

An Act Regarding the Procurement of Energy from Offshore Wind Resources

L.D. 1895

Date:

(Filing No. S-)

ENERGY, UTILITIES AND TECHNOLOGY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE SENATE 131ST LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 766, L.D. 1895, “An Act Regarding the Procurement of Energy from Offshore Wind Resources”

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

Sec. 2. 35-A MRSA §3401-A is enacted to read:

§3401-A. Definitions

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

- 1. Certified business.** “Certified business” means a business that has been certified by the federal Small Business Administration or another appropriate entity, as determined by the commission by rule, as a minority-owned, veteran-owned or women-owned business.
- 2. “Community & Workforce Enhancement Agreement”** means a suite of standards for craft workers and all contractors and subcontractors associated with craft work that include:
 - (1) All craft workers, as defined in Title 26, chapter 15, section 1304, subsection 3-A, shall:
 - (a) Earn compensation at or above the Maine Emerging Industry Earnings Threshold, as defined in Title 35-A, chapter 34, section 3401-A subsection 5, and:
 - (b) Meet the requirements outlined in Title 26, chapter 15, section 1317.
 - (2) All contractors and subcontractors shall, demonstrably:

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- (a) in advance of the project, and no later than upon commencement of each contractor or subcontractor's contracted work on the project, and if additional labor is necessary in excess of the contractor or subcontractor's currently available and qualified employees, as defined in section 3401-A section 3 of this statute, to fulfill their contractual obligations:
 - (i) utilize the services of a contractor that has a hiring hall arrangement with a labor organization in order to meet those workforce needs; and
 - (ii) provide regular employment opportunities first to members of the impacted community and Maine residents, then to individuals who reside in the New England region.
 - (b) after demonstrating an exhaustion of all efforts established in section 3401-A subsection 2, paragraph 2(a) for a period of ninety (90) business days and while remaining in compliance with all other community and workforce enhancement agreement requirements, use any and all means deemed necessary to fulfill their contractual obligations for a period of no more than thirty (30) business days.
- (3) Throughout the duration of a contractor or subcontractor's contracted work on the project, as ongoing workforce demands warrant the need for additional qualified journeyworkers and/or Registered Apprentices, as enrolled in a program that meets the standards outlined in Title 26, chapter 37, section 3203:
- (a) contractors and subcontractors shall provide the opportunity to fill a minimum of fifty (50) percent of all remaining worker hours to contractors that have a hiring hall arrangement with a labor organization in order to meet those workforce needs.
 - (b) if in the event contractors that have a hiring hall arrangement with a labor organization cannot maintain the minimum threshold of fifty (50) percent of the remaining worker hours for a period of ten (10) consecutive business days, the requesting contractor or subcontractor may use any and all means deemed necessary to fulfill their contractual obligations, including continued engagement with contractors that have a hiring hall arrangement with a labor organization in order to maintain the (50) fifty percent threshold.
- (4) Subject to compliance with all other provisions within this act, any contractor may continue to operate and implement a Registered Apprenticeship program and other relevant continuing education programs in order to meet an ongoing or new workforce demand. For the purposes of this section, Registered Apprentices performing work must be enrolled in a program that has graduated Registered Apprentices within one year of the commencement of the Registered Apprenticeship Sponsor or subsponsor's contracted work related to the specific project outlined in the related contract.
- (a) A contractor or subcontractor shall provide proof within 7 (seven) calendar days of a request from the Department of Labor that any apprentices employed on the project are enrolled in a Registered Apprenticeship program.
- (5) In the event that workforce needs decrease at any point throughout the project,

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reductions in workforce or layoffs shall be performed first based on the skills needed, then upon seniority on the job, with the last dispatched being the first to receive a lay off.

