. 333, §5, is further amended to read:

**1. Classification and districting of lands.** The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that fall into land use districts and designate each area in one of the following major district classifications: protection, management and development. The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter ~~H2~~, shall adopt ~~regulations~~rules for determining the boundaries of each major type of district in accordance with the following standards:

A. Protection districts: Areas where development would jeopardize significant natural, recreational and historic resources, including, but not limited to, flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State;

B. Management districts: Areas that are appropriate for commercial forest product or agricultural uses or for the extraction of nonmetallic minerals and for which plans for additional development are not presently formulated nor additional development anticipated; and

D. Development districts: Areas ~~discernible as having patterns of intensiveness~~ that are appropriate for residential, recreational, commercial or industrial use or commercial removal of metallic minerals and areas appropriate for designation as development districts when measured against the purpose, intent and provisions of this chapter.

In addition to delineating the major district classifications listed, the commission may delineate such subclassifications as may be necessary and desirable to carry out the intent of this chapter. The commission may delineate and designate planned subdistricts and establish standards unique to each to efficiently balance the benefits of development and resource protection.

**Sec. 11. 12 MRSA §685-A, sub-§4**, as amended by PL 1987, c. 737, Pt. C, §§22 and 106; PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

**4. Land use standards considered as minimum requirements.** Land use standards must be interpreted and applied by the commission as minimum requirements, adopted to reasonably and effectively promote health, safety and general welfare and ensure compliance with state plans and policies.

If the requirements of the adopted land use standards are at variance with the requirements of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreational and historic resources governs.

The action by the commission under this subsection, subsection 4-A or subsection 4-B must conform with the provisions for rulemaking of the Maine Administrative Procedure Act.

**Sec. 12. 12 MRSA §685-A, sub-§4-A** is enacted to read:

**4-A. Transition from commission jurisdiction to the jurisdiction of a plantation or municipality.**

Any portion of a land use district that subsequently becomes an organized municipality or part of an organized municipality or any plantation that adopts planning, zoning and subdivision control as provided in Title 30-A, section 7059 continues to be regulated by the Maine Land Use Planning Commission pursuant to this chapter until such time as the plantation or municipality of which the regulated district is then a part adopts land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the commission.

A. Any municipality organized after September 23, 1971 or any plantation that adopts planning, zoning and subdivision control as provided in Title 30-A, section 7059 may submit to the commission and receive the approval of the commission of the following:

(1) A comprehensive land use plan for that plantation or municipality;

(2) Standards for determining land use district boundaries and uses permitted within the districts in that plantation or municipality;

(3) A land use district boundary map for that plantation or municipality; and

(4) Such other proposed regulations or standards as the commission considers necessary to achieve the purpose, intent and provisions of this chapter.

Upon request of the plantation or municipality, the commission shall prepare such plans, maps, regulations and standards as it considers necessary to meet minimum planning and zoning standards for its approval of those standards.

Upon obtaining approval, the plantation or municipality shall thereafter adopt, administer and enforce the approved plans, maps, regulations and standards.

B. From time to time, the commission may review the administration and enforcement of local land use plans and regulations by plantations and municipalities that have adopted land use plans, maps, regulations and standards approved by the commission. If, following the review, the commission finds that any of the following have occurred, the commission may reestablish its jurisdiction over that plantation or municipality:

(1) A plantation or municipality has repealed the land use plan, maps, standards or regulations necessary to satisfy the requirements of this subsection or has substantially modified the land use plan, maps, standards or regulations so that the resources of the plantation or municipality are not reasonably protected;

(2) A plantation or municipality has abolished or does not have functioning the administrative bodies and officers necessary to implement the land use program as approved by the commission; or

(3) A plantation or municipality has not administered or enforced its land use plan, maps, standards or regulations in a manner that reasonably protects the resources in the plantation or municipality involved.

Action taken by the commission to reestablish its jurisdiction over a plantation or municipality is effective immediately, but must be submitted to the current or next regular session of the Legislature for approval. If the Legislature fails to act, the action of the commission continues in effect.

