

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1818

S.P. 733

In Senate, April 27, 2023

An Act Regarding Port Facilities Relating to Offshore Wind Power Projects

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CURRY of Waldo.
Cosponsored by Representative GRAMLICH of Old Orchard Beach and
Senators: BRENNER of Cumberland, President JACKSON of Aroostook, LAWRENCE of
York, Representatives: BELL of Yarmouth, DOUDERA of Camden, MILLETT of Cape
Elizabeth, O'NEIL of Saco, Speaker TALBOT ROSS of Portland.

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

2 **Sec. 1. 23 MRSA c. 412, sub-c. 3** is enacted to read:

3 **SUBCHAPTER 3**

4 **PORT FACILITIES RELATING TO OFFSHORE WIND POWER PROJECTS**

5 **§4441. Port facility-related requirements**

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

8 A. "Labor organization" means an organization of any kind, or an agency or employee
9 representation committee or plan, in which employees participate and that exists for
10 the purpose, in whole or in part, of dealing with employers concerning grievances,
11 labor disputes, wages, rates of pay, hours of employment or conditions of work.

12 B. "Labor peace agreement" means an agreement between an employer and a labor
13 organization in which the employer agrees to be neutral during a labor organization's
14 campaign to organize employees who are not covered by a collective bargaining
15 agreement and not to interfere with the campaign and the labor organization agrees not
16 to engage in picketing, work stoppages, boycotts or other economic interference
17 against the employer during the campaign.

18 C. "Offshore wind power project" or "wind project" has the same meaning as in Title
19 35-A, section 3405, subsection 1, paragraph C.

20 D. "Project labor agreement" means a prehire collective bargaining agreement with one
21 or more labor organizations that establishes the terms and conditions of employment
22 for a specific project or portion of a project, wherever the project occurs, and is an
23 agreement described in 29 United States Code, Section 158(f).

24 E. "Responsible entity" means the person or business entity undertaking to develop a
25 wind project.

26 F. "Zero-emission port equipment or technology" has the same meaning as in 42
27 United States Code, Section 7433(d)(4).

28 **2. Public works; project labor agreements.** Notwithstanding Title 26, section 3601,
29 if a highway or port facility that is a public work, as defined in Title 26, section 1304,
30 subsection 8, is constructed for the purpose of supporting an offshore wind power project,
31 the public authority responsible for the construction shall require project labor agreements
32 that comply with Title 26, section 3601 for all construction work.

33 **3. Other work; project labor agreements; technology use.** If an offshore wind
34 power project involves the lease of a port facility owned or operated by the State, including
35 any port facility owned or operated by the Maine Port Authority, the department, authority
36 or other agency responsible for granting the lease shall require as a condition of the lease:

37 A. The use of project labor agreements for all on-site construction or fabrication of
38 materials for the offshore wind power project;

1 B. Labor peace agreements governing all full-time employees of the responsible entity
2 or of any entity working under contract with the responsible entity, other than
3 employees who work on a temporary or project basis, who will make any use of the
4 port facility in performing any work related to the wind project, including but not
5 limited to employees involved in the following activities related to the wind project:
6 manufacturing, fabrication, operation, maintenance, decommissioning or maritime
7 access;

8 C. The responsible entity to develop, submit to the Department of Transportation and
9 implement a development plan in accordance with subsection 4; and

10 D. The responsible entity to develop and implement and submit to the Department of
11 Environmental Protection a plan for ensuring the use, to the extent practical, of zero-
12 emission port equipment or technology. The entity shall also submit to the Department
13 of Environmental Protection an analysis of the effects the implementation of the plan
14 will have on air quality and greenhouse gas emissions.

15 **4. Development plan requirements.** A development plan required under subsection
16 3, paragraph C must include at least the following elements:

17 A. Processes that will ensure collaboration with:

18 (1) The State's skilled trade and labor unions to recruit, train and employ residents
19 of the State, including but not limited to minorities, women, veterans, LGBTQ+
20 persons, persons with disabilities, people from impoverished or rural communities,
21 members of federally recognized tribes in the State and individuals who have a
22 criminal record. For the purposes of this subparagraph, "LGBTQ+" includes but is
23 not limited to lesbian, gay, bisexual, transgender, queer, questioning, intersex and
24 asexual; and

