

# HOUSE BILL 1135

C5, M3

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CF SB 1058

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By: **Delegates Adams, Arentz, Aumann, Carozza, S. Howard, Jacobs, W. Miller, and Otto**

Introduced and read first time: February 8, 2018

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Renewable Energy – Offshore Wind Projects – Distance Requirements**

3 FOR the purpose of altering certain distances required of certain qualified offshore wind  
4 projects from the State shoreline; prohibiting the Public Service Commission from  
5 approving certain offshore wind projects unless certain wind turbines are installed  
6 in a certain manner; requiring certain wind turbines to be installed in a certain  
7 manner for certain purposes; excluding from the calculation of certain ORECs the  
8 generation or capacity of certain wind turbines; requiring the Commission to enter a  
9 certain order for certain purposes; altering certain definitions; providing that  
10 existing obligations or contract rights may not be impaired by this Act; and generally  
11 relating to renewable energy and offshore wind projects.

12 BY repealing and reenacting, without amendments,  
13 Article – Public Utilities  
14 Section 7–701(a) and 7–704.1(c) and (d)  
15 Annotated Code of Maryland  
16 (2010 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Public Utilities  
19 Section 7–701(k) and (n), 7–704.1(f), and 7–704.2(c)  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Public Utilities  
24 Section 7–704.1(e)  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume and 2017 Supplement)  
27 (As enacted by Chapter 438 of the Acts of the General Assembly of 2017)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Public Utilities**

4 7–701.

5 (a) In this subtitle the following words have the meanings indicated.

6 (k) “Qualified offshore wind project” means a wind turbine electricity generation  
7 facility, including the associated transmission–related interconnection facilities and  
8 equipment, that:

9 (1) is located on the outer continental shelf of the Atlantic Ocean in an area  
10 that:

11 (i) the United States Department of the Interior designates for  
12 leasing after coordination and consultation with the State in accordance with § 388(a) of  
13 the Energy Policy Act of 2005; and

14 (ii) is [between 10 and 30] **NOT LESS THAN 26 NAUTICAL** miles off  
15 the coast of the State;

16 (2) interconnects to the PJM Interconnection grid at a point located on the  
17 Delmarva Peninsula; and

18 (3) the Commission approves under § 7–704.1 of this subtitle.

19 (n) “Renewable energy credit” or “credit” means a credit equal to the generation  
20 attributes of 1 megawatt–hour of electricity that is derived from a Tier 1 renewable source  
21 or a Tier 2 renewable source that is located:

22 (1) in the PJM region;

23 (2) outside the area described in item (1) of this subsection but in a control  
24 area that is adjacent to the PJM region, if the electricity is delivered into the PJM region;  
25 or

26 (3) on the outer continental shelf of the Atlantic Ocean in an area that:

27 (i) the United States Department of the Interior designates for  
28 leasing after coordination and consultation with the State in accordance with § 388(a) of  
29 the Energy Policy Act of 2005; and

30 (ii) is [between 10 and 30] **NOT LESS THAN 26 NAUTICAL** miles off  
31 the coast of the State.

1 7-704.1.

2 (c) An application shall include:

3 (1) a detailed description and financial analysis of the offshore wind  
4 project;

5 (2) the proposed method of financing the offshore wind project, including  
6 documentation demonstrating that the applicant has applied for all current eligible State  
7 and federal grants, rebates, tax credits, loan guarantees, or other programs available to  
8 offset the cost of the project or provide tax advantages;

9 (3) a cost-benefit analysis that shall include at a minimum:

10 (i) a detailed input-output analysis of the impact of the offshore  
11 wind project on income, employment, wages, and taxes in the State with particular  
12 emphasis on in-State manufacturing employment;

13 (ii) detailed information concerning assumed employment impacts  
14 in the State, including the expected duration of employment opportunities, the salary of  
15 each position, and other supporting evidence of employment impacts;

16 (iii) an analysis of the anticipated environmental benefits, health  
17 benefits, and environmental impacts of the offshore wind project to the citizens of the State;

18 (iv) an analysis of any impact on residential, commercial, and  
19 industrial ratepayers over the life of the offshore wind project;

20 (v) an analysis of any long-term effect on energy and capacity  
21 markets as a result of the proposed offshore wind project;

22 (vi) an analysis of any impact on businesses in the State; and

23 (vii) other benefits, such as increased in-State construction,  
24 operations, maintenance, and equipment purchase;

25 (4) a proposed OREC pricing schedule for the offshore wind project that  
26 shall set a price for the generation attributes, including the energy, capacity, ancillary  
27 services, and environmental attributes;

28 (5) a decommissioning plan for the project, including provisions for  
29 decommissioning as required by the United States Department of the Interior;

30 (6) a commitment to:

31 (i) abide by the requirements set forth in subsection (e) of this

1 section; and

2 (ii) deposit at least \$6,000,000, in the manner required under  
3 subsection (g) of this section, into the Maryland Offshore Wind Business Development Fund  
4 established under § 9–20C–03 of the State Government Article;

5 (7) a description of the applicant’s plan for engaging small businesses, as  
6 defined in § 14–501 of the State Finance and Procurement Article;

7 (8) a commitment that the applicant will:

8 (i) use best efforts to apply for all eligible State and federal grants,  
9 rebates, tax credits, loan guarantees, or other similar benefits as those benefits become  
10 available; and

11 (ii) pass along to ratepayers, without the need for any subsequent  
12 Commission approval, 80% of the value of any state or federal grants, rebates, tax credits,  
13 loan guarantees, or other similar benefits received by the project and not included in the  
14 application; and

15 (9) any other information the Commission requires.

