

# MAINE STATE LEGISLATURE

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L.D. 1619

Date: (6/15/2)

(Filing No. S-316)

**ENERGY, UTILITIES AND TECHNOLOGY**

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**STATE OF MAINE**

**SENATE**

**130TH LEGISLATURE**

**FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 512, L.D. 1619, "An Act To Establish a Moratorium on Offshore Wind Power Projects in Maine's Territorial Waters"

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

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

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

'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. "Associated facilities" has the same meaning as in section 3451, subsection 1.

B. "Offshore wind energy demonstration project" has the same meaning as in Title 38, section 480-HH, subsection 1, paragraph H.

C. "Offshore wind power project" means an offshore project that uses a windmill or wind turbine to convert wind energy to electrical energy. "Offshore wind power project" includes both generating facilities as defined by section 3451, subsection 5 and associated facilities, without regard to whether the electrical energy is for sale or use by a person other than the generator.

D. "Pilot-scaled, limited duration offshore wind power research and development project" means an offshore project that uses a wind turbine to convert wind energy to electrical energy, has a generating capacity of no more than 0.5 megawatts and is operational for no more than 5 years.

E. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection 9.

**COMMITTEE AMENDMENT**

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F. "Territorial waters" has the same meaning as in Title 12, section 6001, subsection 48-B.

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.

3. Exemption. The prohibition established under subsection 2 does not apply to:

A. A pilot-scaled, limited-duration offshore wind power research and development project;

B. An offshore wind energy demonstration project and its associated facilities 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;

C. The licensing, permitting or approval by a state agency or municipality or other political subdivision of the State of the siting, construction or operation of or the issuance of a lease or the grant of an easement or other real property interest for associated facilities other than utility cables or transmission lines governed by paragraph D that are intended to support generation of electricity from offshore wind energy facilities located seaward of the territorial waters; and

D. The licensing, permitting or approval by a state agency or municipality or other political subdivision of the State of the siting, construction or operation of or the issuance of a lease or the grant of an easement or other real property interest for utility cables or transmission lines that are intended to support generation of electricity from offshore wind energy facilities located seaward of the territorial waters if, by March 1, 2023:

(1) The Governor's Energy Office has completed a strategic plan to inform the development of offshore wind power projects that minimizes conflict with existing maritime industries, particularly fishing; identifies opportunities to preserve existing maritime businesses and jobs; and maximizes jobs, investment, new technologies and sustainability;

(2) The Governor's Energy Office, in consultation with other state agencies, has conducted a review of applicable state laws and rules to determine whether the existing offshore wind energy statutory and regulatory framework protects the State's coastal resources in a manner that avoids or minimizes adverse effects on coastal resources and users from the development of offshore wind power projects located seaward of the territorial waters; and

(3) The Governor's Energy Office, with input from the advisory board of the Offshore Wind Research Consortium established in section 3406, has identified

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1 the preliminary research questions the consortium seeks to answer regarding the  
2 development of offshore wind power projects.

3 The Governor's Energy Office shall submit a report to the joint standing committee of  
4 the Legislature having jurisdiction over energy and utility matters when the conditions  
5 established under subparagraphs (1) to (3) are met.

6 **Sec. 2. 35-A MRSA §3406** is enacted to read:

7 **§3406. Offshore Wind Research Consortium; fund established**

8 **1. Offshore Wind Research Consortium.** The Offshore Wind Research Consortium  
9 is an initiative of the Governor's Energy Office to coordinate, support and arrange for the  
10 conduct of research on offshore wind power projects in the Gulf of Maine.

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

16 A. Two individuals from organizations that represent commercial lobster harvesting  
17 interests in the State;

18 B. At least one individual from an organization that represents the interest of  
19 commercial fisheries other than lobster harvesting; and

20 C. The Commissioner of Marine Resources, or the commissioner's designee.

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

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

27 A. Opportunities and challenges caused by the deployment of floating offshore wind  
28 power projects to the existing uses of the Gulf of Maine;

29 B. Methods to avoid and minimize the impact of floating offshore wind power projects  
30 on ecosystems and existing uses of the Gulf of Maine; and

