

SB 268-FN - AS INTRODUCED

2022 SESSION

22-3012

12/08

SENATE BILL **268-FN**

AN ACT relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

SPONSORS: Sen. Watters, Dist 4; Sen. Avard, Dist 12; Sen. Kahn, Dist 10; Sen. Rosenwald, Dist 13; Sen. Whitley, Dist 15; Sen. Soucy, Dist 18; Sen. Perkins Kwoka, Dist 21; Sen. Sherman, Dist 24; Sen. Cavanaugh, Dist 16; Sen. D'Allesandro, Dist 20; Sen. Prentiss, Dist 5; Rep. Somssich, Rock. 27; Rep. Wall, Straf. 6; Rep. Cushing, Rock. 21

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill directs the public utilities commission to ensure that certain requirements relative to impact and use studies are met prior to approving power purchase agreements for energy derived from the Gulf of Maine.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Power Purchase Agreements. Amend RSA 362-H:2 by inserting after
2 paragraph V the following new paragraph:

3 VI. The public utilities commission shall ensure the provisions of RSA 485-I:5 and RSA 485-
4 I:6, to the extent those provisions are completed, prior to approving power purchase agreements for
5 offshore wind energy resources from the Gulf of Maine. The applicant shall fund the studies
6 required in RSA 485-I:5 and RSA 485-I:6 and such expenses shall be a recoverable expense.

7 2 Coastal Fund. RSA 485-I:4, III is repealed and reenacted to read as follows:

8 III. All moneys collected by the state to mitigate impacts to wildlife, natural resources,
9 ecosystems, and traditional or existing water-dependent uses, including but not limited to
10 commercial and recreational fishing, including aquaculture, and transit lanes, shall be deposited in
11 the fund established under paragraph I.

12 IV. There is hereby established an agency advisory board to advise the department of
13 environmental services on the distribution moneys from the coastal fund. Members of the advisory
14 board shall include:

- 15 (a) The commissioner of the department of environmental services, or designee;
16 (b) The commissioner of the department of transportation, or designee;
17 (c) The executive director of the fish and game department, or designee;
18 (d) The commissioner of the department of energy, or designee;
19 (e) The commissioner of the department of natural and cultural resources, or designee;
20 (f) The director of New Hampshire homeland security and management, or designee;

21 and

- 22 (g) The commissioner of the department of business and economic affairs, or designee.

23 V. The department of environmental services may collect a reasonable administrative
24 charge, not to exceed 10 percent, on moneys in the fund appropriated to the department to ensure
25 their proper oversight and administration.

26 3 New Sections; Coastal Zone Management. Amend RSA 485-I by inserting after section 4 the
27 following new sections:

28 485-I:5 Geographic Location Description

29 I. The coastal program shall develop and seek approval from the National Oceanic and
30 Atmospheric Administration (NOAA) for a geographic location description (GLD), as described in 15

1 C.F.R. 930.53, for certain activities in federal waters, including but not limited to the development of
2 offshore wind energy in the Gulf of Maine, deemed to have reasonably foreseeable effects on New
3 Hampshire's coastal resources and/or uses.

4 II. The coastal program shall conduct an effects analysis as described in 15 C.F.R. 923.84(d),
5 to identify:

6 (a) The affected uses, such as:

7 (1) Commercial and recreational fishing and associated infrastructure, boating,
8 tourism, shipping, and energy facilities, and

9 (2) Affected resources, such as fish, marine mammals, reptiles, birds, habitats, and
10 landmarks.

11 (b) Where and in what densities the resources and uses are found.

12 (c) How the state has a specific interest in the resources or uses.

13 (d) Where the proposed activity overlaps with the resources and uses.

14 (e) Impacts to the resources or uses from the proposed activity.

15 (f) A reasonable showing of a causal connection to the proposed activity, including how
16 the impacts from the activity results in reasonably foreseeable effects on the state's coastal resources
17 or uses.

18 (g) Why any required mitigation may be inadequate.

19 (h) Empirical data and information that supports the effects analysis and can be shown
20 to be reliable, visualizes the affected areas, resources and use with maps, and shows values, trends,
21 and vulnerabilities.

22 III. The coastal program and fish and game department shall collaborate as necessary with
23 New Hampshire Sea Grant, and other stakeholders, to develop a GLD, and to identify the partners,
24 including New Hampshire's commercial and recreational fishing community, and resources needed
25 to develop the GLD.

26 485-I:6 Additional Studies or Mitigation.

27 I. For the purposes of this section, "mitigation" means actions or impact fees relative to
28 coastal resources or uses, including wildlife, natural resources, ecosystems, and traditional or
29 existing water- dependent uses, including but not limited to, commercial and recreational fishing,
30 including aquaculture, and transit lanes that cannot be avoided or minimized.

31 II. The coastal program in coordination with the fish and game department and other
32 relevant state agencies shall determine, in consultation with the impacted communities, whether
33 additional studies and/or mitigation are required under proposals for offshore wind development in
34 the Gulf of Maine. Any required studies or mitigation shall be included in agreements with
35 developers of offshore wind energy in the Gulf of Maine and the power purchase agreements for Gulf
36 of Maine renewable energy resources.

37 4 Effective Date. This act shall take effect 60 days after its passage.

**SB 268-FN- FISCAL NOTE
 AS INTRODUCED**

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FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Coastal Fund (RSA 485-1:4)			

METHODOLOGY:

This bill directs the public utilities commission to ensure that certain requirements relative to impact and use studies are met prior to approving power purchase agreements for energy derived from the Gulf of Maine.

The Department of Energy indicates the fiscal impact of this bill depends on whether there are purchase power agreements (PPAs) to procure power from an offshore wind development, how many, and the number of utilities requesting approval of PPAs. If no PPAs are executed, then there is no cost. If a PPA is entered into, then all of the costs associated would be covered by revenue from the utility. The utility would then be allowed to recover those expenses through the rates they charge utility customers, including the state, county, and local governments. The impact on electric rates as a result of the bill is indeterminable.

The Department of Environmental Services indicates the purpose of this bill is to provide a mechanism to collect and distribute funds generated through mitigation requirements related to the development of offshore wind energy. The future development of offshore wind energy in the Gulf of Maine may have unforeseen impacts on ocean users, such as the commercial fishing industry. The federal permits that allow for the energy development may require mitigation of those impacts. This bill would have those dollars deposited in the Coastal Fund. At this time, the best estimate of when offshore wind development would actually occur is a minimum of 5 years from now. As such, it is not possible at this moment to determine the scope, locations, and potential impacts of those facilities. It is also unknown today the number of ocean users who

could be impacted. Because of these unknowns, both revenue and expenditure predictions are indeterminable. Further, the likely timing of those revenues and expenditures is beyond 2025. The bill only refers to the state; counties and localities are not included nor are they likely to be impacted ocean users or wind energy developers.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Departments of Energy and Environmental Services