

Senator O'Leary's Oceans Bill "Morphs" and Moves

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Despite Lobbying Efforts, Alliance Remains Opposed

by **Dick Farley** -- Cape Cod Today Washington Correspondent

BOSTON -- After hanging for almost six months in the Massachusetts Senate Ways and Means Committee, pending state ocean management legislation has moved to the Senate Ethics and Rules Committee.

The proposed Massachusetts Ocean Act has been amended with new language changing the makeup of an ocean management advisory board and expanding requirements for advance public notification before an eventual ocean management plan and any future amendments can be adopted.

Bill designation changed

Designation of the bill has changed to S. 2575 from S. 2308, the number assigned to it on December 12, 2005, when it was reported out of the Joint Committee on Environment, Natural Resources and Agriculture.

The latest version, S. 2575, is at <http://www.mass.gov/legis/bills/senate/st02/st02575.htm> [1] and the text of the previous version, S. 2308, can be found at

<http://www.mass.gov/legis/bills/senate/st02/st02308.htm> [2]

The new version emerged from Ways and Means on Wednesday, June 7, and its latest wording appeared on the legislature's web site Monday, June 12. The legislation began as S. 529, sponsored by Governor Mitt Romney and Senator Robert O'Leary (Cape and Islands) to incorporate recommendations of the Massachusetts Ocean Management Task Force appointed by the governor, which finished its work in early 2004.

Arising from the task force's mandate to create a new framework for handling emergent and competing uses of the state's coastal resources and offshore waters, S. 2575 is being closely watched by advocates and opponents of the proposed Cape Wind offshore wind power generation project and several recent additional proposals for offshore wind farms and various other possible ocean-based power generation projects.

The Cape Wind project is proposed to be sited in Nantucket Sound, several miles from the coastline, in federal waters. A process to establish guidelines for offshore renewable energy projects is currently

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underway by federal agencies charged with assessing Cape Wind's and other projects' compliance with existing siting regulations and with new offshore siting provisions. These are being developed by the Minerals Management Service of the U. S. Department of the Interior, in consultation with the U. S. Coast Guard, U. S. Army Corps of Engineers and other federal agencies, as mandated by the Energy Policy Act of 2005.

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The Alliance to Protect Nantucket Sound still is not satisfied with the Massachusetts ocean management bill and continues to oppose it as amended, according to that organization's president and CEO, Charles Vinick. The Alliance is a nonprofit organization founded and funded primarily by well-heeled Cape Cod residents and property owners opposed to the Cape Wind offshore wind energy project, but now says it is expanding its focus to include preservation of Nantucket Sound resources and ecosystems.

Cape Wind accuses Alliance of lobbying to stop bill

Cape Wind's developer on Tuesday accused the Alliance of hiring a lobbyist to stop the ocean management bill, if true apparently to no avail in the opinion of Cape Wind. Of the latest wording in S. 2575, Mark Rodgers, the wind energy project's spokesman said, "It does not appear that the recent changes to the bill will affect the Cape Wind project."

Rodgers, communications director for Cape Wind, decried the Alliance's tactics he alleges, asserting that the Alliance is pushing O'Leary and other legislators to stall and eventually to defeat the legislation.

"Our sources inside the State House have confirmed to us that the Alliance has been lobbying to kill Senator O'Leary's oceans bill, a bill the Alliance originally praised," Rodgers told Cape Cod Today. "Once Senator O'Leary's bill was made 'Cape Wind' neutral, the Alliance turned against it."

Rodgers said Cape Wind "agrees with the Massachusetts Ocean Management Task Force's finding that offshore clean energy projects contribute to responsible ocean stewardship by reducing threats of greenhouse gas emissions and airborne deposition of nitrogen and mercury that threaten our oceans and waterways like Nantucket Sound."

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Of the Alliance's continuing opposition and lobbying against the bill, Rodgers said, "This reveals, yet again, that the Alliance is a single-purpose organization that is concerned only with preventing wind turbines from ever being located in Nantucket Sound, period."

Charles Vinick, president and CEO of the Alliance, disagreed. While he acknowledged to Cape Cod Today that his organization has hired a Boston lobbying firm, Brian Hickey Associates, to represent the Alliance's interests

before the legislature, Vinick said his group is attempting to improve the pending ocean management legislation, not to kill it outright.

