

HOUSE No. 4204

The Commonwealth of Massachusetts



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To the Honorable Senate and House of Representatives,

I am pleased to submit for your consideration “An Act to Power Massachusetts’s Clean Energy Economy.” This legislation builds on the steps our Administration has taken, in collaboration with the Legislature, to establish Massachusetts as a leader in the clean energy sector. This legislation commits \$750 million from the American Rescue Plan Act to invest in the clean energy industry in the Commonwealth, representing the largest investment in the clean energy economy that the Commonwealth has made to date. It also comprehensively refines the current offshore wind procurement process to increase efficiency, to support economic development and the creation of a diverse equitable and inclusive workforce, to incorporate the additional capacity recently authorized by this Legislature in the Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, and to incorporate lessons learned over the course of my Administration’s nation-leading wind energy procurements. I urge the Legislature to act quickly and seize this unprecedented opportunity to commit our resources to building a clean, equitable, energy future that can help power our economic recovery from the COVID-19 pandemic.

Last year, my Administration released the 2050 Decarbonization Roadmap (Roadmap), a comprehensive study and planning tool to identify cost-effective and equitable strategies to achieve our Net Zero in 2050 long-term greenhouse gas emissions reduction goals. The Roadmap determined that to meet the demands of increased electrification of the transportation and buildings sectors without increasing emissions from the electric sector, the Commonwealth will need to significantly expand access to clean, renewable electricity generation. To meet that

need and to ensure that Massachusetts remains a leader in the clean energy economy, this legislation creates and proposes to fund a \$750 million Clean Energy Investment Fund under the auspices of the Massachusetts Clean Energy Center (MassCEC) to support research and development and job training in the clean energy sector. To continue leading the nation through the transition to a clean energy future, we must support clean energy innovation, research, and development; attract private investment; and build a workforce that has the skills and tools available to succeed in this burgeoning industry. The Commonwealth has an incredible opportunity to stimulate the local economy and recover from the COVID-19 pandemic with a renewed focus on building a clean, reliable, and equitable energy future. The Clean Energy Investment Fund will leverage the expertise of MassCEC to achieve these goals.

Massachusetts is the site of the first large-scale offshore wind project to be approved in the country, but without prompt action, we risk losing our status as a national leader. The offshore lease areas federally available for wind generation are limited and other nearby states are interested in developing these same areas to meet their own needs while attracting supply chain development to their state. The Commonwealth risks losing the opportunity to compete and win against those other states.

The proposed changes to the offshore wind procurement process would promote objectivity, equitable economic development, certainty, and speed in future solicitations.

- **Objectivity:** As the size of the offshore wind industry has grown and the number of interested developers has increased, there is a greater likelihood that the Massachusetts electric distribution companies will have financial interests in bids submitted in response to future solicitations. To provide an additional level of independence and to ensure an open, fair, and transparent solicitation and bid selection process, I propose transferring authority for selecting the winning bidder from the electric distribution companies to the Department of Energy Resources (DOER). The electric distribution companies would remain as participants in the evaluation and can provide technical advice to DOER.

- **Equitable Economic Development and Project Evaluation:** Changes to the preferences for offshore wind energy generating resources will emphasize equitable employment and economic development, mitigation and avoidance of environmental and socioeconomic impacts, and benefits to environmental justice communities. This will support the identification and selection of projects with the greatest benefits to the Commonwealth, especially with respect to potential economic and environmental benefits. To receive the full value of renewable energy certificates generated by the projects supported by Massachusetts ratepayers, the electric distribution companies will be permitted to include terms to contract for certificates generated after the life of the contract. This will help ensure that clean energy benefits generated in Massachusetts remain available to its residents as we work towards becoming carbon neutral.

