

**HOUSE . . . . . No. 2862**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Thomas A. Golden, Jr.***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing reliability of renewable resources in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>William J. Driscoll, Jr.</i>	<i>7th Norfolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>

*Joan Meschino*  
*James K. Hawkins*

*3rd Plymouth*  
*2nd Bristol*

**HOUSE . . . . . No. 2862**

By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 2862) of Thomas A. Golden, Jr., and others relative to enhancing reliability of renewable resources in the Commonwealth. Telecommunications, Utilities and Energy.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-First General Court  
(2019-2020)**

An Act relative to enhancing reliability of renewable resources in the Commonwealth.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 83B of chapter 169 of the acts of 2008, as inserted by chapter 188  
2 of the acts of 2016, is hereby amended by inserting after the definition of “Distribution  
3 company” the following definition:-

4 “Existing energy storage peak renewable power”, the on-peak generation from an energy  
5 storage system, as defined in section 1 of chapter 164, that commenced commercial operations or  
6 provided incremental new capacity at an existing storage system before January 1, 2019;  
7 provided, however, that such energy storage system generation is at least 50 megawatts of  
8 nameplate capacity and is moving renewable energy as defined in said section 1 of chapter 164  
9 from periods of low electric demand to periods of higher electric demand. While the energy  
10 storage system must be located in Massachusetts, the renewable energy generation used for  
11 charging may be located anywhere within New England, an adjacent RTO, or federal waters  
12 adjacent to New England.

13 SECTION 2. Said section 83B is hereby further amended by inserting after the definition  
14 of “New Class I renewable portfolio standard eligible resources” the following definition:-

15 “New energy storage peak renewable power”, the on-peak generation from an energy  
16 storage system, as defined in section 1 of chapter 164, that commenced commercial operations or  
17 provided incremental new capacity at an existing storage system on or after January 1, 2019;  
18 provided, however, that such energy storage system generation is moving renewable energy as  
19 defined in said section 1 of chapter 164 from periods of low electric demand to periods of higher  
20 electric demand. While the energy storage system must be located in Massachusetts, the  
21 renewable energy generation used for charging may be located anywhere within New England,  
22 an adjacent RTO, or federal waters adjacent to New England.

23 SECTION 3. Chapter 169 of the acts of 2008 is hereby amended by inserting after section  
24 83D, inserted by chapter 188 of the acts of 2016, the following section:-

25 Section 83E. (a) In order to support the integration of renewable energy resources in and  
26 enhance the fuel security of the commonwealth by moving the renewable energy to periods of  
27 highest electric demand, not later than December 30, 2019, every distribution company shall  
28 jointly and competitively solicit proposals for energy storage resources in conjunction with other  
29 solicitations performed under chapter 169 of the acts of 2008; and, provided, that reasonable  
30 proposals have been received, shall enter into cost-effective long-term contracts. Long-term  
31 contracts executed pursuant to this section shall be subject to the approval of the department of  
32 public utilities and shall be apportioned among the distribution companies.

33 (b) The timetable and method for solicitations of long-term contracts shall be proposed  
34 jointly by the distribution companies and the department of energy resources using a competitive

35 bidding process, and shall be subject to review and approval by the department of public utilities.  
36 The distribution companies, in coordination with the department of energy resources, shall  
37 consult with the attorney general regarding the choice of solicitation methods. The distribution  
38 companies shall enter into cost-effective long term contracts for peak renewable power from  
39 energy storage resources equal to approximately 4,745 gigawatt hours of aggregate nameplate  
40 capacity; and provided, further, that 2,372.5 gigawatt hours shall be provided by existing energy  
41 storage peak renewable power; and provided, further that 2,372.5 gigawatt hours shall be  
42 provided by new energy storage peak renewable power. Proposals received pursuant to a  
43 solicitation under this section shall be subject to review by the department of energy resources.  
44 If the department of energy resources, in consultation with the distribution companies and the  
45 independent evaluator, determines that reasonable proposals were not received pursuant to a  
46 solicitation, the department may terminate the solicitation, and may require additional  
47 solicitations to fulfill the requirements of this section.