31 C. Ways to realize cost efficiencies in the commercialization of floating offshore wind  
32 power projects.

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

35 **4. Offshore Wind Research Consortium Fund; established.** The Offshore Wind  
36 Research Consortium Fund, referred to in this subsection as "the fund," is established as a  
37 nonlapsing fund administered by the Governor's Energy Office. The fund consists of funds  
38 that are appropriated by the Legislature, funds received from federal and state sources and  
39 other funds from any public or private source received for use for any of the purposes under  
40 this subsection. The source of any funds received from public or private sources must be  
41 publicly disclosed. The fund may be used to support the consortium and the work of the  
42 advisory board established in subsection 2, including for:

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A. Developing the research strategy under subsection 3;

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B. Conducting research;

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C. Producing reports or other materials;

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D. Compensating independent experts, if needed to assist in the development or execution of the research strategy under subsection 3; and

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E. Making any other expenditures that are necessary to achieve the purposes of this section.

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The Governor's Energy 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.

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**Sec. 3. Department of Agriculture, Conservation and Forestry; submission of legislation.** On or before February 1, 2022, the Department of Agriculture, Conservation and Forestry 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 power projects under the Maine Revised Statutes, Title 35-A, section 3405.

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**Sec. 4. 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 power projects under the Maine Revised Statutes, Title 35-A, section 3405.

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**Sec. 5. 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 power projects under the Maine Revised Statutes, Title 35-A, section 3405.

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**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

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**EXECUTIVE DEPARTMENT**

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**Offshore Wind Research Consortium Fund N940**

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Initiative: Provides allocations to establish the Offshore Wind Research Consortium Fund.

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<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
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All Other	\$500	\$500
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<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	\$500	\$500
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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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**SUMMARY**

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This amendment replaces the bill. It prohibits the development of offshore wind power projects in the state-owned submerged lands or territorial waters and includes several exceptions to this prohibition. It specifies that the licensing, permitting or approval by a state agency or municipality or other political subdivision of the State of the siting, construction or operation of or the issuance of a lease or the grant of an easement or other real property interest for utility cables or transmission lines that are intended to support the generation of wind energy located seaward of territorial waters is prohibited unless, by March 1, 2023, the Governor's Energy Office has developed a strategic plan to inform the development of offshore wind power projects, has reviewed the ability of state laws and rules to protect Maine's coastal resources from the development of offshore wind energy generation located seaward of the territorial waters and, with input of the advisory board of the Offshore Wind Research Consortium established by this legislation, has identified the preliminary research questions the consortium seeks to answer regarding the development of offshore wind power projects. It requires the Governor's Energy Office to submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utility matters notifying the committee of the completion of these requirements.

The amendment establishes the Offshore Wind Research Consortium, an initiative of the Governor's Energy Office, to coordinate, support and arrange for the conduct of research on offshore wind power projects in the Gulf of Maine. It requires the Governor's Energy Office, in consultation with independent scientific experts, to establish an advisory board 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. It specifies the minimum membership that is required on the board and the duties and authority of the board. It establishes the Offshore Wind Research Consortium Fund as a nonlapsing fund to fund the consortium and the work of the advisory board.

Lastly, the amendment requires the Department of Agriculture, Conservation and Forestry, the Public Utilities Commission and the Department of Environmental Protection each to submit by February 1, 2022 legislation necessary to align those provisions of law under their respective jurisdictions with the prohibition on offshore wind power projects. The amendment adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
(See attached)



# 130th MAINE LEGISLATURE

LD 1619

LR 2053(02)

## An Act To Establish a Moratorium on Offshore Wind Power Projects in Maine's Territorial Waters

Fiscal Note for Bill as Amended by Committee Amendment "A" (S. 3/6)  
 Committee: Energy, Utilities and Technology  
 Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$500	\$500	\$500	\$500

#### Fiscal Detail and Notes

This bill creates the Offshore Wind Research Consortium Fund within the Governor's Energy Office (GEO) and directs the office to coordinate the development and execution of a research strategy to better understand the impacts of floating offshore wind power projects in the Gulf of Maine. The bill includes an ongoing \$500 allocation beginning in fiscal 2021-22 to establish the fund and allow expenditures of any money received. The GEO has indicated that it anticipates having sufficient resources to carry out the activities required by the bill.

Any additional costs to the Department of Agriculture, Conservation and Forestry, the Public Utilities Commission and the Department of Environmental Protection as a result of a review of their existing programs to prepare recommendations for any statutory changes to these programs necessary to implement the moratorium established by the bill are anticipated to be minor and can be absorbed within existing budgeted resources.