

Staff Report 71

PARTY:

California State Lands Commission (Commission)

PROPOSED ACTION:

Request delegation of authority for the Executive Officer or her designee to solicit Statements of Interest for Architectural and Engineering consultant services, negotiate a fair and reasonable price, and award and execute agreements for the preparation of an assessment of the necessary investments in California seaports to support offshore wind energy activities, including construction, assembly, and operations and maintenance pursuant to Section 25991.3 of AB 525 (Chapter 231, Statutes of 2021), and request delegation of authority to the Executive Officer or her designee to enter into an interagency agreement with the California Energy Commission (CEC) to allow transfer of funds from CEC to the Commission in furtherance of such an assessment.

BACKGROUND:

Senate Bill (SB) 100, the 100 Percent Clean Energy Act of 2018, establishes a requirement that every retail seller of electricity procure 60 percent of its retail electricity sales from eligible renewable energy resources by 2030 and 100 percent by 2045. In 2021, the CEC, California Public Utilities Commission, and California Air Resources Board issued an SB 100 Joint Agency Report that presents results of offshore wind energy development models, showing that offshore wind could contribute at least 10 gigawatts of energy toward California's 2045 clean energy policy.

Offshore wind is an established industry in Europe and quickly emerging on the East Coast of the United States, with developers investing heavily in job training, port infrastructure, and economic development. Most of the existing offshore wind turbines around the world use fixed bottom technology, meaning their foundations are drilled into the seafloor. This foundation technology is not possible offshore of California due to its deep waters, as the continental shelf drops off more sharply closer to shore than in other areas of the United States and around the globe. New

floating platform technologies, however, have sparked interest by developers in the potential for offshore wind off the U.S. West Coast over the past several years, and in May 2021, the Biden-Harris Administration and Governor Newsom announced an effort to advance offshore wind energy development in federal waters off the northern and central coasts of California.

In order to proactively plan for offshore wind energy deployment in federal waters off of the California coast, the Governor signed AB 525 (Chiu; Chapter 231, Statutes of 2021) in September of this year. AB 525 requires the CEC, in coordination with the Coastal Commission, the Ocean Protection Council, the State Lands Commission, the Office of Planning and Research, the Department of Fish and Wildlife, the Governor's Office of Business and Economic Development, the Independent System Operator, and the Public Utilities Commission (and other relevant federal, state, and local agencies as needed) to develop a strategic plan for offshore wind development in federal waters and submit it to the Legislature and the Natural Resources Agency by June 30, 2023. As declared in AB 525, developing offshore wind would diversify and increase the reliability of the State's energy portfolio, lower overall costs, and attract investment capital, leading to a meaningful transition of the State's skilled and trained construction workforce.

The plan must include the following five chapters:

1. Sea space identification
2. Economic and workforce development and identification of port space and infrastructure
3. Transmission planning
4. Permitting roadmap
5. Potential impacts on coastal resources, fisheries, Native American and Indigenous peoples, and national defense, as well as strategies for addressing those potential impacts

Among its provisions, AB 525 requires the CEC to evaluate and quantify the maximum feasible capacity of offshore wind to achieve reliability, ratepayer, employment, and decarbonization benefits, and establish megawatt targets for 2030 and 2045. AB 525 calls for the CEC to work with stakeholders and agencies, including the State Lands Commission, to identify suitable sea space for wind energy areas in federal waters sufficient to achieve the planning goals, and specifies what factors the CEC must consider when doing so.

AB 525 also requires the development of a plan to improve waterfront facilities to support floating offshore wind energy development activities. The plan must assess the investments in seaports necessary to support offshore wind energy activities and detail the potential availability of land and water acreage at each seaport,

including competing and existing uses, infrastructure feasibility, access to deep water, bridge height restrictions, and potentially affected resources. Staff is requesting authorization to engage a consultant firm to assist with this port assessment, which will be incorporated into the larger strategic plan for offshore wind development.

PROJECT DESCRIPTION:

The Commission manages tidelands, submerged lands, and beds of navigable waterways for the benefit of all people of the State for statewide Public Trust purposes, which include water-dependent commerce, navigation, fishing, recreation, habitat preservation, and open space. The Commission also monitors sovereign lands granted in trust by the California Legislature to approximately 70 local jurisdictions that generally consist of prime waterfront lands, ports, and coastal waters.

Based upon its role and experience as the manager of sovereign state coastal lands and monitor of granted coastal lands, including ports, the Commission was identified as the appropriate agency to lead the preparation of an assessment of the necessary investments in California seaports to support offshore wind energy activities, including construction, assembly, and operations and maintenance, pursuant to Section 25991.3 of AB 525. This port assessment and associated waterfront improvement plan is a required chapter in the strategic plan for offshore wind energy developments installed in federal waters off the California coast, pursuant to Section 25991 of AB 525.

