

**HOUSE . . . . . No. 3302**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Dylan A. Fernandes***

*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 to promote offshore wind energy and renewables.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>2/19/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/26/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/22/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>3/2/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>3/2/2021</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>3/2/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/4/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/17/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>4/8/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>4/27/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>5/13/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>5/13/2021</i>
<i>Kip A. Diggs</i>	<i>2nd Barnstable</i>	<i>5/13/2021</i>
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>5/14/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>5/19/2021</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>5/25/2021</i>

<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>5/28/2021</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>7/20/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>7/22/2021</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>7/22/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>7/22/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>7/22/2021</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>7/22/2021</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>7/23/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>7/23/2021</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>7/26/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>8/26/2021</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>11/5/2021</i>

**HOUSE . . . . . No. 3302**

By Mr. Fernandes of Falmouth, a petition (accompanied by bill, House, No. 3302) of Dylan A. Fernandes and others relative to the offshore wind industry, workforce development, fisheries and environmental protection. Telecommunications, Utilities and Energy.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act to promote offshore wind energy and renewables.

*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. Notwithstanding any general or special law to the contrary, the department of  
2 energy resources shall use the department of energy and environmental affair’s roadmap study or  
3 investigate the necessity, benefits, and costs of requiring distribution companies, as defined in  
4 section 1 of chapter 164 of the General Laws, to jointly and competitively conduct additional  
5 offshore wind generation solicitations and procurements of at least 2,800 megawatts of aggregate  
6 nameplate capacity, in addition to the solicitations and procurements required by section 83C of  
7 chapter 169 of the Acts of 2008, inserted by chapter 188 of the Acts of 2016, and section 21 of  
8 chapter 227 of the Acts 2018, provided any additional solicitations conducted pursuant to this  
9 section shall be subject to the required solicitation and procurement process of said section 83C  
10 of chapter 169 of the Acts of 2008, as amended by said chapter 188 of the Acts of 2016, and  
11 section 21 of chapter 227 of the Acts of 2018.

12 Section 2. Said subsection b in section 83C is hereby further amended by striking out the  
13 following:-

14 “; provided, however, that the department of public utilities shall not approve a long-term  
15 contract that results from a subsequent solicitation and procurement period if the levelized price  
16 per megawatt hour, plus associated transmission costs, is greater than or equal to the levelized  
17 price per megawatt hour plus transmission costs that resulted from the previous procurement”

18 Section 3. Said subsection b in section 83C is hereby further amended by striking out the  
19 following:-

20 “(3) provide for an annual remuneration for the contracting distribution company up to  
21 2.75 per cent of the annual payments under the contract to compensate the company for  
22 accepting the financial obligation of the long-term contract, such provision to be acted upon by  
23 the department of public utilities at the time of contract approval;”

24 Section 4. In responding to any solicitations issued pursuant to this section, proposals for  
25 long-term contracts shall include an environmental and fisheries mitigation plan for the  
26 construction and operation of such offshore wind facilities, provided such plan shall include, but  
27 not be limited to, an explicit description of the best management practices and any on- or off-site  
28 mitigation the Applicant will employ, informed by the latest science at the time the proposal is  
29 made, that will avoid, minimize and mitigate any impacts to: wildlife, including but not limited  
30 to threatened or endangered species such as North Atlantic right whales; coastal and marine  
31 habitats; natural resources; ecosystems; and traditional or existing water-dependent uses,  
32 including, but not limited to, commercial and recreational fishing. The plan should also include

33 pre- and post-construction monitoring to understand the effects of facilities on marine and avian  
34 species.

35 The department of energy resources shall establish an environmental working group and  
36 a fisheries working group comprised of key experts and stakeholders to provide input on best  
37 practices for avoiding, minimizing and mitigating any impacts to: wildlife, including but not  
38 limited to threatened or endangered species such as North Atlantic right whales; coastal and  
39 marine habitats; natural resources; ecosystems; and traditional or existing water-dependent uses,  
40 including, but not limited to, commercial and recreational fishing, during the construction and  
41 operation of facilities eligible pursuant to this section. The working groups shall conduct ongoing  
42 review of implemented monitoring and mitigation programs and provide feedback and  
43 recommendations on an as-needed basis, to be considered by the department. Pre-construction  
44 engagement of these working groups will correspond with project development, solicitation, and  
45 permitting, and the federal consistency process.