- (6) Further, all contractors and subcontractors shall:
- (a) carry workers compensation coverage and contribute to unemployment insurance for each craft worker on site.
 - (b) not hire or employ the services of a temporary staffing agency or organization,
 - (c) be prohibited from employing or utilizing independent contractors as defined in Title 39-A, section 101, subsection 13-A, not including Maine-based individual owner-operators and/or sole proprietors in the transportation industry.
 - (d) meet the requirements outlined in
 - (i) Title 26, chapter 15, section 1311,
 - (ii) Title 26, chapter 37, section 3213
 - (iii) Title 26, chapter 15, section 1312, subsection 2,
 - (iv) Title 26, chapter 43, section 3502
 - (v) Title 35-A, part 3, chapter 32, section 3210-H, subsection 2, subparagraph B (3)
 - (e) shall demonstrate adherence to the “Inclusive Bidding Standards,” as defined in section 3401-A, subsection 7
- (7) An agreement that meets the requirements of Title 35-A, Part 3, chapter 32, section 3210-H, subsection 1, paragraph C, for the covered work shall be deemed compliant with 3401-A subsection 2 of this statute.

3. “Currently available and qualified employee” means a craft worker, as defined in Title 1626, chapter 15, section 1304, subsection 3-A, employed by, and who receives a W2 from, a contractor or subcontractor working on the relevant project in the offshore wind industry. A “currently available and qualified employee” shall have been hired as a permanent employee by the contractor at least 90 calendar days prior to the commencement of said contractors’ or subcontractors’ contracted work. A “currently available and qualified employee” must possess the skills, credentials, certifications and/or specialized training necessary to complete the required tasks upon being assigned to the worksite.

4. Disadvantaged Business Enterprise. “Disadvantaged Business Enterprise” means a business that is certified by the Maine Department of Transportation in compliance with federal regulations under 49 CFR Part 26.

5. Maine Emerging Industry Earnings Threshold. “Maine Emerging Industry Earnings Threshold” means an employment total compensation package that includes wages, health and welfare, retirement benefits and any additional employer-paid benefits that have a monetary value equal to or greater than that established and in effect as a result of a mutual agreement between a labor organization whose local jurisdiction includes the county in Maine where the work related to the

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project is being or is to be performed; and the related and applicable contractors that are signatory to said agreement. Data related to the "Maine Emerging Industry Earnings Threshold" shall be submitted to the Maine Department of Labor and be made available upon request to any and all entities interested in participating in the project.

6. Fishing community. "Fishing community" means a municipality where marine organisms as defined in Title 12, section 6001, subsection 26 are landed or processed.

7. Inclusive Bidding Standards. "Inclusive Bidding Standards" means a set of guidelines to ensure comprehensive engagement and involvement of the construction industry, and shall include requirements that:

(1) The relevant agency or agencies responsible for awarding contracts related to the construction of the offshore wind industry, shall make a demonstrated and documented effort to ensure broad and maximum engagement and participation of all interested contractors upon publicizing any and all requests for proposals surrounding work on or related to the offshore wind industry.

(2) All contractors, including but not limited to those headquartered in the state of Maine, and regardless of whether their employees are covered under a collective bargaining agreement, shall be eligible and encouraged to bid on and participate in any and all work related to the offshore wind industry.

8. Labor Organization. "Labor organization" has the same meaning as in Title 35-A, Part 3, Chapter 32 section 3210-H, subsection 1, paragraph B.

9. Lobster Management Area 1. "Lobster Management Area 1" means the area defined by rule as Lobster Management Area 1 by the Department of Marine Resources.

10. Nameplate capacity. "Nameplate capacity" has the same meaning as in section 3481, subsection 11.

11. Office. "Office" means the Governor's Energy Office established in Title 2, section 9.

12. Offshore wind power project. "Offshore wind power project" has the same meaning as in section 3405, subsection 1, paragraph C, in connection with any project covered by Title 35-A Section 3408, including but not limited to floating wind generation facilities.

13. Responsible entity. "Responsible entity" means the person or business entity undertaking to develop an offshore wind power project.

14. Small business. "Small business" means a business employing 100 or fewer employees.

Sec. 3. 35-A MRSA §3404, sub-§2, as amended by PL 2009, c. 615, Pt. A, §4, is repealed and the following enacted in its place:

2. State wind energy generation goals. The State's goal for wind energy development in proximate federal waters is for at least 3,000 megawatts of installed capacity by December 31, 2040.

Beginning January 1, 2025 and every 2 years thereafter, the office may reevaluate and increase the goal established by this section and report that goal to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters.

