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

(EMERGENCY)

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

Presented by Senator LAWRENCE of York. (GOVERNOR'S BILL)
Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, development of offshore wind power projects, particularly those which deploy deep-water, floating platform technology, in suitable locations off Maine's coast may provide significant economic and environmental benefits to the State by generating renewable energy needed to achieve the goals and objectives of the State's climate action plan adopted pursuant to the Maine Revised Statutes, Title 38, section 577 and related state economic and environmental goals and objectives developed by the Maine Climate Council pursuant to Title 38, section 577-A; and

Whereas, the siting, construction and operation of offshore wind power projects in Maine's territorial waters, as defined by Title 12, section 6001, subsection 48-B, may adversely affect resources, including scenic and aesthetic resources, and recreational and economic uses, including commercial fishing, which are more commonly found or take place in the State's submerged lands and territorial waters than in proximate federal waters; and

Whereas, Maine's renewable, natural resources-based commercial fishing industry contributed direct revenues of $517 million to the State's economy in 2020 and is a vital part of the State's economy and cultural heritage and identity; and

Whereas, Maine's lobster fishery is active primarily in Maine's territorial waters, had landings valued in excess of $405 million in 2020, had an additional statewide economic impact of $1 billion and is among the most valuable fisheries in the United States; and

Whereas, there are outstanding questions regarding the manner in and extent to which the siting, construction and operation of offshore wind power projects may displace or otherwise adversely affect natural resources within and uses of the State's submerged lands and territorial waters; and

Whereas, it is anticipated that the growth and development of the offshore wind power industry in the Northeast region and elsewhere in the United States over the next decade will provide additional information through project-specific studies, research findings, monitoring results and operational experience that may assist the State in evaluating the siting and development of new offshore wind power projects in the State's submerged lands and territorial waters; and

Whereas, a moratorium on the development of offshore wind power projects will allow the State to undergo a review of applicable state laws and rules to determine whether the existing offshore wind power regulatory framework adequately protects Maine's coastal resources in a manner that avoids or minimizes adverse effects on coastal resources and uses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35-A MRSA §3405 is enacted to read:
§3405. Moratorium 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. "Offshore wind energy demonstration project" has the same meaning as in Title 38, section 480-HH, subsection 1, paragraph H.

B. "Offshore wind power project" has the same meaning as in Title 38, section 480-B, subsection 6-A.

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

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

2. Moratorium. Notwithstanding any provision of law to the contrary and except as otherwise provided by subsection 3, from the effective date of this section to January 15, 2031, 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. Nothing in this subsection may be construed as limiting any regulatory approval of or the issuance of any lease or grant of any easement or other real property interest for utility cables, transmission lines or portside infrastructure that may support offshore wind energy generation.

3. Exemption. The moratorium established under subsection 2 does not apply to an offshore wind energy demonstration project that is 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.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill establishes a moratorium that, until 2031, prohibits any state agency or municipality or other subdivision of the State from licensing, permitting or otherwise authorizing or approving the siting, construction or operation of a windmill or wind turbine or tower for an offshore wind power project in state-owned submerged lands or Maine's territorial waters. The moratorium does not apply to cables, transmission lines and portside infrastructure that may support offshore wind energy generation and does not apply to an offshore wind energy demonstration project proposed for location in the Maine Offshore Wind Energy Research Center for which the Public Utilities Commission has approved the terms of a long-term power purchase agreement.