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Date: (Filing No. S- )

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
127TH LEGISLATURE  
FIRST REGULAR SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 562, L.D. 828, Bill, “An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission”

Amend the amendment in section 7 in §3453 in subsection 1 in the last line (page 2, line 36 in amendment) by inserting after the following: "3453-A" the following: 'subsection 1'

Amend the amendment in section 7 in §3453 by striking out all of subsection 3 (page 2, lines 39 and 40 and page 3, lines 1 and 2 in amendment) and inserting the following:

**3. Consistent with comprehensive land use plan.** ~~Would not compromise~~ Is consistent with the principal values and the goals ~~identified~~ in the comprehensive land use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section 685-C.'

Amend the amendment by striking out all of section 8 and inserting the following:

**'Sec. 8. 35-A MRSA §3453-A** is enacted to read:

**§3453-A. Removal from the expedited permitting area**

The Maine Land Use Planning Commission may, by rule adopted in accordance with Title 5, chapter 375, remove a specified place in the unorganized and deorganized areas from the expedited permitting area as described in this section.

**1. Removal by petition.** The Maine Land Use Planning Commission shall, by rule, remove a specified place in the unorganized and deorganized areas from the expedited permitting area if:

A. The specified place is a township, plantation, municipality or portion thereof that has been identified pursuant to section 3451, subsection 3, paragraph B;

B. The Maine Land Use Planning Commission receives a petition on or before June 30, 2016 requesting the removal of the specified place from the expedited permitting area that:

(1) Clearly states that the persons signing the petition are requesting the removal of the specified place from the expedited permitting area;

**SENATE AMENDMENT**

1                   (2) Is signed by at least 10% of the number of registered voters residing in the  
2                   township, plantation, municipality or portion thereof that voted in the most recent  
3                   gubernatorial election; and

4                   (3) Is on a form consistent with Title 5, section 8055, a form provided by the  
5                   Maine Land Use Planning Commission or a form otherwise determined to be  
6                   sufficient for the purposes of this subsection by the Maine Land Use Planning  
7                   Commission; and

8                   C. A person does not request substantive review of the petition for removal pursuant  
9                   to subsection 3 within 45 days of the Maine Land Use Planning Commission posting  
10                  notice of receipt of the petition on its publicly accessible website.

11                  The removal of a specified place from the expedited permitting area under this subsection  
12                  may not prejudice any subsequent petition presented to the Maine Land Use Planning  
13                  Commission to add the specified place back into the expedited permitting area under  
14                  section 3453.

15                  **2. Notice of receipt of petition.** Within 5 business days of receipt of a petition for  
16                  removal under subsection 1, the Maine Land Use Planning Commission shall post notice  
17                  of receipt of the petition, along with a copy of the petition, on its publicly accessible  
18                  website. The notice must specify that a person may request substantive review of the  
19                  petition pursuant to subsection 3. A petition for removal of a specified place from the  
20                  expedited permitting area is considered pending upon notice of receipt of a petition being  
21                  posted on the commission's publicly accessible website. The Maine Land Use Planning  
22                  Commission shall maintain a distribution list of persons who have requested to receive  
23                  notice of commission receipt of petitions for removal and promptly notify persons on the  
24                  list when a petition is received. Notwithstanding any other law to the contrary, additional  
25                  notice of receipt of a petition for removal and additional notice associated with  
26                  rulemaking to remove a specified place pursuant to subsection 1 is not required.

27                  **3. Removal by petition with review.** A person may, in writing, request substantive  
28                  review of a petition for removal under subsection 1 by the Maine Land Use Planning  
29                  Commission. Upon receipt of a timely filed request for substantive review, if the  
30                  commission finds the requirements of subsection 1, paragraphs A and B are satisfied, the  
31                  commission shall, by rule, remove a specified place in the unorganized and deorganized  
32                  areas from the expedited permitting area if it finds the proposed removal:

33                  A. Will not have an unreasonable adverse effect on the State's ability to meet the  
34                  state goals for wind energy development in section 3404, subsection 2, paragraph C;  
35                  and

36                  B. Is consistent with the principal values and the goals in the comprehensive land use  
37                  plan adopted by the Maine Land Use Planning Commission pursuant to Title 12,  
38                  section 685-C.