Sec. 4. 35-A MRSA §3406, as enacted by PL 2021, c. 407, §3, is amended to read:

§3406. Offshore Wind Research Consortium; fund established

1. Offshore Wind Research Consortium. The Offshore Wind Research Consortium is an initiative of the ~~Governor's Energy Office~~ office, in collaboration with the Department of Marine Resources and the Department of Inland Fisheries and Wildlife, to coordinate, support and arrange for the conduct of research on offshore wind power projects in the Gulf of Maine.

2. Advisory board. The ~~Governor's Energy Office~~ office, in consultation with independent scientific experts, shall establish an advisory board of the consortium to oversee the development and execution of a research strategy to better understand the local and regional impacts of floating offshore wind power projects in the Gulf of Maine. The advisory board must include, but is not limited to, the following members:

- A. Two individuals from organizations that represent commercial lobster harvesting interests in the State;
- B. At least one individual from an organization that represents the interest of commercial fisheries other than lobster harvesting;
- C. The Commissioner of Marine Resources, or the commissioner's designee;
- C-1. The Commissioner of Inland Fisheries and Wildlife, or the commissioner's designee;
- D. Two individuals, not represented by an organization, that represent the interests of the commercial lobster harvesting industry and commercial fisheries in the State; ~~and~~
- E. One individual from the recreational charter fishing industry;
- F. At least one individual who is a member of one of the federally recognized Indian tribes in this State;
- G. Two individuals with expertise in marine wildlife and habitats; and
- H. At least one individual with experience in commercial offshore wind development.

The advisory board is subject to all applicable provisions of the Freedom of Access Act. The operation of the advisory board must be informed by the work of regional and national scientific entities. The advisory board shall solicit input from stakeholders, including representatives of the fishing industry, state and federal agencies and scientific experts.

3. Research strategy. The advisory board established in subsection 2 in developing a research strategy shall at a minimum identify:

- A. Opportunities and challenges caused by the deployment of floating offshore wind power projects to the existing uses of the Gulf of Maine;
- B. Methods to avoid and minimize the impact of floating offshore wind power projects on ecosystems and existing uses of the Gulf of Maine; and
- C. Ways to realize cost efficiencies in the commercialization of floating offshore wind power projects.

The advisory board shall advise the ~~Governor's Energy Office~~ office on the development of the components of the research strategy.

4. Offshore Wind Research Consortium Fund; established. The Offshore Wind Research Consortium Fund, referred to in this subsection as "the fund," is established as a nonlapsing fund administered by the ~~Governor's Energy Office~~ office and the Department of Marine Resources and in coordination with the Department of Inland Fisheries and Wildlife. The fund consists of funds that are

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appropriated by the Legislature, funds received from federal and state sources, payments from offshore wind power projects in accordance with section 3408, subsection 1, paragraph D, subparagraph (3) and other funds from any public or private source received for use for any of the purposes under this subsection. The source of any funds received from public or private sources must be publicly disclosed. The fund may be used to support the consortium and the work of the advisory board established in subsection 2, including for:

- A. Developing the research strategy under subsection 3;
- B. Conducting research pursuant to the strategy developed under subsection 3;
- B-1. Supporting conservation actions and projects that support species and habitats impacted by offshore wind development;
- C. Producing reports or other materials;
- D. Compensating independent experts, if needed to assist in the development or execution of the research strategy under subsection 3; and
- E. Making any other expenditures that are necessary to achieve the purposes of this section.

The ~~Governor's Energy Office~~ office, in consultation with the advisory board, shall provide an annual report on the use of the fund in the last quarter of each calendar year to the joint standing committee of the Legislature having jurisdiction over energy and utility matters.

