

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1135  
Economic Matters

(Delegate Adams, *et al.*)

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Renewable Energy - Offshore Wind Projects - Distance Requirements

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This bill increases the minimum distance from the Maryland coast that an offshore wind project must be located to qualify under the Maryland Offshore Wind Energy Act. Conforming changes are made to the definition of Offshore Wind Renewable Energy Credit (OREC) and the project approval process by the Public Service Commission (PSC). The electricity generation or capacity of a wind turbine installation that is less than 26 *nautical* miles (29.92 miles) from the Maryland coast does not qualify for inclusion in the calculation or creation of ORECs. The bill specifies that a presently existing obligation or contract right may not be impaired in any way by the bill. PSC must enter an order applying the distance and related OREC requirements to all offshore wind turbines that will be installed in waters adjacent to the Maryland coast on or after January 1, 2019. **The bill takes effect July 1, 2018.**

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Fiscal Summary

**State Effect:** The effect on State revenues and expenditures cannot be reliably determined at this time, as discussed below.

**Local Effect:** The effect on local government revenues and expenditures cannot be reliably determined at this time, as discussed below.

**Small Business Effect:** Potential meaningful.

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Analysis

**Current Law:** Chapter 3 of 2013 (the Maryland Offshore Wind Energy Act) established an application and review process for proposed offshore wind projects. A PSC order

approving a proposed offshore wind project vests the owner of the qualified offshore wind project with the right to receive payments for ORECs according to the terms established in the order.

A “qualified offshore wind project” means a wind turbine electricity generation facility, including the associated transmission-related interconnection facilities and equipment, that:

- is located on the outer continental shelf of the Atlantic Ocean in an area that is designated for leasing by the U.S. Department of the Interior (DOI) after coordination and consultation with the State in accordance with the Energy Policy Act of 2005 and between 10 and 30 miles off the coast of the State;
- interconnects to the PJM Interconnection grid at a point located on the Delmarva peninsula; and
- is approved by PSC, subject to specified requirements in the Act.

PSC may not approve an application unless (1) the proposed project demonstrates positive net economic, environmental, and health benefits to the State; (2) the projected net rate impact, combined with the rate impact of other qualified projects, does not exceed \$1.50 per month for an average residential customer (1,000 kilowatt-hours per month) in 2012 dollars, *and* does not exceed 1.5% of nonresidential customers’ total annual electric bills, over the duration of the proposed OREC pricing schedule; and (3) the price set in the proposed OREC pricing schedule does not exceed \$190 per megawatt-hour in 2012 dollars.

An order issued by PSC approving a proposed project must (1) specify the OREC price schedule; (2) specify the duration of the OREC pricing schedule; (3) specify the number of ORECs the project may sell each year; (4) provide that payment may not be made for an OREC until electricity supply is generated by the project, and that ratepayers, purchasers of ORECs, and the State are held harmless for any cost overruns associated with the project; and (5) require that any debt instrument issued in connection with a qualified project include language specifying that the debt instrument does not establish a debt, obligation, or liability of the State.

**Background:** In May 2017, PSC conditionally approved two applications for ORECs supporting a total of 368 megawatts of capacity. Net bill impacts associated with the projects are projected to be less than \$1.40 per month (2012 dollars) for residential customers and less than 1.4% annually for nonresidential customers.

US Wind plans to initially construct 248 megawatts (as part of an overall 750-megawatt project) 12 to 15 *nautical* miles off the coast of Ocean City with an expected commercial

operating date of January 2020. Skipjack plans to construct 120 megawatts 17 to 21 *nautical* miles off the coast of Delaware with an expected commercial operating date of November 2022. Both companies are required to maintain offshore lease areas (“Wind Energy Areas”) through the Bureau of Ocean Energy Management of DOI. The areas are shown in **Appendix 1** (US Wind) and **Appendix 2** (Skipjack).

In the PSC order approving the applications, PSC conditioned the US Wind OREC award on the requirement that US Wind “shall locate its Qualified Offshore Wind Project in the eastern-most portion of the Maryland Wind Energy Area that can reasonably and practicably accommodate its Qualified Offshore Wind Project.” It is unclear what operational and financial effects would be considered reasonably and practicably accommodated under the order. The Maryland Wind Energy Area extends from about 10 to 24 *nautical* miles off the Maryland coast.

A press release summarizing the key aspects of the PSC order, which also contains a link to the full order, can be found on PSC’s [website](#).

#### *Local Comments on Proposed Projects*

As part of the application review process, PSC held a public hearing on March 25, 2017, in the Town of Berlin, which is about six miles west of Ocean City. Transcripts indicate that about 40 individuals provided public comments at the hearing. The speakers expressed both positive and negative comments about the proposed projects. Many speakers indicated that they were members of related industries or organizations and many indicated they were not Worcester County residents.