16 (d) (1) The Commission shall use the following criteria to evaluate and  
17 compare proposed offshore wind projects:

18 (i) lowest cost impact on ratepayers of the price set under a proposed  
19 OREC pricing schedule;

20 (ii) potential reductions in transmission congestion prices within the  
21 State;

22 (iii) potential changes in capacity prices within the State;

23 (iv) potential reductions in locational marginal pricing;

24 (v) potential long–term changes in capacity prices within the State  
25 from the offshore wind project as it compares to conventional energy sources;

26 (vi) the extent to which the cost–benefit analysis submitted under  
27 subsection (c)(3) of this section demonstrates positive net economic, environmental, and  
28 health benefits to the State;

29 (vii) the extent to which an applicant’s plan for engaging small  
30 businesses meets the goals specified in Title 14, Subtitle 5 of the State Finance and  
31 Procurement Article;

32 (viii) the extent to which an applicant’s plan provides for the use of

1 skilled labor, particularly with regard to the construction and manufacturing components  
2 of the project, through outreach, hiring, or referral systems that are affiliated with  
3 registered apprenticeship programs under Title 11, Subtitle 4 of the Labor and  
4 Employment Article;

5 (ix) the extent to which an applicant's plan provides for the use of an  
6 agreement designed to ensure the use of skilled labor and to promote the prompt, efficient,  
7 and safe completion of the project, particularly with regard to the construction,  
8 manufacturing, and maintenance of the project;

9 (x) the extent to which an applicant's plan provides for  
10 compensation to its employees and subcontractors consistent with wages outlined under §§  
11 17-201 through 17-228 of the State Finance and Procurement Article;

12 (xi) siting and project feasibility;

13 (xii) the extent to which the proposed offshore wind project would  
14 require transmission or distribution infrastructure improvements in the State;

15 (xiii) estimated ability to assist in meeting the renewable energy  
16 portfolio standard under § 7-703 of this subtitle; and

17 (xiv) any other criteria that the Commission determines to be  
18 appropriate.

19 (2) In evaluating and comparing an applicant's proposed offshore wind  
20 project under paragraph (1) of this subsection, the Commission shall contract for the  
21 services of independent consultants and experts.

22 (3) The Commission shall verify that representatives of the United States  
23 Department of Defense and the maritime industry have had the opportunity, through the  
24 federal leasing process, to express concerns regarding project siting.

25 (4) (i) In this paragraph, "minority" means an individual who is a  
26 member of any of the groups listed in § 14-301(k)(1)(i) of the State Finance and  
27 Procurement Article.

28 (ii) If an applicant is seeking investors in a proposed offshore wind  
29 project, it shall take the following steps before the Commission may approve the proposed  
30 project:

31 1. make serious, good-faith efforts to solicit and interview a  
32 reasonable number of minority investors;

33 2. as part of the application, submit a statement to the  
34 Commission that lists the names and addresses of all minority investors interviewed and  
35 whether or not any of those investors have purchased an equity share in the entity

1 submitting an application; and

2                                   3.     as a condition to the Commission's approval of the offshore  
3 wind project, sign a memorandum of understanding with the Commission that requires the  
4 applicant to again make serious, good-faith efforts to interview minority investors in any  
5 future attempts to raise venture capital or attract new investors to the offshore wind  
6 project.

7                                   (iii)   The Governor's Office of Small, Minority, and Women Business  
8 Affairs, in consultation with the Office of the Attorney General, shall provide assistance to  
9 all potential applicants and potential minority investors to satisfy the requirements under  
10 subparagraph (ii)1 and 3 of this paragraph.

11           (f)   (1)   An order the Commission issues approving a proposed offshore wind  
12 project shall:

13                                   (i)     specify the OREC price schedule, which may not authorize an  
14 OREC price greater than \$190 per megawatt-hour in 2012 dollars;

15                                   (ii)    specify the duration of the OREC pricing schedule, not to exceed  
16 20 years;

17                                   (iii)   specify the number of ORECs the offshore wind project may sell  
18 each year;

19                                   (iv)    provide that:

20   1.     a payment may not be made for an OREC until electricity  
21 supply is generated by the offshore wind project; and

22   2.     ratepayers, purchasers of ORECs, and the State shall be  
23 held harmless for any cost overruns associated with the offshore wind project; [and]

24                                   (v)     require that any debt instrument issued in connection with a  
25 qualified offshore wind project include language specifying that the debt instrument does  
26 not establish a debt, obligation, or liability of the State; **AND**

27                                   **(VI) REQUIRE THAT THE INSTALLATION OF WIND TURBINES,**  
28 **INCLUDING ANY PHASING OF INSTALLATIONS OVER TIME, COMPLY WITH**  
29 **SUBSECTION (E)(1)(V) OF THIS SECTION.**

30                                   (2)    An order approving a proposed offshore wind project vests the owner of  
31 the qualified offshore wind project with the right to receive payments for ORECs according  
32 to the terms in the order.