Sec. 5. 35-A MRSA §3407 is enacted to read:

§3407. Maine Offshore Wind Renewable Energy and Economic Development Program

1. Program established. The Maine Offshore Wind Renewable Energy and Economic Development Program, referred to in this section as "the program," is established to further the development and use of offshore wind energy resources in the Gulf of Maine, referred to in this section as "offshore wind power projects." The office, in collaboration with the commission, shall administer the program in accordance with this section and shall ensure that the program is designed to advance the greenhouse gas emissions reduction obligations and climate policies of this State under Title 38, section 576-A and Title 38, section 577, subsection 1, the renewable energy goals established in section 3210, subsection 1-A and all applicable workforce development efforts of this State. Under the program, the office, in collaboration with the commission, shall:

- A. Encourage the responsible development of offshore wind projects to stabilize energy supply prices, reduce this State's reliance on imported fossil fuels, realize direct and near-term economic benefits for the people of this State and ensure the achievement of this State's wind energy generation goals established in section 3404, subsection 2;
- B. Support offshore wind projects that result in long-term, family-supporting careers, including for disadvantaged populations and communities;
- C. Support responsibly sited and operated offshore wind projects that avoid or minimize and compensate for impacts to wildlife, habitat, fisheries and coastal communities in the Gulf of Maine;
- D. Support efforts to increase understanding of impacts of offshore wind projects on the marine environment and to advance research to better understand how offshore wind projects can coexist with minimal impact to existing ocean users, wildlife, fisheries and the marine environment;

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E. Promote diversity, equity and inclusion in the development of offshore wind projects with particular consideration given to the energy and economic circumstances and opportunities in coastal and socially vulnerable communities and for the federally recognized Indian tribes. For the purposes of this paragraph, "socially vulnerable communities" means those communities containing populations that are disproportionately burdened by existing social inequities or lack the capacity to withstand new or worsening burdens;

F. Support the advancement of port infrastructure, local offshore wind related economic development, and the development of a supply chain to support the development of offshore wind projects;

G. Support the development and deployment of innovative technologies to achieve the energy policy and economic development objectives of this State, including energy storage;

H. Support the use of Maine-based technical and engineering expertise and build on this State's leadership in offshore wind, maritime industries and research and development;

I. Support the development of transmission infrastructure necessary for this State to expeditiously meet its renewable energy and climate goals, including advancing the development of shared or regional offshore wind transmission infrastructure;

J. Collaborate with other states or entities when appropriate on regional issues, including, but not limited to, transmission, procurement, supply chain and workforce development and research and monitoring relating to wildlife, fisheries and the Gulf of Maine ecosystem;

K. Support responsibly sited offshore wind projects located in areas outside of the area of the Gulf of Maine where the majority of lobster fishing or other significant commercial fishing occurs;

L. Coordinate the activities of state agencies that are affected by the development of offshore wind projects, including, but not limited to, the Department of Economic and Community Development, the Department of Labor, the Department of Marine Resources, the Department of Transportation, the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection; and

M. Support the development of deep-water offshore wind projects and transmission infrastructure in the Gulf of Maine that serve the public interest by advancing the renewable energy and climate policies and economic development goals of this State and helping to reduce energy price volatility.

2. Federal lease stipulations. The office, in consultation with other state agencies, including, but not limited to, the Department of Marine Resources, shall advocate for the inclusion in any leases issued by a federal agency for offshore wind energy production in federal waters provisions that will:

A. Support economic development, including the development of port infrastructure;

B. Promote public communications plans about the leased activity;

C. Ensure appropriate engagement with federally recognized Indian tribes;

D. Include adequate transmission planning;

E. Result in access to research conducted in connection with the lease; and

F. Maximize mitigation of and compensation for impacts to coastal communities, wildlife, fisheries and the marine environment.

Sec. 6. 35-A MRSA §3408 is enacted to read:

§3408. Offshore wind energy procurement

1. Preparation of requests for proposals; offshore wind energy facilities. The office shall establish a schedule for competitive solicitations for the development and construction of offshore wind power projects to meet the objectives of the program as described in section 3407. The office shall prepare, in consultation with appropriate state agencies, a request for proposals to implement each competitive solicitation. Upon developing a request for proposals for a competitive solicitation under this section, the office shall submit the request for proposals to the commission for approval.

A. Each solicitation must specify the date on which a subsequent solicitation must be initiated and the specified date must be within 36 months of a previous solicitation.

