

SENATE BILL 1161

M5, C5

4lr3537
CF HB 1296

By: **Senators Feldman and Hester**

Introduced and read first time: February 11, 2024

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity – Offshore Wind Projects – Alterations**

3 FOR the purpose of requiring the Public Service Commission to open a certain proceeding
4 to evaluate certain offshore wind projects; authorizing certain offshore wind projects
5 to submit certain revised plans for project schedules, sizes, or pricing, including
6 offshore wind renewable energy credit pricing and, under certain circumstances, to
7 seek approval from the Commission to increase the maximum amount of offshore
8 wind renewable energy credits sold under a certain order, subject to certain
9 limitations; requiring the Commission to approve, conditionally approve, or deny
10 certain applications within a certain period of time; requiring the Commission to
11 develop and report to the General Assembly on a certain plan; and generally relating
12 to offshore wind projects.

13 BY repealing and reenacting, without amendments,

14 Article – Public Utilities

15 Section 7–701(a), (b), (f), (g), (k), (p), and (p–1) and 7–704.1(a), (c)(6)(ii), (g), (h), and
16 (i)

17 Annotated Code of Maryland

18 (2020 Replacement Volume and 2023 Supplement)

19 BY adding to

20 Article – Public Utilities

21 Section 7–704.1(l) and (m)

22 Annotated Code of Maryland

23 (2020 Replacement Volume and 2023 Supplement)

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

26 **Article – Public Utilities**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-701.

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

3 (b) “Administration” means the Maryland Energy Administration.

4 (f) “Offshore wind energy” means energy generated by a qualified offshore wind
5 project.

6 (g) “Offshore wind renewable energy credit” or “OREC” means a renewable
7 energy credit equal to the generation attributes of 1 megawatt-hour of electricity that is
8 derived from offshore wind energy.

9 (k) “Qualified offshore wind project” means a wind turbine electricity generation
10 facility, including the associated transmission-related interconnection facilities and
11 equipment, that:

12 (1) is located:

13 (i) on the outer continental shelf of the Atlantic Ocean in an area
14 that the United States Department of the Interior designates for leasing; and

15 (ii) more than 10 miles off the coast of the State for a project selected
16 under § 7-704.4 of this subtitle or approved under § 7-704.1 of this subtitle after June 1,
17 2023; and

18 (2) interconnects to the PJM Interconnection grid:

19 (i) at a point located on the Delmarva Peninsula; or

20 (ii) through an offshore wind transmission project selected under §
21 7-704.3 of this subtitle.

22 (p) “Round 1 offshore wind project” means a qualified offshore wind project that:

23 (1) is between 10 and 30 miles off the coast of the State; and

24 (2) the Commission approved under § 7-704.1 of this subtitle before July
25 1, 2017.

26 (p-1) “Round 2 offshore wind project” means a qualified offshore wind project that:

27 (1) is not less than 10 miles off the coast of the State; and

28 (2) the Commission approves under § 7-704.1 of this subtitle on or after
29 July 1, 2017.

1 7-704.1.

2 (a) (1) The General Assembly finds and declares that:

3 (i) the State has a goal of reaching 8,500 megawatts of offshore wind
4 energy capacity by 2031, including Round 1 offshore wind projects, Round 2 offshore wind
5 projects, and any other procurement efforts;

6 (ii) the General Assembly anticipates the issuance of sufficient wind
7 energy leases in the central Atlantic region to satisfy the goal stated in item (i) of this
8 paragraph;

9 (iii) the development of offshore wind energy is important to the
10 economic well-being of the State and the nation;

11 (iv) offshore wind can provide clean energy at the scale needed to
12 help achieve the State's economy-wide net-zero greenhouse gas emissions reduction
13 targets established in Chapter 38 of the Acts of the General Assembly of 2022;

14 (v) it is in the public interest of the State to facilitate the
15 construction of at least 1,200 megawatts of Round 2 offshore wind projects in order to:

16 1. position the State to take advantage of the economic
17 development benefits of the emerging offshore wind industry;

18 2. promote the development of renewable energy sources
19 that increase the nation's independence from foreign sources of fossil fuels;

20 3. reduce the adverse environmental and health impacts of
21 traditional fossil fuel energy sources; and

22 4. provide a long-term hedge against volatile prices of fossil
23 fuels; and

24 (vi) it is in the public interest of the State to maximize the
25 opportunities for obtaining and using federal funds for offshore wind and related
26 transmission projects through the inclusion of specified labor standards and goals, domestic
27 content requirements, and other provisions to align State law with provisions of the federal
28 Infrastructure Investment and Jobs Act of 2021 and the federal Inflation Reduction Act of
29 2022.