**Sec. 13. 12 MRSA §685-A, sub-§4-B** is enacted to read:

**4-B. Transition from commission jurisdiction to county.** Subject to the same conditions that apply to municipalities under Title 30-A, chapter 187, subchapter 2, beginning September 1, 2015, a county may assume authority for land use planning, zoning and subdivision regulation in the unorganized and deorganized areas within its borders if the following conditions have been met:

A. The county has adopted a county charter consistent with Title 30-A, chapter 11, and the charter authorizes the county commissioners to exercise authority for land use planning, zoning and subdivision regulation in the unorganized and deorganized areas within its borders;

B. The county has submitted to the State Planning Office or its successor a comprehensive plan for the unorganized and deorganized areas within its borders, and the plan has been reviewed and approved by the office or its successor in the same manner and subject to the same requirements that apply to a comprehensive plan submitted by a municipality for approval under Title 30-A, chapter 187, subchapter 2;

C. The county has plans and budgetary resources to provide the necessary planning, permitting and enforcement staff and to cover related costs;

D. The county has established a planning committee in the same manner as a municipality under Title 30-A, section 4324 and a board of appeals in the same manner as a municipality under Title 30-A, section 2691; and

E. The county has prepared planning and zoning maps, regulations and standards.

Upon assuming jurisdiction for land use planning, zoning and subdivision regulation in unorganized and deorganized areas within its borders under this subsection, a county has the same authority to adopt, amend, administer and enforce an approved land use plan, maps, regulations and standards as a municipality under Title 30-A, chapter 187, subchapter 2.

**Sec. 14. 12 MRSA §685-A, sub-§8-A, ¶B**, as enacted by PL 1999, c. 333, §10, is amended to read:

B. The proposed land use district satisfies a demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

**Sec. 15. 12 MRSA §685-A, sub-§12**, as repealed and replaced by PL 2005, c. 226, §1, is amended to read:

**12. Timber harvesting activities.** Rules adopted by the Commissioner of Conservation pursuant to section 8867-B for the purpose of regulating timber harvesting and timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters become effective for the unorganized and deorganized areas ~~on the date established under Title 38, section 438-B, subsection 5 of the State September 1, 2012. For the purposes of this subsection, "timber harvesting" and "timber harvesting activities" have the same meanings as in section 8868, subsections 4 and 5.~~

~~The Beginning September 1, 2012, the Director of the Bureau of Forestry within the Department of Conservation shall administer and enforce the regulation of timber harvesting and timber harvesting activities in these areas. For the purposes of this subsection, "timber harvesting" and "timber harvesting activities" have the same meanings as in section 8868, subsections 4 and 5 chapter 805, subchapter 3-A within the unorganized and deorganized areas of the State in accordance with that subchapter and rules adopted under it.~~

**Sec. 16. 12 MRSA §685-A, sub-§13**, as enacted by PL 2007, c. 661, Pt. C, §1, is amended to read:

**13. Wind energy development.** Wind energy development is a permitted use within those areas identified as expedited permitting areas in the commission's rules adopted under Title 35-A, section 3451, subsection 3. Except for community-based offshore wind energy projects, the Department of Environmental Protection shall exclusively administer and enforce the land use regulation of wind energy development occurring within the expedited permitting areas. The commission may add areas in the State's unorganized and deorganized areas to the expedited permitting area for wind energy development in accordance with Title 35-A, section 3453.

**Sec. 17. 12 MRSA §685-A, sub-§14** is enacted to read:

**14. Site location of development.** The Department of Environmental Protection shall administer and enforce Title 38, chapter 3, subchapter 1, article 6 for activities in the unorganized and deorganized areas in accordance with Title 38, section 489-A-1 except for the following activities:

- A. Forest practices regulated under subsection 12 and chapter 805, subchapter 3-A; and
- B. Development within planned subdistricts.

**Sec. 18. 12 MRSA §685-B, sub-§1-A, ¶B**, as amended by PL 2009, c. 270, Pt. D, §1, is further amended to read:

~~B. A~~Except for development projects that are located in a planned subdistrict, a permit is not required for those aspects of a development project approved by the Department of Environmental Protection under Title 38 if the commission determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. Notice of the intent to develop and a map indicating the location of the proposed development must be filed with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection;

**Sec. 19. 12 MRSA §685-B, sub-§1-C** is enacted to read:

**1-C. Delegation to county.** The commission may establish standards by which authority may be delegated to a county, upon request of the county commissioners, to approve, approve with reasonable conditions or deny applications to conduct specified activities requiring a permit and to enforce compliance with the permit. Any person aggrieved by a decision of a county has the right to a review of that decision by the commission. A request for such a review must be made within 30 days after the county decision.