- **Price Cap.** This legislation removes the original price cap as the offshore wind contract prices have been competitive since the 2016 legislation. Specifically, bids have been submitted at significantly lower prices than expected, and future procurements should consider cost-effective projects that may incorporate additional benefits such as optimal interconnection points, incorporating energy storage into proposed projects, and significant economic development.
- **Certainty:** To remove regulatory uncertainty for potential bidders, this legislation sets the remuneration for the electric distribution utilities at 2.5%. As the offshore wind industry has become more mature and the size of contracts have increased, the percent of remuneration for every megawatt hour of energy should be reduced and established at a specific level by statute. This reduction of remuneration reduces costs to ratepayers, speeds the review of the contracts, and provides enhanced clarity in the overall procurement process.
- **Speed:** Currently, the RFP drafting process consumes over a year's worth of time as the electric distribution companies, DOER, and the independent evaluator work together to craft the RFP. To ensure faster development of the RFP, DOER, in consultation with the independent evaluator, will have the authority to make final determinations on the design aspects of the RFP.

The infusion of funds into the energy industry proposed in this legislation will lay the foundation for one of the strongest clean energy industries in the country for decades to come. With respect to the offshore wind procurement process, the changes contained in this bill will further support the growth that has been seen in the offshore wind industry. Clean energy is vital to achieving the Commonwealth's bold climate change goals. Without significant investments and timely action, Massachusetts risks falling behind in its climate goals and missing the opportunity to capture the economic benefits of a clean energy economy. I urge the Legislature to recognize the unique opportunity before us and act with haste to enact this legislation and enable the Commonwealth to remain at the forefront of clean energy innovation and industry.

Respectfully submitted

Charles D. Baker,
Governor

HOUSE No. 4204

Message from His Excellency the Governor recommending legislation relative to power
Massachusetts's clean energy economy.

The Commonwealth of Massachusetts

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

An Act to power Massachusetts's clean energy economy.

Whereas, The deferred operation of this act would tend to defeat its purposes, which are to establish a path out of fossil fuel dependence and create a permanent foothold for clean energy in Massachusetts, each of which is immediately necessary, and to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Chapter 23J of the General Laws is hereby amended by adding the
2 following section:-

3 Section 15. (a) There shall be established and placed within the center a separate fund to
4 be known as the Clean Energy Investment Fund. The Clean Energy Investment Fund shall be
5 administered by the center. The Clean Energy Investment Fund shall be credited with: (i)
6 revenue from appropriations or other money authorized by the general court and specifically
7 designated to be credited to the Clean Energy Investment Fund; (ii) interest earned on such
8 revenues; and (iii) funds from public and private sources, and other gifts, grants, and donations
9 for the establishment and expansion of workforce training and development initiatives to support
10 the clean energy industry. All amounts credited to the Clean Energy Investment Fund shall be

used solely for activities and expenditures consistent with the public purpose of the Clean Energy Investment Fund as set forth in subsection (b), including the ordinary and necessary expenses of administration and operation associated with the Clean Energy Investment Fund. Amounts credited to the Clean Energy Investment Fund shall not be subject to further appropriation and any money remaining in the Clean Energy Investment Fund at the end of a fiscal year shall not revert to the General Fund.

(b) The center shall make expenditures from the Clean Energy Investment Fund for the purposes of:

(i) funding for the advancement of clean energy technologies to commonwealth-based investors, entrepreneurs, and institutions that are involved in the clean energy industry;

(ii) funding for the formation, growth, expansion, and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions, and projects;

(iii) funding to public higher education institutions and vocational-technical education institutions for workforce development and technical training programs;

(iv) funding to regional employment boards to develop a regional strategy to support the development of the clean energy industry and to publish their findings as an addendum to their workforce development blueprints;

(v) matching funds to secure future federal funding to support the clean energy industry in the commonwealth;

(vi) support for research and development in the clean energy industry, including the interrelationship between clean energy infrastructure and existing natural habitats, ecosystems, and dependent species;

(vii) support for improved outcomes from the development of clean energy resources;

(viii) support for the long-term coexistence and sustainability of the fishing and clean energy industries; and

(ix) necessary and reasonable administrative and personnel costs of the center or of the executive office of energy and environmental affairs related to administering the Clean Energy Investment Fund.

(c) The Clean Energy Investment Fund's activity shall be included in the annual report required by the second paragraph of section 5.

