



AGC MAINE

THE CONSTRUCTION ASSOCIATION

Testimony of Kelly Flagg in Opposition to LD 1895
“An Act Regarding the Procurement of Energy from Offshore Wind Resources”
Joint Standing Committee on Energy, Utilities, and Technology
May 18, 2023

Senator Lawrence, Representative Zeigler, and Distinguished members of the Joint Standing Committee on Energy, Utilities, and Technology, my name is Kelly Flagg, I am a resident of Gorham and here in my capacity as the Executive Director of AGC Maine I’ve spent most of my career in the construction industry, including working for a signatory contractor managing safety and human resources

AGC Maine is a statewide construction trade association and it’s important that I share our members include a broad cross-section of business types we have contractors’ who are signatories to unions, open shops that are traditional corporations, ESOPs, suppliers, and service providers

Like many here today in the room AGC Maine has been engaged in the ongoing process to advance offshore wind in the Gulf of Maine We participated in the 18-month roadmap committee, and in the port selection process The proposed bill concerns our members, as drafted, it would needlessly drive-up costs and push aside Maine workers and businesses

Maine’s construction industry is ~90% open shop, not signatory to a labor union, meaning most skilled workers are not subject to collective bargaining agreements Employee-owned firms comprise 15% of the industry, with approximately ~4,000 workers

Right now, construction firms are subject to several requirements to protect the interest of public owners, construction workers, and the public That includes an extensive pre-qualification requirement that is used to demonstrate safety, civil rights compliance, and experience for the work they are bidding Depending on the funding source, bidders are also subject to prevailing wage requirements, either state or federal

A project labor agreement is a contract that is written by a labor union The proposed law doesn’t outline any parameters around the contract, thereby leaving the conditions in the hands of labor unions who can author an agreement to their advantage which all Mainers will help fund There is little doubt this will be a career builder for large firms from Massachusetts, Connecticut, and New York – and yet would freeze out literally thousands of Maine workers

Typical in a project labor agreement are conditions whereby the union becomes the hiring agent. That results in two harmful outcomes where they can replace existing Maine workers with potentially out-of-state union members. Since they have a low worker count in Maine, that means workers from away will be given that priority and opportunity. If they cannot, or if they choose to allow the existing company to use their workers, they would effectively be mandated through this process to pay union dues if they wish to compete on a level playing field for this work. That risk is something Maine firms will not place on their skilled workers. Especially when they provide benefits, competitive pay, and in the case of ESOPs, profit sharing.

Since ESOPs continue to grow in Maine and across the country, it introduces another dynamic. An employee-owner has legal rights under an ESOP arrangement, this proposal would require a third-party to represent their interests. That is simply unworkable.

AGC Maine respectfully urges the Committee to adopt standards that can be met by both union and non-union firms, to maximize the opportunity for Maine companies and workers. We are also concerned with the layers of standards within this bill, some duplicates of the permitting process, and ancillary community funds that place an undue burden on ratepayers and taxpayers, but also create additional costs to the generation of clean electricity. It's imperative that offshore wind remain a cost-competitive resource, and without substantial changes we are fearful the costs may be driven up to a level where Maine consumers are paying far more than is necessary to unleash offshore wind's potential.

In the last decade, AGC Maine is proud to have worked side by side with various stakeholders to advance offshore wind. It's disappointing that the very first procurement largely ignored our feedback on this program's design following our participation in the various advisory groups. Ultimately, Maine people will be helping to deliver the tremendous energy and environmental opportunity of offshore wind, and handing over the bidding process to any interest group, especially one that doesn't have a sufficient number of Maine-based workers is wrong and costly. We designed a robust education and apprenticeship program to meet the anticipated demand to answer the call from developers and agencies that an "all hands-on deck" approach must be taken to meet the demand of building offshore wind. Open shop contractors built 100% of onshore wind, and they are equipped to compete on a level playing field to help build offshore projects.

I encourage the Committee to strike the provisions for a Project Labor Agreement, and Labor Peace Agreement. I am happy to answer any questions.