

An Act To Prohibit Offshore Wind Energy Development in Territorial Waters and Submerged Lands of the State

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

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

§3405. Prohibition on offshore wind power projects in territorial waters and submerged lands

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

A. "Offshore wind power project" means a project that uses a windmill or wind turbine to convert wind energy to electrical energy and is located in ocean waters. "Offshore wind power project" includes both generating facilities as defined by [Title 35-A, section 3451, subsection 5](#) and associated facilities as defined by [Title 35-A, section 3451, subsection 1](#), without regard to whether the electrical energy is for sale or use by a person other than the generator.

B. "Submerged lands" has the same meaning as in [Title 12, section 1801, subsection 9](#).

C. "Territorial waters" has the same meaning as in [Title 12, section 6001, subsection 48-B](#).

D. "Associated Facilities" has the same meaning as in Title 35-A, Section 3451, subsection 1.

2. Prohibition. Notwithstanding any provision of law to the contrary and except as otherwise provided by subsection 3, a state agency or municipality or other political subdivision of the State may not license, permit or otherwise approve or authorize the siting, construction or operation of or issue a lease or grant an easement or other real property interest for a windmill or wind turbine or tower for an offshore wind power project in state-owned submerged lands or territorial waters, other than pilot-scaled limited duration research and development projects. Nothing in this subsection may be construed as limiting any regulatory approval of or the issuance of any lease or grant of any easement or other real property interest for utility cables, transmission lines, associated facilities or portside infrastructure that may support offshore wind energy generation located in federal waters.

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

4. Research consortium established; acceptance of funds. The Offshore Wind Research Consortium Fund, referred to in this section as "the fund," is established to coordinate, support and arrange for the conduct of research on offshore wind power projects in the Gulf of Maine. The Governor's Energy Office is authorized to utilize the fund to establish and set up administration of the consortium by an advisory board ("board"), in consultation with independent scientific experts. The board membership shall include, but not be limited to, two individuals from groups representing commercial lobster harvesting interests in the State, at least one individual from a group representing the interest of commercial fisheries other than lobster, and the commissioner or the commissioner's designee from the Department of Marine Resources.

DRAFT CONFIDENTIAL AMENDMENT 6/3/2021 - C

Once established, the board will approve use of the funds in accordance with this section. Any interest earned on funds in the fund must be credited to the fund, and funds not spent in any fiscal year remain in the fund to be used in accordance with this section. The board may receive funds from any source to support and conduct research on offshore wind in the Gulf of Maine, including but not limited to state or federal funds and awards that may be used for the purposes of this section; the proceeds of any bonds issued for the purposes of this section; any interest earned on investment of fund balances; and any funds from public or private sources received in support of the purposes for which the fund is established as long as the identity of the source of such funds is publicly disclosed.

The board shall oversee the development and execution of a research strategy to better understand the localized and regional impacts of floating offshore wind power projects in the Gulf of Maine. The board shall operate in an open, transparent, and inclusive manner that is informed by the work of regional and national scientific entities. The board shall solicit input from stakeholders, including the fishing industry, state and federal agencies, and other scientific experts. The research strategy shall seek to identify opportunities and challenges caused by the deployment of floating offshore wind power projects to the socioeconomic uses of the Gulf of Maine, methods to avoid and minimize impacts to ecosystems, and ways to realize cost efficiencies in the development of floating offshore wind power projects.

For the duration of the fund, the consortium shall provide an annual report on fund-related activity to the Joint Standing Committee on Energy, Utilities and Technology in the last quarter of each calendar year.

5. Offshore wind power project research and development. Notwithstanding any provision of law to the contrary and except as otherwise provided by subsection 3, a state agency or municipality or other political subdivision of the State may not license, permit or otherwise approve or authorize the siting, construction or operation of or issue a lease or grant an easement or other real property interest for utility cables or transmission lines that may support offshore wind energy generation for research or commercial use located in federal waters unless, by March 1, 2023:

A. The State has completed a strategic plan to inform the development of offshore wind power projects that minimizes conflict with existing maritime industries, particularly fishing, and identifies opportunities to preserve existing maritime businesses and jobs, and maximize jobs, investment, new technologies and sustainability.

B. The State has undergone a review of applicable state laws and rules to determine whether the existing offshore wind power statutory and regulatory framework adequately protects Maine's coastal resources in a manner that avoids or minimizes adverse effects on coastal resources and users.

C. The State has established an Offshore Wind Research Consortium Fund in accordance with subsection 4 whose board has identified the preliminary research questions it seeks to answer through the development of offshore wind power projects intended for scientific research.

Sec. 2. Maine Land Use Planning Commission; submission of legislation. On or before February 1, 2022, the Department of Agriculture, Conservation and Forestry, Maine Land Use Planning Commission shall submit legislation to the Second Regular Session of the 130th Legislature necessary to align those provisions of law under its jurisdiction with the prohibition on offshore wind energy development projects under the Maine Revised Statutes, Title 35-A, section 3405.

Sec. 3. Public Utilities Commission; submission of legislation. On or before February 1, 2022, the Public Utilities Commission shall submit legislation to the Second Regular Session of the 130th Legislature necessary to align those provisions of law under its jurisdiction with the prohibition on offshore wind energy development projects under the Maine Revised Statutes, Title 35-A, section 3405.

DRAFT CONFIDENTIAL AMENDMENT 6/3/2021 - C

Sec. 4. Department of Environmental Protection; submission of legislation. On or before February 1, 2022, the Department of Environmental Protection shall submit legislation to the Second Regular Session of the 130th Legislature necessary to align those provisions of law under its jurisdiction with the prohibition on offshore wind energy development projects under the Maine Revised Statutes, Title 35-A, section 3405.