

**\*\*LD 2174 – PROPOSED AMENDMENT\*\***

Committee: ENR  
Drafter: DT  
File name:  
LR (item)#:  
New Title?: YES  
Add Emergency?: NO - remove emergency from bill  
Date: 2/18/2026

**LD 2174**  
**Proposed amendment, Representative Kessler**

*New bill title:*

**“An Act to Increase Predictability in the Permitting of Renewable Energy Development”**

*Amend the bill by striking everything after the title and before the summary and inserting the following in its place:*

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

**Sec. 1. 38 MRSA §344, sub-§2-A, ¶A, sub-¶(3)** is enacted to read:

(3) Notwithstanding any provision of this Title to the contrary, if the commissioner fails to issue to the applicant a decision on an application under subparagraph (1) within the applicable processing time limit set forth in subparagraph (1), the application is deemed approved and the department shall issue the applied-for permit.

**Sec. 2. 38 MRSA §344, sub-§2-C** is enacted to read:

**2-C. Special processing time limits for solar energy developments and energy storage system developments.** Notwithstanding any provision of this section or section 344-B to the contrary:

A. In the case of an application for a permit for a solar energy development or energy storage system development under the site location of development laws, chapter 3, subchapter 1, article 6, the commissioner shall issue a decision within 180 calendar days of the date on which the department accepts the application as complete pursuant to this section;

B. In the case of an application for a permit for a solar energy development or energy storage system development under the Natural Resources Protection Act, chapter 3, subchapter 1, article 5-A, the commissioner shall issue a decision within 150 calendar days of the date on which the department accepts the application as complete pursuant to this section; and

C. In the case of an application for a permit for a solar energy development or energy storage system development under the stormwater management law, section 420-D, the

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commissioner shall issue a decision within 90 calendar days of the date on which the department accepts the application as complete pursuant to this section.

Notwithstanding the applicable processing time limit for an application as set forth in paragraph (A), (B) or (C), if the commissioner holds a hearing on the application pursuant to section 345-A, subsection 1-A, the commissioner shall issue a decision on the application within 45 calendar days of the date of the hearing. With the consent of the applicant, the commissioner may extend the applicable processing time limit for an application under paragraph (A), (B) or (C) once, by up to 30 calendar days.

Notwithstanding any provision of this Title to the contrary, if the commissioner fails to issue to the applicant a decision on an application under paragraph (A), (B) or (C) within the applicable processing time limit, the application is deemed approved and the department shall issue the applied-for permit.

As used in this subsection, “solar energy development” has the same meaning as in section 484, subsection 11; and “energy storage system development” means a development that uses an energy storage system, as defined in Title 35-A, section 3481, subsection 6, including generating facilities and associated facilities.

**Sec. 3. 38 MRS §420-D, sub-§5-A** is enacted to read:

**5-A. Local control limitations; renewable energy developments.** Notwithstanding subsection 5 or any other provision of this section to the contrary, a municipality may not enact or enforce a local land use or zoning ordinance or other local standard, condition or requirement applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines within the municipality that is more stringent than the standards, conditions or requirements of this section, or the rules adopted pursuant to this section, applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines. Any local land use or zoning ordinance or other local standard, condition or requirement that violates this subsection is void and has no force or effect.

As used in this subsection, “solar energy development” has the same meaning as in section 482, subsection 11; “wind energy development” has the same meaning as in Title 35-A, section 3451, subsection 11; “energy storage system development” has the same meaning as in Title 38, section 344, subsection 2-C; “high-impact electric transmission line” has the same meaning as in Title 35-A, section 3131, subsection 4-A; and “municipality” means a city, town or plantation that is not located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1.

**Sec. 4. 38 MRS §480-F, sub-§3** is amended to read:

**3. Home rule.** Nothing Except as provided in subsection 3-A, nothing in this article may be understood or interpreted to limit the home rule authority of a municipality to protect the

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natural resources of the municipality through enactment of standards that are more stringent than those found in this article.

