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Legislative Document

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H.P. 1150

House of Representatives, April 22, 2021

**An Act Regarding Greenhouse Gas Emissions and Reductions
Associated with Significant Development Projects**

(EMERGENCY)

Received by the Clerk of the House on April 20, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FAY of Raymond.
Cosponsored by Representatives: GROHOSKI of Ellsworth, LANDRY of Farmington,
ZEIGLER of Montville, Senator: BLACK of Franklin.

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,** major developments in the State can result in greenhouse gas emissions;
4 and

5 **Whereas,** the State has set greenhouse gas emissions reduction goals and there is a
6 need to immediately incorporate the consideration of greenhouse gas emissions in
7 permitting decisions in order to meet those goals; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

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

13 **Sec. 1. 38 MRSA §481,** as amended by PL 1999, c. 468, §5, is further amended by
14 adding after the 2nd paragraph a new paragraph to read:

15 The Legislature further finds that many developments because of their size and nature
16 are capable of causing significant greenhouse gas emissions and that measures must be
17 taken to minimize such emissions if the State is to achieve its greenhouse gas emissions
18 reduction goals under section 576-A.

19 **Sec. 2. 38 MRSA §484, sub-§11** is enacted to read:

20 **11. Greenhouse gas emissions.** If required pursuant to section 484-C, the developer will
21 implement the measures necessary to minimize the greenhouse gas emissions associated with the
22 development.

23 **Sec. 3. 38 MRSA §484-C** is enacted to read:

24 **§484-C. Greenhouse gas emissions reductions**

25 **1. Developer requirements.** If a proposed development is within a category of
26 development types that are subject to the requirements of this article and that the
27 department has determined by rule adopted pursuant to subsection 3 are likely to result in
28 greenhouse gas emissions, the developer must submit a report to the department that:

29 A. Identifies all sources of greenhouse gas emissions associated with the proposed
30 development; and

31 B. In accordance with the rules adopted by the department pursuant to subsection 3,
32 describes the measures that the developer proposes to implement to minimize the
33 greenhouse gas emissions associated with the proposed development.

34 **2. Requirement to demonstrate stated greenhouse gas emissions reductions**
35 **associated with proposed development.** If a proposed development is within a category
36 of development types that are subject to the requirements of this article and the developer
37 as part of the developer's development proposal states the development will result in
38 greenhouse gas emissions reductions, the developer must demonstrate to the department's
39 satisfaction and with quantifiable data how the proposed development will reduce
40 greenhouse emissions. If the department finds the developer has not demonstrated that the
41 proposed development will result in greenhouse gas emissions reductions, the department

1 may not consider the benefits of greenhouse gas emissions reductions in evaluating the
2 impact of the proposed development.

3 **3. Rules.** The department shall adopt rules that identify the categories of development
4 types that are subject to the requirements of this article and that are likely to result in
5 greenhouse gas emissions. The rules must also specify the measures a developer must
6 implement to minimize the greenhouse gas emissions associated with a proposed
7 development as well as any additional standards for development determined necessary by
8 the department to assist the State in achieving the greenhouse gas emissions reductions
9 levels established in section 576-A. The rules must also specify how the department will
10 evaluate proposed developments in which the developer states the project will result in
11 greenhouse gas emissions reductions. Rules adopted pursuant to this subsection are major
12 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

13 **Sec. 4. 38 MRSA §489-E**, as repealed and replaced by PL 2011, c. 359, §4, is
14 amended to read:

15 **§489-E. Rulemaking**

16 Rules adopted by the department pursuant to this article are routine technical rules
17 except that rules adopted by the department after January 1, 2010 pursuant to section 484,
18 subsections 1, 3, 4, 4-A, 5, 6 and 7 and rules adopted pursuant to section 484-C are major
19 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

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

22 **SUMMARY**

23 This bill requires the Department of Environmental Protection to provisionally adopt
24 major substantive rules that:

25 1. Identify the types of development under the site location of development laws that
26 would require a developer to submit a report to the department if the proposed development
27 would result in greenhouse gas emissions;

28 2. Specify measures a developer must take in order to minimize greenhouse gas
29 emissions;

30 3. Consider additional standards that are necessary for developments that result in
31 greenhouse gas emissions in order to meet greenhouse gas emissions reduction goals; and

32 4. Specify how the department will evaluate proposed developments in which the
33 developer states the project will result in greenhouse gas emissions reductions.

34 This bill also requires a developer of a proposed development identified in rules to
35 submit a report to the department if the proposed development would result in greenhouse
36 gas emissions. The report must include the source of the greenhouse gas emissions and the
37 measures the developer would take to reduce greenhouse gas emissions.

38 Lastly, this bill requires a developer to demonstrate to the department's satisfaction and
39 with quantifiable data how a proposed development will result in the reduction of
40 greenhouse gas emissions, if the developer of that project states as part of its development
41 proposal that the project will result in the reduction of greenhouse gas emissions. It
42 specifies that if the department finds the developer has not demonstrated that the proposed

1 development will result in greenhouse gas emissions reductions, the department may not
2 consider the benefits of greenhouse gas emissions reductions in evaluating the impact of
3 the proposed development.