

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

Amend the bill by striking out the title and substituting the following:

**'Resolve, Regarding Legislative Review of the Lease to Central
Maine Power Company of Constitutionally Protected Public Lands'**

Amend the bill by striking out everything after the title and inserting the following:

'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 Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands in December 2014 leased to Central Maine Power Company a 300-foot-wide, approximately one-mile-long transmission corridor across public reserved lands in West Forks Plantation and in Johnson Mountain Township; and

Whereas, the clearing and placement of large transmission towers and lines on a 300-foot-wide, approximately one-mile-long strip of land across constitutionally protected and unique public reserved lands is a substantially different use of these public lands; and

Whereas, the Constitution of Maine, Article IX, Section 23 and the implementing law, the Maine Revised Statutes, Title 12, section 598-A, require a vote of 2/3 of all the members elected to each House of the Legislature to approve any substantial alteration in the use of designated public reserved lands; and

Whereas, the Legislature did not have an opportunity to review or approve the lease to Central Maine Power Company of the above-mentioned designated public reserved lands, which will be substantially altered by the New England Clean Energy Connect project, a proposed 145-mile, 1,200-megawatt, high-voltage, direct-current transmission line passing through approximately 36 acres of designated public reserved lands; and

Whereas, Central Maine Power Company on May 3, 2019 received a certificate of public convenience and necessity from the Public Utilities Commission for the construction of the New England Clean Energy Connect project, also known as the transmission corridor project, to run from the Canadian border at the Province of Quebec to a conversion station in Lewiston; and

Whereas, Title 35-A, section 3132 prohibits leases of state public lands to any person for the purpose of constructing a transmission line that requires a certificate of public convenience and necessity from the Public Utilities Commission prior to the issuance of that certificate; and

Whereas, the Legislature has received a great deal of direct testimony and evidence raising significant doubt about the legality and validity of the lease under the Constitution of Maine and current state law; and

Whereas, in order to protect and preserve the public's vital interests in its public reserved lands and ensure the Legislature's constitutional responsibilities with regard to those lands is not usurped

or undermined by potentially invalid leases of those lands, it is immediately necessary to direct the termination of the transmission corridor project across public reserved lands in West Forks Plantation and in Johnson Mountain Township before the use of the lands is substantially and immutably altered; and

Whereas, Central Maine Power Company is awaiting permits for the transmission corridor project from the Department of Environmental Protection and the United States Army Corps of Engineers and expects the approvals to be granted this spring and plans to begin construction of the transmission corridor project once the permits are issued; 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. 1 Lease agreement between the Bureau of Parks and Lands and Central Maine Power Company. Resolved: That the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands, referred to in this resolve as "the bureau," shall immediately terminate its lease to Central Maine Power Company of a portion of public reserved lands in West Forks Plantation and in Johnson Mountain Township in Somerset County for a 300-foot-wide and approximately one-mile-long transmission line corridor. The bureau may renegotiate a lease agreement with Central Maine Power Company for the same or a different portion of public reserved lands; and

Sec. 2 Considerations if lease renegotiated. Resolved: That, if the bureau renegotiates a lease agreement under section 1 with Central Maine Power Company, referred to in this resolve as "the lessee," the bureau shall consider post-completion rental payments and annual funding payments. Annual funding payments must be made to the bureau for funding recreation infrastructure on public lands for increased public access for recreational opportunities.

For purposes of this section, the following terms have the following meanings:

1. "Annual funding payments" means payments made by the lessee to the bureau each calendar year following the completion date and continuing until the expiration or termination of the lease, whichever is earlier, for funding recreation infrastructure for increased public access for recreational opportunities;
2. "Completion date" means the date on which the lessee notifies the bureau in writing that transmission line facilities are installed, energized and determined by the lessee to be operational; and
3. "Post-completion rental payments" means payments made by the lessee to the bureau each calendar year following the completion date and continuing until the expiration of the initial term or termination of the lease, whichever is earlier, based on the actual annual transmission corridor project net income filed with the Federal Energy Regulatory Commission; and

Sec. 3 Substantial alteration of designated public reserved lands. Resolved: That the Legislature finds that any lease of state park land, public lots or other real estate held by the State for conservation or recreation purposes and designated under the Maine Revised Statutes, Title 12, section 598-A to Central Maine Power Company for the purposes of the transmission corridor project for the transmission line described in Public Utilities Commission Docket No. 2017-00232 constitutes a substantial alteration of the use of such real estate under the Constitution of Maine, Article IX, Section 23 requiring the approval of the lease by a vote of 2/3 of all the members elected to each House of the

Legislature. This provision is intended and may be interpreted only to clarify that this specific use of such constitutionally protected real estate constitutes a substantial alteration of that real estate for purposes of the Constitution of Maine, Article IX, Section 23. Nothing in this resolve may be interpreted as affecting the application or interpretation of the Constitution of Maine, Article IX, Section 23 with respect to any other use of real estate.

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

SUMMARY

This amendment strikes the bill and replaces it with a resolve. The amendment directs the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands to immediately terminate its lease to Central Maine Power Company of a portion of public reserved lands in Somerset County for a 300-foot-wide, approximately one-mile-long transmission corridor. The amendment also authorizes the bureau to renegotiate a lease agreement with Central Maine Power Company for the same or a different portion of public reserved lands.

FISCAL NOTE REQUIRED
(See attached)