Separate from and subsequent to the offshore wind application and approval process under the Maryland Offshore Wind Energy Act, the Ocean City council voted in February 2018 to oppose the construction of any permanent offshore wind turbines visible from Ocean City.

**State Fiscal Effect:** Whether or not the bill affects the two proposed offshore wind projects is unclear. Further, even in absence of the bill, neither project is guaranteed to be built. Therefore, the effect on State revenues and expenditures cannot be reliably determined at this time. PSC advises, and the Department of Legislative Services concurs, that the applicability of the bill is likely to be challenged in court.

To the extent that the bill affects the two proposed offshore wind projects, it prohibits OREC payments for any turbines located less than 26 *nautical* miles from the Maryland coast. This can reasonably be assumed to at least temporarily, and possibly permanently, make the projects financially unviable. If that is the case, State expenditures (all funds)

associated with electricity costs decrease, but so do State revenues from the economic activity associated with the projects.

**Local Effect:** For the same reasons as discussed above, the effect on local revenues and expenditures cannot be reliably determined at this time. To the extent that the bill affects the two proposed offshore wind projects, local government expenditures associated with electricity costs decrease, but so do revenues from the economic activity associated with the projects. For Worcester County in particular, this also removes visible offshore wind turbines from the coast.

**Small Business Effect:** For the same reasons as discussed above, the effect small businesses cannot be reliably determined at this time. To the extent that the bill affects the two proposed offshore wind projects, small businesses involved in the offshore wind supply chain are negatively affected. However, for Worcester County in particular, this also removes visible offshore wind turbines from the coast.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 1058 (Senator Hershey, *et al.*) - Finance.

**Information Source(s):** Public Service Commission; Department of Natural Resources; Town of Ocean City; Bureau of Ocean Energy Management; Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2018  
md/lgc

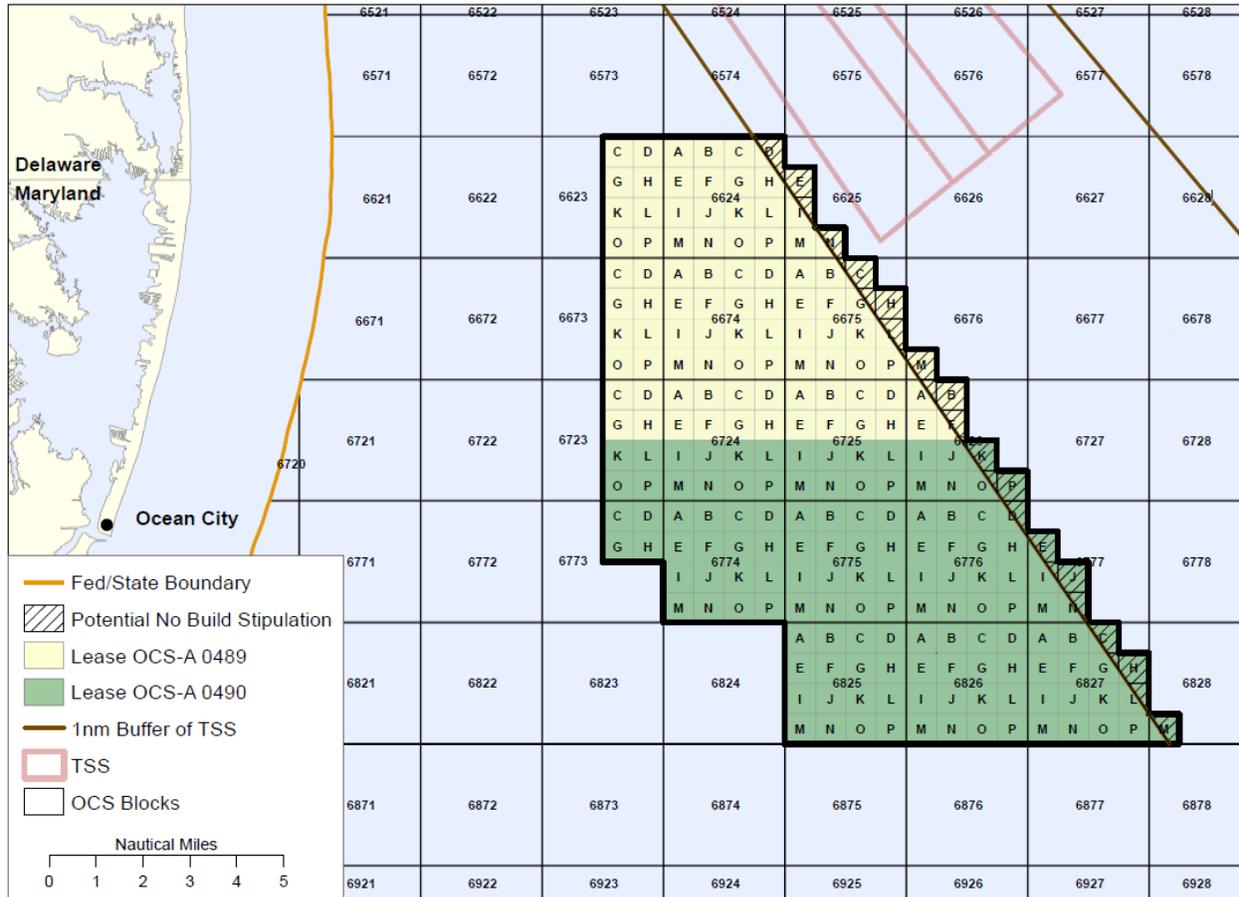
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# Appendix 1