SECTION 2. Section 83B of chapter 169 of the acts of 2008, as inserted by section 12 of chapter 188 of the acts of 2016, is hereby amended by striking out the definition of "Long-term contract" and inserting in place thereof the following definition:-

"Long-term contract", a contract for a period of 15 to 20 years for offshore wind energy generation pursuant to section 83C or for clean energy generation pursuant to section 83D, provided, however, that a contract for offshore wind energy generation pursuant to section 83C may include terms and conditions for renewable energy credits associated with the offshore wind energy generation that exceed the term of generation under the contract.

SECTION 3. Section 83C of chapter 169 of the acts of 2008, as most recently amended by sections 91 and 93 of chapter 24 of the acts of 2021, is hereby further amended by striking out subsections (a) through (d) and inserting in place thereof the following 4 subsections:-

(a) In order to facilitate the financing of offshore wind energy generation resources in the commonwealth every distribution company shall jointly and competitively solicit proposals for offshore wind energy generation; provided, however, that the solicitation process shall not be deemed uncompetitive based solely on the number of bids received if the levelized price per megawatt hour, plus associated transmission costs, of the proposed project is equal to or less than the levelized price per megawatt hour, plus associated transmission costs of the previous procurement; and, provided, that reasonable proposals have been received, shall enter into cost-effective long-term contracts. Long-term 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 long-term contracts shall be proposed by the department of energy resources in coordination with the distribution companies using a competitive bidding process, and shall be subject to review and approval by the department of public utilities. The department of energy resources, in coordination with the distribution companies, shall consult with the attorney general regarding the choice of solicitation methods. If the department of energy resources and the distribution companies are unable to agree on a timetable and method for solicitations, the department of energy resources, in consultation with the independent evaluator, shall make a final determination as to the timetable and methods for solicitations to be submitted to the department of public utilities for approval. A solicitation may be coordinated and issued jointly with other New England states or entities designated by those

72 states. The distribution companies may conduct 1 or more competitive solicitations through a
73 staggered procurement schedule developed by the department of energy resources; provided, that
74 the schedule shall ensure that the distribution companies enter into cost-effective long-term
75 contracts for offshore wind energy generation equal to approximately 4,000 megawatts of
76 aggregate nameplate capacity not later than June 30, 2027; and provided further, that individual
77 solicitations shall seek proposals for no less than 400 megawatts of aggregate nameplate capacity
78 of offshore wind energy generation resources. A staggered procurement schedule shall be
79 developed by the department of energy resources, and shall specify that any subsequent
80 solicitation shall occur within 24 months of a previous solicitation. Proposals received pursuant
81 to a solicitation under this section shall be subject to review by the department of energy
82 resources and the executive office of housing and economic development. If the department of
83 energy resources, in consultation with the distribution companies and the independent evaluator,
84 determines that reasonable proposals were not received pursuant to a solicitation, the department
85 may terminate the solicitation, and may require additional solicitations to fulfill the requirements
86 of this section.

87 (c) In developing proposed long-term contracts, the distribution companies shall
88 consider long-term contracts for renewable energy certificates, for energy, and for a combination
89 of both renewable energy certificates and energy. A distribution company may decline to pursue
90 a proposal if the proposal's terms and conditions would require the contract obligation to place
91 an unreasonable burden on the distribution company's balance sheet after consultation with the
92 department of energy resources; provided, however, that the distribution company shall take all
93 reasonable actions to structure the contracts, pricing, or administration of the products purchased
94 under this section in order to prevent or mitigate an impact on the balance sheet or income

95 statement of the distribution company or its parent company, subject to the approval of the
96 department of public utilities; provided further, that mitigation shall not increase costs to
97 ratepayers. If a distribution company deems all proposals to be unreasonable, the distribution
98 company shall consult with the department of energy resources and, within 20 days of the date of
99 its decision, submit a filing to the department of public utilities. The filing shall include, in the
100 form and detail prescribed by the department of public utilities, documentation supporting the
101 distribution company's decision to decline the proposals. Following a distribution company's
102 filing, and within 4 months of the date of filing, the department of public utilities shall approve
103 or reject the distribution company's decision and may order the distribution company to
104 reconsider any proposal. The department of public utilities shall take into consideration the
105 department of energy resources' recommendations on the distribution company's decision. The
106 department of energy resources shall, in consultation with the independent evaluator, issue a
107 final, binding determination of the winning bid; provided, that the final contract executed shall
108 be subject to review by the department of public utilities. The department of energy resources
109 may require additional solicitations to fulfill the requirements of this section.

