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H.P. 562

House of Representatives, March 10, 2015

**An Act To Improve Regulatory Consistency within the Jurisdiction
of the Maine Land Use Planning Commission**

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DUNPHY of Embden.
Cosponsored by Senator WOODSOME of York and
Representatives: BEAVERS of South Berwick, FREDETTE of Newport, O'CONNOR of
Berwick, SHORT of Pittsfield, TUELL of East Machias, Senators: BURNS of Washington,
PATRICK of Oxford, President THIBODEAU of Waldo.

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

2 **PART A**

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

5 **13. Additions to and removals from the expedited permitting area and the**
6 **provisional expedited permitting area for wind energy development.** The
7 commission may add ~~areas in the State's unorganized and deorganized areas~~ specified
8 places to the expedited permitting area and remove specified places from the provisional
9 expedited permitting area for wind energy development in accordance with Title 35-A,
10 section 3453.

11 **Sec. A-2. 35-A MRSA §3402, sub-§2**, as enacted by PL 2007, c. 661, Pt. A, §5
12 and amended by PL 2011, c. 682, §38, is further amended to read:

13 **2. Need for modification of regulatory process for siting wind energy**
14 **developments.** The Legislature finds that it is in the public interest to reduce the
15 potential for controversy regarding siting of grid-scale wind energy development by
16 expediting development in places where it is most compatible with existing patterns of
17 development and resource values when considered broadly at the landscape level.
18 Accordingly, the Legislature finds that certain aspects of the State's regulatory process for
19 determining the ~~environmental~~ acceptability of wind energy developments should be
20 modified to encourage the siting of wind energy developments in these areas. Such
21 changes include, but are not limited to:

22 A. ~~Making~~ Establishing a participatory process for making wind energy development
23 a permitted use within certain parts of the State's unorganized and deorganized areas;

24 B. Refining certain procedures of the Department of Environmental Protection and
25 the Maine Land Use Planning Commission; and

26 C. Because the Legislature recognizes that wind turbines are potentially a highly
27 visible feature of the landscape that will have an impact on views, judging the effects
28 of wind energy development on scenic character and existing uses related to scenic
29 character based on whether the development significantly compromises views from a
30 scenic resource of state or national significance such that the development has an
31 unreasonable adverse effect on the scenic character or existing uses related to the
32 scenic character of that resource.

33 The Legislature further finds that, while wind energy may be developed at many sites
34 with minimal site-specific environmental impacts, wind energy developments may have,
35 in addition to their beneficial environmental effects and potential scenic impacts, specific
36 adverse environmental and local community effects that must be addressed in state
37 ~~permitting~~ regulatory decisions pursuant to approval criteria tailored to address issues
38 presented by wind energy development. Nothing in this section is meant to diminish the
39 importance of addressing, as appropriate, site-specific impacts on persons, property and
40 natural values, including, but not limited to, wildlife, wildlife habitats and other
41 ecological values.

1 The Legislature further finds that development of the State's wind energy resources
2 should be undertaken in a manner that ensures consideration of, and participation by,
3 persons within communities where wind energy facilities are proposed and that ensures
4 significant tangible benefits to the people of the State, including, but not limited to,
5 residents of communities that host wind energy facilities; and that the State should seek
6 to host a substantial amount of wind energy as part of a strategy to reduce greenhouse gas
7 emissions and meet the goals established in the state climate action plan developed
8 pursuant to Title 38, section 577.

9 **Sec. A-3. 35-A MRSA §3451, sub-§3, ¶B,** as enacted by PL 2007, c. 661, Pt. A,
10 §7 and amended by PL 2011, c. 682, §38, is further amended to read:

11 B. ~~Specific~~ Specified places within the State's unorganized and deorganized areas,
12 ~~as defined by Title 12, section 682, subsection 1,~~ that are identified by rule by the Maine
13 Land Use Planning Commission in accordance with this chapter.

14 **Sec. A-4. 35-A MRSA §3451, sub-§8, ¶B,** as amended by PL 2011, c. 682, §26,
15 is further amended to read:

16 B. The Maine Land Use Planning Commission, in the case of a community-based
17 offshore wind energy project as defined in Title 12, section 682, subsection 19 and a
18 wind energy development in the unorganized and deorganized areas ~~as defined in~~
19 ~~Title 12, section 682, subsection 1~~ that is not grid-scale wind energy development.

20 **Sec. A-5. 35-A MRSA §3451, sub-§8-B** is enacted to read:

21 **8-B. Provisional expedited permitting area.** "Provisional expedited permitting
22 area" means specified places within the unorganized and deorganized areas that are
23 identified by rule by the Maine Land Use Planning Commission.

24 **Sec. A-6. 35-A MRSA §3451, sub-§9-A** is enacted to read:

25 **9-A. Specified place.** "Specified place" means the entirety or a portion of a
26 township or plantation in the unorganized and deorganized areas.

