

SENATE No. 2158

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 create offshore clean energy and new renewable jobs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/12/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/18/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>4/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>5/10/2021</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>6/17/2021</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>7/27/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>10/6/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>12/27/2021</i>

SENATE No. 2158

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 2158) of Julian Cyr, Joanne M. Comerford and Michael D. Brady for legislation to create offshore clean energy and new renewable jobs. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act to create offshore clean energy and new renewable jobs.

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
2 of energy resources shall use the executive office of energy and environmental affairs roadmap
3 study or investigate the necessity, benefits, and costs of requiring distribution companies, as
4 defined in section 1 of chapter 164 of the General Laws, to jointly and competitively conduct
5 additional offshore wind generation solicitations and procurements of at least 2,800 megawatts
6 of aggregate nameplate capacity, in addition to the solicitations and procurements required by
7 section 83C of chapter 169 of the acts of 2008, inserted by chapter 188 of the acts of 2016, and
8 section 21 of chapter 227 of the acts 2018, provided any additional solicitations conducted
9 pursuant to this section shall be subject to the required solicitation and procurement process of
10 said section 83C of chapter 169 of the Acts of 2008, as amended by said chapter 188 of the Acts
11 of 2016, 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
13 the following:- “; provided, however, that the department of public utilities shall not approve a
14 long-term contract that results from a subsequent solicitation and procurement period if the
15 levelized price per megawatt hour, plus associated transmission costs, is greater than or equal to
16 the levelized price per megawatt hour plus transmission costs that resulted from the previous
17 procurement”

18 SECTION 3. Said subsection b in section 83C is hereby further amended by striking out
19 the following: “(3) provide for an annual remuneration for the contracting distribution company
20 up to 2.75 per cent of the annual payments under the contract to compensate the company for
21 accepting the financial obligation of the long-term contract, such provision to be acted upon by
22 the department of public utilities at the time of contract approval;”

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

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

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

52 SECTION 5. Notwithstanding any general or special law to the contrary, the department
53 of energy resources shall require offshore wind bids to allocate at least 1% of the cost of the
54 project to a fund in support of Massachusetts-based offshore wind power research and workforce
55 development provided further, that this fund shall be administered by the massachusetts clean

56 energy center, provided further, that a portion of this fund shall be used to cover reasonable
57 administrative costs of the massachusetts clean energy center.

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

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

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

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

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

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

75 (6) A requirement that the Applicant disclose whether it and each of its contractors and
76 sub-contractors on this project, have previously contracted with a labor organization, as defined

77 by massachusetts general laws, c. 150A and/or the National Labor Relations Act, section 2, in
78 the commonwealth or elsewhere.

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

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

86 (9) Certification that the applicant and its contractors and sub-contractors on this project,
87 have complied with massachusetts general laws Chapters 149, 151, 151A, 151B, and 152 and/or
88 29 U.S.C. § 201, et seq. and federal anti-discrimination laws for the last three calendar years.

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

93 (11) To the extent the Applicant, or one of its contractors or sub-contractors on the
94 project cannot meet the certification requirements provided for in paragraphs 10 and 11, the
95 applicant must submit proof of a wage bond or other comparable form of insurance in an amount
96 equal to the aggregate of one year's gross wages for all workers projected to be employed by the
97 applicant, contractor, or sub-contractor for which certification is unavailable, to be maintained
98 for the life of the project.

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

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

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

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

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

118 (f) The attorney general shall enforce the provisions contained herein and may enact
119 regulations consistent therewith.

120 SECTION 7. Subsection D in said section 83C is hereby further amended by inserting
121 after the words “without adding cost to the project” the following words:- Where feasible, the
122 department of energy resources shall give preference to proposals submitted by offshore wind
123 companies that include commitments to enter into long-term contracts with businesses, nonprofit
124 organizations, municipalities, or other government entities directly to purchase offshore wind
125 energy, in addition to the long-term contracts entered into by distribution companies under this
126 section.

127 SECTION 8. Section 21 of chapter 227 of the Acts of 2018 shall be amended by adding
128 the following subsections at the end thereof:

129 (c) In evaluating a proposal received in response to a solicitation for offshore wind
130 generation or transmission resources pursuant to this act or section 83C of chapter 188 of the
131 Acts of 2016, or any subsequent legislation providing for the procurement of offshore wind
132 generation or transmission resources, the department of public utilities shall consider, in addition
133 to any other criteria described in said sections, whether the proposal identifies, and the
134 respondent and its subcontractors are likely to meet, specific goals, expressed as an overall
135 program goal applicable to the total dollar amount of contracts, for :

136 (i) the utilization of minority business enterprises, as that term is defined in section 7
137 chapter 58 as:

138 (a) contractors in the design of the offshore wind energy generation and transmission
139 resources;

140 (b) contractors in the construction of the offshore wind energy generation and
141 transmission resources; and

142 (c) vendors in the provision of goods and services procured by the offshore wind
143 developer; and

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

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

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

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

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

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

164 (iv) The department of energy resources and the supplier diversity office shall consult
165 with the massachusetts clean energy center and the massachusetts environmental justice advisory
166 committee in drafting those sections of a solicitation or regulations that advance the purpose of
167 this act.

168 (f) The department of energy resources shall promulgate regulations to implement the
169 purposes of this act within 120 days of its passage, including, without limitation, procedures for
170 monitoring, measuring, and enforcing ongoing compliance with goals set by respondents in
171 accordance with section 1 of this Act. Such regulations shall, without limitation, (f) The
172 department of energy resources shall promulgate regulations to implement the purposes of this
173 act within 120 days of its passage, including, without limitation, procedures for monitoring,
174 measuring, and enforcing ongoing compliance with goals set by respondents in accordance with
175 this act. Such regulations shall, without limitation,

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

184 (ii) describe a process by which the department of energy resources will publicly review
185 and post such reports, and require respondents to submit information to the department regarding
186 any failure to meet the goals set by the respondent, identify any good faith efforts that have been
187 undertaken to achieve those goals and provide a plan to bring the dollar amount contracted and
188 spent into compliance with the goals.