39                  **4. Notice of petition review and opportunity for public hearing.** Upon receipt of  
40                  a request for substantive review of a petition for removal pursuant to subsection 3, the  
41                  Maine Land Use Planning Commission shall, based on available tax records, notify  
42                  property owners in the specified place of the petition and the request for review, provide

1 an opportunity for public comment on the petition and conduct a public hearing if 5 or  
2 more persons request a hearing.

3 **5. Exceptions.** The following specified places may not be removed from the  
4 expedited permitting area under this section:

5 A. Any specified place within the project boundary of an existing or proposed,  
6 legally permitted expedited wind energy development, unless the development permit  
7 is revoked or withdrawn;

8 B. Any specified place within the project boundary of a proposed expedited wind  
9 energy development, as described in the development permit application, that has  
10 been accepted for processing by the Department of Environmental Protection, unless  
11 the development permit application is denied; and

12 C. Any specified place added by rule to the expedited permitting area in accordance  
13 with section 3453 prior to January 1, 2016.

14 As used in this subsection, "project boundary" means the geographic limits of an existing  
15 or proposed expedited wind energy development, as defined by the deeded geographic  
16 boundaries of the parcel or parcels of land on which the development or portions thereof  
17 are located or proposed to be located.

18 **6. Fee.** If a person requests substantive review of a petition for removal under  
19 subsection 3, notwithstanding Title 12, section 685-F, subsection 1 or any other provision  
20 of law to the contrary, the director of the Maine Land Use Planning Commission may  
21 assess a processing fee associated with the rulemaking, consistent with the fee that may  
22 be collected under Title 12, section 685-F, subsection 2, to cover actual costs, including  
23 costs associated with any notice or public hearing and the processing of the rule-making  
24 petition for removal. The director also may assess a similar fee to cover actual costs  
25 associated with petitions to add a specified place to the expedited permitting area under  
26 section 3453.

27 **7. Rulemaking.** The Maine Land Use Planning Commission may adopt rules  
28 implementing this section. Rules adopted pursuant to this section are routine technical  
29 rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted pursuant to  
30 subsection 3 need not meet the requirements of Title 5, section 8053-A or 8060 but must  
31 meet all other applicable requirements in Title 5, chapter 375.'

32 Amend the amendment by inserting after section 9 the following:

33 '**Sec. 10. Effective date.** This Act takes effect January 1, 2016.'

## 34 SUMMARY

35 This amendment establishes consistency between the review processes for adding and  
36 removing specified places from the expedited permitting area. The amendment also  
37 establishes that when 10%, instead of 50% as in the committee amendment, of the  
38 registered voters in a township, plantation or municipality that voted in the most recent  
39 gubernatorial election petition for removal of a specified place in the unorganized and  
40 deorganized areas from the expedited permitting area, after the required notice, if no  
41 person requests substantive review of the petition the specified place must be removed. If

1 review is requested, there must be an opportunity for public comment and, if requested by  
2 5 or more persons, a public hearing. The Maine Land Use Planning Commission may  
3 recover the actual cost of a requested review of a petition from the person making the  
4 request. When conducting substantive review of a petition for removal, the commission  
5 must grant the petition and remove the specified place from the expedited permitting area  
6 if the commission determines the removal will not have an unreasonable adverse effect  
7 on the State's ability to meet its goals for wind energy development and is consistent with  
8 the principal values and the goals of the commission's comprehensive land use plan. The  
9 amendment removes the requirement that all signers of a petition must be permanent  
10 residents of the township, plantation or municipality, extends the deadline by which  
11 petitions may be filed to June 30, 2016 and establishes an effective date of the legislation  
12 of January 1, 2016.

13 **FISCAL NOTE REQUIRED**

14 **(See attached)**

15 SPONSORED BY: \_\_\_\_\_

16 (Senator SAVIELLO)

17 COUNTY: Franklin