27 **Sec. A-7. 35-A MRSA §3451, sub-§10-A** is enacted to read:

28 **10-A. Unorganized and deorganized areas.** "Unorganized and deorganized areas"
29 has the same meaning as in Title 12, section 682, subsection 1.

30 **Sec. A-8. 35-A MRSA §3453,** as enacted by PL 2007, c. 661, Pt. A, §7 and
31 amended by PL 2011, c. 682, §38, is further amended to read:

32 **§3453. Additions to the expedited permitting area**

33 The Maine Land Use Planning Commission may, by rule adopted in accordance with
34 Title 5, chapter 375, add a specified place in the State's unorganized ~~or~~ and deorganized
35 areas, including specified places within the provisional expedited permitting area, to the
36 expedited permitting area. In order to add a specified place to the expedited permitting
37 area, the Maine Land Use Planning Commission must determine that the proposed
38 addition to the expedited permitting area:

1 Highland Plt., 25150; Hopkins Academy Grant Twp., 19804; Indian Stream Twp., 25828;
2 Jim Pond Twp., 07811; Johnson Mountain Twp., 25829; Kibby Twp., 07812; Kingman
3 Twp., 19808; Kingsbury Plt., 21110; Lake View Plt., 21120; Lambert Lake Twp., 29809;
4 Lexington Twp., 25831; Macwahoc Plt., 03360; Marion Twp., 29810; Mason Twp.,
5 17811; Mattamiscontis Twp., 19810; Mayfield Twp., 25835; Milton Twp., 17812; Misery
6 Gore Twp., 25837; Misery Twp., 25836; Molunkus Twp., 03806; Moosehead Junction
7 Twp., 21816; Moro Plt., 03430; Mount Chase, 19450; Moxie Gore, 25838; Nashville Plt.,
8 03440; No. 14 Twp., 29330; North Yarmouth Academy Grant Twp., 03807; Orneville
9 Twp., 21821; Osborn, 09230; Oxbow Plt., 03500; Parkertown Twp., 17814; Parlin Pond
10 Twp., 25839; Perkins Twp., 07818; Perkins Twp. Swan Island, 23801; Pleasant Ridge
11 Plt., 25250; Prentiss Twp., T4 R4 NBKP, 25843; Prentiss Twp., T7 R3 NBPP, 19540;
12 Rangeley Plt., 07160; Reed Plt., 03540; Saint Croix Twp., 03808; Saint John Plt., 03570;
13 Sandbar Tract Twp., 25848; Sandy Bay Twp., 25850; Sandy River Plt., 07170; Sapling
14 Twp., 25851; Seboeis Plt., 19550; Silver Ridge Twp., 03809; Squapan Twp., 03810;
15 Squaretown Twp., 25854; Summit Twp., 19812; T1 R5 WELS, 03816; T1 R6 WELS,
16 19815; T10 R3 WELS, 03829; T10 R6 WELS, 03830; T10 SD, 09806; T11 R3 NBPP,
17 29817; T11 R4 WELS, 03833; T13 R5 WELS, 03856; T14 R5 WELS, 03867; T14 R6
18 WELS, 03868; T15 R5 WELS, 03879; T15 R6 WELS, 03880; T16 MD, 09807; T16 R4
19 WELS, 03889; T16 R5 WELS, 03890; T16 R6 WELS, 03891; T17 R3 WELS, 03897;
20 T17 R4 WELS, 03898; T18 ED BPP, 29818; T18 MD BPP, 29819; T19 ED BPP, 29820;
21 T19 MD BPP, 29821; T2 R4 WELS, 03817; T2 R8 NWP, 19817; T2 R9 NWP, 19819;
22 T22 MD, 09808; T3 Indian Purchase Twp., 19806; T3 R3 WELS, 03818; T3 R4 WELS,
23 03819; T3 R9 NWP, 19823; T4 R3 WELS, 03820; T6 R6 WELS, 19829; T7 R5 WELS,
24 03821; T7 R6 WELS, 19832; T7 SD, 09803; T8 R3 NBPP, 29815; T8 R3 WELS, 03822;
25 T8 R4 NBPP, 29816; T8 R5 WELS, 03823; T8 R6 WELS, 19835; T9 R3 WELS, 03824;
26 T9 R4 WELS, 03825; T9 R5 WELS, 03826; T9 SD, 09805; TA R2 WELS, 03813; TA
27 R7 WELS, 19814; Taunton & Raynham Academy Grant, 25803; TC R2 WELS, 03814;
28 TD R2 WELS, 03815; The Forks Plt., 25320; Trescott Twp., 29811; Unity Twp., 11801;
29 Upper Molunkus Twp., 03811; Washington Twp., 07827; Webbertown Twp., 03812;
30 Webster Plt., 19600; West Forks Plt., 25330; Williamsburg Twp., 21827; and Winterville
31 Plt., 03680; and