**Sec. 20. 12 MRSA §685-B, sub-§2-C**, as amended by PL 2009, c. 615, Pt. D, §3, is further amended to read:

**2-C. Community-based offshore wind energy projects; determination deadline.**  
The following provisions govern community-based offshore wind energy development projects.

A. The commission shall consider ~~any wind energy development in the expedited permitting area under Title 35-A, chapter 34-A with a generating capacity of 100 kilowatts or greater or a~~ community-based offshore wind energy project a use requiring a permit, but not a special exception, within the affected districts or subdistricts. For an offshore wind energy project that is proposed within one nautical mile of an island within the unorganized or deorganized areas, the commission shall review the proposed project to determine whether the project qualifies as a community-based offshore wind energy project and therefore is within the jurisdiction of the commission. The commission may require an applicant to provide a timely notice of filing prior to filing an application for, and may require the applicant to attend a public meeting during the review of, ~~a wind energy development or a~~ community-based offshore wind energy project. The commission shall render its determination on an application for such a ~~development or~~ project within 185 days after the commission determines that the application is complete, except that the commission shall render such a decision within 270 days if it holds a hearing on the application. The chair of the Public Utilities Commission or the chair's designee shall serve as a nonvoting member of the commission and may participate fully but is not required to attend hearings when the commission considers an application for ~~an expedited wind energy development or a~~ community-based offshore wind energy project. The chair's participation on the commission pursuant to this subsection does not affect the ability of the Public Utilities Commission to submit information into the record of the commission's proceedings. ~~For purposes of this subsection, "expedited permitting area," "expedited wind energy development" and "wind energy development" have the same meanings as in Title 35-A, section 3451.~~

B. At the request of an applicant, the commission may stop the processing time for a period of time agreeable to the commission and the applicant. The expedited review period specified in paragraph A does not apply to the associated facilities, as defined in Title 35-A, section 3451, subsection 1, of the ~~wind energy development~~ or community-based offshore wind energy project if the commission determines that an expedited review time is unreasonable due to the size, location, potential impacts, multiple agency jurisdiction or complexity of that portion of the development or project.

**Sec. 21. 12 MRSA §685-B, sub-§4**, as amended by PL 2009, c. 615, Pt. D, §4, is further amended to read:

**4. Criteria for approval.** In approving applications submitted to it pursuant to this section, the commission may impose such reasonable terms and conditions as the commission may consider appropriate. In making a decision under this subsection regarding an application for a community-based offshore wind energy project, the commission may not consider whether the project meets the specific criteria designated in section 1862, subsection 2, paragraph A, subparagraph (6), divisions (a) to (d). This limitation is not intended to restrict the commission's review of related potential impacts of the project as determined by the commission.

The commission may not approve an application, unless:

A. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 490, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;

B. Adequate provision has been made for loading, parking and circulation of land, air and water traffic; in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods;

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely to be affected by the proposal. In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

In making a determination under this paragraph regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or a community-based offshore wind energy project, the commission shall consider the development's or project's effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3452;

~~In making a determination under this paragraph regarding a wind energy development, as defined in Title 35-A, section 3451, subsection 11, that is not a grid-scale wind energy development, that has a generating capacity of 100 kilowatts or greater and that is proposed for location within the expedited permitting area, the commission shall consider the development's or project's effects on scenic character and existing uses relating to scenic character in the manner provided for in Title 35-A, section 3452;~~

D. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site;

E. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto; and

F. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected. ~~Except as otherwise provided in Title 35-A, section 3454, the~~The commission shall permit the applicant and other parties to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources.