46 Proposals must include a commitment to, if selected and approved, provide financial and  
47 technical assistance to support robust monitoring of wildlife and habitat through a minimum  
48 \$10,000 per megawatt contribution to regional research on the impacts of offshore wind on  
49 wildlife and habitat to inform strategies to avoid and mitigate any impacts to the marine  
50 environment. The department of energy resources, in consultation with the environmental and  
51 fisheries working groups, shall determine how the funds will be used to advance the responsible  
52 development of the offshore wind energy industry, not necessarily the proposed project.

53 Section 5. Notwithstanding any general or special law to the contrary, the department of  
54 energy resources shall require offshore wind bids to allocate at least 1 per cent of the cost of the

55 project to a fund in support of Massachusetts-based offshore wind power research and workforce  
56 development provided further, that this fund shall be administered by the Massachusetts Clean  
57 Energy Center, provided further, that a portion of this fund shall be used to cover reasonable  
58 administrative costs of MassCEC.

59 Section 6. (a) Any offshore wind generation solicitations or procurements required under  
60 Section 1 shall be performed and procured under sections 26 through 27F of chapter 149  
61 inclusive and section 39M of chapter 30, and shall include the following certification and  
62 disclosure requirements:

63 (1) A requirement for documentation reflecting the applicant's demonstrated commitment  
64 to workforce development within the commonwealth;

65 (2) A requirement that the applicant will provide a statement of intent concerning efforts  
66 that it and its contractors and subcontractors will take to promote workforce development on the  
67 project if successful;

68 (3) A requirement for documentation reflecting the applicant's demonstrated commitment  
69 to economic development within the commonwealth;

70 (4) A requirement that the applicant provide a statement of intent concerning efforts that  
71 it and its contractors and subcontractors on this project will take to promote economic  
72 development on the project if successful;

73 (5) A requirement for documentation reflecting the applicant's demonstrated commitment  
74 to expand workforce diversity, equity, and inclusion in its past projects within the  
75 commonwealth;

76 (6) A requirement that the applicant disclose whether it and each of its contractors and  
77 subcontractors on this project, have previously contracted with a labor organization, as defined  
78 by Massachusetts General Laws, c. 150A and/or the National Labor Relations Act, Section 2, in  
79 the commonwealth or elsewhere;

80 (7) A requirement that the applicant specify whether it and each of its contractors and  
81 sub-contractors on this project participates in a state or Federally certified apprenticeship  
82 program and the number of apprentices the apprenticeship program has trained to completion for  
83 each of the last five (5) years;

84 (8) A requirement that the applicant provide a statement of intent concerning the extent to  
85 which the Applicant, its contractors and sub-contractors on this project, intend to utilize  
86 apprentices on the project if successful;

87 (9) Certification that the applicant and its contractors and sub-contractors on this project,  
88 have complied with Massachusetts General Laws Chapters 149, 151, 151A, 151B, and 152  
89 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws for the last three (3)  
90 calendar years;

91 (10) Certification that the applicant and its contractors and sub-contractors on this project  
92 are currently, and will remain, in compliance with Massachusetts General Laws Chapters 149,  
93 151, 151A, 151B, and 152 and/or 29 U.S.C. § 201, et seq. and Federal anti-discrimination laws  
94 for the duration of the project;

95 (11) To the extent the applicant, or one of its contractors or subcontractors on the project  
96 cannot meet the certification requirements provided for in Paragraphs 10 and 11, the applicant  
97 must submit proof of a wage bond or other comparable form of insurance in an amount equal to

98 the aggregate of one year's gross wages for all workers projected to be employed by the  
99 applicant, contractor, or sub-contractor for which certification is unavailable, to be maintained  
100 for the life of the project;

101 (12) Whether the applicant has included detailed plans for assuring labor harmony during  
102 all phases of the construction, reconstruction, renovation, development and operation of the  
103 project.

104 (b) Every solicitation or procurement issued by the commonwealth under Section 1 shall  
105 notify applicants that they will be disqualified from this project if they have been debarred by the  
106 federal government or commonwealth for the entire term of the debarment.

107 (c) All applicants shall provide the above documentation and certifications as part of their  
108 initial application. Failure to provide the same shall disqualify the applicant from receiving  
109 funding for the project on which funding has been requested.

110 (d) A successful applicant's failure to provide complete, accurate certifications and  
111 documentation under Subsection (a) of this Section shall result in suspension from the project for  
112 a period of 30 days, to provide an opportunity for the applicant to address application  
113 deficiencies to the satisfaction of the commonwealth. Failure to cure deficiencies, thereafter,  
114 shall result in termination. A successful applicant's willful failure to provide accurate  
115 certifications and documentation shall result in permanent termination from the project and the  
116 return of all funds awarded therefore within 30 days.

