

Replace LD 1504 as introduced with the following language

The Title shall be amended to read: “An Act to Provide Predictable Economic Benefits to Maine Communities that Host Wind Power Projects”

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

Sec. 1. 35-A MRSA §3451, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

§3451. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Associated facilities. "Associated facilities" means elements of a wind energy development other than its generating facilities that are necessary to the proper operation and maintenance of the wind energy development, including but not limited to buildings, access roads, generator lead lines and substations.

2. Community Benefit Agreement. “Community Benefit Agreement” means an agreement between a wind power developer and a host community for the purpose of documenting the contribution amount, payment schedule, and associated terms and conditions for voluntary payments by the developer to the host community. Contributions governed by a Community Benefit Agreement shall be considered as “tangible benefits” for the purpose of permit application review by the primary siting authority. Funding provided to a County as part of a “Community Benefit Agreement” for a project located within an unorganized territory may be utilized for projects and programs of public benefit located anywhere within the County.

2. 3. Department. "Department" means the Department of Environmental Protection.

3. 4. Expedited permitting area. "Expedited permitting area" means:

A. The organized areas of the State in their entirety, but not including waters subject to tidal influence, so that the edge of the area that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service defines the boundary of the expedited permitting area on lands abutting waters subject to tidal influence; and

B. Specific places within the State's unorganized and deorganized areas, as defined by Title 12, section 682, subsection 1, that are identified by rule by the Maine Land Use Regulation Commission in accordance with this chapter.

4. 5. Expedited wind energy development. "Expedited wind energy development" means a grid-scale wind energy development that is proposed for location within an expedited permitting area.

5. 6. Generating facilities. "Generating facilities" means wind turbines and towers and transmission lines, not including generator lead lines, that are immediately associated with the wind turbines.

6. 7. Grid-scale wind energy development. "Grid-scale wind energy development" means a wind energy development that is of a size that would qualify as a development of state or regional significance that may substantially affect the environment as defined under Title 38, section 482, subsection 2, paragraph A or paragraph C.

7. 8. Host community. "Host community" means a municipality, county, township or plantation in which the generating facilities of an expedited wind energy development are located.

8. 9. Primary siting authority. "Primary siting authority" means:

A. The department, in the case of an expedited wind energy development subject to the department's jurisdiction pursuant to Title 38, chapter 3, subchapter 1, article 6, including, but not limited to, a development subject to the department's jurisdiction pursuant to Title 38, section 488, subsection 9; or

B. The Maine Land Use Regulation Commission, in the case of an expedited wind energy development subject to the Maine Land Use Regulation Commission's jurisdiction pursuant to Title 12, chapter 206-A.

9. 10. Scenic resource of state or national significance. "Scenic resource of state or national significance" means an area or place owned by the public or to which the public has a legal right of access that is:

A. A national natural landmark, federally designated wilderness area or other comparable outstanding natural and cultural feature, such as the Orono Bog or Meddybemps Heath;

B. A property listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended, including, but not limited to, the Rockland Breakwater Light and Fort Knox;

C. A national or state park;

D. A great pond that is:

(1) One of the 66 great ponds located in the State's organized area identified as having outstanding or significant scenic quality in the "Maine's Finest Lakes" study published by the Executive Department, State Planning Office in October 1989; or

(2) One of the 280 great ponds in the State's unorganized or deorganized areas designated as outstanding or significant from a scenic perspective in the "Maine Wildlands Lakes Assessment" published by the Maine Land Use Regulation Commission in June 1987;

E. A segment of a scenic river or stream identified as having unique or outstanding scenic attributes listed in Appendix G of the "Maine Rivers Study" published by the Department of Conservation in 1982;

F. A scenic viewpoint located on state public reserved land or on a trail that is used exclusively for pedestrian use, such as the Appalachian Trail, that the Department of Conservation designates by rule adopted in accordance with section 3457;

G. A scenic turnout constructed by the Department of Transportation pursuant to Title 23, section 954 on a public road that has been designated by the Commissioner of Transportation pursuant to Title 23, section 4206, subsection 1, paragraph G as a scenic highway; or

