

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

WAG
KOP

2 Date 6/7/23

(Filing No S-211)

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

4 STATE OF MAINE
5 SENATE
6 131ST LEGISLATURE
7 FIRST SPECIAL SESSION

8 SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S P 748,
9 LD 1847, "An Act to Modify the Visual Impact Standards for Offshore Wind Port
10 Development"

11 Amend the amendment by striking out the title and substituting the following
12 'An Act to Modify the Visual Impact Standards for Offshore Wind Port Development
13 and Establish Labor Standards for Wind Power Projects'

14 Amend the amendment by striking out everything after the title and inserting the
15 following

16 'Amend the bill by striking out everything after the enacting clause and inserting the
17 following

18 'Sec. 1. 23 MRSA c. 412, sub-c. 3 is enacted to read

19 SUBCHAPTER 3

20 PORT FACILITIES RELATING TO OFFSHORE WIND POWER PROJECTS

21 §4441. Port facility-related requirements

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

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

28 B "Labor peace agreement" means an agreement between an employer and a labor
29 organization in which the employer agrees to be neutral during a labor organization's
30 campaign to organize employees at the work site who are not covered by a collective
31 bargaining agreement and not to interfere with that labor organization's campaign and
32 the labor organization agrees not to engage in picketing, work stoppages, boycotts or
33 other economic interference against the employer during the campaign.

SENATE AMENDMENT

1 C "Offshore wind power project" or "wind project" has the same meaning as in Title
2 35-A, section 3405, subsection 1, paragraph C

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

7 E "Responsible entity" means the person or business entity undertaking to develop a
8 wind project

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

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

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

20 A The use of project labor agreements for all on-site construction or fabrication of
21 materials for the offshore wind power project,

22 B Labor peace agreements governing all full-time employees of the responsible entity
23 or of any entity working under contract with the responsible entity, other than
24 employees who work on a temporary or project basis, who will make any use of the
25 port facility in performing any work related to the wind project, including but not
26 limited to employees involved in the following activities related to the wind project
27 manufacturing, fabrication, operation, maintenance, decommissioning or maritime
28 access,

29 C The responsible entity to develop, submit to the Department of Transportation and
30 implement a workforce diversity, equity and just transition plan and workforce
31 development plan in accordance with subsection 4, and

32 D The responsible entity to develop and implement and submit to the Department of
33 Environmental Protection a plan for ensuring the use, to the extent practical, of zero-
34 emission port equipment or technology The entity shall also submit to the Department
35 of Environmental Protection an analysis of the effects the implementation of the plan
36 will have on air quality and greenhouse gas emissions

37 **4. Workforce diversity, equity and just transition plan requirements; workforce**
38 **development plan requirements.** A development plan required under subsection 3,
39 paragraph C must include at least the following elements

40 A Processes that will ensure collaboration with

41 (1) The State's skilled trade and labor unions to recruit, train and employ residents
42 of the State, including but not limited to minorities, women, veterans, LGBTQ+
43 persons, persons with disabilities, people from impoverished or rural communities,

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

members of federally recognized or state-acknowledged tribes in the State and individuals who have a criminal record For the purposes of this subparagraph, "LGBTQ+" includes but is not limited to lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual, and

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

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

C A commitment to engage highly skilled and trained union members in the State and a plan that includes

(1) Specific details of how the responsible entity and any of its contractors and subcontractors will invest in and use workers from apprenticeship and preapprenticeship programs established under Title 26, chapter 37,

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

(3) 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 for workforce development resources and ensuring high standards for worker safety while maintaining workplace efficiencies and scheduling efficiencies, and

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

Sec. 2. 35-A MRS §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

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

SENATE AMENDMENT

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

D "Offshore wind terminal" means a port facility used for fabricating floating 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, paragraph C, Title 38, section 480-D, or Title 38, section 484, subsection 3 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 Title 12, section 685-B, subsection 4, Title 38, section 480-D, or Title 38, section 484