AB 525 requires that the port assessment be submitted to the Natural Resources Agency and the relevant fiscal and policy committees of the Legislature on or before December 31, 2022; this is a very ambitious timeline that requires staff to begin the contracting process as soon as possible. Funding for the study could come from a combination of sources, including potential direct appropriation from the Legislature as well as from funds allocated to the CEC, which could then be used by the Commission under the proposed interagency agreement. Therefore, staff seeks a delegation of authority to the Executive Officer or her designee to secure the services of a consultant to prepare of an assessment of the necessary investments in California seaports to support offshore wind energy activities, including construction, assembly, and operations and maintenance, pursuant to Section 25991.3 of AB 525, as well as delegation of authority to the Executive Officer or her designee to enter into an interagency agreement with the CEC to allow transfer of funds to the Commission in furtherance of such an assessment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6106, 6216, 6301, 6890, 6895, 6897, 6898, and 6899; Government Code sections 4526 and 19130; Public Contract Code sections 6106, 10335, and 10340(b)(3)(A); State Contracting Manual, vol. 1, chs. 3 & 11; California Code of Regulations, title 2, sections 2000, 2003, and 2980 et seq., and title 14, section 15045.

STATE'S BEST INTERESTS ANALYSIS:

The climate crisis and its effects on the ocean, land, and people are among the most urgent issues of our time. A just transition from fossil fuel energy to renewable energy sources is becoming more and more realistic as technologies advance, and development of new renewable energy sources, including offshore wind, will be necessary to achieve the State's 2045 carbon neutrality target. As an emerging market, however, the floating offshore wind industry faces numerous challenges ranging from technical and performance questions, to siting of offshore wind installations, supply chain development, and environmental impact concerns.

Through AB 525, the California Legislature declared that "offshore wind energy can provide economic and environmental benefits to the state and the nation," and that "[o]ffshore wind energy can advance California's progress toward its statutory renewable energy and climate mandates." Further, the Legislature recognized that offshore wind "should be developed in a manner that protects coastal and marine ecosystems" and that "[t]he State of California should use its authority under state programs and policies to ensure (1) avoidance, minimization, and mitigation of significant adverse impacts, and (2) monitoring and adaptive management for offshore wind projects and their associated infrastructure." The development of an offshore wind strategic plan, in accordance with AB 525, provides California with the opportunity to carefully consider use of sea space, economics, transmission, permitting, and environmental impacts to advance responsible development of offshore wind.

The Commission is the most appropriate party to lead the assessment of port space and infrastructure, based on the Commission's Public Trust responsibilities, robust relationships with port managers, and experience with port facilities and operations. Consultant selection will be conducted pursuant to the requirements of the California Public Contract Code and current State policies and procedures, including those specified in the Commission's regulations and the State Contracting Manual, and will be based on demonstrated competence and professional

qualifications necessary for the satisfactory performances of the services required. Additionally, ensuring that the process is fair and open to a wide applicant pool (including small business and veterans) and that successful applicants have the best qualifications to do the work is in the best interests of the State. Similarly, executing an interagency agreement would lay out a framework for coordination with the CEC and provide an additional funding mechanism for the Commission to carry out the assessment.

CONCLUSION:

For the reasons above, staff believes the proposed delegation of authority for the Executive Officer to (1) solicit Statements of Interest for consultant services and (2) enter into an interagency agreement with the CEC are in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Authorization to solicit proposals and to enter into an interagency agreement are not projects as defined by the California Environmental Quality Act because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

2. Approval of the recommended actions by the Commission does not constitute approval of or a commitment to approve offshore wind lease applications; it authorizes an interagency agreement and authorizes a consultant contract for engineering and environmental services to identify and assess port space and infrastructure to support the development of a strategic plan for offshore wind energy development in federal waters off the California coast.
3. This action is consistent with the "Leading Climate Activism," "Meeting Evolving Public Trust Needs," and "Committing to Collaborative Leadership" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.

RECOMMENDED ACTION:

It is recommended that the Commission:

1. Find that the tasks within the project scope are highly specialized and intermittent in nature and hiring such industry-specific specialties would not be cost effective, are not available in civil classifications, are of limited duration

and are of such urgent, temporary, and occasional nature that the delay in their implementation under civil service would frustrate their purpose as specified in Government Code section 19130, subdivisions (b)(3) and (10).

2. Find that the selection of consultants under this process does not affect small businesses as defined in California Government Code section 14837, subdivision (d)(1)(B) because they will be accorded equal opportunity to submit statements of qualifications and performance data.
3. Find that the selection of consultants under this process for professional services of architectural, landscape architectural, engineering, environmental, land surveying or construction project management services will be consistent with procedures and policies adopted by the Commission as specified in Government Code section 4526 and California Code of Regulations, title 2, sections 2980 et seq.
4. Find that the execution of an interagency agreement would benefit the Commission by specifying a framework for coordination with the CEC, which is the lead state agency named in AB 525, and provide a mechanism for transfer of funds in furtherance of the required ports assessment.

AUTHORIZATION:

1. Authorize the Executive Officer or her designee to solicit Statements of Interest for consultant services, negotiate fair and reasonable prices, award and execute agreements, and take any other steps reasonably necessary to prepare an assessment of California seaports' capacity to support offshore wind energy activities, including construction, assembly, and operations and maintenance, pursuant to Section 25991.3 of AB 525 (Chapter 231, Statutes of 2021) and in consultation with the CEC.
2. Authorize a delegation of authority to the Executive Officer or her designee to negotiate and execute an interagency agreement between the CEC and the California State Lands Commission to allow transfer of funds from the CEC to the Commission in furtherance of such an assessment.