

LD 901, An Act To Amend the Laws Governing the Determination of a Wind Energy Development's Effect on the Scenic Character of Maine's Special Places

Joint Committee on Environment and Natural Resources

Sen. Thomas Saviello, Chair; Rep. Ralph Tucker, Chair

Testimony of Alan Michka, Lexington Twp., Maine

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Sen. Saviello, Rep. Tucker and Honorable Members of the Committee,

I am writing in **support** of LD 901, An Act To Amend the Laws Governing the Determination of a Wind Energy Development's Effect on the Scenic Character of Maine's Special Places.

The topic addressed in LD 901 is not a new one. Legitimate concern about the unique way in which scenic impact evaluations are conducted in the course of wind power permitting has existed since the 2008 passage of the Maine Wind Energy Act (WEA). Despite several opportunities to do so, the weaknesses of the associated statute¹ have not been adequately addressed by the Legislature, the only body that can make substantive improvements.

Other impacts of wind power development (e.g. noise) have arisen as legitimate concerns in Maine, but without question, scenic impacts have stirred the greatest amount of controversy. The WEA, because it requires a truncated and more permissive scenic review, *specifically* for large wind power projects, exacerbates an already sensitive public discomfort with the undeniably substantial visual impacts of these projects.

I believe the following evidence supports the changes proposed in LD 901.

1. The current statutory guidelines for scenic review were hastily developed behind closed doors, and under the guidance of just a few people. They received alarmingly little vetting or review by the Legislature, or the public, before being implemented.²
2. Shortcomings of the existing scenic review standards were described in "Maine Wind Assessment 2012, A Report", which was prepared by independent investigators under a mandate from the 125th Legislature. The concerns included in this report are relevant to the changes proposed in LD 901.³
3. LD 901 would fulfill a specific recommendation included in the legislatively mandated "Maine Wind Energy Development Assessment, Report and Recommendations", which was presented to the Energy, Utilities and Technology Committee in 2012 by the Governor's Office of Energy Independence and Security.⁴
4. The changes proposed in LD 901 are not unreasonable in scope. The bill would make only a slight adjustment to current permitting review practices in order to allow a more appropriate level of consideration for scenic resources of unique importance to Maine and its far-reaching reputation for scenic quality.

5. The changes would effectively apply *only* to certain wind development proposals depending on their location. The bill does nothing more than potentially increase the number of scenic resources that would be reviewed in the course of *some, not all*, wind project application reviews.

Understandably, past opposition to this more balanced approach to scenic impact evaluations has come primarily from those who have a financial interest in wind power development. While those interests do matter, they shouldn't be allowed to supersede a more appropriate treatment of the places recognized as particularly special to Maine.

LD 901 is an opportunity to make a much needed and long overdue change to current law. The WEA, and inaction by previous Legislatures in dealing with this problematic section of statute, have blocked *any* consideration of Maine's most valuable scenic resources during several wind project application reviews since 2008⁵. Further delays are indefensible. The Committee should act decisively to move this bill forward, as written, with a unanimous **Ought To Pass** report.

Below, I have provided additional explanations and a sampling of references in support of the testimony above. Because of the volume of documents and materials potentially available for inclusion, I have provided only a few. I would be happy to supply any needed additional reference materials upon request.
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References and background.

1. 35-A MRSA §3452 and §3451, sub-§ 9.
2. The current statutory scenic review criteria, and the list of limited scenic resources to which they can be applied, were supplied by the Governor's Task Force on Wind Power Development in 2008 as part of their report and recommendations. Ample documentation and reports show that the task force was under great pressure to complete its activities in order to have legislation introduced before the end of the short session in 2008.

Much of the substantive work of the task force was conducted behind closed doors with no public records available for review, a point noted by several investigators.

"...this would amount to re-doing the work of the 2007 Wind Energy Task Force that, largely behind closed doors, assembled the original criteria for permitting and its listing of scenic features" – "Maine Wind Assessment 2012, A Report".

Documents indicate that a determination on how to deal with the thorny issue of scenic evaluations was still not ready the day before the final draft report from the task force was to supposed to be complete. Notably, the scenic evaluation rules in use over the last nine years went from their original drafting to enactment by the Legislature in a remarkably short time. There was never any genuine, meaningful opportunity for input from stakeholders or the general public.

3. Maine Wind Assessment 2012, A Report. January 31, 2012.
<http://maine.gov/energy/pdf/Wind%20Assessment%202012%20Final%20Report%20with%20Attachments%20.pdf>
4. Maine Wind Energy Development Assessment, March 2012, p. 48.
<http://maine.gov/energy/pdf/Binder1.pdf>

"18. Amend the wind law to require scenic impact evaluations to eight miles, with a fifteen mile standard option and provisions made for review to greater distances."

5. Current statute prohibits any consideration of visual impacts on *any* scenic resource located greater than eight miles from wind turbines in the course of permit application reviews. For example, important scenic resources, such as the Appalachian Trail, have been necessarily ignored during some reviews because of their location a short distance outside the 8-mile limit for consideration.