B. The office shall make reasonable efforts to consult with entities within this State, including, but not limited to, the commission, the Office of the Public Advocate and entities included in section 3407, subsection 1, paragraph L, and other states or entities regarding coordinated solicitations.

C. A solicitation under this section must seek proposals for offshore wind power projects with not less than approximately 600 megawatts of nameplate capacity or of sufficient size to enable cost-competitive commercial-scale development. A solicitation developed in coordination with other states or entities may seek proposals for projects with a nameplate capacity of less than 600 megawatts if the coordinated solicitation is in an aggregate amount sufficient to enable cost-competitive commercial-scale development.

D. A solicitation under this section must specify bidder criteria, including:

(1) Submission of plans that meet or exceed state and federal requirements or guidelines and are consistent with the recommendations in the Maine Offshore Wind Roadmap issued by the office in February 2023:

(a) To ensure stakeholder engagement, capacity building and equity with particular consideration given to the energy and economic circumstances and opportunities in coastal and socially vulnerable communities, as defined in section 3407, subsection 1, paragraph E;

(b) To achieve economic and community benefits, including, but not limited to, investments in and development of ports, supply chains and the necessary workforce;

(c) To achieve diversity, equity and inclusion in employment and contracting for the project;

(d) To provide for fisheries research, monitoring and mitigation; and

(e) To provide for environmental and wildlife research, monitoring, mitigation and conservation;

(2) A fishing communities investment plan, as described in subsection 3;

(3) An agreement by the responsible entity, if it is approved for a contract under this section, to pay an amount set in the solicitation, equal to \$5,000 or more per megawatt of the offshore wind power project's nameplate capacity to the Offshore Wind Research Consortium Fund in accordance with section 3406, subsection 4;

(4) An agreement by the responsible entity, if it is approved for a contract under this section, to provide financial and technical assistance necessary to implement the plans listed in subparagraphs (1) and (2).

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(5) Workforce requirements, as outlined in section 3401-A, subsection 2, as established above; and
The office may waive any of the requirements of this paragraph if the office determines that applicable federal or state criteria, including, but not limited to, federal lease provisions, adequately achieve the applicable requirement.

E. A solicitation under this section must be announced, prior to issuance, through a notice of intent and made available in draft form, including the criteria for the plans required pursuant to paragraph D, for public comment. The office shall:

(1) Conduct at least 2 public comment sessions on the solicitation, at least one of which must be in person, in advance of the publication of a draft solicitation to assist in the development of the contents of the draft solicitation;

(2) Respond in writing to the comments received regarding the draft solicitation;

(3) Coordinate with the Department of Economic and Community Development, the Department of Marine Resources, the Department of Transportation, the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection on the development of the criteria for the plans required pursuant to paragraph D;

(4) Coordinate with the Department of Agriculture, Conservation, and Forestry to ensure submerged lands leasing rates and fees, as described in Title 12 section 1862, are aligned with the goals of the program as described in section 3407, and reflect a fair market rate and considering fees set by other states in the region for the use of submerged lands in connection with an offshore wind power project.

(5) Seek public input on appropriate contracting mechanisms for inclusion in the solicitations to address market dynamics and impacts to ratepayers, including but not limited to indexing and price adjustments.

(6) Request comments on the draft solicitation from each federally recognized Indian tribe and the Maine Indian Tribal-State Commission; and

(6) In developing the plan criteria for the plans required pursuant to paragraph D, consider all comments received under subparagraph (4).

2. Requests for proposals; offshore wind power projects. The commission shall review a solicitation developed by the office under subsection 1 and, upon finding that the solicitation is reasonably likely to attract competitive bids and further the objectives of the program as described in section 3407, shall issue a request for proposals in accordance with this subsection.

A. The office shall file with the commission the first solicitation by July 1, 2025 unless another date is established by mutual agreement between the office and the commission.

B. The commission shall issue the first request for proposals by January 15, 2026 or three months after the first BOEM auction for offshore wind leases in the Gulf of Maine.

C. If, within any 3-year period beginning January 15, 2026 and ending January 1, 2039, the commission has not found a solicitation submitted by the office to be reasonably likely to further the objectives of the program, the commission shall expeditiously develop and issue a request for proposals consistent with the requirements of this section.

