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**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1005, L.D. 1366, Bill, “An Act To Update the Maine Wind Energy Act To Include Low-emission Energy”

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

**'An Act To Establish Statewide Standards for Setbacks for Wind Energy Development'**

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

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

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

C. Will be constructed with setbacks of at least 1.5 miles from the base of a wind turbine, unless the commission at the request of a person affected by the proposed generating facilities determines a reduced setback is 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. The commission shall establish a process by which persons affected by the proposed generating facilities may petition to apply a reduced setback; and

**Sec. 2. 35-A MRSA §3455,** as enacted by PL 2007, c. 661, Pt. A, §7, is repealed.

**Sec. 3. 35-A MRSA §3456, sub-§1, ¶C,** as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

C. Will be constructed with setbacks of at least 1.5 miles from the base of a wind turbine, unless the department at the request of a person affected by the proposed wind energy development determines a reduced setback is adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider

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1 ~~the recommendation of a professional, licensed civil engineer as well as any~~  
2 ~~applicable setback recommended by a manufacturer of the generating facilities. The~~  
3 ~~department shall establish a process by which persons affected by the proposed wind~~  
4 ~~energy development may petition the primary siting authority to apply a reduced~~  
5 ~~setback.~~

6 **Sec. 4. 38 MRSA §484, sub-§10, ¶B**, as enacted by PL 2007, c. 661, Pt. B, §12,  
7 is amended to read:

8 B. Will be constructed with setbacks of at least 1.5 miles from the base of a wind  
9 turbine, unless the department at the request of a person affected by the proposed  
10 grid-scale wind energy development determines a reduced setback is adequate to  
11 protect public safety. In making a finding pursuant to this paragraph, the department  
12 shall consider the recommendation of a professional, licensed civil engineer as well  
13 as any applicable setback recommended by a manufacturer of the generating facilities  
14 The department shall establish a process by which persons affected by the proposed  
15 grid-scale wind energy development may petition the primary siting authority to  
16 apply a reduced setback; and

17 **Sec. 5. Expectations for assessment.** When the Governor's Office of Energy  
18 Independence and Security, referred to in this section as "the office," undertakes its 2011  
19 annual assessment of progress on meeting the wind energy development goals pursuant to  
20 Public Law 2007, chapter 661, Part A, section 8, as amended by PL 2009, chapter 642,  
21 Part A, section 9, it shall consider the following specific issues.

22 1. In its examination of the experiences from the permitting process, the office shall  
23 specifically examine:

24 A. Whether statewide permitting standards should be applied to wind energy  
25 development for visual standards and decommissioning plans;

26 B. The criteria used during the permitting process to consider the visual impact of an  
27 expedited grid-scale wind energy development, the permits issued and any  
28 recommended changes to the criteria, including, but not limited to, changes to the  
29 criteria that require the primary siting authorities to consider insignificant the visual  
30 impacts greater than 8 miles from a scenic resource of state or national significance  
31 as defined in the Maine Revised Statutes, Title 35-A, section 3451, subsection 9;

32 C. The quality of submitted decommissioning plans and recommendations for  
33 mechanisms to provide financial assurance for funding the decommissioning; and

34 D. The time required for completing the permitting process, including the time  
35 required for conducting environmental surveys and preparing and submitting the  
36 applications and the associated costs.

37 2. In its examination of the status of this State and each of the other New England  
38 states in making progress toward reducing greenhouse gas emissions, the office shall  
39 specifically evaluate the accuracy of the estimates generated by state agencies and wind  
40 energy developers for greenhouse gas reductions that are a result of wind energy  
41 development in this State and make recommendations for a standardized protocol, if  
42 necessary.

1           3. In developing its recommendations regarding the wind energy development goals  
2 established in Title 35-A, section 3404, subsection 2, the office shall consider the number  
3 of wind turbines necessary to meet the goals, market conditions, development trends,  
4 emissions goals, siting policies, cumulative impacts and other factors that may indicate it  
5 is necessary to amend the wind energy development goals.

6           4. In developing its recommendations regarding identification of places within the  
7 State’s unorganized and deorganized areas for inclusion in the expedited permitting area  
8 established pursuant to Title 35-A, chapter 34-A, the office shall also consider whether  
9 places should be removed from the expedited permitting area, including, but not limited  
10 to, mountain area protection subdistricts, as described by the Department of  
11 Conservation, Maine Land Use Regulation Commission Rule Chapter 10.

12           Notwithstanding Public Law 2007, chapter 661, Part A, section 8, as amended by  
13 Public Law 2009, chapter 642, Part A, section 9, the assessment submitted in 2012 is due  
14 February 1, 2012. Following receipt and review of the report, the Joint Standing  
15 Committee on Energy, Utilities and Technology may submit a bill to the Second Regular  
16 Session of the 125th Legislature.

17           **Sec. 6. Additional considerations.** To the extent resources are available, the  
18 Governor's Office of Energy Independence and Security shall include the following in the  
19 annual assessment of progress on meeting the wind energy development goals pursuant to  
20 Public Law 2007, chapter 661, Part A, section 8, as amended by Public Law 2009,  
21 chapter 642, Part A, section 9, in the assessment submitted in 2012:

22           1. Recommendations for the method by which permitting authorities should consider  
23 the cumulative impact, as defined in 40 Code of Federal Regulations, Section 1508.7  
24 (2010), on natural resources at the state or regional level, including but not limited to  
25 mountain areas and to scenic resources of state or national significance as defined in the  
26 Maine Revised Statutes, Title 35-A, section 3451, subsection 9;

27           2. The economic effects of wind energy development on the tourism industry, to the  
28 extent data are available;

29           3. In collaboration with the Office of the Public Advocate, an evaluation of the costs  
30 associated with transmission upgrades for the purpose of transmitting wind energy; and

31           4. The implications of the intermittency of wind power for regional markets and the  
32 grid, including capacity charges, the forward capacity market and electricity price  
33 volatility.

34           **Sec. 7. Use of existing data.** When completing the assessments under sections 5  
35 and 6, the Governor's Office of Energy Independence and Security and the Office of the  
36 Public Advocate may draw on existing state data and studies rather than new analyses,  
37 including, but not limited to, those developed for the New England Wind Integration  
38 Study published by ISO New England in December 2010, the state climate action plan  
39 pursuant to the Maine Revised Statutes, Title 38, section 577 and progress evaluation in  
40 Title 38, section 578, the State of Maine Comprehensive Energy Plan 2008-2009, any  
41 reports from the Department of Economic and Community Development and data from  
42 the Department of Administrative and Financial Services, Maine Revenue Services, as  
43 well as on analyses by the Federal Government, nonprofit organizations and other  
44 parties.'

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**SUMMARY**

This amendment is the minority report of the committee. It strikes the bill, amends setback requirements for wind energy permitting requirements to make the setbacks at least 1.5 miles from the base of a wind turbine and sets out the information that the Joint Standing Committee on Energy, Utilities and Technology expects to receive in 2012 as part of the Governor's Office of Energy Independence and Security's annual assessment of progress on meeting the wind energy development goals.

**FISCAL NOTE REQUIRED**

**(See attached)**