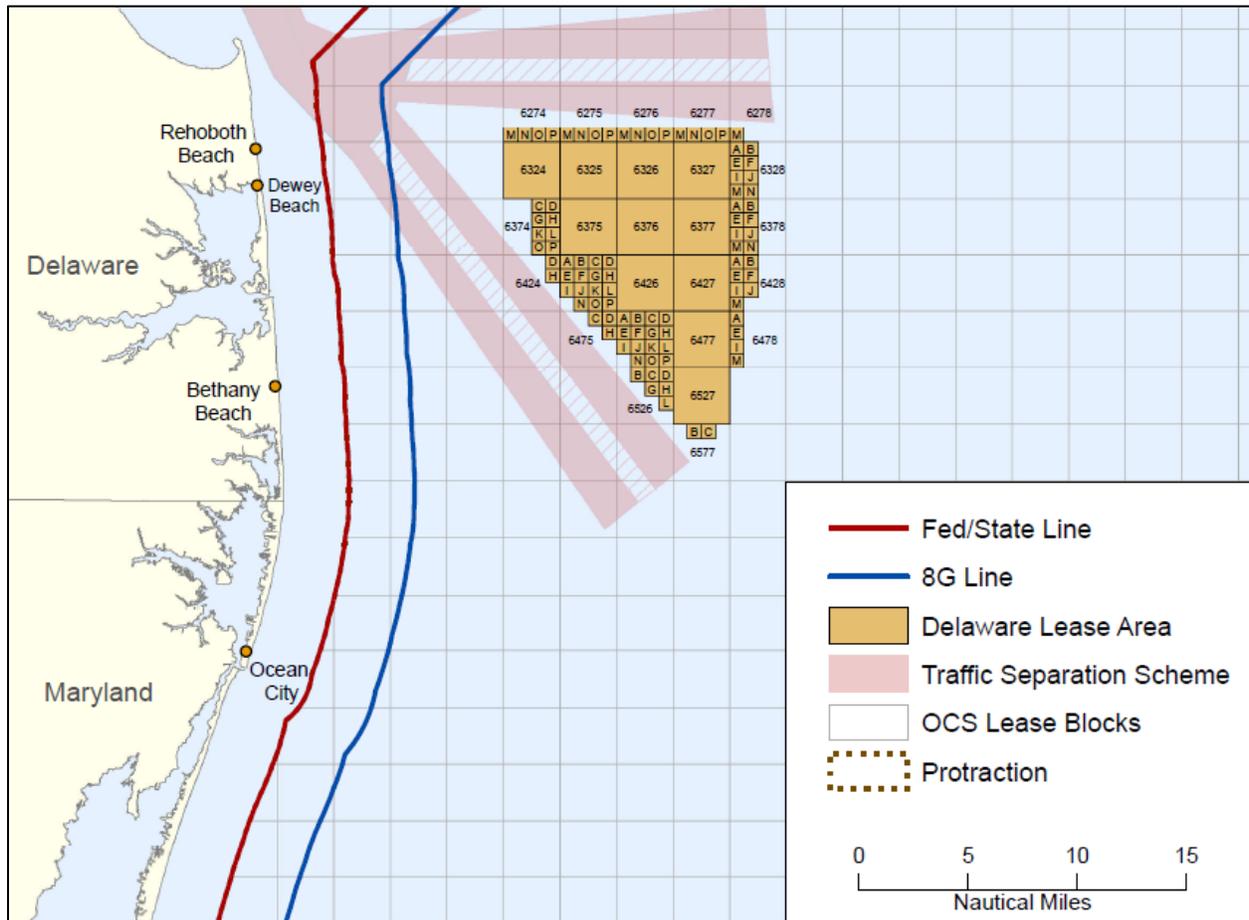
## Offshore Wind Lease Areas – Maryland



OCS = Outer Continental Shelf  
TSS = Traffic Separation Scheme

Source: Bureau of Ocean Energy Management

## Appendix 2 Offshore Wind Lease Area – Delaware



OCS = Outer Continental Shelf

Source: Bureau of Ocean Energy Management