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D. The commission shall review and make a determination regarding a solicitation submitted by the office within 6 months of the date of submission.

E. If the commission determines that a contract for an amount greater than those specified in subsection 1, paragraph C is in the public interest, it may select resources and approve contracts accordingly.

F. In conducting a solicitation and selecting offshore wind power projects under this section, the commission shall ensure that selected projects result in contracts that are cost-effective for electric ratepayers over the term of the contract, taking into consideration potential quantitative and qualitative economic, environmental and other benefits to ratepayers. The commission shall give priority to projects that:

(1) Have generation facilities located outside of Lobster Management Area 1, as defined by the Department of Marine Resources by rule.

(2) Include agreements compliant with section 3401-A, section 2 or Title 35-A, Part 3, chapter 32, section 3210-H, subsection 1, paragraph C, and are open to Disadvantaged Business Enterprises, and Maine Small Businesses;

(3) Provide employment and contracting opportunities for members of federally recognized Indian tribes; workers from disadvantaged communities as defined by the United States Council on Environmental Quality's climate and economic justice screening tool or by an agency of this State using standards similar to those in the screening tool as determined by the commission, the United States Department of Commerce, Economic Development Administration's economic distress criteria or the United States Department of Energy's energy disadvantaged community criteria; and certified businesses;

(4) Provide community benefits, as determined preconstruction through consultation with federally recognized Indian tribes, a stakeholder engagement process that includes disadvantaged communities, as described in subparagraph (1), and investments in fishing communities;

(5) Provide financial contributions or technical assistance to support research, monitoring and mitigation of impacts to wildlife, fisheries and habitats and the minimization of environmental impacts from the offshore wind power project and related transmission and interconnection infrastructure;

(6) Provide economic benefits to Maine, including utilizing a Maine-designated offshore wind port;

(7) Maximize the hiring of residents of this State.

(8) Maximize economic, employment, and contracting opportunities for Maine residents and all Maine businesses; and

(9) Provide ratepayer benefits, including, but not limited to, enhanced electric reliability, resource adequacy including contributing to reducing winter electricity price spikes and overall price impacts, avoidance of line loss and mitigation of transmission costs to the extent possible.

The commission shall allow the office to review the bids submitted pursuant to this subsection. The office may provide input to the commission upon review of the bids, which may include an assessment as to whether any bids submitted are consistent with the goals of the program as described in section 3407, subsection 1.

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G. The commission may direct one or more transmission and distribution utilities to enter into long-term contracts for energy, capacity or renewable energy credits from offshore wind power projects selected by the commission in accordance with this subsection.

H. If, at the close of a competitive bidding process conducted under this section, the commission determines that the proposals submitted do not satisfy the requirements of paragraph F, the commission shall reject all proposals and shall open a new competitive bidding process under this subsection.

I. Notwithstanding Title 5, section 8071, subsection 3, the commission, after consultation with the office, may establish by rule reasonable fees that bidders must submit with proposals for offshore wind power projects. Fees collected pursuant to this paragraph may be used for the administration of this section, as well as Title 35-A sections 3406, and 3407. Upon request of the office, the commission may transfer fees collected in accordance with this paragraph to the office for the administration of this section. The fees established in this paragraph may be used to meet additional staffing needs required to administer the implementation of Title 35-A sections 3406, 3407, and 3408.

3. Fishing communities investment plan requirements. A fishing communities investment plan must include a plan for ongoing investment in commercial fishing communities with a stated annual target rate of investment.

A. The plan must be designed to:

- (1) Support innovation and adaptation in response to environmental change, shifting resource economics and changes in fishing practices associated with offshore wind development;
- (2) Protect seafood-related working waterfront infrastructure;
- (3) Assist persons fishing commercially at an entry level; and
- (4) Assist persons fishing commercially seeking to provide the responsible entity with offshore services.

B. Investment strategies within the plan may include, but are not limited to, subsidizing commercial lending interest rates, loan guarantees and funding programs or grant programs to support persons fishing commercially and fishing-related businesses and entities established to provide support services to the fishing industry.