**Sec. 5. 38 MRS §480-F, sub-§3-A** is enacted to read:

**3-A. Local control limitations; renewable energy developments.** Notwithstanding subsection 3 or any other provision of this article to the contrary, a municipality may not enact or enforce a local land use or zoning ordinance or other local standard, condition or requirement applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines within the municipality that is more stringent than the standards, conditions or requirements of this article, or the rules adopted pursuant to this article, applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines. Any local land use or zoning ordinance or other local standard, condition or requirement that violates this subsection is void and has no force or effect.

As used in this subsection, “solar energy development” has the same meaning as in section 482, subsection 11; “wind energy development” has the same meaning as in Title 35-A, section 3451, subsection 11; “energy storage system development” has the same meaning as in Title 38, section 344, subsection 2-C; “high-impact electric transmission line” has the same meaning as in Title 35-A, section 3131, subsection 4-A; and “municipality” means a city, town or plantation that is not located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1.

**Sec. 6. 38 MRS §489-E, first ¶,** is amended to read:

Rules adopted by the department pursuant to this article, including rules to establish a permit-by-rule process in accordance with section 344, subsection 7, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted by the department after January 1, 2010 pursuant to section 484, subsections 1, 3, 4, 4-A, 5, 6 and 7 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. 38 MRS §489-F** is enacted to read:

**§489-F. Local control limitations; renewable energy developments**

Notwithstanding any provision of this article to the contrary, a municipality may not enact or enforce a local land use or zoning ordinance or other local standard, condition or requirement applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines within the municipality that is more stringent than the standards, conditions or requirements of this article, or the rules adopted pursuant to this article, applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines. Any local land use or zoning ordinance or other local standard, condition or requirement that violates this section is void and has no force or effect.

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As used in this section, “solar energy development” has the same meaning as in section 482, subsection 11; “wind energy development” has the same meaning as in Title 35-A, section 3451, subsection 11; “energy storage system development” has the same meaning as in Title 38, section 344, subsection 2-C; “high-impact electric transmission line” has the same meaning as in Title 35-A, section 3131, subsection 4-A; and “municipality” means a city, town or plantation that is not located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1.

**Sec. 8. 38 MRS §3202, sub-§1** is amended to read:

**1. Administration.** Administrative procedures relating to the permitting process, including provisions relating to permit processing time limits consistent with section 3203 and required fees;

**Sec. 9. 38 MRS §3203** is enacted to read:

**§3203. Permit processing time limits**

Except as otherwise provided in this section, the Commissioner of Agriculture, Conservation and Forestry shall issue a decision on an application for a permit for a solar energy development under this chapter within 150 calendar days of the date on which the Department of Agriculture, Conservation and Forestry accepts the application as complete for processing.

**1. Hearing on application.** If the Commissioner of Agriculture, Conservation and Forestry holds a hearing on an application for a permit under this chapter, the commissioner shall issue a decision on the application within 45 calendar days of the date of the hearing.

**2. Extension of time limits.** With the consent of an applicant for a permit under this chapter, the Commissioner of Agriculture, Conservation and Forestry may extend the processing time limit under this section once, by up to 30 calendar days.

**3. Failure to issue decision within time limits.** If the Commissioner of Agriculture, Conservation and Forestry fails to issue to an applicant for a permit under this chapter a decision on the application within the applicable processing time limit under this section, the application is deemed approved and the Department of Agriculture, Conservation and Forestry shall issue the applied-for permit.

**Sec. 10. 38 MRS §3204** is enacted to read:

**§3204. Local control limitations**

Notwithstanding any provision of this chapter to the contrary, a municipality may not enact or enforce a local land use or zoning ordinance or other local standard, condition or requirement applicable to solar energy developments within the municipality that is more stringent than the standards, conditions or requirements of this chapter, or the rules adopted pursuant to this chapter, applicable to solar energy developments. Any local land use or zoning

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ordinance or other local standard, condition or requirement that violates this section is void and has no force or effect.

