HOUSE DOCKET, NO. 3292 FILED ON: 2/19/2021

HOUSE . . . . . No. 3314

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:	DATE ADDED:
Thomas A. Golden, Jr.	*16th Middlesex*	*2/19/2021*
Bradley H. Jones, Jr.	*20th Middlesex*	*3/10/2021*
Steven S. Howitt	*4th Bristol*	*4/6/2021*

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By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 3314) of Thomas A. Golden, Jr., Bradley H. Jones, Jr., and Steven S. Howitt relative to the reliability of renewable resources in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

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

Whereas, The deferred operation of this act would tend to defeat its purposes, which are to achieve the 2050 statewide emissions limit of net zero greenhouse gas emissions; support the Commonwealth's continued procurement of large-scale domestic renewable energy resources including offshore wind, and future authorized additional procurements to commence in the coming years; meet the Commonwealth's greenhouse gas reduction requirements through large-scale and long-duration energy storage resources to balance the variability of renewable generation and fill in energy gaps; address the barriers faced by pumped storage and other long-duration energy storage resources to full utilization; and fully utilize all domestic energy storage resources available to the Commonwealth to reach the net zero greenhouse gas emissions limit, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and health.

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

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

"Existing energy storage peak renewable power", the generation moved to higher demand on-peak periods by an energy storage system, as defined in section 1 of chapter 164, that

commenced commercial operations or provided incremental new capability at an existing storage system before January 1, 2023; provided, however, that such energy storage system is at least 50 megawatts of nameplate capacity and its transportation of energy or stored potential energy from periods of lower demand to periods of higher demand is coordinated with the renewable generation produced in lower demand periods under other solicitations performed under chapter 169 of the acts of 2008. While the energy storage system must be located in Massachusetts, the renewable energy generation moved from lower demand periods to higher demand periods may be from resources located anywhere within New England, an adjacent electric system, or federal waters adjacent to New England.

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

"New energy storage peak renewable power", the generation moved from lower demand periods to higher demand periods by an energy storage system, as defined in section 1 of chapter 164, that commenced commercial operations or provided incremental new capability at an existing storage system on or after January 1, 2020; provided, however, that such transportation of energy or stored potential energy by the energy storage system from periods of lower demand to periods of higher demand is coordinated with the renewable generation produced in lower demand periods under other solicitations performed under chapter 169 of the acts of 2008.While the energy storage system must be located in Massachusetts, the renewable energy generation moved from lower demand periods to higher demand periods may be from resources located anywhere within New England, an adjacent electric system, or federal waters adjacent to New England.

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

Section 83G. (a) In order to support the integration of renewable energy resources in and enhance the fuel security of the commonwealth by moving renewable energy to periods of highest electric demand, not later than December 30, 2021, every distribution company shall jointly and competitively solicit proposals for both existing energy storage peak renewable power and new energy storage peak renewable power to transport energy from periods of lower demand to periods of higher demand in coordination with other solicitations performed under chapter 169 of the acts of 2008, and, provided, that reasonable proposals have been received, shall enter into cost-effective 10-20 year contracts. Such 10-20 year contracts executed pursuant to this section shall be subject to the approval of the department of public utilities and shall be apportioned among the distribution companies.

(b) The timetable and method for solicitations of 10-20 year contracts shall be proposed jointly by the distribution companies and the department of energy resources using a competitive bidding process, and shall be subject to review and approval by the department of public utilities. The distribution companies, in coordination with the department of energy resources, shall consult with the attorney general regarding the choice of solicitation methods. The distribution companies shall enter into cost-effective 10-20 year contracts for peak renewable power from energy storage resources up to 4,800 gigawatt hours of renewable generation delivered to periods of high demand each year. Proposals received pursuant to a solicitation under this section shall be subject to review by the department of energy resources. If the department of energy resources, in consultation with the distribution companies and the independent evaluator, determines that reasonable proposals were not received pursuant to a solicitation, the department

may terminate the solicitation, and may require additional solicitations to fulfill the requirements of this section.

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

(d) There shall be a selection committee that evaluates bid submissions and selects the winning bid. The committee shall consist of the following members: the secretary of energy and environmental affairs, who shall be the chair; the attorney general; the secretary of housing and economic development; one person appointed by the speaker of the house of representatives; and one person appointed by the president of the senate.

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

(f) A proposed 10-20 year contract shall be subject to the review and approval of the department of public utilities. As part of its approval process, the department of public utilities shall consider recommendations by the attorney general, which shall be submitted to the department of public utilities within 45 days following the filing of a proposed 10-20 year contract with the department of public utilities. The department of public utilities shall consider the potential costs and benefits of the proposed 10-20 year contract and shall approve a proposed 10-20 year contract if the department finds that the proposed contract is a cost-effective mechanism to move renewable energy from periods of low electric demand to periods of higher electric demand on a long-term basis, taking into account the factors outlined in this section. A distribution company shall be entitled to cost recovery of payments made under a 10-20 year contract approved under this section.

(g) The department of energy resources and the attorney general shall jointly select, and the department of energy resources shall contract with, an independent evaluator to monitor and report on the solicitation and bid selection process in order to assist the department of energy resources in determining whether a proposal received pursuant to subsection (b) is reasonable and to assist the department of public utilities in its consideration of 10-20 year contracts filed for approval. To ensure an open, fair and transparent solicitation and bid selection process that is not unduly influenced by an affiliated company, the independent evaluator shall: (1) issue a report to the department of public utilities analyzing the method of solicitation and the solicitation process implemented by the distribution companies and the department of energy resources under subsection (b) and include recommendations, if any, for improving the process; and (2) upon the opening of an investigation by the department of public utilities into a proposed 10-15 year contract for a winning bid proposal, file a report with the department of public

utilities that summarizes and analyzes the solicitation and the bid selection process, and provide the independent evaluator's assessment of whether all bids were evaluated in a fair and objective manner. The independent evaluator shall have access to the information and data related to the competitive solicitation and bid selection process that is necessary to fulfill the purposes of this subsection; provided, however, that the independent evaluator shall ensure that all proprietary information remains confidential. The department of public utilities shall consider the findings of the independent evaluator and may adopt recommendations made by the independent evaluator as a condition for approval. If the independent evaluator concludes in the findings that the solicitation and bid selection of a 10-20 year contract was not fair and objective and that the process was substantially prejudiced as a result, the department of public utilities shall reject the winning bid proposal.

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

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

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

(k) If this section is subjected to a legal challenge, the department of public utilities may suspend the applicability of the challenged provision during the pendency of the action until a

final resolution, including any appeals, is obtained and shall issue an order and take other actions as are necessary to ensure that the provisions not subject to the challenge are implemented expeditiously to achieve the public purposes of this section.