117 (e) For the term of the project, the applicant, its contractors, and subcontractors shall  
118 furnish their monthly certified payrolls in an electronic format for all employees on the project,  
119 as defined by c. 149 s. 148B.

120 (f) The Attorney General shall enforce the provisions contained herein and may enact  
121 regulations consistent therewith.

122 Section 7. Subsection D in said section 83C is hereby further amended by inserting after  
123 the words “without adding cost to the project” the following words:-

124 “Where feasible, the department of energy resources shall give preference to proposals  
125 submitted by offshore wind companies that include commitments to enter into long-term  
126 contracts with businesses, nonprofit organizations, municipalities, or other government entities  
127 directly to purchase offshore wind energy, in addition to the long-term contracts entered into by  
128 distribution companies under this section.”

129 Section 8. Section 21 of chapter 227 of the Acts of 2018 shall be amended by adding the  
130 following subsections at the end thereof:-

131 (c) In evaluating a proposal received in response to a solicitation for offshore wind  
132 generation or transmission resources pursuant to this Act or section 83C of chapter 188 of the  
133 Acts of 2018, or any subsequent legislation providing for the procurement of offshore wind  
134 generation or transmission resources, the Department of Public Utilities shall consider, in  
135 addition to any other criteria described in said sections, whether the proposal identifies, and the  
136 respondent and its subcontractors are likely to meet, specific goals, expressed as an overall  
137 program goal applicable to the total dollar amount of contracts, for:

138 (i) the utilization of minority business enterprises, as that term is defined in section 7  
139 chapter 58 as: (a) contractors in the design of the offshore wind energy generation and  
140 transmission resources; (b) contractors in the construction of the offshore wind energy generation

141 and transmission resources; and (c) vendors in the provision of goods and services procured by  
142 the offshore wind developer.

143 (ii) the hiring of members of socially or economically disadvantaged communities as  
144 employees in the design, construction, and production of offshore wind generation and  
145 transmission resources.

146 (d) Each proposal submitted in response to a solicitation as described in section 21 of  
147 chapter 227 of the Acts of 2018 shall include evidence that the developer has made serious good  
148 faith effort to solicit and interview a reasonable number of minority investors, including a  
149 statement that lists the names and addresses of all minority investors interviewed and whether or  
150 not any of those investors have purchased an equity share in the entity submitting an application.

151 (e) Each proposal submitted in response to a solicitation as described in section 1 of this  
152 Act shall include evidence that the developer has made serious good faith effort to solicit and  
153 interview a reasonable number of minority investors, including a statement that lists the names  
154 and addresses of all minority investors interviewed and whether or not any of those investors  
155 have purchased an equity share in the entity submitting an application.

156 (f) The department of energy resources shall consult with the supplier diversity office in  
157 drafting those sections of a solicitation that advance the purpose of this Act.

158 (i) The supplier diversity office may participate in the department of public utilities  
159 hearing processes related to the procurement of offshore wind generation and transmission  
160 resources.

161 (ii) The supplier diversity office shall prepare guidance to developers regarding best  
162 practices to advance the purposes of this Act.

163 (iii) The department of energy resources and the supplier diversity office shall consult  
164 with the Massachusetts Clean Energy Center and the Massachusetts Environmental Justice  
165 Advisory Committee in drafting those sections of a solicitation or regulations that advance the  
166 purpose of this Act.

167 (g) The department of energy resources shall promulgate regulations to implement the  
168 purposes of this Act within 120 days of its passage, including, without limitation, procedures for  
169 monitoring, measuring, and enforcing ongoing compliance with goals set by respondents in  
170 accordance with this Act. Such regulations shall, without limitation:

171 (i) require respondents to solicitations covered by this Act to make quarterly reports to  
172 the department of energy resources and the department of public utilities describing the number  
173 of contracts, total dollar amounts contracted with and actually paid to minority business  
174 enterprises, women business enterprises and veteran business enterprises for design and  
175 construction of the proposed offshore wind generation or transmission resources, and the total  
176 number and value of all subcontracts awarded to a minority, women and veteran owned business,  
177 and a comparison of these reports with the goals established by the respondent in accordance  
178 with section 1 of this Act;

179 (ii) describe a process by which the department of energy resources will publicly review  
180 and post such reports, and require respondents to submit information to the department of energy  
181 resources regarding any failure to meet the goals set by the respondent, identify any good faith

182 efforts that have been undertaken to achieve those goals and provide a plan to bring the dollar  
183 amount contracted and spent into compliance with the goals.