SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Steven Bradford, Chair
2023 - 2024 Regular

Bill No:	SB 286	**Hearing Date:**	4/24/2023
Author:	McGuire		
Version:	3/22/2023 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Nidia Bautista		

SUBJECT: Offshore wind energy projects

DIGEST: This bill would establish the California Offshore Wind Energy Fisheries Working Group to address impacts to certain fisheries from offshore wind energy projects, including providing specified compensation to affected fisher and other groups.

ANALYSIS:

Existing law:

1) Authorizes the United States Secretary of the Interior, in consultation with other federal agencies, with the granting of leases, easements, or rights-of-way on the outer Continental Shelf for offshore energy development. (Energy Policy Act of 2005, 42 U.S.C. §388)

2) Requires the State Energy Resources Conservation and Development Commission (also known as the California Energy Commission (CEC)), in coordination with specified state entities and other relevant federal, state, and local agencies, to develop a strategic plan for offshore wind (OSW) energy developments installed off the California coast in federal waters, and requires the CEC to submit the strategic plan to the Natural Resources Agency and the Legislature on or before June 30, 2023. (Public Resources Code §25991 et seq.)

3) Establishes the 100 Percent Clean Energy Act of 2018 as a policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of retail sales of electricity to California end-use customers 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035. Requires the California Public Utilities Commission (CPUC), CEC, and California Air

Resources Board (CARB) to, as part of a public process, issue a joint report to the Legislature by January 1, 2021, and every four years thereafter that includes specified information relating to the implementation of the policy. (Public Utilities Code §454.53)

4) Establishes the California Coastal Act of 1976, which requires anyone wishing to perform or undertake any development in the coastal zone, except as specified, in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, to obtain a coastal development permit from the California Coastal Commission (Coastal Commission) or a local government with a certified local coastal program, as provided. The act authorizes the Coastal Commission to process and act upon a consolidated coastal development permit application if a proposed project requires a coastal development permit from both a local government with a certified local coastal program and the Coastal Commission and if the applicant, the local government, and the Coastal Commission consent to consolidate the permit action. (Public Resources §30000 et seq.)

5) Requires, as part of the California Environmental Quality Act (CEQA), a lead agency to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. (Public Resources Code §21000 et seq.)

This bill:

1) Requires the Coastal Commission to process a consolidated coastal development permit for any new development that requires a coastal development permit and that is associated with, appurtenant to, or necessary for the construction and operation of OSW energy projects and transmission facilities needed for those projects.

2) Requires the State Lands Commission to be the lead agency for purposes of CEQA for OSW energy projects and to prepare, or cause to be prepared, all environmental documents required by law. Requires the Coastal Commission and the State Lands Commission to coordinate with relevant federal agencies to encourage and facilitate the preparation of joint environmental documents

pursuant to CEQA and the federal National Environmental Policy Act of 1969 for proposed OSW energy projects.

3) Establishes the California Offshore Wind Energy Fisheries Working Group and requires the working group to be composed of the Coastal Commission, representatives of the Department of Fish and Wildlife, the State Lands Commission, the Ocean Protection Council, representatives of the commercial fishing industry, representatives of the OSW energy industry, representatives of relevant federal agencies, and other stakeholders as appropriate. Requires the Coastal Commission, in coordination with the Department of Fish and Wildlife, to convene the working group on or before January 1, 2025, for the purpose of developing a statewide strategy for ensuring that OSW energy projects avoid and minimize impacts to ocean fisheries to the maximum extent possible, fully mitigate unavoidable impacts, and fairly compensate persons engaged in commercial and recreational fishing for economic impacts to ocean fisheries resulting from OSW energy projects.

4) Requires the statewide strategy to include best practices for addressing impacts to commercial and recreational fisheries associated with OSW energy projects and to be completed on or before January 1, 2026.

5) Requires an applicant seeking approval or concurrence from a state agency for an OSW energy project to comply with the terms, recommendations, and best practices established in the statewide strategy.

6) Requires the working group to develop a framework for compensatory mitigation for unavoidable impacts on commercial and recreational fisheries and the public associated with offshore wind energy projects, including specified payments to compensate members of the commercial fishing industry and the public for lost revenues and other impacts of the project. Specifically: this bill proposes compensation for the following:

    a) Support for one-time investments, equal to at least 10 percent of the amount of rent, for fishermen to strengthen the existing fleet to make it more resilient.
    b) Compensation for commercial fishermen for personal property losses caused by OSW energy projects for the lifecycle of the project.
    c) Compensation for lost economic activity due to reduced fishing grounds financial assistance for coastal cities and counties and tribal communities of at least $1 million and a one-time payment of an additional $1 million for each floating OSW energy project.

d) Financial assistance for coastal cities and counties to construct climate-resilient critical infrastructure needed to facilitate OSW generation.
e) Financial assistance for tribal communities impacted by OSW.
f) Support for career and workforce training and retraining.
g) A proportionate amount from each lessee sufficient to cover state costs.

