

126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1325

H.P. 949

House of Representatives, April 3, 2013

Resolve, To Place a Temporary Suspension on Permitting of Certain Expedited Grid-scale Wind Energy Developments

(EMERGENCY)

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

Millicent M. Mac Jarland

MILLICENT M. MacFARLAND Clerk

Presented by Representative KAENRATH of South Portland. Cosponsored by Representatives: DUNPHY of Embden, HARLOW of Portland, JONES of Freedom, MORRISON of South Portland.

- 1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
- 3 **Whereas,** the 125th Legislature ordered an independent review of the State's current 4 wind energy development permitting goals and process; and
- 5 **Whereas,** the legislatively ordered review, completed in 2012, concluded that there 6 was sufficient cause to reconsider key elements of the State's wind energy development 7 goals and permitting process; and
- 8 Whereas, the Governor's Energy Office, in response to the Legislature's directive, 9 published a list of recommendations addressing aspects of current wind energy 10 development permitting; and
- 11 **Whereas,** the Legislature has not yet acted on the recommendations made by the 12 Governor's Energy Office; and
- Whereas, onshore wind energy development has proven to be controversial in some
 locations in the State and elsewhere; and
- 15 **Whereas,** the legislatively ordered review revealed that significant disagreement 16 exists with regard to the effects on humans and the environment and the net economic 17 effects of large-scale expansion of onshore wind energy projects within the State; and
- Whereas, a significant body of information exists pertaining to the human, wildlife,
 environmental and economic impacts of onshore wind energy development that was
 unavailable during the creation of the State's current policy and laws; and
- Whereas, it is in the immediate interests of public and environmental well-being that the expedited wind energy permitting process be interrupted in certain sensitive locations pending the necessary review; 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
- 28 **PART A**
- Sec. A-1. Definitions. Resolved: That, as used in this Part, unless the context
 otherwise indicates, the following terms have the following meanings.
- "Expedited permitting area" has the same meaning as in the Maine Revised
 Statutes, Title 35-A, section 3451, subsection 3.
- 33 2. "Expedited wind energy development" has the same meaning as in Title 35-A,
 34 section 3451, subsection 4.
- 35 3. "Generating facilities" means wind turbines and towers.

1 4. "Grid-scale wind energy development" has the same meaning as in Title 35-A, 2 section 3451, subsection 6. 5. "Occupied dwelling" means any legally permitted residential or commercial 3 structure that includes an area designated for sleeping and is continuously or temporarily 4 occupied. 5 6 6. "Primary siting authority" has the same meaning as in Title 35-A, section 3451, 7 subsection 8. 8 7. "Scenic resource of state or national significance" has the same meaning as in 9 Title 35-A, section 3451, subsection 9; and be it further 10 Sec. A-2. Temporary suspension of certain expedited permitting. **Resolved:** That, notwithstanding the Maine Revised Statutes, Title 35-A, chapter 34-A, 11 during the period beginning on the effective date of this resolve and ending on the date of 12 13 adjournment of the Second Regular Session of the 126th Legislature, a primary siting 14 authority may not: 15 1. Accept an application for a permit for an expedited wind energy development that 16 includes: 17 A. Development-related activity in a location at an elevation at or above 2,700 feet; 18 B. Placement of any generating facilities within 2 miles of an occupied dwelling; or 19 C. Placement of any generating facilities within 15 miles of a scenic resource of state or national significance; or 20 21 2. Issue a permit for an application that was received after December 31, 2012 for an 22 expedited wind energy development that is described in subsection 1, paragraph A, B or 23 C; and be it further 24 Sec. A-3. Application of laws and rules. Resolved: That, after the suspension period under section 2 concludes, an application for an expedited wind energy 25 development permit that is received after December 31, 2012 that is described in section 26 27 2, subsection 1, paragraph A, B or C will be subject to the laws and rules in effect at the expiration of the suspension period; and be it further 28 29 Sec. A-4. Application; construction. Resolved: That this resolve applies to applications for grid-scale wind energy development within the expedited permitting 30 area. Nothing in this resolve may be construed to prevent or impede any individual or 31 32 entity from pursuing a permit for a grid-scale wind energy development that is outside the expedited permitting area or that is undertaken pursuant to the laws and rules in effect 33 34 prior to April 18, 2008. 35 PART B 36 Sec. B-1. Review panel. Resolved: That the Panel to Review the Permitting of Expedited Wind Energy Development, referred to in this resolve as "the panel" is 37 established: and be it further 38