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, Title 38, section 480-D, 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 38, section 480-D or Title 38, section 484 for more than 4 offshore wind terminals If a permit approved under Title 38, section 480-D or Title 38, section 484 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. 3. 35-A MRSA §3451, sub-§1, as enacted by PL 2007, c 661, Pt A, §7, is amended to read

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

Sec. 4. 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

SENATE AMENDMENT

ROS

1 operation and maintenance of an offshore wind power project as defined in Title 23, section
2 4441, subsection 1, paragraph C that is proposed for location within an expedited
3 permitting area

4 **Sec. 5. 38 MRSA §480-D, sub-§1**, as amended by PL 2009, c 615, Pt E, §8, is
5 further amended by enacting at the end a new last blocked paragraph to read

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

10 **Sec. 6. 38 MRSA §482, sub-§2, ¶F**, as amended by PL 2009, c 615, Pt E, §14, is
11 further amended to read

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

13 **Sec. 7. 38 MRSA §482, sub-§2, ¶J**, as enacted by PL 2009, c 615, Pt E, §15, is
14 amended to read

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

17 **Sec. 8. 38 MRSA §482, sub-§2, ¶K** is enacted to read

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

20 **Sec. 9. 38 MRSA §484, sub-§3, ¶J** is enacted to read

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

25 **Sec. 10. Federal funding.** The Department of Environmental Protection, in
26 consultation and coordination with the Department of Inland Fisheries and Wildlife, the
27 Department of Marine Resources, the Department of Transportation and the Maine Port
28 Authority, shall seek federal funding available under the federal Infrastructure Investment
29 and Jobs Act, the federal Inflation Reduction Act of 2022 and any other federal law or
30 program to purchase or subsidize the purchase of port technology, to fund the construction
31 of port facilities to support an offshore wind power project and to restore or enhance climate
32 resilience and biodiversity of any nearshore, intertidal or upland areas disturbed by
33 activities related to offshore wind power projects governed by the Maine Revised Statutes,
34 Title 23, chapter 412, subchapter 3 For the purposes of this section, "port technology"
35 means technology used at or near a port facility to service or support a wind project and
36 includes but is not limited to technology involved in cargo handling, cement or concrete
37 manufacturing, surface transportation and shore power for maritime vessels ' '

38 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
39 section number to read consecutively

40 **SUMMARY**

41 This amendment does the following

SENATE AMENDMENT

ROS.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

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

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

A The use of project labor agreements for all on-site construction or fabrication of materials for the project,

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

C The implementation of a development plan that includes, among other things, specific plans for recruiting and employing a diverse workforce, and

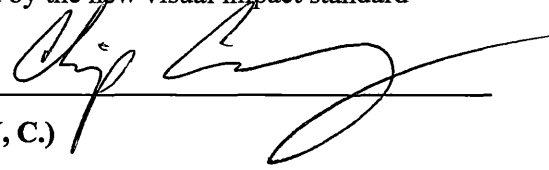
D The development and implementation of a plan for ensuring the use, to the extent practicable, of zero-emission port equipment or technology

3 It directs 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, to 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 enhance climate resilience and biodiversity of any nearshore, intertidal or upland areas disturbed by activities related to offshore wind power projects

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

5 It 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

6 It 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

SPONSORED BY: 
(Senator CURRY, C.)

COUNTY: Waldo

FISCAL NOTE REQUIRED
(See attached)

SENATE AMENDMENT



131st MAINE LEGISLATURE

LD 1847

LR 2445(04)

An Act to Modify the Visual Impact Standards for Offshore Wind Port Development

Fiscal Note for Senate Amendment "#1" to Committee Amendment "A" (S-211)

Sponsor: Sen. Curry of Waldo

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 amendment strikes the bill as amended by Committee Amendment "A" and replaces it with LD 1818 as amended by Committee Amendment "A"

This amendment will require 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.