30 (2) After the effective date of Commission regulations implementing this
31 section and § 7-704.2 of this subtitle, and before June 30, 2017, a person may submit an
32 application to the Commission for approval of a proposed Round 1 offshore wind project.

33 (3) (i) On receipt of the application for approval of a Round 1 offshore
34 wind project, the Commission shall:

1 1. open an application period when other interested persons
2 may submit applications for approval of Round 1 offshore wind projects; and

3 2. provide notice that the Commission is accepting
4 applications for approval of Round 1 offshore wind projects.

5 (ii) The Commission shall set the closing date for the application
6 period to be no sooner than 90 days after the notice provided under subparagraph (i) of this
7 paragraph.

8 (4) The Commission shall provide additional application periods
9 beginning, respectively:

10 (i) January 1, 2020, for consideration of Round 2 offshore wind
11 projects to begin creating ORECs not later than 2026;

12 (ii) January 1, 2021, for consideration of Round 2 offshore wind
13 projects to begin creating ORECs not later than 2028; and

14 (iii) January 1, 2022, for consideration of Round 2 offshore wind
15 projects to begin creating ORECs not later than 2030.

16 (5) In its discretion, the Commission may provide for additional application
17 periods that meet the requirements of this section.

18 (c) An application shall include:

19 (6) a commitment to:

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

23 (g) (1) An order the Commission issues approving a proposed offshore wind
24 project shall:

25 (i) specify the OREC price schedule, which may not authorize an
26 OREC price greater than, for a Round 1 offshore wind project, \$190 per megawatt–hour in
27 2012 dollars;

28 (ii) specify the duration of the OREC pricing schedule, not to exceed
29 20 years;

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

1 (iv) provide that:

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

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

6 (v) require that any debt instrument issued in connection with a
7 qualified offshore wind project include language specifying that the debt instrument does
8 not establish a debt, obligation, or liability of the State.

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

12 (3) On or before March 1 each year, the Commission shall report to the
13 Governor and, in accordance with § 2-1257 of the State Government Article, to the Senate
14 Committee on Education, Energy, and the Environment and the House Economic Matters
15 Committee on:

16 (i) compliance by applicants with the minority business enterprise
17 participation goals under subsection (e)(4) of this section; and

18 (ii) with respect to the community benefit agreement under
19 subsection (f)(1) of this section:

20 1. the availability and use of opportunities for local
21 businesses and small, minority, women-owned, and veteran-owned businesses;

22 2. the success of efforts to promote career training
23 opportunities in the manufacturing, maintenance, and construction industries for local
24 residents, veterans, women, and minorities; and

25 3. compliance with the minority workforce goal under
26 subsection (f)(1)(i)5 of this section.

27 (h) For Round 2 offshore wind project applications, the Commission shall approve
28 OREC orders representing a minimum of 400 megawatts of nameplate capacity proposed
29 during each application period unless:

30 (1) not enough Round 2 offshore wind project applications are submitted to
31 meet the net benefit test under subsection (c)(3) of this section; or

32 (2) the cumulative net ratepayer impact exceeds the maximums provided
33 in subsection (f)(1)(ii)2 of this section.

1 (i) (1) Within 60 days after the Commission approves the application of a
2 proposed offshore wind project, the qualified offshore wind project shall deposit \$2,000,000
3 into the Maryland Offshore Wind Business Development Fund established under §
4 9–20C–03 of the State Government Article.

5 (2) Within 1 year after the initial deposit under paragraph (1) of this
6 subsection, the qualified offshore wind project shall deposit an additional \$2,000,000 into
7 the Maryland Offshore Wind Business Development Fund.