25 (2) Workers and labor organizations in industries directly affected by the
26 development of wind projects, such as the fossil fuel industry and commercial
27 fisheries. The plan must specifically provide benefits to workers in these industries
28 with appropriate variations for workers at early, middle and late stages of their
29 careers;

30 B. A plan for recruitment of construction, operation and maintenance workers in all
31 crafts needed for all phases of the wind project, including all on-site, off-site, onshore
32 and offshore workers within the State as well as necessary workers in the supply chain;

33 C. A commitment to engage skilled and trained union members in the State and a plan
34 that includes:

35 (1) Specific details of how the responsible entity and any of its contractors and
36 subcontractors will invest in and use workers from the Maine Apprenticeship
37 Program established under Title 26, chapter 37;

38 (2) A description of how the responsible entity will promote a diverse workforce
39 that includes persons identified in paragraph A, subparagraph (1); and

40 (3) A description of how the costs of the wind project will be reduced by the use
41 of labor peace agreements, accessing skilled labor in the State, using available
42 workforce development resources and ensuring high standards for worker safety
43 while maintaining workplace efficiencies; and

1 D. A description of how the wind project will result in savings to ratepayers, including
2 how the responsible entity will acquire available federal tax credits.

3 **Sec. 2. 35-A MRSA §3451, sub-§1**, as enacted by PL 2007, c. 661, Pt. A, §7, is
4 amended to read:

5 **1. Associated facilities.** "Associated facilities" means elements of a wind energy
6 development other than its generating facilities that are necessary to the proper operation
7 and maintenance of the wind energy development, including but not limited to buildings,
8 access roads, generator lead lines and substations. "Associated facilities" includes port
9 facilities necessary to the proper operation and maintenance of an offshore wind power
10 project as defined in Title 23, section 4441, subsection 1, paragraph C.

11 **Sec. 3. 35-A MRSA §3451, sub-§4**, as enacted by PL 2007, c. 661, Pt. A, §7, is
12 amended to read:

13 **4. Expedited wind energy development.** "Expedited wind energy development"
14 means a grid-scale wind energy development or a port facility necessary to the proper
15 operation and maintenance of an offshore wind power project as defined in Title 23, section
16 4441, subsection 1, paragraph C that is proposed for location within an expedited
17 permitting area.

18 **Sec. 4. Federal funding.** The Department of Environmental Protection, in
19 consultation and coordination with the Department of Inland Fisheries and Wildlife, the
20 Department of Marine Resources, the Department of Transportation and the Maine Port
21 Authority, shall seek federal funding available under the federal Infrastructure Investment
22 and Jobs Act, the federal Inflation Reduction Act of 2022 and any other federal law or
23 program to restore or enhance climate resilience and biodiversity of any nearshore,
24 intertidal or upland areas disturbed by activities related to offshore wind power projects
25 governed by the Maine Revised Statutes, Title 23, chapter 412, subchapter 3.

26 SUMMARY

27 This bill does the following.

28 1. It requires any public port facility or highway constructed to serve an offshore wind
29 power project to employ project labor agreements that comply with the Maine Revised
30 Statutes, Title 26, section 3601.

31 2. It provides that in the case of an offshore wind power project that involves the lease
32 of a port facility owned or operated by the State, the lease must require:

33 A. The use of project labor agreements for all on-site construction or fabrication of
34 materials for the project;

35 B. Labor peace agreements governing full-time employees who will make any use of
36 the port facility, including but not limited to employees involved in the following
37 activities related to the wind project: manufacturing, fabrication, operation,
38 maintenance, decommissioning or maritime access;

39 C. The implementation of a development plan that includes, among other things,
40 specific plans for recruiting and employing a diverse work force; and

1 D. The development and implementation of a plan for ensuring the use, to the extent
2 practical, of zero-emission port equipment or technology.

3 3. It directs the Department of Environmental Protection, in consultation and
4 coordination with the Department of Inland Fisheries and Wildlife, the Department of
5 Marine Resources, the Department of Transportation and the Maine Port Authority, to seek
6 federal funding available under the federal Infrastructure Investment and Jobs Act, the
7 federal Inflation Reduction Act of 2022 and any other federal law or program to enhance
8 climate resilience and biodiversity of any nearshore, intertidal or upland areas disturbed by
9 activities related to offshore wind power projects.

10 4. It amends definitions relating to expedited wind energy developments to include
11 port facilities associated with offshore wind power projects.