

MAINE STATE LEGISLATURE

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LD 1818

Date 6/7/23

MAJORITY

(Filing No S-206)

LABOR AND HOUSING

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STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S P 733, L D 1818, "An Act Regarding Port Facilities Relating to Offshore Wind Power Projects"

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

'An Act Regarding Port Facilities Relating to Offshore Wind Power Projects and to Modify the Visual Impact Standards for Offshore Wind Energy Development'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 1 in paragraph B in the 3rd line (page 1, line 14 in L D) by inserting after the following "employees" the following 'at the work site'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 1 in paragraph B in the 4th line (page 1, line 15 in L D) by striking out the following "with the" and inserting the following 'with that labor organization's'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 3 in paragraph C in the last line (page 2, line 9 in L D) by inserting after the following "a" the following 'workforce diversity, equity and just transition plan and workforce'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in the first line (page 2, line 15 in L D) by striking out the following "Development" and inserting the following 'Workforce diversity, equity and just transition plan requirements; workforce development'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in paragraph A in subparagraph (1) in the 4th line (page 2, line 21 in L D) by inserting after the following "recognized" the following 'or state-acknowledged'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in paragraph B in the last line (page 2, line 32 in L D) by striking out the following "the supply chain" and inserting the following 'supply chain investments'

Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in paragraph C in the first line (page 2, line 33 in L D) by inserting after the following "engage" the following 'highly'

COMMITTEE AMENDMENT

1 Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in paragraph C in
 2 subparagraph (1) in the last 2 lines (page 2, lines 36 and 37 in L D) by striking out the
 3 following "the Maine Apprenticeship Program" and inserting the following
 4 'apprenticeship and preapprenticeship programs'

5 Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in paragraph C in
 6 subparagraph (2) in the first line (page 2, line 38 in L D) by inserting after the following
 7 "a" the following 'more'

8 Amend the bill in section 1 in sub-c 3 in §4441 in subsection 4 in paragraph C by
 9 striking out all of subparagraph (3) (page 2, lines 40 to 43 in L D) and inserting the
 10 following

11 '(3) A description of how the responsible entity intends to deliver savings to
 12 ratepayers and overall project costs by providing labor harmony, access to a steady
 13 supply of skilled labor and infrastructure for workforce development resources and
 14 ensuring high standards for worker safety while maintaining workplace
 15 efficiencies and scheduling efficiencies, and'

16 Amend the bill by inserting after section 1 the following

17 'Sec. 2. 35-A MRSA §3407 is enacted to read

18 §3407 Determination of effect on scenic character and related existing uses

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

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

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

30 C "Department" means the Department of Environmental Protection

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

39 2. Application of standard. This subsection governs the department's or the Maine
 40 Land Use Planning Commission's making findings regarding the effect of an offshore wind
 41 terminal on scenic or natural character and existing uses related to scenic character pursuant
 42 to Title 12, section 685-B, subsection 4, paragraph C, Title 38, section 480-D, or Title 38,
 43 section 484, subsection 3 An offshore wind terminal project must minimize the adverse

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1 effect on scenic character and existing uses related to scenic character to the maximum
2 extent practicable and use best practical mitigation to control and reduce visual and scenic
3 impacts Except as otherwise provided in subsection 3, determination that an offshore wind
4 terminal fits harmoniously into the existing natural environment in terms of potential
5 effects on scenic or natural character and existing uses related to scenic character is not
6 required for approval under Title 12, section 685-B, subsection 4, Title 38, section 480-D,
7 or Title 38, section 484

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

15 **4. Limitation on number of offshore wind terminals** The department may not
16 approve permits under Title 38, section 480-D or Title 38, section 484 for more than 4
17 offshore wind terminals If a permit approved under Title 38, section 480-D or Title 38,
18 section 484 expires, is surrendered or is revoked prior to construction of an offshore wind
19 terminal, the department may approve a permit under those sections for another offshore
20 wind terminal '