8 (3) Within 2 years after the initial deposit under paragraph (1) of this
9 subsection, the qualified offshore wind project shall deposit an additional \$2,000,000 into
10 the Maryland Offshore Wind Business Development Fund.

11 **(L) (1) IN THIS SUBSECTION, “REVISED ROUND 2 OFFSHORE WIND**
12 **PROJECT” MEANS A ROUND 2 OFFSHORE WIND PROJECT THAT HAS FILED AN**
13 **APPLICATION WITH THE COMMISSION FOR REVISED PROJECT SCHEDULES, SIZES,**
14 **OR PRICING, INCLUDING OREC PRICING, UNDER THIS SUBSECTION.**

15 **(2) THIS SUBSECTION APPLIES TO ROUND 1 OFFSHORE WIND**
16 **PROJECTS AND ROUND 2 OFFSHORE WIND PROJECTS THAT:**

17 **(I) ARE TO BE LOCATED IN A WIND ENERGY AREA AUTHORIZED**
18 **BY THE BUREAU OF OCEAN ENERGY MANAGEMENT; AND**

19 **(II) POSSESS ORECS AS OF JUNE 1, 2024.**

20 **(3) (I) ON JUNE 1, 2024, THE COMMISSION SHALL OPEN A**
21 **REVISED ROUND 2 OFFSHORE WIND PROJECT PROCEEDING THAT IS LIMITED TO**
22 **EVALUATING REVISED PROJECT SCHEDULES, SIZES, OR PRICING, INCLUDING**
23 **OREC PRICING, FOR A PREVIOUSLY APPROVED ROUND 2 OFFSHORE WIND**
24 **PROJECT.**

25 **(II) ANY PREVIOUSLY APPROVED ROUND 2 OFFSHORE WIND**
26 **PROJECT MAY SUBMIT A REVISED PLAN FOR THE PROJECT BY FILING AN**
27 **APPLICATION WITH THE COMMISSION.**

28 **(III) AN APPLICATION FOR A REVISED ROUND 2 OFFSHORE WIND**
29 **PROJECT SHALL BE LIMITED TO ADDRESSING REVISED PROJECT SCHEDULES, SIZES,**
30 **OR PRICING, INCLUDING OREC PRICING.**

31 **(IV) 1. ON RECEIPT OF AN APPLICATION FOR APPROVAL OF**
32 **A REVISED ROUND 2 OFFSHORE WIND PROJECT, THE COMMISSION SHALL CONDUCT**
33 **AN EXPEDITED REVIEW OF THE APPLICATION.**

1 2. **UNLESS EXTENDED BY MUTUAL CONSENT OF THE**
2 **PARTIES, THE COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, OR DENY**
3 **AN APPLICATION WITHIN 90 DAYS AFTER THE APPLICATION IS FILED AND FOUND BY**
4 **THE COMMISSION TO BE ADMINISTRATIVELY COMPLETE.**

5 (v) 1. **EXCEPT AS PROVIDED IN SUBSUBPARAGRAPHS 2 AND**
6 **3 OF THIS SUBPARAGRAPH, AN APPLICATION FOR A REVISED ROUND 2 OFFSHORE**
7 **WIND PROJECT SHALL BE SUBJECT TO ALL CRITERIA SET FORTH IN THIS SECTION**
8 **FOR ROUND 2 OFFSHORE WIND PROJECTS.**

9 2. **AN APPLICATION FOR A REVISED ROUND 2**
10 **OFFSHORE WIND PROJECT IS NOT SUBJECT TO THE REQUIREMENTS OF**
11 **SUBSECTIONS (C)(6)(II) AND (I) OF THIS SECTION.**

