



Senate

General Assembly

File No. 349

February Session, 2024

Substitute Senate Bill No. 383

Senate, April 9, 2024

The Committee on Energy and Technology reported through SEN. NEEDLEMAN of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE EFFECT OF OFFSHORE WIND FACILITIES ON STATE FISHERIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 16a-3n of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 *2024*):

4 (a) (1) The Commissioner of Energy and Environmental Protection,
5 in consultation with the procurement manager identified in subsection
6 (l) of section 16-2, the Office of Consumer Counsel and the Attorney
7 General, may, in coordination with other states in the control area of the
8 regional independent system operator, as defined in section 16-1, in
9 coordination with states in a neighboring control area or on behalf of
10 Connecticut alone, solicit proposals, in one solicitation or multiple
11 solicitations, from providers of energy derived from offshore wind
12 facilities that are Class I renewable energy sources, as defined in section
13 16-1, and any associated transmission, provided the commissioner shall

14 initiate a solicitation not later than fourteen days after the effective date
15 of this section for projects that have a total nameplate capacity rating of
16 up to two thousand megawatts in the aggregate. Any such solicitation
17 or solicitations issued pursuant to this section on and after January 1,
18 2020, shall be for quantities of energy and within the timing and
19 schedule determined by the commissioner, and may be informed by the
20 Integrated Resources Plan prepared on or before January 1, 2020,
21 pursuant to subsections (b) and (j) of section 16a-3a, provided such
22 schedule shall provide for the solicitation of resources with a nameplate
23 capacity rating of two thousand megawatts in the aggregate by
24 December 31, 2030.

25 (2) In developing any solicitations pursuant to this section, the
26 commissioner shall include requirements for contract commitments in
27 selected bids that (A) require payment of not less than the prevailing
28 wage, as described in section 31-53, for laborers, workmen and
29 mechanics performing construction activities within the United States
30 with respect to the project, and (B) require selected bidders to engage in
31 a good faith negotiation of a project labor agreement. Any solicitation
32 issued pursuant to this section shall specify the minimum terms that
33 such project labor agreements shall address.

34 (3) (A) On and after July 1, 2024, the Commissioner of Energy and
35 Environmental Protection shall include requirements for contract
36 commitments in selected bids that require bidders selected pursuant to
37 subsection (b) of this section, including any providers of associated
38 transmission, to make payments into a mitigation fund to mitigate
39 adverse consequences to wildlife, fisheries and any other aspects of the
40 fishing industry that result from activities connected with the
41 development and operation of offshore wind facilities by the selected
42 bidders.

43 (B) Any providers of energy derived from offshore wind facilities that
44 submit bids selected pursuant to subsection (b) of this section on or after
45 July 1, 2024, shall make an initial payment of two million dollars into the
46 mitigation fund established pursuant to this subdivision not later than

47 the date such providers first enter into any power purchase agreement
48 pursuant to subsection (c) of this section. Thereafter, such providers and
49 any providers of associated transmission shall jointly make payments
50 for each kilowatt hour of electricity generated by such providers'
51 offshore wind facilities for the duration of such power purchase
52 agreement. The amount of such payments shall be determined by the
53 mitigation fund manager selected pursuant to subparagraph (D) of this
54 subdivision and shall be approved by the Public Utilities Regulatory
55 Authority pursuant to subparagraph (E) of this subdivision.

56 (C) There is established an Offshore Wind Energy Mitigation Fund
57 Oversight Committee, which shall be an independent body within the
58 Office of Policy and Management for administrative purposes only. The
59 committee shall consist of the following members: (i) The Division
60 Director of the Wildlife Division of the Department of Energy and
61 Environmental Protection, or the division director's designee; (ii) the
62 Division Director of the Fisheries Division of the Department of Energy
63 and Environmental Protection, or the division director's designee; (iii) a
64 member of the commission on environmental standards established
65 pursuant to subdivision (5) of this subsection, who shall be appointed
66 by the Commissioner of Energy and Environmental Protection; (iv) the
67 Secretary of the Office of Policy and Management, or the secretary's
68 designee; (v) a representative of a provider of energy derived from
69 offshore wind facilities, who shall be appointed by the speaker of the
70 House of Representatives; (vi) a representative of a company that
71 provides electric transmission, who shall be appointed by the president
72 pro tempore of the Senate; (vii) a representative of the fishing industry,
73 who shall be appointed by the minority leader of the House of
74 Representatives; and (viii) a representative of a nonprofit organization
75 that advocates for the protection of wildlife, who shall be appointed by
76 the minority leader of the Senate. The committee shall oversee the
77 mitigation fund manager selected pursuant to subparagraph (D) of this
78 subdivision and shall develop the duties and qualifications of such
79 mitigation fund manager. Such qualifications shall include, but need not
80 be limited to, having: (I) Knowledge of offshore fishing; (II) knowledge
81 of fishing rules and regulations; (III) expertise concerning wildlife; (IV)

82 a general knowledge of the offshore wind energy industry; (V) financial
83 fund management experience; and (VI) an ability to manage claims.