33 7-704.2.

1 (c) (1) Each electricity supplier shall purchase from the escrow account  
2 established under this section the number of ORECs required to satisfy the offshore wind  
3 energy component of the renewable energy portfolio standard under § 7-703(b)(12) through  
4 (15) of this subtitle.

5 (2) (i) Subject to any escrow account reserve requirement the  
6 Commission establishes, if there are insufficient ORECs available to satisfy the suppliers'  
7 OREC obligation, the overpayment shall be distributed to electric companies to be refunded  
8 or credited to each ratepayer based on the ratepayer's consumption of electricity supply  
9 that is subject to the renewable energy portfolio standard.

10 (ii) Subject to any escrow account reserve requirement the  
11 Commission establishes, the calculation of an electricity supplier's OREC purchase  
12 obligation shall be based on final electricity sales data as reported by the PJM  
13 Interconnection as measured at the customer meter.

14 (3) For each OREC for which a qualified offshore wind project receives  
15 payment, a qualified offshore wind project shall:

16 (i) sell all energy, capacity, and ancillary services associated with  
17 the creation of ORECs into the markets operated by PJM Interconnection; and

18 (ii) distribute the proceeds received from the sales to PJM  
19 Interconnection markets, under item (i) of this paragraph to electric companies to be  
20 refunded or credited to each ratepayer based on the ratepayer's consumption of electricity  
21 supply that is subject to the renewable energy portfolio standard.

22 (4) **THE ELECTRICITY GENERATION OR CAPACITY OF A WIND**  
23 **TURBINE INSTALLATION THAT IS NOT IN COMPLIANCE WITH § 7-704.1(E)(1)(V) AND**  
24 **(F)(1)(VI) OF THIS SUBTITLE MAY NOT QUALIFY FOR INCLUSION IN THE**  
25 **CALCULATION OR CREATION OF ORECS.**

26 (5) Notwithstanding § 7-709 of this subtitle, the Commission shall adopt  
27 regulations regarding the transfer and expiration of ORECs created by a qualified offshore  
28 wind project in excess of the OREC pricing schedule.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
30 as follows:

### 31 Article – Public Utilities

32 7-704.1.

33 (e) (1) The Commission may not approve an applicant's proposed offshore  
34 wind project unless:

1 (i) the proposed offshore wind project demonstrates positive net  
2 economic, environmental, and health benefits to the State, based on the criteria specified  
3 in subsection (c)(3) of this section;

4 (ii) the projected net rate impact for an average residential  
5 customer, based on annual consumption of 12,000 kilowatt-hours, combined with the  
6 projected net rate impact of other qualified offshore wind projects, does not exceed \$1.50  
7 per month in 2012 dollars, over the duration of the proposed OREC pricing schedule;

8 (iii) the projected net rate impact for all nonresidential customers  
9 considered as a blended average, combined with the projected net rate impact of other  
10 qualified offshore wind projects, does not exceed 1.5% of nonresidential customers' total  
11 annual electric bills, over the duration of the proposed OREC pricing schedule; [and]

12 (iv) the price set in the proposed OREC price schedule does not  
13 exceed \$190 per megawatt-hour in 2012 dollars; AND

14 **(V) NO PART OF THE INSTALLATION OF WIND TURBINES,**  
15 **WHETHER THE INITIAL INSTALLATION OR AN INSTALLATION DURING A LATER**  
16 **PHASE OR ANY EXTENSION OF THE PROJECT, WILL BE LOCATED LESS THAN 26**  
17 **NAUTICAL MILES OFF THE COAST OF THE STATE.**

18 (2) (i) When calculating the net benefits to the State under paragraph  
19 (1)(i) of this subsection, the Commission shall contract for the services of independent  
20 consultants and experts.

21 (ii) When calculating the projected net average rate impacts under  
22 paragraph (1)(ii) and (iii) of this subsection, the Commission shall apply the same net  
23 OREC cost per megawatt-hour to residential and nonresidential customers.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service  
25 Commission shall enter an order applying the requirements of §§ 7-701(k) and (n),  
26 7-704.1(f)(1)(vi), and 7-704.2(a) of the Public Utilities Article, as enacted by this Act, to all  
27 offshore wind turbines that will be installed in waters adjacent to the coast of the State on  
28 or after January 1, 2019.

29 SECTION 4. AND BE IT FURTHER ENACTED, That a presently existing obligation  
30 or contract right may not be impaired in any way by this Act.

31 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
32 effect July 1, 2018.

33 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section  
34 5 of this Act, this Act shall take effect July 1, 2018.