**Sec. 22. 12 MRSA §685-B, sub-§4-B**, as amended by PL 2009, c. 615, Pt. D, §5, is further amended to read:

**4-B. Special provisions; community-based offshore wind energy project.** In the case of a wind energy development, as defined in Title 35-A, section 3451, subsection 11, with a generating capacity greater than 100 kilowatts, or a community-based offshore wind energy project, the developer must demonstrate, in addition to requirements under subsection 4, that the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

A. Will meet the requirements of the Board of Environmental Protection's noise control rules adopted pursuant to Title 38, chapter 3, subchapter 1, article 6;

B. Will be designed and sited to avoid undue adverse shadow flicker effects; and

C. Will be constructed with setbacks adequate to protect public safety, as provided in Title 35-A, section 3455. In making findings pursuant to this paragraph, the commission shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; ~~and.~~

~~D. Will provide significant tangible benefits, as defined in Title 35-A, section 3451, subsection 10, within the State, as provided in Title 35-A, section 3454, if the development is an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4.~~

**Sec. 23. 12 MRSA §685-C, sub-§1**, as amended by PL 2009, c. 375, §1, is further amended to read:

**1. Comprehensive land use plan.** The commission shall ~~adopt~~prepare an official comprehensive land use plan, referred to in this subsection as "the plan," for the unorganized and deorganized ~~townships~~areas of the State.

The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.

The plan may consist of maps, data and statements of present and prospective resource uses that generally delineate the proper use of resources, and recommendations for its implementation.

The commission shall hold public hearings to collect information to be used in establishing the ~~land use guidance~~ plan. The public hearings must be conducted according to commission rules adopted in accordance with procedures for the establishment of rules pursuant to Title 5, chapter 375, subchapter 2.

The commission may, on its own motion or petition of any state agency or regional planning commission, hold such other hearings as the commission considers necessary from time to time for the purpose of obtaining information helpful in the determination of its policies, the carrying out of its duties or the formulation of its land use standards or rules.

~~The commission may not adopt a plan or portion of a plan unless:~~

~~A. The tentative plan has been submitted to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days; may not finalize a plan or a portion of a plan without:~~

(1) Submitting the tentative plan to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days;

(2) Submitting the tentative plan to the State Planning Office or its successor, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its comments and recommendations, if any, to the commission within 30 days;

(3) Considering all comments submitted under paragraphs A and B; and

(4) Submitting the tentative plan to the joint standing committee of the Legislature having jurisdiction over conservation matters and the committee reviewing the plan at a public meeting. The commission shall brief the committee on any anticipated changes to land use districts and subdistricts based on revisions in the comprehensive land use plan and a projected timetable for rulemaking to adopt these changes.

~~B. The tentative plan has been submitted to the State Planning Office, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its or a portion of a plan, but prior to adoption, the commission shall provide a copy to the Commissioner of Conservation, who shall submit the finalized plan or a portion of the plan to the Governor for comments and recommendations, if any, to. The commissioner shall submit the finalized plan or a portion of the plan including the Governor's comments to the Legislature within 30 days after the convening of the next regular session for approval. The Legislature shall, by act or resolve, approve, disapprove or require changes to the plan or any portion of the plan prior to adjournment. If the plan or a portion of the plan is approved or the Legislature fails to act on the plan or a portion of the plan before adjournment, the plan or a portion of the plan may be finally adopted by the commission within 30 days;. If the plan or a portion of the plan is disapproved or revisions are required, the plan or a portion of the plan must be revised by the commission and resubmitted to the Legislature for approval by act or resolve. The joint standing committee of the Legislature having jurisdiction over conservation matters may submit legislation to implement the provisions of this paragraph.~~

~~C. The commission has considered all comments submitted under paragraphs A and B; and~~

~~D. The commission has submitted the tentative plan to the joint standing committee of the Legislature having jurisdiction over conservation matters and the committee has reviewed the plan at a public meeting. The commission shall brief the committee on any anticipated changes to land use districts and subdistricts based on revisions in the comprehensive land use plan and a projected timetable for rulemaking to adopt these changes. The tentative plan must be submitted to the committee a minimum of 30 days prior to the commission's final vote.~~

Upon adoption of the official land use plan by the commission, the commission shall submit the plan to the Governor for approval. The Governor shall approve or disapprove the plan, plans or any portion of a plan within 30 days of receipt. If the Governor fails to act, the plan is deemed approved. This subsection also applies to any alteration in the comprehensive plan.