H. Scenic viewpoints located in the coastal area, as defined by Title 38, section 1802, subsection 1, that are ranked as having state or national significance in terms of scenic quality in:

(1) One of the scenic inventories prepared for and published by the Executive Department, State Planning Office: "Method for Coastal Scenic Landscape Assessment with Field Results for Kittery to Scarborough and Cape Elizabeth to South Thomaston," Dominie, et al., October 1987; "Scenic Inventory Mainland Sites of Penobscot Bay," Dewan and Associates, et al., August 1990; or "Scenic Inventory: Islesboro, Vinalhaven, North Haven and Associated Offshore Islands," Dewan and Associates, June 1992; or

(2) A scenic inventory developed by or prepared for the Executive Department, State Planning Office in accordance with section 3457.

10. 11. Tangible benefits. "Tangible benefits" means environmental or economic improvements or benefits to Maine residents attributable to the construction, operation and maintenance of an expedited wind energy development, including but not limited to: property tax payments and community benefit fund payments that are available to one or more host communities for property tax reductions, economic development projects, land conservation, tourism promotion, reduction of energy costs, or other investments of public value; construction-related employment; local purchase of materials; employment in operations and maintenance; ~~reduced property taxes~~; reduced electrical rates; natural resource conservation; performance of construction, operations and maintenance activities by trained, qualified and licensed workers in accordance with Title 32, chapter 17 and other applicable laws; or other comparable benefits, with particular attention to assurance of such benefits to the host community to the extent practicable and affected neighboring communities.

Sec.2. 35-A MRSA §3454, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

§3454. Determination of Tangible Benefits

1. Responsibilities. In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, the Executive Department, State Planning Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

2. Tangible benefits for projects greater than 20 megawatts. In addition to other environmental and economic improvements and benefits associated with the project, the developer shall meet the tangible benefit requirement by providing payments to a host community or host communities through property taxes, a tax increment finance agreement, host community agreement, or a combination of these taxation and voluntary payment approaches, as follows, in accordance with the installed capacity of the project:

- A. Installed capacity of 20 megawatts to 100 megawatts. Payments shall average \$14,000 annually per megawatt of installed capacity over a 20 year period.
- B. Installed capacity greater than 100 megawatts. Payments shall average \$8,000 annually per megawatt of installed capacity over a 20 year period.

The permitting authority will consider tangible benefit payments in lesser amounts only in cases where the applicant has demonstrated, as part of the application, extraordinary development costs or extraordinary other benefits provided by the proposed project.

3. Application requirements. Determination of this tangible benefit requires submission by the applicant to the primary citing authority of one or more of the following:

- A. The anticipated schedule of property taxes that will be paid to the taxing jurisdiction or jurisdictions; or
- B. An approved tax increment finance agreement, with a schedule of tax payments that will be made to the taxing jurisdiction or jurisdictions; and
- C. A copy of any community benefit agreement negotiated for the project, which shall include a schedule of payments to be made to the host community or host communities.

4. Tangible benefits for projects less than 20 megawatts. Applicants for development of a grid-scale wind energy generation system greater than 100 kilowatts but less than 20 megawatts of installed capacity shall submit with their application documentation of tangible benefits anticipated from the project, including information on property taxes, tax increment financing, and any voluntary payments or community benefit agreement reached with a host community or communities.

5. Effective date. Nothing in this Act shall affect the tangible benefit determination, property taxes, or voluntary contribution obligations for any wind power project for which a permit application has been submitted to the primary siting authority prior to enactment of this Act.

SUMMARY

This bill provides predictable economic benefits for host communities of wind power projects in Maine by requiring that expedited wind power projects greater than 20 megawatts (MW) and less than 100 MW provide \$14,000 per MW per year in tangible benefits averaged over a 20 year period, and projects greater than 100 MW provide \$8,000 per MW per year in tangible benefits on average over a 20 year period. These benefits can be provided through property taxes, tax increment finance agreements, or community benefit fund agreements. The bill defines Community Benefit Agreements as a contract between a developer and a host community which provides annual payments. For an expedited wind project within an unorganized territory, a Community Benefit Agreement would be negotiated with the County Commissioners and funds may be utilized anywhere within the host county.