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Legislative Document

No. 1234

H.P. 925

House of Representatives, March 22, 2011

An Act To Restore the Uniform Visual Permitting Standard for Wind Power Projects

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

Sleath & Print

HEATHER J.R. PRIEST Clerk

Presented by Representative DUNPHY of Embden. Cosponsored by Senator WHITTEMORE of Somerset and Representatives: COTTA of China, DAVIS of Sangerville, O'CONNOR of Berwick, TIMBERLAKE of Turner, WINTLE of Garland, Senator: MARTIN of Kennebec.

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

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Sec. 1. 12 MRSA §685-B, sub-§4, ¶**C,** as amended by PL 2009, c. 615, Pt. D, §4, is further amended to read:

4 C. Adequate provision has been made for fitting the proposal harmoniously into the 5 existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely 6 7 to be affected by the proposal. In making a determination under this paragraph 8 regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by 9 10 Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone 11 of contribution to the withdrawal. In making findings under this paragraph, the 12 commission shall consider both the direct effects of the proposed withdrawal and its 13 14 effects in combination with existing water withdrawals.;

15In making a determination under this paragraph regarding an expedited wind energy16development, as defined in Title 35-A, section 3451, subsection 4, or a community-17based offshore wind energy project, the commission shall consider the development's18or project's effects on scenic character and existing uses related to scenic character in19accordance with Title 35-A, section 3452.

In making a determination under this paragraph regarding a wind energy development, as defined in Title 35 A, section 3451, subsection 11, that is not a gridscale wind energy development, that has a generating capacity of 100 kilowatts or greater and that is proposed for location within the expedited permitting area, the commission shall consider the development's or project's effects on scenic character and existing uses relating to scenic character in the manner provided for in Title 35 A, section 3452;

- Sec. 2. 12 MRSA §1868, sub-§1, ¶A, as enacted by PL 2009, c. 270, Pt. C, §1, is
 amended to read:
- A. Potential adverse effects on a protected natural resource, as defined by Title 38, section 480-B, subsection 8, or a scenic resource of state or national significance, as defined by Title 35-A, section 3451, subsection 9;
- 32 Sec. 3. 35-A MRSA §3402, sub-§2, ¶A, as enacted by PL 2007, c. 661, Pt. A, 33 §5, is amended to read:
- A. Making wind energy development a permitted use within certain parts of the
 State's unorganized and deorganized areas; and
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 Sec. 4. 35-A MRSA §3402, sub-§2, ¶B, as enacted by PL 2007, c. 661, Pt. A,

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 §5, is amended to read:
- B. Refining certain procedures of the Department of Environmental Protection and
 the Maine Land Use Regulation Commission; and.

- Sec. 5. 35-A MRSA §3402, sub-§2, ¶C, as enacted by PL 2007, c. 661, Pt. A, 1 2 §5, is repealed. 3 Sec. 6. 35-A MRSA §3451, sub-§9, as enacted by PL 2007, c. 661, Pt. A, §7, is 4 repealed. 5 Sec. 7. 35-A MRSA §3452, as enacted by PL 2007, c. 661, Pt. A, §7, is repealed. 6 Sec. 8. 35-A MRSA §3457, as enacted by PL 2007, c. 661, Pt. A, §7, is repealed. 7 Sec. 9. 38 MRSA §480-D, sub-§1, as amended by PL 2009, c. 615, Pt. E, §8, is 8 further amended to read: 9 1. Existing uses. The activity will not unreasonably interfere with existing scenic, 10 aesthetic, recreational or navigational uses. 11 In making a determination under this subsection regarding an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, or an offshore wind 12 13 power project, the department shall consider the development's or project's effects on 14 scenic character and existing uses related to scenic character in accordance with Title 15 35-A, section 3452. In making a decision under this subsection regarding an application for an offshore wind power project, the department may not consider whether the project 16 meets the specific criteria designated in Title 12, section 1862, subsection 2, paragraph A, 17 subparagraph (6), divisions (a) to (d). This limitation is not intended to restrict the 18 19 department's review of related potential impacts of the project as determined by the 20 department. 21 Sec. 10. 38 MRSA §484, sub-§3, ¶G, as amended by PL 2009, c. 615, Pt. E, 22 §17, is repealed. 23 SUMMARY
- This bill eliminates specific visual permitting standards for wind energy development to provide that wind energy developments are subject to the same visual permitting standards as other developments.