As used in this section, “municipality” means a city, town or plantation that is not located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1.

**Sec. 11. Department of Environmental Protection; rulemaking to establish permit-by-rule process for solar energy developments.** On or before December 31, 2026, the Department of Environmental Protection shall initiate rulemaking to establish, under the site location of development laws, the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 6, a permit-by-rule process in accordance with Title 38, section 344, subsection 7 for solar energy developments:

1. That are proposed to occupy a land area of not more than 100 acres; and
2. That do not require a Tier 3 review process for freshwater wetland alterations under Title 38, section 480-X, subsection 2 or otherwise require the issuance of an individual permit under the Natural Resources Protection Act.

In developing and conducting the rulemaking under this section, the Department of Environmental Protection, as necessary, shall consult with the Department of Energy Resources, the Department of Inland Fisheries and Wildlife and the Department of Agriculture, Conservation and Forestry. Rulemaking conducted by the Department of Environmental Protection pursuant to this section is routine technical rulemaking, as defined in Title 5, chapter 375, subchapter 2-A. As used in this section, “solar energy development” has the same meaning as in Title 38, section 484, subsection 11.

**SUMMARY**

This amendment changes the title of and replaces the bill and does the following.

1. It establishes processing time frames for applications for permits for solar energy developments or energy storage system developments submitted to the Department of Environmental Protection under the site location of development laws, the Natural Resources Protection Act or the stormwater management law. Under those provisions, the Commissioner of Environmental Protection is required to issue a decision on such applications within 180 calendar days for a site law permit, within 150 calendar days for a Natural Resources Protection Act permit and within 90 calendar days for a stormwater law permit. The amendment includes permissible extensions of those time frames if a hearing is held on the permit application or with the consent of the applicant. The amendment also provides that if the commissioner fails to issue a decision on a permit for a solar energy development or energy storage system development within the applicable time limit, the application is deemed approved and the department must issue the applied-for permit.

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The amendment includes a similar provision regarding an application for an expedited wind energy development, an offshore wind power project or a hydropower project, deeming such an application approved and requiring the department to issue the applied-for permit if the commissioner fails to issue a decision within the applicable processing time limits as set forth in existing law.

2. It amends the laws regulating the protection of agricultural soils from solar energy developments to establish a processing time frame for applications for solar energy development permits submitted to the Department of Agriculture, Conservation and Forestry. Under those provisions, the Commissioner of Agriculture, Conservation and Forestry is required to issue a decision on such applications within 150 calendar days. The amendment includes permissible extensions of that time frame if a hearing is held on the permit application or with the consent of the applicant. The amendment also provides that if the commissioner fails to issue a decision on a permit for a solar energy development within the applicable time limit, the application is deemed approved and the department must issue the applied-for permit.

3. It amends the site location of development laws, the Natural Resources Protection Act and the stormwater management law to prohibit a municipality from enacting or enforcing a local land use or zoning ordinance or other local standard, condition or requirement applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines within the municipality that is more stringent than the standards, conditions or requirements of those laws, or the rules adopted pursuant to those laws, applicable to solar energy developments, wind energy developments, energy storage system developments or high-impact electric transmission lines. The amendment provides that any local land use or zoning ordinance or other local standard, condition or requirement that violates this prohibition is void and has no force or effect. The amendment also includes a similar local control limitation under the laws regulating the protection of agricultural soils from solar energy developments.

4. It amends the site location of development laws to clarify that rules adopted by the Department of Environmental Protection to establish a permit-by-rule process under those laws are routine technical rules.

5. It directs the Department of Environmental Protection, on or before December 31, 2026, to initiate a rulemaking to establish, under the site location of development laws, a permit-by-rule process for solar energy developments that are proposed to occupy a land area of not more than 100 acres and that do not require a Tier 3 review process for freshwater wetland alterations under Title 38, section 480-X, subsection 2 or otherwise require the issuance of an individual permit under the Natural Resources Protection Act.