"They've been on our payroll for four or five months," Vinick said of Hickey, "representing us on state issues, particularly with respect to the Massachusetts Ocean Bill." He said that Hickey's work and the Alliance's evolving position on S. 2575, as amended, have been taking place privately, which is why nothing about it has yet been published on the organization's web site or covered in Alliance media releases and public statements.

The Alliance president declined to disclose how much the organization is paying Hickey and referred a reporter to "our Form 990," which serves as a nonprofit organization's tax return to the Internal Revenue Service. Tax exempt organizations must disclose payments made to lobbyists and other expenditures as part of their routine financial reporting requirements to the IRS.

No response from O'Leary

Vinick said Hickey's firm was not hired to lobby O'Leary directly. O'Leary did not respond to repeated telephone calls and an ***email inquiry*** [3] to his State House office, and his press aide said she was unable to make the senator available to Cape Cod Today for an interview.

"Rob O'Leary is someone we're very close to," the Alliance's Charles Vinick said. "He's someone we know well and have access to, and we've really been working directly with Rob on the oceans bill."

Vinick said his organization will continue to work with O'Leary and other legislators and hopes to shape an eventual bill to the Alliance's satisfaction. He said he saw the amended language "sometime in the middle of last week," but that his organization is not yet satisfied with the bill.

"We're still looking at all the wording and meeting with legislators," Vinick said of S. 2575. "But as it stands today, it still has a number of limitations."

Vinick said the Alliance's opposition to the bill centers on what he termed its "absence of specificity" in how key management decision will be made and on what basis, and on the community involvement processes mandated in the legislation.

As the bill currently stands, Vinick said, "It does not go far enough in providing specificity and requires us to trade known protections we now have under the Massachusetts Ocean Sanctuaries Act for protections yet to be determined in the state ocean management plan."

Vinick said particularly troubling to the Alliance are the absence of definitions of what constitutes a "small scale" offshore energy project and of how the management plan eventually will define "emergency and temporary" energy facilities, both of which the legislation creating the ocean management planning process would allow to be placed in state ocean sanctuaries under conditions which Vinick says are not as yet specified.

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Despite new wording on the makeup of a mandated ocean management advisory board, increasing the number of mayors or municipal elected officials from one to three, Vinick says the plan development process as set forth in the current bill is still "too top down."

How S.2575 differs from S.2308

"I'd like to see a planning process that emanates from the community," Vinick said. "I'd like to see the communities that are going to be affected be much more integral to the planning process." As written, the legislation puts responsibility for developing and implementing the ocean management plan on the Secretary of Environmental Affairs, in consultation with an advisory board and a separate advisory committee of ocean and fisheries scientists.

S. 2575 as amended also deletes a requirement for the eventual advisory board to have a representative of an academic institution, while adding to the board's makeup two directors of regional planning agencies. The revised bill also deletes a requirement that the ocean management advisory board have "one citizen of Massachusetts" appointed.

As rewritten by Senate Ways and Means, S. 2575 specifies that appointments to the ocean management advisory board will be made by the governor. In its previous incarnation as S. 2308, appointments to the advisory board were to have been made by the Secretary of Environmental Affairs.

The amended legislation still gives the environmental affairs secretary authority to appoint his nine-member scientific advisory committee, the makeup of which is unchanged in the latest version of the bill.

The revised ocean management bill also requires a more extensive public notification process before the management plan can either be approved or subsequently amended.

While S. 2308 required placement of public notices of proposed plan approval and future changes to the eventual plan only in the Environmental Monitor, the amended language in S. 2575 specifies placement of prior notice in "at least one newspaper of general circulation in each of the five regions defined in the Massachusetts coastal zone management plan," in addition to the Environmental Monitor.

The bill designates the coastal regions to be notified via local newspapers as: North Shore, South Shore, South Coast, metropolitan Boston and Cape Cod and the Islands.



Dick Farley is an award winning investigative reporter and former Cousteau Society policy staffer who has joined Cape Cod Today's editorial team as its Washington correspondent. He lives in suburban Washington D.C. and writes a blog, ***Washington Window*** [4], on Cape Cod Today. You can read more about him ***here*** [5].