An Act Regarding Port Facilities Relating to Offshore Wind Power Projects

Reference to the Committee on Transportation suggested and ordered printed.

Presented by Senator CURRY of Waldo.
Cosponsored by Representative GRAMLICH of Old Orchard Beach and
Senators: BRENNER of Cumberland, President JACKSON of Aroostook, LAWRENCE of York, Representatives: BELL of Yarmouth, DOUDERA of Camden, MILLETT of Cape Elizabeth, O'NEIL of Saco, Speaker TALBOT ROSS of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 23 MRSA c. 412, sub-c. 3 is enacted to read:

SUBCHAPTER 3

PORT FACILITIES RELATING TO OFFSHORE WIND POWER PROJECTS

§4441. Port facility-related requirements

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

A. "Labor organization" means an organization of any kind, or an agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

B. "Labor peace agreement" means an agreement between an employer and a labor organization in which the employer agrees to be neutral during a labor organization's campaign to organize employees who are not covered by a collective bargaining agreement and not to interfere with the campaign and the labor organization agrees not to engage in picketing, work stoppages, boycotts or other economic interference against the employer during the campaign.

C. "Offshore wind power project" or "wind project" has the same meaning as in Title 35-A, section 3405, subsection 1, paragraph C.

D. "Project labor agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific project or portion of a project, wherever the project occurs, and is an agreement described in 29 United States Code, Section 158(f).

E. "Responsible entity" means the person or business entity undertaking to develop a wind project.

F. "Zero-emission port equipment or technology" has the same meaning as in 42 United States Code, Section 7433(d)(4).

2. Public works; project labor agreements. Notwithstanding Title 26, section 3601, if a highway or port facility that is a public work, as defined in Title 26, section 1304, subsection 8, is constructed for the purpose of supporting an offshore wind power project, the public authority responsible for the construction shall require project labor agreements that comply with Title 26, section 3601 for all construction work.

3. Other work; project labor agreements; technology use. If an offshore wind power project involves the lease of a port facility owned or operated by the State, including any port facility owned or operated by the Maine Port Authority, the department, authority or other agency responsible for granting the lease shall require as a condition of the lease:

A. The use of project labor agreements for all on-site construction or fabrication of materials for the offshore wind power project;
B. Labor peace agreements governing all full-time employees of the responsible entity or of any entity working under contract with the responsible entity, other than employees who work on a temporary or project basis, who will make any use of the port facility in performing any work related to the wind project, including but not limited to employees involved in the following activities related to the wind project: manufacturing, fabrication, operation, maintenance, decommissioning or maritime access;

C. The responsible entity to develop, submit to the Department of Transportation and implement a development plan in accordance with subsection 4; and

D. The responsible entity to develop and implement and submit to the Department of Environmental Protection a plan for ensuring the use, to the extent practical, of zero-emission port equipment or technology. The entity shall also submit to the Department of Environmental Protection an analysis of the effects the implementation of the plan will have on air quality and greenhouse gas emissions.

4. Development plan requirements. A development plan required under subsection 3, paragraph C must include at least the following elements:

A. Processes that will ensure collaboration with:

1. The State's skilled trade and labor unions to recruit, train and employ residents of the State, including but not limited to minorities, women, veterans, LGBTQ+ persons, persons with disabilities, people from impoverished or rural communities, members of federally recognized tribes in the State and individuals who have a criminal record. For the purposes of this subparagraph, "LGBTQ+" includes but is not limited to lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual; and

2. Workers and labor organizations in industries directly affected by the development of wind projects, such as the fossil fuel industry and commercial fisheries. The plan must specifically provide benefits to workers in these industries with appropriate variations for workers at early, middle and late stages of their careers;

B. A plan for recruitment of construction, operation and maintenance workers in all crafts needed for all phases of the wind project, including all on-site, off-site, onshore and offshore workers within the State as well as necessary workers in the supply chain;

C. A commitment to engage skilled and trained union members in the State and a plan that includes:

1. Specific details of how the responsible entity and any of its contractors and subcontractors will invest in and use workers from the Maine Apprenticeship Program established under Title 26, chapter 37;

2. A description of how the responsible entity will promote a diverse workforce that includes persons identified in paragraph A, subparagraph (1); and

3. A description of how the costs of the wind project will be reduced by the use of labor peace agreements, accessing skilled labor in the State, using available workforce development resources and ensuring high standards for worker safety while maintaining workplace efficiencies; and
D. A description of how the wind project will result in savings to ratepayers, including
how the responsible entity will acquire available federal tax credits.

Sec. 2. 35-A MRSA §3451, sub-§1, as enacted by PL 2007, c. 661, Pt. A, §7, is
amended to read:

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. "Associated facilities" includes port
facilities necessary to the proper operation and maintenance of an offshore wind power
project as defined in Title 23, section 4441, subsection 1, paragraph C.

Sec. 3. 35-A MRSA §3451, sub-§4, as enacted by PL 2007, c. 661, Pt. A, §7, is
amended to read:

4. Expedited wind energy development. "Expedited wind energy development"
means a grid-scale wind energy development or a port facility necessary to the proper
operation and maintenance of an offshore wind power project as defined in Title 23, section
4441, subsection 1, paragraph C that is proposed for location within an expedited
permitting area.

Sec. 4. Federal funding. The Department of Environmental Protection, in
consultation and coordination with the Department of Inland Fisheries and Wildlife, the
Department of Marine Resources, the Department of Transportation and the Maine Port
Authority, shall seek federal funding available under the federal Infrastructure Investment
and Jobs Act, the federal Inflation Reduction Act of 2022 and any other federal law or
program to restore or enhance climate resilience and biodiversity of any nearshore,
intertidal or upland areas disturbed by activities related to offshore wind power projects
governed by the Maine Revised Statutes, Title 23, chapter 412, subchapter 3.

SUMMARY

This bill does the following.

1. It requires any public port facility or highway constructed to serve an offshore wind
power project to employ project labor agreements that comply with the Maine Revised
Statutes, Title 26, section 3601.

2. It provides that in the case of an offshore wind power project that involves the lease
of a port facility owned or operated by the State, the lease must require:

   A. The use of project labor agreements for all on-site construction or fabrication of
   materials for the project;

   B. Labor peace agreements governing full-time employees who will make any use of
   the port facility, including but not limited to employees involved in the following
   activities related to the wind project: manufacturing, fabrication, operation,
   maintenance, decommissioning or maritime access;

   C. The implementation of a development plan that includes, among other things,
   specific plans for recruiting and employing a diverse work force; and
D. The development and implementation of a plan for ensuring the use, to the extent practical, of zero-emission port equipment or technology.

3. It directs the Department of Environmental Protection, in consultation and coordination with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Transportation and the Maine Port Authority, to seek federal funding available under the federal Infrastructure Investment and Jobs Act, the federal Inflation Reduction Act of 2022 and any other federal law or program to enhance climate resilience and biodiversity of any nearshore, intertidal or upland areas disturbed by activities related to offshore wind power projects.

4. It amends definitions relating to expedited wind energy developments to include port facilities associated with offshore wind power projects.