

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1884

H.P. 1209

House of Representatives, May 3, 2023

An Act to Prohibit Offshore Wind Energy Development

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative STROUT of Harrington.
Cosponsored by Representatives: ARDELL of Monticello, BOYER of Poland,
FAULKINGHAM of Winter Harbor, MORRIS of Turner, QUINT of Hodgdon, RUDNICKI of
Fairfield.

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

2 **Sec. 1. 35-A MRSA §3405**, as enacted by PL 2021, c. 407, §2, is amended to read:

3 **§3405. Prohibition on offshore wind power projects in territorial waters, federal**
4 **waters and submerged lands**

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

7 ~~A. "Associated facilities" has the same meaning as in section 3451, subsection 1.~~

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

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

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

19 E. "Submerged lands" has the same meaning as in Title 12, section 1801, subsection
20 9.

21 F. "Territorial waters" has the same meaning as in Title 12, section 6001, subsection
22 48-B.

23 **2. Prohibition.** Notwithstanding any provision of law to the contrary ~~and except as~~
24 ~~otherwise provided by subsection 3~~, a state agency or municipality or other political
25 subdivision of the State may not license, permit or otherwise approve or authorize the
26 siting, construction or operation of or issue a lease or grant an easement or other real
27 property interest for a windmill or wind turbine or tower for an offshore wind power project
28 in state-owned submerged lands ~~or~~, territorial waters or federal waters as defined in Title
29 38, section 570-AA, subsection 3.

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

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

33 ~~B. An offshore wind energy demonstration project and its associated facilities~~
34 ~~proposed for location in the Maine Offshore Wind Energy Research Center designated~~
35 ~~by the Department of Agriculture, Conservation and Forestry pursuant to Title 12,~~
36 ~~section 1868 and for which, prior to the effective date of this section, the commission~~
37 ~~has approved the terms of a long-term power purchase agreement. Subsequent~~
38 ~~amendment of the terms of such an agreement does not affect the applicability of this~~
39 ~~exemption;~~

40 ~~C. The licensing, permitting or approval by a state agency or municipality or other~~
41 ~~political subdivision of the State of the siting, construction or operation of or the~~
42 ~~issuance of a lease or the grant of an easement or other real property interest for portside~~

1 infrastructure or associated facilities other than utility cables or transmission lines
2 governed by paragraph D that are intended to support generation of electricity from
3 offshore wind energy facilities located seaward of the territorial waters; and

4 ~~D. The licensing, permitting or approval by a state agency or municipality or other~~
5 ~~political subdivision of the State of the siting, construction or operation of or the~~
6 ~~issuance of a lease or the grant of an easement or other real property interest for utility~~
7 ~~cables or transmission lines that are intended to support generation of electricity from~~
8 ~~offshore wind energy facilities located seaward of the territorial waters if, by March 1,~~
9 ~~2023:~~

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

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

21 (3) ~~The Governor's Energy Office, with input from the advisory board of the~~
22 ~~Offshore Wind Research Consortium established in section 3406, has identified~~
23 ~~the preliminary research questions the consortium seeks to answer regarding the~~
24 ~~development of offshore wind power projects.~~

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

28 **Sec. 2. Department of Agriculture, Conservation and Forestry; submission**
29 **of legislation.** On or before December 6, 2023, the Department of Agriculture,
30 Conservation and Forestry shall submit legislation to the Second Regular Session of the
31 131st Legislature necessary to align those provisions of law under its jurisdiction with the
32 prohibition on offshore wind power projects under the Maine Revised Statutes, Title 35-A,
33 section 3405.

34 **Sec. 3. Public Utilities Commission; submission of legislation.** On or before
35 December 6, 2023, the Public Utilities Commission shall submit legislation to the Second
36 Regular Session of the 131st Legislature necessary to align those provisions of law under
37 its jurisdiction with the prohibition on offshore wind power projects under the Maine
38 Revised Statutes, Title 35-A, section 3405.

39 **Sec. 4. Department of Environmental Protection; submission of legislation.**
40 On or before December 6, 2023, the Department of Environmental Protection shall submit
41 legislation to the Second Regular Session of the 131st Legislature necessary to align those
42 provisions of law under its jurisdiction with the prohibition on offshore wind power
43 projects under the Maine Revised Statutes, Title 35-A, section 3405.

SUMMARY

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This bill prohibits a state agency or municipality or other political subdivision of the State from licensing, permitting or otherwise approving or authorizing the siting, construction or operation of, or issuing a lease or granting 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, territorial waters or federal waters. It directs the Department of Agriculture, Conservation and Forestry, the Public Utilities Commission and the Department of Environmental Protection to submit legislation to align the provisions of law under the agencies' respective jurisdictions with the prohibition on offshore wind power projects.