84 (D) Not later than October 1, 2024, the Commissioner of
85 Administrative Services shall issue a request for proposals to hire an
86 independent contractor that shall serve as mitigation fund manager for
87 the mitigation fund established pursuant to this subdivision. The
88 request for proposals shall describe the qualifications and duties for the
89 position developed by the Offshore Wind Energy Mitigation Fund
90 Oversight Committee pursuant to subparagraph (C) of this subdivision
91 and shall describe and specify the oversight relationship between said
92 committee and the mitigation fund manager. In such request for
93 proposals, the Commissioner of Administrative Services may require
94 that such mitigation fund manager be a nonprofit organization. The
95 Commissioner of Administrative Services shall establish deadlines for
96 the submission and selection of proposals pursuant to this
97 subparagraph, provided the commissioner selects the mitigation fund
98 manager before the date of the first required payment into such
99 mitigation fund by any provider of energy derived from offshore wind
100 facilities.

101 (E) The mitigation fund manager selected pursuant to subparagraph
102 (D) of this subdivision shall determine a required payment per kilowatt
103 hour that is sufficient to meet anticipated distributions, as determined
104 by the mitigation fund manager. Such required payment per kilowatt
105 hour shall be subject to review and approval by the Public Utilities
106 Regulatory Authority. The mitigation fund manager shall determine the
107 method of collecting such required payment per kilowatt hour.

108 (F) The mitigation fund manager shall determine the manner of
109 distributing funds from the mitigation fund. Such mitigation fund
110 manager may make distributions from the mitigation fund to any
111 person or entity harmed by the adverse consequences to wildlife,
112 fisheries and any other aspects of the fishing industry from activities
113 connected with the development and operation of the offshore wind
114 facilities, as determined by the mitigation fund manager.

115 (G) The mitigation fund manager selected pursuant to subparagraph
116 (D) of this subdivision shall be subject to audit by the Auditors of Public
117 Accounts in accordance with the provisions of section 2-90.

118 [(3)] (4) (A) In responding to any solicitations issued pursuant to this
119 section, a bidder shall include an environmental and fisheries mitigation
120 plan for the construction and operation of such offshore wind facilities,
121 provided such plan shall include, but not be limited to, an explicit
122 description of the best management practices the bidder will employ
123 that are informed by the latest science at the time the proposal is made
124 that will avoid, minimize and mitigate any impacts to wildlife, natural
125 resources, ecosystems and traditional or existing water-dependent uses,
126 including, but not limited to, commercial fishing.

127 (B) In responding to any solicitations issued pursuant to this section,
128 a bidder may include such bidder's plans for the use of skilled labor,
129 including, but not limited to, for any construction and manufacturing
130 components of the proposal including any outreach, hiring and referral
131 systems, or any combination thereof, that are affiliated with an
132 apprenticeship training program registered with the Labor Department
133 pursuant to section 31-22r.

134 (C) In responding to any solicitations issued pursuant to this section
135 in calendar year 2019, each bidder shall submit at least one proposal for
136 resources eligible pursuant to this section with a nameplate capacity
137 rating of four hundred megawatts. The commissioner may not consider
138 or select any proposals from a bidder that does not submit at least one
139 proposal for resources with a nameplate capacity of four hundred
140 megawatts for any solicitation issued pursuant to this section in
141 calendar year 2019.

142 [(4)] (5) For each solicitation issued pursuant to this section, the
143 commissioner shall establish a commission on environmental standards
144 to provide input on best practices for avoiding, minimizing and
145 mitigating any impacts to wildlife, natural resources, ecosystems and
146 traditional or existing water-dependent uses, including, but not limited
147 to, commercial fishing, during the construction and operation of

148 facilities eligible pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2024	16a-3n(a)

Statement of Legislative Commissioners:

Subsec. (a)(3) was rewritten for clarity.

ET *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$
Department of Administrative Services	GF - Cost	less than 25,000

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill requires selected bidders in the state's Offshore wind projects to provide funding to the Offshore Wind Mitigation Fund, and results in a cost to the state of less than \$25,000 in FY 25 to the Department of Administrative Services (DAS).

The bill requires DAS and the member agencies of the oversight committee to develop, issue, and process the request for proposal (RFP) for a mitigation fund manager. This is estimated to cost less than \$25,000 beginning in FY 25.

In addition, the bill imposes a cost of \$2 million on selected offshore wind providers projects as an initial deposit and an additional cost per kWh produced into the Offshore Wind Mitigation Fund. The latter cost is to be paid by both the energy distributor and energy transmitter and doesn't result in a cost to the state. The fund's oversight committee is to hire a manager for the funding to make distributions as necessary. It is anticipated that these costs will be paid for by the fund

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 383*****AN ACT CONCERNING THE EFFECT OF OFFSHORE WIND FACILITIES ON STATE FISHERIES.*****SUMMARY**

This bill requires bidders selected in the Department of Energy and Environmental Protection's (DEEP) offshore wind solicitation (see BACKGROUND) to make payments into a fund to mitigate adverse effects to wildlife, fisheries, and any other aspects of the fishing industry due to the bidder's activities connected with offshore wind facility development and operation. (The bill does not explicitly establish or define the fund.)

