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Resolve, To Place a Temporary Suspension on Permitting of Certain Expedited Grid-scale Wind Energy Developments

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 125th Legislature ordered an independent review of the State's current wind energy development permitting goals and process; and

Whereas, the legislatively ordered review, completed in 2012, concluded that there was sufficient cause to reconsider key elements of the State's wind energy development goals and permitting process; and

Whereas, the Governor's Energy Office, in response to the Legislature's directive, published a list of recommendations addressing aspects of current wind energy development permitting; and

Whereas, the Legislature has not yet acted on the recommendations made by the Governor's Energy Office; and

Whereas, onshore wind energy development has proven to be controversial in some locations in the State and elsewhere; and

Whereas, the legislatively ordered review revealed that significant disagreement exists with regard to the effects on humans and the environment and the net economic effects of large-scale expansion of onshore wind energy projects within the State; and

Whereas, a significant body of information exists pertaining to the human, wildlife, environmental and economic impacts of onshore wind energy development that was unavailable during the creation of the State's current policy and laws; and

Whereas, it is in the immediate interests of public and environmental well-being that the expedited wind energy permitting process be interrupted in certain sensitive locations pending the necessary review; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. A-1 Definitions. Resolved: That, as used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

1. "Expedited permitting area" has the same meaning as in the Maine Revised Statutes, Title 35-A, section 3451, subsection 3.

2. "Expedited wind energy development" has the same meaning as in Title 35-A, section 3451, subsection 4.

3. "Generating facilities" means wind turbines and towers.

4. "Grid-scale wind energy development" has the same meaning as in Title 35-A, section 3451, subsection 6.

5. "Occupied dwelling" means any legally permitted residential or commercial structure that includes an area designated for sleeping and is continuously or temporarily occupied.

6. "Primary siting authority" has the same meaning as in Title 35-A, section 3451, subsection 8.

7. "Scenic resource of state or national significance" has the same meaning as in Title 35-A, section 3451, subsection 9; and be it further

Sec. A-2 Temporary suspension of certain expedited permitting. Resolved: That, notwithstanding the Maine Revised Statutes, Title 35-A, chapter 34-A, during the period beginning on the effective date of this resolve and ending on the date of adjournment of the Second Regular Session of the 126th Legislature, a primary siting authority may not:

1. Accept an application for a permit for an expedited wind energy development that includes:

A. Development-related activity in a location at an elevation at or above 2,700 feet;

B. Placement of any generating facilities within 2 miles of an occupied dwelling; or

C. Placement of any generating facilities within 15 miles of a scenic resource of state or national significance; or

2. Issue a permit for an application that was received after December 31, 2012 for an expedited wind energy development that is described in subsection 1, paragraph A, B or C; and be it further

Sec. A-3 Application of laws and rules. Resolved: That, after the suspension period under section 2 concludes, an application for an expedited wind energy development permit that is received after December 31, 2012 that is described in section 2, subsection 1, paragraph A, B or C will be subject to the laws and rules in effect at the expiration of the suspension period; and be it further

Sec. A-4 Application; construction. Resolved: That this resolve applies to applications for grid-scale wind energy development within the expedited permitting area. Nothing in this resolve may be construed to prevent or impede any individual or entity from pursuing a permit for a grid-scale wind energy development that is outside the expedited permitting area or that is undertaken pursuant to the laws and rules in effect prior to April 18, 2008.

Sec. B-1 Review panel. Resolved: That the Panel to Review the Permitting of Expedited Wind Energy Development, referred to in this resolve as "the panel" is established; and be it further

Sec. B-2 Panel membership. Resolved: That the panel consists of 13 members appointed as follows:

1. Four members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;

2. Four members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature;

3. Three members appointed by the Governor;
4. The Commissioner of Environmental Protection or a designee; and
5. The Director of the Maine Land Use Planning Commission or a designee; and be it further

Sec. B-3 Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the panel; and be it further

Sec. B-4 Appointments; convening of panel. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the panel. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the panel to meet and conduct its business; and be it further

Sec. B-5 Duties. Resolved: That the panel shall review the report issued in March 2012 by the Governor's Office of Energy Independence and Security entitled "Maine Wind Energy Development Assessment: Report and Recommendations." The panel shall specifically evaluate the 25 separate recommendations contained in the report, and shall develop recommendations regarding implementation of each of the recommendations. The panel shall schedule opportunities for public participation in those areas of the State where expedited grid-scale wind energy development is under consideration; and be it further

Sec. B-6 Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the panel; and be it further

Sec. B-7 Report. Resolved: That, no later than December 4, 2013, the panel shall submit a report that includes its findings and recommendations, including suggested legislation and a recommendation regarding the termination or extension of the suspension period established in Part A, section 2, for presentation to the Second Regular Session of the 126th Legislature. In making its recommendation regarding extending or terminating the suspension period, the panel shall evaluate the suspension period established in Part A, section 2 and shall consider whether there exists the need for additional statutory changes or agency rulemaking and whether, in order to accommodate the implementation of any such necessary changes, the period of suspension should be extended; if the panel concludes that no additional statutory changes or agency rulemaking is necessary, the panel may recommend early termination of the suspension period.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This resolve establishes a temporary suspension on the expedited permitting of specified grid-scale wind energy developments and establishes the Panel to Review the Permitting of Expedited Wind Energy Development to review the recommendations of the report issued in March 2012 by the Governor's Office

of Energy Independence and Security entitled "Maine Wind Energy Development Assessment: Report and Recommendations." The panel is directed to evaluate specifically the 25 separate recommendations contained in the report and to develop recommendations regarding implementation of each of the recommendations and to include in its report any recommendations to extend or terminate early the temporary suspension.