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Date: (Filing No. S- )

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**STATE OF MAINE  
SENATE  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 748, L.D. 1847, “An Act to Modify the Visual Impact Standards for Offshore Wind Port Development”

Amend the amendment by striking out the title and substituting the following:

**'An Act to Modify the Visual Impact Standards for Offshore Wind Port Development and Establish Labor Standards for Wind Power Projects'**

Amend the amendment by striking out everything after the title and inserting the following:

'Amend the bill by striking out everything after the enacting clause and inserting the following:

**'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 at the work site who are not covered by a collective bargaining agreement and not to interfere with that labor organization's campaign and the labor organization agrees not to engage in picketing, work stoppages, boycotts or other economic interference against the employer during the campaign.

**SENATE AMENDMENT**

1 C. "Offshore wind power project" or "wind project" has the same meaning as in Title  
2 35-A, section 3405, subsection 1, paragraph C.

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

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

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

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

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

20 A. The use of project labor agreements for all on-site construction or fabrication of  
21 materials for the offshore wind power project;

22 B. Labor peace agreements governing all full-time employees of the responsible entity  
23 or of any entity working under contract with the responsible entity, other than  
24 employees who work on a temporary or project basis, who will make any use of the  
25 port facility in performing any work related to the wind project, including but not  
26 limited to employees involved in the following activities related to the wind project:  
27 manufacturing, fabrication, operation, maintenance, decommissioning or maritime  
28 access;

29 C. The responsible entity to develop, submit to the Department of Transportation and  
30 implement a workforce diversity, equity and just transition plan and workforce  
31 development plan in accordance with subsection 4; and

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

37 **4. Workforce diversity, equity and just transition plan requirements; workforce**  
38 **development plan requirements.** A development plan required under subsection 3,  
39 paragraph C must include at least the following elements:

40 A. Processes that will ensure collaboration with:

41 (1) The State's skilled trade and labor unions to recruit, train and employ residents  
42 of the State, including but not limited to minorities, women, veterans, LGBTQ+  
43 persons, persons with disabilities, people from impoverished or rural communities,

1 members of federally recognized or state-acknowledged tribes in the State and  
2 individuals who have a criminal record. For the purposes of this subparagraph,  
3 "LGBTQ+" includes but is not limited to lesbian, gay, bisexual, transgender, queer,  
4 questioning, intersex and asexual; and

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

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

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

16 (1) Specific details of how the responsible entity and any of its contractors and  
17 subcontractors will invest in and use workers from apprenticeship and  
18 preapprenticeship programs established under Title 26, chapter 37;

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

21 (3) A description of how the responsible entity intends to deliver savings to  
22 ratepayers and overall project costs by providing labor harmony, access to a steady  
23 supply of skilled labor and infrastructure for workforce development resources and  
24 ensuring high standards for worker safety while maintaining workplace  
25 efficiencies and scheduling efficiencies; and

26 D. A description of how the wind project will result in savings to ratepayers, including  
27 how the responsible entity will acquire available federal tax credits.

28 **Sec. 2. 35-A MRSA §3407** is enacted to read:

29 **§3407. Determination of effect on scenic character and related existing uses**

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

32 A. "Associated facilities" means elements of an offshore wind terminal other than the  
33 quay, fixed and mobile cranes, offshore wind foundations and wind turbine generators,  
34 that are necessary to the proper operation and maintenance of the offshore wind  
35 terminal, including but not limited to buildings, access roads and laydown areas.

36 B. "Best practical mitigation" means methods or technologies used during construction  
37 or operation of an offshore wind terminal that control or reduce to the lowest feasible  
38 level visual and scenic impacts. "Best practical mitigation" may include, but is not  
39 limited to, turbine and blade coloration to reduce visual impacts and aircraft detection  
40 technologies to reduce the need for aircraft hazard warning lighting.

41 C. "Department" means the Department of Environmental Protection.

1 D. "Offshore wind terminal" means a port facility used for fabricating floating offshore  
2 wind turbine foundations, launching floating foundations into the water, assembling  
3 wind turbine generators atop the foundations or preparing the assembled wind turbine  
4 for towing to a wet berth or installation site. "Offshore wind terminal" includes a quay  
5 with berths to accommodate the assembly of wind turbine generators and offshore wind  
6 component delivery vessels, an upland laydown area for foundation fabrication and  
7 storage of wind turbine generator components, fabrication facilities, fixed and mobile  
8 cranes, associated facilities and terminal offices and access roads.

9 **2. Application of standard.** This subsection governs the department's or the Maine  
10 Land Use Planning Commission's making findings regarding the effect of an offshore wind  
11 terminal on scenic or natural character and existing uses related to scenic character pursuant  
12 to Title 12, section 685-B, subsection 4, paragraph C; Title 38, section 480-D; or Title 38,  
13 section 484, subsection 3. An offshore wind terminal project must minimize the adverse  
14 effect on scenic character and existing uses related to scenic character to the maximum  
15 extent practicable and use best practical mitigation to control and reduce visual and scenic  
16 impacts. Except as otherwise provided in subsection 3, determination that an offshore wind  
17 terminal fits harmoniously into the existing natural environment in terms of potential  
18 effects on scenic or natural character and existing uses related to scenic character is not  
19 required for approval under Title 12, section 685-B, subsection 4; Title 38, section 480-D;  
20 or Title 38, section 484.