21 Amend the bill by striking out all of section 4 and inserting the following

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

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

28 **Sec. 5. 38 MRSA §482, sub-§2, ¶F,** as amended by PL 2009, c 615, Pt E, §14, is
29 further amended to read

30 F Is an oil terminal facility as defined in this section, or

31 **Sec. 6. 38 MRSA §482, sub-§2, ¶J,** as enacted by PL 2009, c 615, Pt E, §15, is
32 amended to read

33 J Is an offshore wind power project with an aggregate generating capacity of 3
34 megawatts or more, or

35 **Sec. 7. 38 MRSA §482, sub-§2, ¶K** is enacted to read

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

38 **Sec. 8. 38 MRSA §484, sub-§3, ¶J** is enacted to read

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

COMMITTEE AMENDMENT

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Sec. 9. Federal funding. The Department of Environmental Protection, in consultation and coordination with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Transportation and the Maine Port Authority, shall seek federal funding available under the federal Infrastructure Investment and Jobs Act, the federal Inflation Reduction Act of 2022 and any other federal law or program to purchase or subsidize the purchase of port technology, to fund the construction of port facilities to support an offshore wind power project and to restore or enhance climate resilience and biodiversity of any nearshore, intertidal or upland areas disturbed by activities related to offshore wind power projects governed by the Maine Revised Statutes, Title 23, chapter 412, subchapter 3 For the purposes of this section, "port technology" means technology used at or near a port facility to service or support a wind project and includes but is not limited to technology involved in cargo handling, cement or concrete manufacturing, surface transportation and shore power for maritime vessels '

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively

SUMMARY

This amendment is the majority report of the committee The amendment requires that the Maine Port Authority or the agency responsible for granting the lease of a port facility owned or operated by the State must require as a condition of the lease as part of its required plan a description of how the responsible entity intends to deliver savings to ratepayers and overall project costs by providing labor harmony, access to a steady supply of skilled labor and infrastructure and scheduling efficiencies

The amendment also establishes a new type of port development used for fabricating offshore wind turbines called an offshore wind terminal It establishes a visual impact standard to evaluate the effect of the development of an offshore wind terminal The amendment provides that offshore wind terminals must receive review under the provisions of law governing site location of development The amendment amends the provisions of law governing site location of development and the Natural Resources Protection Act to provide that when proposed offshore wind terminals receive review, impacts related to scenic character and existing uses related to scenic character are governed by the new visual impact standard

FISCAL NOTE REQUIRED
(See attached)



131st MAINE LEGISLATURE

LD 1818

LR 1358(02)

An Act Regarding Port Facilities Relating to Offshore Wind Power Projects

Fiscal Note for Bill as Amended by Committee Amendment "A" (5-206)
Committee: Labor and Housing
Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - Highway Fund
Potential current biennium cost increase - Federal Expenditures Funds

Fiscal Detail and Notes

This bill requires that an offshore wind power project that involves the lease of a port facility owned or operated by the State include certain project labor agreements for all on-site construction or fabrication of materials, labor peace agreements governing full-time employees who will make any use of the port facility, including but not limited to employees involved in manufacturing, fabrication, operation, maintenance, decommissioning or maritime access, the implementation of a development plan that includes specific plans for recruiting and employing a diverse workforce and the development and implementation of a plan for ensuring the use, to the extent practical, of zero-emission port equipment or technology

Requiring project labor agreements for public port facilities constructed or leased to serve offshore wind power projects and development plans that ensure collaboration and recruitment within the trade and labor unions may limit the number of contractors able to bid on any offshore wind power projects. Requiring the use of zero-emission port equipment and technology may limit the number of suppliers who can offer such equipment. How these limitations will impact the cost of such projects going forward cannot be determined at this time and will depend on the comparative rates of labor, union versus nonunion, and various costs of development that will be proposed at the time of each project.