110 (d) The department of public utilities shall promulgate regulations consistent with this
111 section. The regulations shall: (1) allow offshore wind developers of offshore wind energy
112 generation to submit proposals for long-term contracts consistent with this section; (2) require
113 that a proposed long-term contract executed by the distribution companies under a proposal be
114 filed with, and approved by, the department of public utilities before becoming effective; (3)
115 provide for an annual remuneration for the contracting distribution company of 2.5 per cent of
116 the annual payments under the contract to compensate the company for accepting the financial
117 obligation of the long-term contract, such provision to be acted upon by the department of public

118 utilities at the time of contract approval; (4) require associated transmission costs to be
119 incorporated into a proposal; provided that, to the extent there are transmission costs included in
120 a bid, the department of public utilities may authorize or require the contracting parties to seek
121 recovery of such transmission costs of the project through federal transmission rates, consistent
122 with policies and tariffs of the Federal Energy Regulatory Commission, to the extent the
123 department finds such recovery is in the public interest; and (5) require that offshore wind energy
124 generating resources to be used by a developer under the proposal meet the following criteria: (i)
125 create and foster employment and economic development in the commonwealth; (ii) provide
126 enhanced electricity reliability; (iii) contribute to reducing winter electricity price spikes; (iv) are
127 cost effective and beneficial to electric ratepayers in the commonwealth over the term of the
128 contract, taking into consideration potential costs and benefits to the ratepayers, including
129 potential economic and environmental benefits; (v) avoid line loss and mitigate transmission
130 costs to the extent possible and ensure that transmission cost overruns, if any, are not borne by
131 ratepayers; (vi) adequately demonstrate project viability in a commercially reasonable
132 timeframe; (viii) allow offshore wind energy generation resources to be paired with energy
133 storage systems; and (ix) where possible, mitigate any environmental impacts. The department
134 of energy resources and the electric distribution companies shall give preference to proposals
135 that demonstrate benefits from (i) economic development and employment, including
136 opportunities for diversity, equity, and inclusion, (ii) mitigation and avoidance of detrimental
137 environmental and socioeconomic impacts, and (iii) benefits to environmental justice
138 communities and low-income ratepayers in the commonwealth.

SECTION 4. Subsection (e) of section 83C of chapter 169 of the acts of 2008, as inserted by section 12 of chapter 188 of the acts of 2016, is hereby amended by inserting after the second sentence the following sentence:-

The department of public utilities shall take into consideration the department of energy resources' recommendations on the potential costs and benefits to the ratepayers, including potential economic and environmental benefits, and the requirements of chapter 298 of the acts of 2008 or chapter 21N of the General Laws.

SECTION 5. At the request of the secretary of administration and finance, the comptroller shall transfer up to \$750,000,000 from the federal COVID-19 response fund established in section 2JJJJ of chapter 29 of the General Laws to the Clean Energy Investment Fund established in section 15 of chapter 23J of the General Laws. Prior to requesting such transfers, the secretary of administration and finance, in consultation with the secretary of energy and environmental affairs, shall assess the cash flow needs of the Clean Energy Investment Fund. The secretary of administration and finance may request transfers on a periodic or ad hoc schedule so long as the cumulative amount of said transfers does not exceed the limit established in this section. The Massachusetts clean energy technology center shall be responsible, in conjunction with the executive office for administration and finance, in assuring that all policies and procedures necessary for the administration of the Clean Energy Investment Fund comply with 2 CFR Part 200, 31 CFR Part 35, and all other applicable rules and regulations.