21 **3. Exception to standard; certain associated facilities.** The department, or in the  
22 case of certification under Title 38, chapter 3, subchapter 1, article 6 the Maine Land Use  
23 Planning Commission, shall evaluate the effect of associated facilities of an offshore wind  
24 terminal in terms of potential effects on scenic character and existing uses related to scenic  
25 character in accordance with Title 12, section 685-B, subsection 4, paragraph C; Title 38,  
26 section 480-D; or Title 38, section 484, subsection 3, in the manner provided for  
27 development other than offshore wind terminal development.

28 **4. Limitation on number of offshore wind terminals.** The department may not  
29 approve permits under Title 38, section 480-D or Title 38, section 484 for more than 4  
30 offshore wind terminals. If a permit approved under Title 38, section 480-D or Title 38,  
31 section 484 expires, is surrendered or is revoked prior to construction of an offshore wind  
32 terminal, the department may approve a permit under those sections for another offshore  
33 wind terminal.

34 **Sec. 3. 35-A MRS §3451, sub-§1,** as enacted by PL 2007, c. 661, Pt. A, §7, is  
35 amended to read:

36 **1. Associated facilities.** "Associated facilities" means elements of a wind energy  
37 development other than its generating facilities that are necessary to the proper operation  
38 and maintenance of the wind energy development, including but not limited to buildings,  
39 access roads, generator lead lines and substations. "Associated facilities" includes port  
40 facilities necessary to the proper operation and maintenance of an offshore wind power  
41 project as defined in Title 23, section 4441, subsection 1, paragraph C.

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

44 **4. Expedited wind energy development.** "Expedited wind energy development"  
45 means a grid-scale wind energy development or a port facility necessary to the power

1 operation and maintenance of an offshore wind power project as defined in Title 23, section  
2 4441, subsection 1, paragraph C that is proposed for location within an expedited  
3 permitting area.

4 **Sec. 5. 38 MRSA §480-D, sub-§1**, as amended by PL 2009, c. 615, Pt. E, §8, is  
5 further amended by enacting at the end a new last blocked paragraph to read:

6 In making a determination under this subsection regarding an offshore wind terminal as  
7 defined in Title 35-A, section 3407, subsection 1, paragraph D, the department shall  
8 consider the terminal's effects on scenic character and existing uses related to scenic  
9 character in accordance with Title 35-A, section 3407.

10 **Sec. 6. 38 MRSA §482, sub-§2, ¶F**, as amended by PL 2009, c. 615, Pt. E, §14, is  
11 further amended to read:

12 F. Is an oil terminal facility as defined in this section; ~~or~~

13 **Sec. 7. 38 MRSA §482, sub-§2, ¶J**, as enacted by PL 2009, c. 615, Pt. E, §15, is  
14 amended to read:

15 J. Is an offshore wind power project with an aggregate generating capacity of 3  
16 megawatts or more; ~~or~~

17 **Sec. 8. 38 MRSA §482, sub-§2, ¶K** is enacted to read:

18 K. Is an offshore wind terminal as defined in Title 35-A, section 3407, subsection 1,  
19 paragraph D.

20 **Sec. 9. 38 MRSA §484, sub-§3, ¶J** is enacted to read:

21 J. In making a determination under this subsection regarding an offshore wind terminal  
22 as defined in Title 35-A, section 3407, subsection 1, paragraph D, the department shall  
23 consider the terminal's effects on scenic character and existing uses related to scenic  
24 character in accordance with Title 35-A, section 3407.

25 **Sec. 10. Federal funding.** The Department of Environmental Protection, in  
26 consultation and coordination with the Department of Inland Fisheries and Wildlife, the  
27 Department of Marine Resources, the Department of Transportation and the Maine Port  
28 Authority, shall seek federal funding available under the federal Infrastructure Investment  
29 and Jobs Act, the federal Inflation Reduction Act of 2022 and any other federal law or  
30 program to purchase or subsidize the purchase of port technology, to fund the construction  
31 of port facilities to support an offshore wind power project and to restore or enhance climate  
32 resilience and biodiversity of any nearshore, intertidal or upland areas disturbed by  
33 activities related to offshore wind power projects governed by the Maine Revised Statutes,  
34 Title 23, chapter 412, subchapter 3. For the purposes of this section, "port technology"  
35 means technology used at or near a port facility to service or support a wind project and  
36 includes but is not limited to technology involved in cargo handling, cement or concrete  
37 manufacturing, surface transportation and shore power for maritime vessels.'

38 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or  
39 section number to read consecutively.

40 **SUMMARY**

41 This amendment does the following.

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

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

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

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

12           C. The implementation of a development plan that includes, among other things,  
13 specific plans for recruiting and employing a diverse workforce; and

14           D. The development and implementation of a plan for ensuring the use, to the extent  
15 practicable, of zero-emission port equipment or technology.

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

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

25           5. It establishes a new type of port development used for fabricating offshore wind  
26 turbines called an offshore wind terminal. It establishes a visual impact standard to evaluate  
27 the effect of the development of an offshore wind terminal. The amendment provides that  
28 offshore wind terminals must receive review under the provisions of law governing site  
29 location of development.

30           6. It amends the provisions of law governing site location of development and the  
31 Natural Resources Protection Act to provide that when proposed offshore wind terminals  
32 receive review, impacts related to scenic character and existing uses related to scenic  
33 character are governed by the new visual impact standard.

34 **SPONSORED BY:** \_\_\_\_\_

35           **(Senator CURRY, C.)**

36           **COUNTY: Waldo**