32 **2. Portions of townships and plantations.** The following portions of townships and
33 plantations: that portion of Adamstown Twp., 17801, north of Route 16; Bald Mountain
34 Twp., T4 R3, 25806, excluding areas of Boundary Bald Mountain above 2,700 feet in
35 elevation; a 146.6-acre parcel in the northeast corner of the Chain of Ponds, 07803, along
36 the border with Canada; the portion of Coplin Plt., 07040, north of Route 16; the portion
37 of Dallas Plt., 07050, north of Route 16; the portion of Ebeemee Twp., 21853, east of
38 Route 11; the portion of Kossuth Twp., 29808, north of Route 6; the portion of Lang
39 Twp., 07813, north of Route 16; the portion of Lincoln Plt., 17160, north of Route 16; the
40 portion of Long A Twp., 19809, east of Route 11; the portion of Long Pond Twp., 25833,
41 south of Long Pond and Moose River; the 487.5-acre area above the 2,040-foot elevation
42 around Green Top in Lynchtown Twp., 17810; the portion of Rockwood Strip T1 R1
43 NBKP, 25844, south of Moose River, Little Brassua Lake and Brassua Lake; the portion
44 of Rockwood Strip T2 R1 NBKP, 25845, south of Little Brassua Lake and Brassua Lake;
45 the portion of Salem Twp., 07820, south of Route 142; the portion of Sandwich Academy
46 Grant Twp., 25849, south of Moose River, Little Brassua Lake and Brassua Lake; the
47 12.5-acre north-south trending area just south and west of Kibby Mountain in Skinner

1 Twp., 07822; the portion of Soldiertown Twp., T2 R7 WELS, 19811, east of the East
2 Branch Penobscot River; the portion of T1 R8 WELS, 19816, south of Millinocket Lake;
3 the portion of T1 R9 WELS, 21833, southeast of Ambajejus Lake; T24 MD BPP, 29822,
4 excluding a one-mile buffer around Mopang Stream; the 51.9-acre area in T25 MD BPP,
5 29823, encompassing Black Brook and Black Brook Pond, and the area northeast of
6 Holmes Falls Road; the portion of T3 R7 WELS, 19821, east of the Seboeis River and
7 East Branch Penobscot River; the portions of T4 Indian Purchase Twp., 19807, area
8 northeast of North Twin Lake and south of Route 11; the portion of T4 R7 WELS, 19824,
9 east of the Seboeis River; the portion of T4 R9 NWP, 21845, east of Route 11; the
10 portion of T5 R7 WELS, 19827, east of the Seboeis River; and the portion of T6 R7
11 WELS, 19830, east of the Seboeis River.

12 **Sec. B-2. Exceptions.** The following portions of townships or plantations may not
13 be added to the provisional expedited permitting area under section 1:

14 **1. Existing development.** Any specified place within the project boundary of an
15 existing, legally permitted, expedited wind energy development;

16 **2. Proposed development.** Any specified place within the project boundary of a
17 proposed, legally permitted, expedited wind energy development, as described in its
18 associated development permit;

19 **3. Accepted for processing.** Any specified place within the project boundary of a
20 proposed expedited wind energy development, as described in a development permit
21 application that has been accepted for processing by the Department of Environmental
22 Protection before the date the rule under section 1 is adopted; and

23 **4. Added by rule.** Any specified place added by rule to the expedited permitting
24 area after April 18, 2008 in accordance with the Maine Revised Statutes, Title 35-A,
25 section 3453.

26 **Sec. B-3. Definitions.** As used in this Part, the following terms have the following
27 meanings.

28 **1. Project boundary.** "Project boundary" means the geographic limits of an existing
29 or proposed expedited wind energy development, as defined by:

30 A. The limits of the project footprint as described in the project development permit
31 issued or the development permit application accepted as complete for processing by
32 the siting authority; or

33 B. If no specific project footprint description exists, the deeded geographic
34 boundaries of the parcel or parcels of land on which the project, or portion of the
35 project, is sited.

36 **2. Specified place.** "Specified place" means the entirety or a portion of a township
37 or plantation in the unorganized or deorganized areas.

1 **Sec. B-4. Rules.** Rules adopted by the Maine Land Use Planning Commission
2 pursuant to this Part are routine technical rules as defined in the Maine Revised Statutes,
3 Title 5, chapter 375, subchapter 2-A.

4 **SUMMARY**

5 This bill amends legislative findings of the Maine Wind Energy Act, adding emphasis
6 to public consideration and participation in decisions related to expedited wind energy
7 development siting. It directs the Maine Land Use Planning Commission, through
8 rulemaking, to create a provisional expedited permitting area comprised of unorganized
9 and deorganized areas of the State, which were previously included in the expedited
10 permitting area, with specific exceptions to recognize existing expedited wind energy
11 developments. It amends the statutory criteria for adding specified places to the expedited
12 permitting area and adds a requirement that a petition to add a specified place to the
13 expedited permitting area must involve a public hearing if written requests for a public
14 hearing are received from 5 or more persons.