7) Prohibits the State Lands Commission from leasing land under its jurisdiction for purposes of an OSW energy project unless these payments are incorporated within the rent charged to the lessee.

8) Creates the Offshore Wind Energy Resiliency Fund and requires the State Lands Commission to deposit the portion of rent paid by a lessee of state lands for an OSW energy project that is derived from the payments in the fund.

9) Makes moneys in the fund available, upon appropriation by the Legislature, for the purposes for which the payments are made.

Background

OSW energy potential. Although California has no commercial OSW generation, the National Renewable Energy Laboratory has identified 200 gigawatts (GW) of OSW technical potential for California. However, approximately 96 percent of this potential is located in water deeper than 60 meters, where the mature, fixed-bottom turbine technology is not technically feasible. Off the coast of California, a steep continental shelf and increased wind speeds combine to make floating turbines the primary technically feasible option. Floating turbines employ mooring (cabling) and an anchored substructure underwater which steadies a platform holding the wind turbine above water. The use of cabling to anchor the turbine allows floating platforms to operate at depths between 60 and 1,300 meters. Depending on the type of floating structure, some assemblage of floating turbines may need to occur offshore, requiring naval cranes and vessels to stabilize such operations, and port infrastructure and specific port water depths. In contrast, most of the development of OSW globally has occurred via fixed turbine technologies where the turbines are anchored to the seabed through a solid foundation. These designs prevent dynamic motion and do not allow the facility to move significantly in response to wave or wind pressures. Fixed foundations typically exhibit a maximum usable water depth of 50 to 60 meters; beyond this depth, fixed wind designs are generally not economically or technically feasible.

In the United States, OSW development is driven by a collection of eight East Coast states which account for at least 22.5 GW of project commitments through 2035. Nearly all project proposals in the United States are sited in federal waters –

which start three nautical miles from shore out to 200 nautical miles – and fall under the jurisdiction of the federal Bureau of Ocean Energy Management (BOEM). They are all fixed foundation projects. In total, BOEM has designated 13 active call areas in the United States. Call areas are regions of the ocean designated by BOEM as potential areas for OSW development. In California, BOEM identified three call areas in 2018 as potentially suitable for OSW energy leasing: the Humboldt Call Area, the Morro Bay Call Area, and the Diablo Canyon Call Area. These three call areas are currently under consideration for OSW energy development. While there is a significant potential for OSW development off the California coast, considerable barriers remain. Among the challenges are significant transmission requirements and competing coastal uses, including shipping, fishing, recreation, marine conservation, and Department of Defense activities, especially those of the United States Navy.

Biden White House. The White House announced actions to spur the development of OSW energy projects. These actions include establishing a national target to deploy 30 GW of OSW by 2030; investing $230 million for port and infrastructure projects to bolster OSW development; providing access for OSW projects to the Department of Energy's loan programs office; funding research and development projects to study the impacts and challenges of OSW; and establishing a new BOEM call area off the New York-New Jersey coast.

California action on OSW. The BOEM–California Intergovernmental Renewable Energy Task Force was created as a partnership of state, local, and federal agencies, including the CEC, BOEM, and tribal governments. The Task Force promotes coordination and communication among these entities on potential offshore leases for research or commercial development off the California coast. Many public meetings and workshops on OSW have been held by the CEC since the task force's first meeting in 2017.

In 2019, the CEC's Energy Research and Development Division began to assess research, development, and deployment opportunities to support cost-effective wind development off the California coast. A final report was released in August 2020 and focused on identifying opportunities to remove or reduce technological, manufacturing, logistics, and supply chain barriers to deployment; lower the development risk of offshore energy projects; and identify opportunities for early pilot demonstration projects. As part of the study, the project team developed a Research Database that aggregates publicly announced OSW research efforts. The majority of the projects in the database are funded by the federal government.