C. The plan must identify administration costs separately from the annual target rate of investment.

D. The plan must include a requirement that the responsible entity convene an advisory body made up of representatives, which may include, but are not limited to, representatives from the fishing industry and fishing community, the Department of Marine Resources, relevant commercial lending institutions, a person appointed by the responsible entity to serve as the liaison to the fishing community and other relevant persons or entities. The advisory body must monitor investment plan performance against the annual target, monitor effectiveness of investment strategies and identify opportunities for improving fisheries and fishing communities through plan investment.

4. Funding. Notwithstanding section 116, subsection 4, upon receiving a written request from the office, the commission may provide reasonable funding to the office for the purposes of implementing the requirements of this section.

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5. Rulemaking; protective orders. The commission shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The rules must include procedures for monitoring, measuring and enforcing ongoing compliance by responsible entities with the requirements of this section.

A. The rules must require the responsible entity to provide biannual reports to the commission regarding its compliance with the plans submitted as part of its bid under subsection 2. The rules must require a report submitted by the responsible entity to exclude personally identifying information to the greatest extent practicable. If the report includes confidential or proprietary information, trade secrets or similar matters as provided by the Maine Rules of Civil Procedure, Rule 26(c), the commission may issue appropriate protective orders in accordance with section 1311-A with respect to those portions of the report and shall make available to the public an appropriately redacted copy of the report. The commission shall provide the office the redacted copy, which the office shall post on the office's publicly accessible website.

B. The commission shall establish by rule a process for the review, in coordination with the office, of the biannual reports provided by the responsible entity and a mechanism for public participation regarding the contents of the report.

Sec. 7. 35-A MRSA §3409 is enacted to read:

§3409. Offshore wind transmission

The commission, in coordination with the office, shall seek to advance regional transmission solutions to interconnect offshore wind with transmission and distribution utilities, other New England states or entities and the independent system operator of the New England bulk power system or a successor organization.

1. Transmission solicitation and procurement. The commission may conduct one or more competitive solicitations for proposals for the development and construction of offshore wind energy transmission projects or other electric infrastructure projects to facilitate offshore wind energy development and approve contracts for such projects in accordance with this section.

A. In developing a solicitation and approving a contract under this section, the commission shall:

(1) Consider the amount of transmission capacity needed to maintain or improve electric system reliability;

(2) Avoid unnecessary costs to upgrade the existing transmission grid;

(3) Seek to achieve the greenhouse gas emissions reduction obligations and climate policies under Title 38, section 576-A and Title 38, section 577, subsection 1 and renewable energy goals under section 3210, subsection 1-A;

(4) Pursue demonstrable benefits for electric ratepayers; and

(5) Encourage projects that avoid, minimize or mitigate impacts to wildlife, the environment, fisheries, fishing activities or tribal burial and archeological sites, whether submerged or on land.

B. The commission shall coordinate with the office and may coordinate with other entities, including, but not limited to, transmission and distribution utilities, other New England states and the independent

system operator of the New England bulk power system or a successor organization in the solicitation and selection of proposals under this section.

C. The commission may host conferences with prospective bidders in advance of issuing solicitations under this section.

D. A responsible entity may submit a proposal in response to a solicitation conducted under this section as long as the transmission service proposal provides for transmission service for more than one offshore wind power project.

E. The commission may consider proposals that include, but are not limited to, upgrading the existing grid, extending the grid closer to offshore wind power projects, determining or upgrading optimal landfall approaches or interconnecting between offshore substations.

F. The commission may select one proposal, multiple proposals or no proposals.

G. The commission may select proposals that include federal funding in the form of a match, grant or loan or through ownership and operation by the Federal Government, cost sharing among states or recovery of transmission costs through federal transmission rates.

H. The commission may modify a solicitation under this section, prior to selecting any proposal, in order to satisfy federal eligibility criteria.