**Sec. 24. 12 MRSA §685-C, sub-§1-A** is enacted to read:

**1-A. Regional comprehensive land use plans.** A county, separately or in partnership with another county or counties, may request the commission to develop and implement a regional comprehensive land use plan and associated zoning for all or a portion of the territory within the jurisdiction of the commission in the county or counties making the request. If the commission provides assistance under this subsection, it shall:

A. Consult with regional economic development organizations and regional planning and development districts described in Title 30-A, chapter 119;

B. Seek input from representatives of service center communities as defined in Title 30-A, section 4301, subsection 14-A and neighboring municipalities in the area for which assistance is requested; and

C. Provide for involvement by members of the public, landowners in the unorganized and deorganized areas of the State and residents of the unorganized and deorganized areas of the State.

**Sec. 25. 12 MRSA §685-F, sub-§1**, as amended by PL 2009, c. 492, §3, is further amended to read:

**1. Designation as extraordinary project.** The director of the Maine Land Use Regulation ~~Planning~~ Commission, referred to in this section as "the director," may designate a proposed project requiring review and approval under this chapter as an extraordinary project when the director determines that ~~the project is a wind energy development, as defined in Title 35-A, section 3451, subsection 11 or~~, because of the project's size, uniqueness or complexity, review of the project application is likely to:

A. Significantly impair the capacity of the commission's staff and cooperating state agencies to review other applications in a timely manner; or

B. Require the commission to incur costs that exceed the funding provided in accordance with section 685-G.

A project is considered to significantly impair the capacity of the commission's staff if review of that project is likely to occupy the equivalent of at least one person working full-time on that project for a minimum of 4 months. Designation as an extraordinary project must be made at or prior to the time the application is accepted as complete. The director shall notify the applicant in writing upon making the designation.

**Sec. 26. 12 MRSA §685-G, sub-§§1 and 2**, as amended by PL 2009, c. 213, Pt. HHHH, §1, are further amended to read:

**1. Unorganized territories.** Beginning with fiscal year 2009-10, funding for services and activities of the commission for planning, permitting and ensuring compliance in the unorganized territories must be assessed and allocated to the unorganized territories through a fee equal to .014% of the most recent equalized state valuation established by the State Tax Assessor. This fee must be collected through the municipal cost component under Title 36, chapter 115, except that fees collected

under this subsection for property located in a county that has assumed jurisdiction for planning and land use regulation for unorganized territories within the county under section 685-A, subsection 4-B must be transferred to that county.

**2. Towns and plantations.** ~~Beginning with fiscal year 2009-10, a~~ town or a plantation in the commission's jurisdiction on April 1, 2012 that elects not to administer land use controls at the local level ~~but receives commission services or a town or plantation with a portion of its land under the commission's jurisdiction and receiving commission services, including planning, permitting and ensuring compliance, as provided in section 685-A, subsection 4-A~~ must be assessed a fee equal to .018% of the most recent equalized state valuation established by the State Tax Assessor for that town or plantation or that portion of a town or plantation under the commission's jurisdiction. The State Tax Assessor shall issue a warrant to each such town or plantation no later than March 1st of each year. The warrant is payable on demand. Interest charges on unpaid fees begin on June 30th of each year and are compounded monthly at the interest rate for unpaid property tax as established by the State Tax Assessor for the unorganized territory. For any assessment that remains unpaid as of September 1st of the year in which it is due, state revenue sharing to that town or plantation must be reduced by an amount equal to any unpaid warrant amount plus any accrued interest, until the amount is paid. ~~These fees~~ Fees collected under this subsection for property subject to planning and land use regulation by the commission must be deposited to the General Fund. Fees collected under this subsection for property located in a county that has assumed jurisdiction for planning and land use regulation under section 685-A, subsection 4-B must be transferred to that county.

**Sec. 27. 12 MRSA §685-H** is enacted to read:

### **§ 685-H. Annual performance report**

**1. Report due.** By January 15, 2013 and by January 15th annually thereafter, the commission shall report to the joint standing committee of the Legislature having jurisdiction over conservation matters regarding the commission's performance under this subchapter for the previous year and goals for the coming year.

**2. Report components.** The report must include:

- A. The number of permits processed for the previous calendar year, by category;
- B. A summary of preapplication consultation activities;
- C. The average time for rendering a decision, with goals for improving processing times;
- D. The status of regional planning and zoning initiatives, with goals for the calendar year; and
- E. A description of staff and commission training initiatives to ensure increased customer service and consistency in application of commission rules and regulations, with goals for the calendar year ahead.

**3. Public meeting.** The chair of the commission shall present the annual performance report to the joint standing committee of the Legislature having jurisdiction over conservation matters at a meeting of that committee. The committee shall give the public an opportunity to comment on the performance report at this meeting.

