

OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Agriculture, Conservation and Forestry
From: Karen S. Nadeau, Legislative Analyst
Date: March 8, 2022
Subj: **LD 856** An Act To Balance Renewable Energy Development with Natural and Working Lands Conservation

Summary:

This bill, which is a concept draft, would balance renewable energy development with the conservation of natural and working lands.

Rep. Berry's Proposed Amendment:

- Directs the Governor's Energy Office to create and maintain a publicly-accessible database of fully permitted or constructed energy projects utilizing renewable resources that may be used to identify land use trends and potential natural resources impacts.

Current law requires the Commissioner of Environmental Protection to decide whether an application for a permit under Title 38 meets the permit by rule requirements in statute within 20 working days after notifying the applicant of acceptance of the application.

- Requires the commissioner to decide whether an application to undertake an activity that requires a permit pursuant to the site location of development law in Title 38, chapter 3, subchapter 1, article 6 meets the permit by rule requirements in statute within a time period set pursuant to Title 38, section 344-B, which regulates timetables for processing permit applications.
- Requires the Governor's Energy Office, in collaboration with the Department of Agriculture, Conservation and Forestry and the Public Utilities Commission and other state agencies, stakeholders and research institutions, to develop a plan to implement a Dual-use Energy Pilot Program and requires the Governor's Energy Office to submit a report with a plan for implementing a pilot program to the joint standing committees of the Legislature having jurisdiction over agriculture, conservation and forestry matters; energy and utilities matters; and environment and natural resource matters no later than March 1, 2023. Each joint standing committee is authorized to submit a bill relating to the subject matter of the report to the First Regular Session of the 131st Legislature.
- Directs the Governor's Energy Office to convene siting work sessions, no later than September 1, 2022, of the distributed generation project programs stakeholder group convened by the Governor's Energy Office pursuant to Public Law 2021, chapter 390, section 4.
- Establishes a Public Service Coordinator I position in the Bureau of Agriculture, Food and Rural Resources within the Department of Agriculture, Conservation and Forestry to support the design and establishment of a pilot project program to study the feasibility of dual-use projects, provide technical assistance to municipalities considering proposals for utility-scale solar energy projects and assist with further solar policy development for the department.
- Establishes one position in the Governor's Energy Office to develop and maintain information technology and databases, including publicly-accessible databases, and to coordinate management with municipalities, develop the database and other research needs.

TESTIMONY

Proponents: *Governor's Energy Office; Department of Agriculture, Conservation and Forestry, Bureau of Agriculture, Food and Rural Resources; York Land Trust; Maine Audubon; Maine Farmland Trust; American Farmland Trust; Maine Organic Gardeners and Farmers Association; Natural Resources Council of Maine State Legislature; The Nature Conservancy*
Written only: Acadia Center; Spring Creek Farm; Coastal Enterprises, Inc.; Residents of Winslow and Liberty

- GEO – While we are open to moving forward with a pilot program specifically targeting agricultural and horticultural lands, you want to expand the type of projects to be considered for pilot projects to solar projects deployed in conjunction with other activities, such as solar deployed in canopies over parking lots or floating in certain controlled aquatic sites.
- GEO – We are supportive of ensuring that agricultural and natural resource stakeholders are directly engaged in the work of the Distributed Generation Stakeholder Group; we do not feel it is necessary to direct this engagement in the bill. [section 6 of the amendment]
- MOFGA – We recognize that renewable energy systems like 20-100 megawatt solar arrays take up a lot of space (100 to 500 acres) that could be used for wildlife habitat and carbon-sequestering fields and forests. Future projects must be assessed based not only on ratepayer benefits, but also on whether the projects avoid or minimize natural resource or agricultural impacts.
- NRCM – Suggest aligning the timelines included in this bill with the timelines laid out in the Distributed Generation stakeholder group's interim report. The working group's interim report indicates that their issue-focused work sessions will provide recommendations to the full working group by mid-2022 so recommendations can be incorporated into a draft report, released for public comment and made final in the stakeholder's group final report due by the end of the year. [due date is 1/1/23]
- TNC – language allowing DEP to set a timeline for a Site Law permit by rule is very important, as this will allow for implementation of a robust permit by rule in the future – another important lever for supporting well-sited, low-impact projects.

Opponents: *None*

NFNA: *Public Utilities Commission (written only)*

- We are supportive of examining ways to encourage combining the agricultural use of land with solar energy production, additional financial incentives for solar projects at the expense of ratepayers should be considered in the broader context of the many initiatives to support renewable energy development in Maine.