2. Rules. The commission may adopt rules to implement this section. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 10. 36 MRSA ch. 919-B is enacted to read:

CHAPTER 919-B

Fishing Community Protection Tax Incentive

§6905. Fishing Community Protection Tax Incentive

Office of Tax Policy to develop a State's Fishing Community Protection Tax Incentive Program. The Department of Administrative and Financial Services, Bureau of Revenue Services, Office of Tax Policy, in consultation with the Department of Marine Resources and the Governor's Energy Office, shall evaluate and develop a Fishing Community Protection Tax Incentive Program that establishes a tax credit to qualified investors to design, permit, construct, modify, or equip the applicant's offshore wind power project consistent with the policy and purposes in the Maine Revised Statutes, Title 35-A, sections 3407 and 3408. The investments and activities of a qualified applicant and other entities that are members of the qualified applicant's unitary business must be aggregated to determine whether a qualified investment has been made. The Program shall:

A. Incentivize siting offshore wind power projects in areas outside of Lobster Management Area 1, as defined by the Department of Marine Resources by rule.

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B. Protect ratepayers from any additional costs associated with the siting objectives in paragraph 1;

C. Increase Maine's competitiveness in securing offshore wind power projects and their associated climate and economic benefits; and

D. Include a tax credit not to exceed \$16,000,000 annually for up to 20 years.

No later than December 1, 2023, the Office of Tax Policy shall publish a draft report, and shall accept public comments for not less than 30 days. No later than February 1, 2024, the Office of Tax Policy shall submit a report to the Joint Standing Committee on Taxation, and the Joint Standing Committee on Energy, Utilities and Technology that includes its findings and recommendations, including suggested legislation, that are consistent with the policy and purposes in the Maine Revised Statutes, Title 35-A, sections 3407 and 3408. The Joint Standing Committee on Taxation may report out a bill to the Second Regular Session of the 131st Legislature based on the information and recommendations included in the report.

Sec. 11. 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 power 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. 12. 35-A MRSA §3453-A, sub-§3, ¶A, as enacted by PL 2015, c. 265, §8 and affected by §10, is amended to read:

A. Will not have an unreasonable adverse effect on the State's ability to meet the state goals for wind energy development in proximate federal waters in section 3404, subsection 2, paragraph C; and

Sec. 13. 23 MRSA c. 412, sub-c. 3 is enacted to read:

SUBCHAPTER 3

PORT FACILITIES RELATING TO OFFSHORE WIND POWER PROJECTS

Sec. 1. 35-A MRSA §3407 is enacted to read:

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

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

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

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

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

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

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

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

4. Limitation on number of offshore wind terminals. The department may not approve permits under Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or Title 38, section 480-D for more than 4 offshore wind terminals. If a permit approved under Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3 or Title 38, section 480-D expires, is surrendered or is revoked prior to construction of an offshore wind terminal, the department may approve a permit under those sections for another offshore wind terminal.

Sec. 2. 38 MRSA §480-D, sub-§1, as amended by PL 2009, c. 615, Pt. E, §8, is further amended by enacting at the end a new last blocked paragraph to read:

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

Sec. 3. 38 MRSA §482, sub-§2, ¶F, as amended by PL 2009, c. 615, Pt. E, §14, is further amended to read:

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

Sec. 4. 38 MRSA §482, sub-§2, ¶J, as enacted by PL 2009, c. 615, Pt. E, §15, is amended to read:

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

Sec. 5. 38 MRSA §482, sub-§2, ¶K is enacted to read:

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

Sec. 6. 38 MRSA §484, sub-§3, ¶J is enacted to read:

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

§4441. Port facility-related requirements

1. Public works; workforce supply and development. Notwithstanding Title 26, section 3601, if an offshore wind terminal that is a public work, as defined in Title 26, section 1304, subsection 8, is constructed or altered for the purpose of supporting an offshore wind power project, the public authority responsible for the construction shall require agreements that comply with Title 35-A section 3401-A section 2 or Title 35-A, Part 3, chapter 32, section 3210-H, subsection 1, paragraph C for all construction work.

2. Infrastructure development and construction; If an offshore wind power project involves a public-private partnership that includes the lease of an offshore wind terminal 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 agreements that comply with Title 35-A section 3401-A section 2 or Title 35-A, Part 3, chapter 32, section 3210-H, subsection 1, paragraph C as a condition of the lease for all on-site construction and fabrication of materials for the offshore wind power project.