SB 100's Joint Agency Report. In 2018, the Legislature adopted SB 100 (De León, Chapter 312, Statutes of 2018) that established a target for renewable and zero-carbon resources to supply 100 percent of retail sales and electricity serving all

state agencies by 2045. The statute calls upon the CPUC, CEC, and CARB (collectively, the Joint Agencies) to use programs under existing law to achieve this policy and issue a joint policy report which notes the report "is intended to be a first step in an iterative and ongoing effort to assess barriers and opportunities to implementing the 100 percent clean electricity policy." Unlike the CPUC Integrated Resources Plan process, which forecasts system needs out for 10 years, the Joint Agency report forecasts system needs out 24 years, to 2045. However, the report notes "the preliminary findings are intended to inform state planning and are not intended as a comprehensive *nor prescriptive* roadmap to 2045…future work will delve deeper into critical topics such as system reliability and land use and further address energy equity and workforce needs." OSW was included as part of the core scenario in the Joint Agency report. The OSW system availability was limited to 10 GW over four resource zones: Morro Bay, Diablo Canyon, Humboldt Bay, and Cape Mendocino. The model was given an input assumption of 2030 as the first available year for bringing OSW online, given the current California Independent System Operator (CAISO) interconnection queue and resource development needs of OSW, with costs for the different zones estimated between $69 and $82 per MW hour (MWh) for 2030. Given these input assumptions, nearly all 10 GW of OSW was selected when made available in the model. But this selection only occurred after 2035, regardless of the scenario, with the full 10 GW selected only in 2045.

AB 525 (Chiu, Chapter 231, Statutes of 2021). AB 525 required the development of a strategic plan by June 30, 2023 in preparation for advancing the development of OSW on the coast of California. The strategic plan includes the relevant agencies and stakeholders – which are many from federal to multiple state agencies, to local agencies, industry, and the public. Last August, per the requirements of AB 525, the CEC released ambitious targets for OSW energy generation off the coast of California. These include a goal of five GW installed by 2030 and 25 GW by 2045.

OSW lease auction. In December 2022, the federal agency with leasing authority – the BOEM – held an OSW energy auction for five leases off the coast of California. This was the first federal OSW energy area lease in the Pacific. The leases sold for $757.1 million and covered 373,268 acres located approximately 20 miles offshore of central (San Luis Obispo County) and northern (Humboldt County) California. These lease areas have the potential to generate up to 4.6 GW of OSW energy.

Comments

Incoming. The bulk of this bill relates to issues best addressed by the Senate Committee on Natural Resources and Water regarding the interaction of natural resources agencies and the siting of OSW. As was noted in that committee's analysis, this bill is a work in progress as it relates to those provisions. Relevant to this committee, this bill proposes a specified compensation framework, and in some cases specific dollar values, to compensate various entities, including commercial fisher, for the impacts of OSW. These impacts are usually addressed via siting processes, including environmental reviews. However, the author notes the need to ensure that commercial fisher are provided clear and explicit compensation from the OSW developments. However, it is unclear whether the specific dollar values proposed in this bill are adequate or justified. While we note conversations are still ongoing to address the framework and the compensation, it may be premature to prescribe specific dollar values. *As such, the author and committee may wish to delete specific references to dollar values for compensation in this bill.*

Dual referral: This bill passed out of the Senate Committee on Natural Resources and Water on April 11, 2023 with a vote of 9-0.

Prior/Related Legislation

SB 1020 (Laird, Chapter 361, Statutes of 2022) among its provisions, established interim targets to reach SB 100 clean energy goals and requires state agencies to purchase 100 percent zero carbon electricity by 2035 to serve their load, including obligations on State Water Project.

AB 525 (Chiu, Chapter 231, Statutes of 2021) required the CEC to establish, by June 1, 2022, planning goals, as specified, for the years 2030 and 2045 from electricity generated by OSW. The bill also requires the CEC, in coordination with specified agencies, to develop a strategic plan for OSW developments and to submit the plan to the Natural Resources Agency and the Legislature by June 30, 2023.

SB 100 (De León, Chapter 312, Statutes of 2018) established the 100 Percent Clean Energy Act of 2017 which increases the Renewables Portfolio Standards (RPS) requirement from 50 percent by 2030 to 60 percent, and creates the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100 percent clean energy.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Alliance of Communities for Sustainable Fisheries
Bodega Bay Fisherman's Marketing Association
California Coastal Protection Network
California Fishermen's Resiliency Association
California Wetfish Producers Association
Coastal Environmental Rights Foundation
Commercial Fishermen of Santa Barbara
Fishermen's Marketing Association
Humboldt Fishermen's Marketing Association
Morro Bay Commercial Fishermen's Organization
Pacific Coast Federation of Fishermen's Association
Pacific Merchant Shipping Association, if amended
Responsible Offshore Development Alliance
State Building and Construction Trades Council of California
Surfrider Foundation

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

> Offshore wind is an essential tool in California's fight against climate change, but we cannot ignore the potential impacts its development may have on our coastal communities and fishermen. SB 286 will expedite the offshore wind permitting process while ensuring environmental safeguards remain. SB 286 will create a collaborative framework with offshore wind and fishing stakeholders to ensure both groups thrive in the Golden State.

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