**Sec. 28. 12 MRSA §689**, as amended by PL 2009, c. 642, Pt. B, §1, is further amended to read:

### **§ 689. Appeal**

Persons aggrieved by final actions of the commission, including without limitation any final decision of the commission with respect to any application for approval or the adoption by the commission of any district boundary or amendment thereto, may appeal therefrom in accordance with Title 5, chapter 375, subchapter 7. Appeals of final actions of the commission regarding an application for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, must be taken to the Supreme Judicial Court sitting as the Law Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. The Law Court has exclusive jurisdiction over requests for judicial review of final actions of the commission regarding expedited wind energy developments. This right of appeal, with respect to any commission action to which this right may apply, shall be in lieu of the rights provided under Title 5, section 8058, subsection 1. To the extent practicable, meetings and public hearings held during the pendency of an appeal must be held at a location in close proximity to the project or projects under review.

**Sec. 29. 30-A MRSA §7501, sub-§8**, as amended by PL 1999, c. 106, §2, is further amended to read:

**8. Enhanced 9-1-1 service.** Assigning and maintaining physical addresses specifically for the purpose of statewide enhanced 9-1-1 service. The county commissioners may enact an ordinance to establish the addressing standards and, pursuant to that ordinance, may assign road names to existing and proposed roads and property numbers to existing and proposed year-round and seasonal dwellings or structures and may install signs designating road names; and

**Sec. 30. 30-A MRSA §7501, sub-§9**, as enacted by PL 1999, c. 106, §3, is amended to read:

**9. Animal control.** Animal control services. The county commissioners may enact an ordinance for the purpose of animal control. The county commissioners shall give 14 ~~days~~ days' notice of the meeting at which the ordinance is to be proposed in the manner provided for town meetings; and

**Sec. 31. 30-A MRSA §7501, sub-§10** is enacted to read:

**10. Planning and land use regulation.** If a county has assumed jurisdiction over planning and land use regulation under Title 12, section 685-A, subsection 4-B, the county commissioners may enact an ordinance for the purpose of planning and land use control under this subsection. The county commissioners shall give 14 days' notice of the meeting at which the ordinance is to be proposed in the manner provided for town meetings.

**Sec. 32. 35-A MRSA §3451, sub-§8**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**8. Primary siting authority.** "Primary siting authority" means:

A. The department, in the case of an expedited wind energy development subject to the department's jurisdiction pursuant to Title 38, chapter 3, subchapter 1, article 6, including, but not limited to, a development subject to the department's jurisdiction pursuant to Title 38, section 488, subsection 99-A; or

B. The Maine Land Use Regulation Planning Commission, in the case of an expedited wind energy development subject to the Maine Land Use Regulation Commission's jurisdiction pursuant to Title 12, chapter 206-Aa community-based offshore wind energy project as defined in Title 12, section 682, subsection 19.

**Sec. 33. 38 MRSA §488, sub-§9**, as amended by PL 2009, c. 615, Pt. E, §19, is repealed.

**Sec. 34. 38 MRSA §488, sub-§9-A** is enacted to read:

**9-A. Development within unorganized areas.** Except for development described in paragraphs A and B, development located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1, is subject to review by the department for compliance with this article. The department shall review development within the unorganized and deorganized areas in accordance with section 489-A-1.

A. A community-based offshore wind energy project, as defined in Title 12, section 682, subsection 19, is reviewed under Title 12, section 685-B, subsection 2-C and is exempt from the requirements of this article.

B. Development within a planned subdistrict as defined in Title 12, section 682, subsection 20 is reviewed by the commission and is exempt from the requirements of this article.

**Sec. 35. 38 MRSA §489-A-1** is enacted to read:

**§ 489-A-1. Department review of development within the unorganized and deorganized areas**

**1. Review.** Except as provided in section 488, subsection 9-A, paragraphs A and B, the department shall review development within the unorganized and deorganized areas of the State. Review by the department of subsequent modifications to a development approved by the Maine Land Use Regulation Commission under former section 488, subsection 9 is required.