Under the bill, DEEP must include requirements for contract commitments in selected bids to make these payments. This applies to bids submitted starting July 1, 2024, and includes (1) an initial \$2 million payment, due on the date energy providers for the selected bid enter into a power purchase agreement (PPA) and (2) a payment for each kilowatt hour of electricity the facility generates, jointly paid by the energy provider and the associated transmission provider, for the PPA's duration.

The bill requires the Department of Administrative Services (DAS) commissioner to issue a request for proposals (RFP) to hire an independent contractor to serve as mitigation fund manager. It also creates an Offshore Wind Energy Mitigation Fund Oversight Committee to oversee and develop qualifications and duties for the mitigation fund manager.

The bill requires the mitigation fund manager to make distributions from the fund to any entity harmed by the adverse consequences to wildlife, fisheries, and the fishing industry. It subjects the fund manager

to audits by the State Auditor of Public Accounts.

EFFECTIVE DATE: July 1, 2024

PAYMENTS INTO THE FUND

Starting July 1, 2024, the bill requires DEEP to include in its offshore wind solicitations requirements for contract commitments in selected bids that selected bidders, including transmission providers, make payments into a mitigation fund.

For selected bids, the bill requires offshore wind energy providers to make a \$2 million initial payment into the mitigation fund, due on the date energy providers for the selected bid enter into a PPA. Then, these providers and associated transmission providers must make joint payments into the fund for each kilowatt hour of electricity generated by the offshore wind facility, in an amount the mitigation fund manager determines (see below) and the Public Utilities Regulatory Authority (PURA) approves.

MITIGATION FUND MANAGER

Hiring and Qualifications

The bill requires the DAS commissioner to (1) issue an RFP by October 1, 2024, to hire an independent contractor to serve as the mitigation fund manager and (2) set deadlines for proposal submission and selection, as long as the commissioner selects the fund manager before the first payment into the fund is due.

Under the bill, the RFP must describe the (1) fund manager's qualifications and duties, that the Offshore Wind Mitigation Fund Oversight Committee develops (see below) and (2) oversight relationship between the oversight committee and the fund manager. The bill allows the DAS commissioner to require that the fund manager be a nonprofit organization.

In addition to any qualifications the oversight committee develops, the fund manager must have:

1. knowledge of offshore fishing and fishing rules and regulations,
2. wildlife expertise,
3. general knowledge of the offshore wind energy industry,
4. financial fund management experience, and
5. the ability to manage claims.

Duties

The bill requires the mitigation fund manager to determine the:

1. anticipated fund distributions;
2. payment per kilowatt hour amount sufficient to meet anticipated distributions, subject to PURA's review and approval;
3. collection method for the kilowatt hour payment; and
4. manner of distributing funds.

The bill allows the fund manager to make distributions from the fund to any person or entity harmed by the adverse effects to wildlife, fisheries, and any other aspects of the fishing industry from activities related to the offshore wind facility's development and operations, as determined by the fund manager.

OFFSHORE WIND MITIGATION FUND OVERSIGHT COMMITTEE

The bill establishes the Offshore Wind Mitigation Oversight Committee and requires it to oversee and develop duties and qualifications for the mitigation fund manager. The oversight committee is an independent body, within the Office of Policy and Management (OPM) for administrative purposes only. It has the following eight members:

1. DEEP's Wildlife Division and Fisheries Division directors or their designees;
2. a Commission on Environmental Standards member, appointed

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- by the DEEP commissioner (see BACKGROUND);
3. the OPM secretary or his designee;
 4. an offshore wind facility energy provider representative, appointed by the House speaker;
 5. an electric transmission company representative, appointed by the Senate president pro tempore;
 6. a fishing industry representative, appointed by the House minority leader; and
 7. a nonprofit wildlife protection advocacy organization representative, appointed by the Senate minority leader.

BACKGROUND

Related Bill

sSB 385, favorably reported by the Energy and Technology Committee, extends the maximum term, from 20 to 30 years, for agreements selected under this offshore wind solicitation.

DEEP's Offshore Wind Solicitation

Existing law authorizes DEEP to solicit proposals from offshore wind providers and transmission providers (for transmission associated with offshore wind projects). Specifically, DEEP must solicit proposals for up to 2,000 megawatts in the aggregate by December 31, 2030.

For each solicitation DEEP conducts, the department must establish a Commission on Environmental Standards to give input on best practices to avoid, minimize, or mitigate impacts to wildlife, ecosystems, and commercial fishing, among other things. In their bids, bidders must include an environmental and fisheries maintenance plan for the facility's construction and operation.

For selected projects, the law authorizes DEEP to direct the electric distribution companies (i.e., Eversource and United Illuminating) to enter into PPAs for energy, capacity, and associated transmission for contracts of up to 20 years, subject to PURA's review and approval.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 0 (03/21/2024)