12 3. **IF IN A REVISED ROUND 2 OFFSHORE WIND PROJECT**
13 **PROCEEDING THE COMMISSION REVIEWS MULTIPLE REASONABLE PROPOSALS**
14 **MEETING THE REQUIREMENTS OF THIS SECTION FOR ROUND 2 OFFSHORE WIND**
15 **PROJECTS, THE COMMISSION SHALL ISSUE ORDERS APPROVING THE REVISED**
16 **ROUND 2 OFFSHORE WIND PROJECTS NECESSARY TO FACILITATE AS MUCH ENERGY**
17 **CAPACITY AS IS CONSISTENT WITH THE ROUND 2 OFFSHORE WIND PROJECT**
18 **RATEPAYER PROTECTIONS UNDER THIS SECTION, INCLUDING AT LEAST 800**
19 **MEGAWATTS OF CAPACITY FROM REVISED ROUND 2 OFFSHORE WIND PROJECTS, IF**
20 **PRACTICABLE, EVEN IF THE REVISED ROUND 2 OFFSHORE WIND PROJECT**
21 **APPLICATIONS MAY RESULT IN LOWER TOTAL ENERGY CAPACITY AWARDED THAN**
22 **WAS PREVIOUSLY AWARDED TO THE REVISED ROUND 2 OFFSHORE WIND PROJECT**
23 **IN ITS PREVIOUSLY APPROVED ROUND 2 OFFSHORE WIND PROJECT APPLICATION.**

24 4. **WHEN EVALUATING AN APPLICATION FOR A REVISED**
25 **ROUND 2 OFFSHORE WIND PROJECT, THE COMMISSION SHALL, TO THE EXTENT**
26 **PRACTICABLE, EXTEND PRIOR OR EXISTING PROCEEDINGS FOR APPLICANTS THAT**
27 **HAVE A PREVIOUSLY APPROVED ORDER FOR A ROUND 2 OFFSHORE WIND PROJECT.**

28 (4) (i) **IN ORDER TO MAXIMIZE THE AMOUNT OF RENEWABLE**
29 **ENERGY GENERATED BY A ROUND 1 OFFSHORE WIND PROJECT, ANY ROUND 1**
30 **OFFSHORE WIND PROJECT MAY SEEK APPROVAL FROM THE COMMISSION TO AMEND**
31 **ITS PREVIOUSLY APPROVED ROUND 1 OFFSHORE WIND PROJECT ORDER TO:**

32 1. **INCREASE THE MAXIMUM AMOUNT OF ORECS SOLD**
33 **UNDER THE PREVIOUS ORDER, CONSISTENT WITH THE ROUND 1 OFFSHORE WIND**
34 **PROJECT RATEPAYER PROTECTIONS UNDER THIS SECTION; AND**

35 2. **MODIFY ITS PROJECT SCHEDULE.**

1 **(II) THE COMMISSION MAY APPROVE A REQUEST FOR AN**
2 **INCREASED AMOUNT OF ORECS SOLD UNDER A PREVIOUSLY APPROVED ROUND 1**
3 **OFFSHORE WIND PROJECT ORDER ON A SHOWING THAT:**

4 **1. THE UNIT PRICING OF THE ADDITIONAL ORECS DOES**
5 **NOT EXCEED THE PRICING UNDER THE PREVIOUSLY APPROVED ROUND 1**
6 **OFFSHORE WIND PROJECT ORDER; AND**

7 **2. THE ROUND 1 OFFSHORE WIND PROJECT IS IN**
8 **COMPLIANCE WITH THE RATEPAYER PROTECTION PROVISIONS REQUIRED FOR**
9 **ROUND 1 OFFSHORE WIND PROJECTS, TAKING INTO CONSIDERATION CHANGES IN**
10 **ECONOMIC CONDITIONS SINCE THE ORIGINAL ROUND 1 OFFSHORE WIND PROJECT**
11 **AWARDS.**

12 **(M) (1) THE COMMISSION, WITH THE ASSISTANCE OF THE**
13 **ADMINISTRATION, THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT**
14 **OF NATURAL RESOURCES, AND OTHER INTERESTED STATE UNITS SHALL DEVELOP**
15 **A PLAN FOR ACHIEVING A TOTAL OF 8,500 MEGAWATTS OF OFFSHORE WIND ENERGY**
16 **CAPACITY BY 2031.**

17 **(2) ON OR BEFORE JANUARY 1, 2025, THE COMMISSION SHALL**
18 **SUBMIT A REPORT ON THE PLAN TO THE GENERAL ASSEMBLY, IN ACCORDANCE**
19 **WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June**
21 **1, 2024.**