48 (c) If a distribution company deems all proposals to be unreasonable, the distribution  
49 company shall, within 20 days of the date of its decision, submit a filing to the department of  
50 public utilities. The filing shall include, in the form and detail prescribed by the department of  
51 public utilities, documentation supporting the distribution company's decision to decline the  
52 proposals. Following a distribution company's filing, and within 4 months of the date of filing,  
53 the department of public utilities shall approve or reject the distribution company's decision and  
54 may order the distribution company to reconsider any proposal. If distribution companies are  
55 unable to agree on a winning bid following a solicitation under this section, the matter shall be  
56 submitted to the department of energy resources which shall, in consultation with the  
57 independent evaluator, issue a final, binding determination of the winning bid; provided, that the

58 final contract executed shall be subject to review by the department of public utilities. The  
59 department of energy resources may require additional solicitations to fulfill the requirements of  
60 this section.

61 (d) There shall be a selection committee that evaluates bid submissions and selects the  
62 winning bid. The committee shall consist of the following members: the secretary of energy and  
63 environmental affairs, who shall be the chair; the attorney general; the secretary of housing and  
64 economic development; and the house and senate chairs of the joint committee on  
65 telecommunications, utilities and energy.

66 (e) The department of public utilities shall promulgate regulations consistent with this  
67 section.

68 (f) A proposed long-term contract shall be subject to the review and approval of the  
69 department of public utilities. As part of its approval process, the department of public utilities  
70 shall consider recommendations by the attorney general, which shall be submitted to the  
71 department of public utilities within 45 days following the filing of a proposed long-term  
72 contract with the department of public utilities. The department of public utilities shall consider  
73 the potential costs and benefits of the proposed long-term contract and shall approve a proposed  
74 long-term contract if the department finds that the proposed contract is a cost-effective  
75 mechanism to move renewable energy from periods of low electric demand to periods of higher  
76 electric demand on a long-term basis, taking into account the factors outlined in this section. A  
77 distribution company shall be entitled to cost recovery of payments made under a long-term  
78 contract approved under this section.

79 (g) The department of energy resources and the attorney general shall jointly select, and  
80 the department of energy resources shall contract with, an independent evaluator to monitor and  
81 report on the solicitation and bid selection process in order to assist the department of energy  
82 resources in determining whether a proposal received pursuant to subsection (b) is reasonable  
83 and to assist the department of public utilities in its consideration of long-term contracts filed for  
84 approval. To ensure an open, fair and transparent solicitation and bid selection process that is not  
85 unduly influenced by an affiliated company, the independent evaluator shall: (1) issue a report to  
86 the department of public utilities analyzing the method of solicitation and the solicitation process  
87 implemented by the distribution companies and the department of energy resources under  
88 subsection (b) and include recommendations, if any, for improving the process; and (2) upon the  
89 opening of an investigation by the department of public utilities into a proposed long-term  
90 contract for a winning bid proposal, file a report with the department of public utilities that  
91 summarizes and analyzes the solicitation and the bid selection process, and provide the  
92 independent evaluator's assessment of whether all bids were evaluated in a fair and objective  
93 manner. The independent evaluator shall have access to the information and data related to the  
94 competitive solicitation and bid selection process that is necessary to fulfill the purposes of this  
95 subsection; provided, however, that the independent evaluator shall ensure that all proprietary  
96 information remains confidential. The department of public utilities shall consider the findings of  
97 the independent evaluator and may adopt recommendations made by the independent evaluator  
98 as a condition for approval. If the independent evaluator concludes in the findings that the  
99 solicitation and bid selection of a long-term contract was not fair and objective and that the  
100 process was substantially prejudiced as a result, the department of public utilities shall reject the  
101 winning bid proposal.

102           (h) The distribution companies shall each enter into a contract with the winning  
103 bidders for their apportioned share of the market products being purchased from the project. The  
104 apportioned share shall be calculated and based upon the total energy demand from all  
105 distribution customers in each service territory of the distribution companies.

106           (i) The department of energy resources and the department of public utilities may  
107 jointly develop requirements for a bond or other security to ensure performance with the  
108 requirements of this section.

109           (j) The department of energy resources may promulgate regulations necessary to  
110 implement this section.

111           (k) If this section is subjected to a legal challenge, the department of public utilities may  
112 suspend the applicability of the challenged provision during the pendency of the action until a  
113 final resolution, including any appeals, is obtained and shall issue an order and take other actions  
114 as are necessary to ensure that the provisions not subject to the challenge are implemented  
115 expeditiously to achieve the public purposes of this section.