



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1619

S.P. 512

In Senate, April 28, 2021

**An Act To Establish a Moratorium on Offshore Wind Power
Projects in Maine's Territorial Waters**

(EMERGENCY)

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LAWRENCE of York. (GOVERNOR'S BILL)

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,** development of offshore wind power projects, particularly those which
4 deploy deep-water, floating platform technology, in suitable locations off Maine's coast
5 may provide significant economic and environmental benefits to the State by generating
6 renewable energy needed to achieve the goals and objectives of the State's climate action
7 plan adopted pursuant to the Maine Revised Statutes, Title 38, section 577 and related state
8 economic and environmental goals and objectives developed by the Maine Climate Council
9 pursuant to Title 38, section 577-A; and

10 **Whereas,** the siting, construction and operation of offshore wind power projects in
11 Maine's territorial waters, as defined by Title 12, section 6001, subsection 48-B, may
12 adversely affect resources, including scenic and aesthetic resources, and recreational and
13 economic uses, including commercial fishing, which are more commonly found or take
14 place in the State's submerged lands and territorial waters than in proximate federal waters;
15 and

16 **Whereas,** Maine's renewable, natural resources-based commercial fishing industry
17 contributed direct revenues of \$517 million to the State's economy in 2020 and is a vital
18 part of the State's economy and cultural heritage and identity; and

19 **Whereas,** Maine's lobster fishery is active primarily in Maine's territorial waters, had
20 landings valued in excess of \$405 million in 2020, had an additional statewide economic
21 impact of \$1 billion and is among the most valuable fisheries in the United States; and

22 **Whereas,** there are outstanding questions regarding the manner in and extent to which
23 the siting, construction and operation of offshore wind power projects may displace or
24 otherwise adversely affect natural resources within and uses of the State's submerged lands
25 and territorial waters; and

26 **Whereas,** it is anticipated that the growth and development of the offshore wind
27 power industry in the Northeast region and elsewhere in the United States over the next
28 decade will provide additional information through project-specific studies, research
29 findings, monitoring results and operational experience that may assist the State in
30 evaluating the siting and development of new offshore wind power projects in the State's
31 submerged lands and territorial waters; and

32 **Whereas,** a moratorium on the development of offshore wind power projects will
33 allow the State to undergo a review of applicable state laws and rules to determine whether
34 the existing offshore wind power regulatory framework adequately protects Maine's coastal
35 resources in a manner that avoids or minimizes adverse effects on coastal resources and
36 uses; and

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

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

42 **Sec. 1. 35-A MRSA §3405** is enacted to read:

1 **§3405. Moratorium on offshore wind power projects in territorial waters and**
2 **submerged lands**

3 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
4 following terms have the following meanings.

5 A. "Offshore wind energy demonstration project" has the same meaning as in Title 38,
6 section 480-HH, subsection 1, paragraph H.

7 B. "Offshore wind power project" has the same meaning as in Title 38, section 480-B,
8 subsection 6-A.

9 C. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection
10 9.

11 D. "Territorial waters" has the same meaning as in Title 12, section 6001, subsection
12 48-B.

13 **2. Moratorium.** Notwithstanding any provision of law to the contrary and except as
14 otherwise provided by subsection 3, from the effective date of this section to January 15,
15 2031, a state agency or municipality or other political subdivision of the State may not
16 license, permit or otherwise approve or authorize the siting, construction or operation of or
17 issue a lease or grant an easement or other real property interest for a windmill or wind
18 turbine or tower for an offshore wind power project in state-owned submerged lands or
19 territorial waters. Nothing in this subsection may be construed as limiting any regulatory
20 approval of or the issuance of any lease or grant of any easement or other real property
21 interest for utility cables, transmission lines or portside infrastructure that may support
22 offshore wind energy generation.

23 **3. Exemption.** The moratorium established under subsection 2 does not apply to an
24 offshore wind energy demonstration project that is proposed for location in the Maine
25 Offshore Wind Energy Research Center designated by the Department of Agriculture,
26 Conservation and Forestry pursuant to Title 12, section 1868 and for which, prior to the
27 effective date of this section, the commission has approved the terms of a long-term power
28 purchase agreement. Subsequent amendment of the terms of such an agreement does not
29 affect the applicability of this exemption.

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

32 **SUMMARY**

33 This bill establishes a moratorium that, until 2031, prohibits any state agency or
34 municipality or other subdivision of the State from licensing, permitting or otherwise
35 authorizing or approving the siting, construction or operation of a windmill or wind turbine
36 or tower for an offshore wind power project in state-owned submerged lands or Maine's
37 territorial waters. The moratorium does not apply to cables, transmission lines and portside
38 infrastructure that may support offshore wind energy generation and does not apply to an
39 offshore wind energy demonstration project proposed for location in the Maine Offshore
40 Wind Energy Research Center for which the Public Utilities Commission has approved the
41 terms of a long-term power purchase agreement.