

Amendment to LD 856
An Act To Balance Renewable Energy Development with Natural and Working Lands Conservation

Presented by Representative Berry
February 24, 2022

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

Sec. 1. 2 MRSA §9, sub-§3, ¶I is amended to read:

I. Monitor energy transmission capacity planning and policy affecting this State and the regulatory approval process for the development of energy infrastructure pursuant to Title 35-A, section 122 and make recommendations to the Governor and the Legislature as necessary for changes to the relevant laws and rules to facilitate energy infrastructure planning and development; ~~and~~

Sec. 2. 2 MRSA §9, sub-§3, ¶J is amended to read:

J. Take action as necessary to carry out the goals and objectives of the state energy plan prepared pursuant to paragraph C including lowering the total cost of energy to consumers in this State; and

Sec. 3. 2 MRSA §9, sub-§3, ¶K is enacted to read:

K. Create and maintain a publicly-accessible database of fully permitted or constructed energy projects that may be used to identify land use and other energy trends. For purposes of this paragraph, “energy project” means a facility constructed and operated for the purpose of generating electricity and delivering it to the electric plant of a transmission and distribution utility within the state. The database must include key characteristics, including, but not limited to, geospatial data. The office may collect the data from state permitting agencies, PUC, and other relevant entities and shall determine the format and schedule of data collection.

Sec. 4. 38 MRSA §344, sub-§2-A, ¶D is amended to read:

B. The commissioner shall decide whether an application meets the permit by rule provisions under subsection 7 within 20 working days after notifying the applicant of acceptance of the application, except that the commissioner shall decide whether an application to undertake an activity that requires a permit pursuant to chapter 3, subchapter 1, article 6 meets the permit by rule provisions under subsection 7 within a time period set pursuant to the provisions of section 344-B.

Sec. 5. Governor’s Energy Office to plan for a pilot program to study the feasibility of dual-use projects. The Governor’s Energy Office, in collaboration with the Department of Agriculture, Conservation and Forestry, the Public Utilities Commission, and other state agencies

and stakeholders including research institutions, shall develop a plan to implement a dual-use energy pilot program, referred to in this section as the “pilot program plan,” to test and study the efficacy and potential benefits of innovative solar energy systems that are connected to the electric transmission and distribution system and are located on farmland that is maintained in active agricultural or horticultural use. For purposes of this section, “dual-use project” means a mixed land use system combining the agricultural use of the land with solar energy production.

The pilot program plan must:

1. Identify potential dual-use applications that together have a total capacity of at least 20 megawatts and may warrant inclusion in a pilot program based on criteria including but not limited to emerging or potential commercial viability, potential applicability to Maine, and potential to contribute meaningfully to achievement of the goals established in 35-A §3210 subsection 1-A.
2. Identify and include eligibility criteria for dual-use projects to be included in the program, including, but not limited to, the continuation of agricultural or horticultural uses of the affected land;
3. Identify if financial incentives, location-based incentives or other incentives to dual-use projects that would be considered for inclusion in the program would be necessary, including mechanisms to minimize the cost of any pilot program to all electric ratepayers in the state;
4. Ensure all approved agricultural dual-use pilot projects permit the Department of Agriculture, Conservation, and Forestry to conduct or direct research on compatible crops, grazing operations and other agricultural or horticultural uses of the land to determine best practices for dual-use projects. The determination of best practices must consider both the duration of uses of the land and the energy production of the solar energy system;
5. Include an application process for landowners seeking to be included in the program, including landowners who have already deployed or are planning to deploy solar energy projects;
6. Examine benefits of dual-use applications to individual land owners, the electric grid system, and the state’s ability to meet clean energy and climate goals;
7. Include an evaluation process and selection criteria that may result in the approval of projects of varying sizes, in different geographic locations, that involve diverse types of agricultural and horticultural production and minimize negative impacts to farmland and the environment, and ensure appropriate innovation as well as planning for technical and financial feasibility, including interconnection with the transmission and distribution system.

The GEO, in coordination with the Department of Agriculture, Conservation and Forestry, shall submit a report with a plan for implementing the 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 and each joint standing committee may submit a bill relating to the subject matter of the report to the First Regular Session of the 131st Legislature.

Sec. 6. Governor’s Energy Office to include agricultural and natural resource stakeholders in distributed generation stakeholder group siting work sessions. The Governor’s Energy Office shall 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 P.L. 2021, chapter 390, section 4. These siting work sessions shall be comprised of representatives from natural resource agencies, stakeholders representing agricultural and natural resource interests and members of the distributed generation project programs stakeholder group. The siting work sessions shall focus on land use considerations and how such considerations may be incorporated into distributed generation policy, including siting distributed generation facilities and grid planning. Such land use considerations may include the prioritization of contaminated lands, such as brownfields and land contaminated with perfluoroalkyl and polyfluoroalkyl substances; rooftops; gravel pits; previously developed parcels and other criteria that safeguard or avoid valuable agricultural land; rare, threatened and endangered species; and rare and exemplary natural communities. The Governor’s Energy Office shall convene at least 3 meetings to develop recommendations to avoid, minimize and compensate for agricultural and natural resource impacts, including, but not limited to, an in-lieu fee mitigation program and preference in procurement or tariff programs. The siting work sessions shall result in a report, with findings and recommendations, to the distributed generation project programs stakeholder group no later than January 1, 2023.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Bureau of Agriculture 0393

Initiative: Establishes one Public Service Coordinator I position in the Bureau of Agriculture program and related All Other costs in the Office of the Commissioner program 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 on agricultural, forested and natural lands, analyze impacts to agricultural and natural resources, and assist with further solar policy development for the department.

Bureau of Agriculture 0393		
GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT		1,000
Personal Services		103,622
GENERAL FUND TOTAL		103,622

Office of the Commissioner 0401	2021-22	2022-23
GENERAL FUND		
All Other		3,247
GENERAL FUND TOTAL		3,247

Other Special Revenue Funds	2021-22	2022-23
All Other		655
OTHER SPECIAL REVENUE FUNDS TOTAL		655

GENERAL FUND TOTAL: \$107,524

EXECUTIVE DEPARTMENT

Governor's Energy Office Z122

Initiative: Provides ongoing funding for one position to develop and maintain information technology and databases, including publicly-accessible databases, and to coordinate engagement with municipalities, develop the database and other research needs.

Governor's Energy Office Z122		
GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT		1.000
Personal Services		103,622
All Other		100,000
GENERAL FUND TOTAL		203,622

GENERAL FUND TOTAL: \$203,622

Governor's Energy Office Z122		
GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT		1.000
Personal Services		103,622
All Other		100,000
GENERAL FUND TOTAL		203,622

Governor's Energy Office Z122		
GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT		1.000
Personal Services		103,622
All Other		100,000
GENERAL FUND TOTAL		203,622

SUMMARY

This amendment replaces the bill, which is a concept draft.

The 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. The amendment 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.

The amendment 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.

The amendment 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.

The amendment 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.

The amendment also 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.