**2. Criteria for approval.** The department shall approve a development proposal under this section if:

A. The proposed development is an allowed use within the subdistrict or subdistricts in which it is to be located. Subdistricts and allowed uses are established in rule by the Maine Land Use Regulation Commission or its successor in accordance with Title 12, section 685-A;

B. The standards established under section 484 are met; and

C. Standards established in rules adopted under section 489-E to implement this section are met.

For a development or part of a development within the unorganized or deorganized areas of the State, the department may request and obtain technical assistance and recommendations from the Maine Land Use Regulation Commission or its successor. The commission shall respond to the requests in a timely manner. The recommendations of the commission must be considered by the department in acting upon a development application.

**Sec. 36. Transition provisions.** The following provisions govern the transition of the Maine Land Use Regulation Commission to the Maine Land Use Planning Commission.

1. The members of the Maine Land Use Regulation Commission serving on the effective date of this Act continue as members of the Maine Land Use Planning Commission until the expiration of their terms under the Maine Revised Statutes, former Title 12, section 683. To implement the difference in the number of members of the Maine Land Use Regulation Commission and the Maine Land Use Planning Commission, 2 additional members must be appointed under Title 12, section 683-A from the 2 counties with the highest acreage of unorganized and deorganized areas. When the term of a member serving on the commission under former Title 12, section 683 expires, a member must be appointed from the county with the next highest acreage of unorganized and deorganized areas until all 6 county appointments have been completed. When all county positions have been appointed, the next 3 vacancies must be filled by the appointment of the 3 public members appointed by the Governor.

2. The Maine Land Use Planning Commission is the successor in every way to the powers, duties and functions of the former Maine Land Use Regulation Commission as provided in this Act.

3. All existing rules, regulations and procedures in effect, in operation or adopted in or by the former Maine Land Use Regulation Commission or any of its administrative units or officers and all permits, approvals and decisions of the former Maine Land Use Regulation Commission are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

4. All existing contracts, agreements and compacts currently in effect involving the former Maine Land Use Regulation Commission continue in effect.

5. Any positions authorized and allocated subject to the personnel laws of the former Maine Land Use Regulation Commission are transferred to the Maine Land Use Planning Commission and may continue to be authorized.

6. All records, property and equipment previously belonging to or allocated for the use of the former Maine Land Use Regulation Commission become on the effective date of this Act the records, property and equipment of the Maine Land Use Planning Commission. The Maine Land Use Planning Commission shall transfer records received from the former Maine Land Use Regulation Commission or provide copies of those records to the Department of Environmental Protection upon the request of the department as necessary to implement the provisions of this Act transferring authority to the department for permitting and regulation under the site location of development laws under Title 38, chapter 3, subchapter 1, article 6 or expedited permitting of grid-scale wind energy development under Title 35-A, chapter 34-A.

7. All existing forms, licenses, permits, letterheads and similar items bearing the name of or referring to the "Maine Land Use Regulation Commission" may be used by the Maine Land Use Planning Commission until existing items are exhausted.

8. The Department of Environmental Protection shall adopt rules necessary to review applications for development under Title 38, section 489-A-1. These rules must be adopted and in effect no later than January 1, 2013. In reviewing development under Title 38, section 489-A-1 prior to final adoption of the department's rules, the department shall use standards established in Title 12, chapter 206-A and rules adopted under that chapter as those rules apply in the area proposed for development. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 37. Effective date.** Those sections of this Act that repeal the Maine Revised Statutes, Title 38, section 488, subsection 9 and enact Title 38, section 488, subsection 9-A and Title 38, section 489-A-1 take effect August 1, 2012.

**Sec. 38. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Maine Land Use Regulation Commission" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Maine Land Use Planning Commission" or "commission," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## SUMMARY

This bill contains statutory changes necessary to implement the recommendations of the Commission on Reform of the Governance of Land Use Planning in the Unorganized Territory pursuant to Resolve 2011, chapter 113.

This bill is submitted by the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Resolve 2011, chapter 113, section 9.

The committee has not taken a position on the substance of the recommendations in the report or this bill to implement those recommendations. The committee is not suggesting and does not intend to suggest that it agrees or disagrees with the recommendations of the commission or that it supports the substance of this bill. The committee is submitting the bill for the sole purpose of turning the commission's proposal into a printed bill that can be referred to the committee for an appropriate public hearing and subsequent work sessions. The committee is taking this action to ensure clarity and transparency in the legislative review of the commission's proposal.