- Sec. B-2. Panel membership. Resolved: That the panel consists of 13
 members appointed as follows:
- Four members of the Senate appointed by the President of the Senate, including
 members from each of the 2 parties holding the largest number of seats in the Legislature;
- 5 2. Four members of the House of Representatives appointed by the Speaker of the 6 House, including members from each of the 2 parties holding the largest number of seats 7 in the Legislature;
 - 3. Three members appointed by the Governor;

8

9

- 4. The Commissioner of Environmental Protection or a designee; and
- 5. The Director of the Maine Land Use Planning Commission or a designee; and beit further
- 12 Sec. B-3. Chairs. Resolved: That the first-named Senate member is the Senate 13 chair and the first-named House of Representatives member is the House chair of the 14 panel; and be it further

15 Sec. B-4. Appointments; convening of panel. **Resolved:** That all appointments must be made no later than 30 days following the effective date of this 16 resolve. The appointing authorities shall notify the Executive Director of the Legislative 17 18 Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the panel. If 30 days or more after 19 the effective date of this resolve a majority of but not all appointments have been made, 20 the chairs may request authority and the Legislative Council may grant authority for the 21 22 panel to meet and conduct its business; and be it further

- 23 Sec. B-5. Duties. Resolved: That the panel shall review the report issued in March 2012 by the Governor's Office of Energy Independence and Security entitled 24 "Maine Wind Energy Development Assessment: Report and Recommendations." The 25 26 panel shall specifically evaluate the 25 separate recommendations contained in the report, and shall develop recommendations regarding implementation of each of the 27 28 recommendations. The panel shall schedule opportunities for public participation in those 29 areas of the State where expedited grid-scale wind energy development is under consideration: and be it further 30
- Sec. B-6. Staff assistance. Resolved: That the Legislative Council shall
 provide necessary staffing services to the panel; and be it further

Sec. B-7. Report. Resolved: That, no later than December 4, 2013, the panel shall submit a report that includes its findings and recommendations, including suggested legislation and a recommendation regarding the termination or extension of the suspension period established in Part A, section 2, for presentation to the Second Regular Session of the 126th Legislature. In making its recommendation regarding extending or terminating the suspension period, the panel shall evaluate the suspension period established in Part A, section 2 and shall consider whether there exists the need for additional statutory changes or agency rulemaking and whether, in order to accommodate
 the implementation of any such necessary changes, the period of suspension should be
 extended; if the panel concludes that no additional statutory changes or agency
 rulemaking is necessary, the panel may recommend early termination of the suspension
 period.

6 **Emergency clause.** In view of the emergency cited in the preamble, this 7 legislation takes effect when approved.

8

SUMMARY

9 This resolve establishes a temporary suspension on the expedited permitting of specified grid-scale wind energy developments and establishes the Panel to Review the 10 Permitting of Expedited Wind Energy Development to review the recommendations of 11 the report issued in March 2012 by the Governor's Office of Energy Independence and 12 13 Security entitled "Maine Wind Energy Development Assessment: Report and Recommendations." The panel is directed to evaluate specifically the 25 separate 14 recommendations contained in the report and to develop recommendations regarding 15 implementation of each of the recommendations and to include in its report any 16 recommendations to extend or terminate early the temporary suspension. 17