

HOUSE No. 3161

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 strengthening Massachusetts as the national leader in offshore wind.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---------------------------------|--|------------------|
| <i>Dylan A. Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> | <i>1/20/2023</i> |
| <i>William J. Driscoll, Jr.</i> | <i>7th Norfolk</i> | <i>2/6/2023</i> |
| <i>James J. O'Day</i> | <i>14th Worcester</i> | <i>2/6/2023</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>2/6/2023</i> |
| <i>Rodney M. Elliott</i> | <i>16th Middlesex</i> | <i>2/7/2023</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> | <i>2/7/2023</i> |
| <i>John J. Cronin</i> | <i>Worcester and Middlesex</i> | <i>2/7/2023</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>2/7/2023</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> | <i>2/7/2023</i> |
| <i>Margaret R. Scarsdale</i> | <i>1st Middlesex</i> | <i>2/8/2023</i> |
| <i>James C. Arena-DeRosa</i> | <i>8th Middlesex</i> | <i>2/8/2023</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>2/8/2023</i> |
| <i>William C. Galvin</i> | <i>6th Norfolk</i> | <i>2/13/2023</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>2/13/2023</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>2/16/2023</i> |
| <i>Samantha Montaño</i> | <i>15th Suffolk</i> | <i>2/16/2023</i> |
| <i>Brian W. Murray</i> | <i>10th Worcester</i> | <i>2/16/2023</i> |
| <i>Kate Lipper-Garabedian</i> | <i>32nd Middlesex</i> | <i>2/22/2023</i> |

| | | |
|-----------------------------|-------------------------|------------------|
| <i>Simon Cataldo</i> | <i>14th Middlesex</i> | <i>2/27/2023</i> |
| <i>Antonio F. D. Cabral</i> | <i>13th Bristol</i> | <i>3/8/2023</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> | <i>3/14/2023</i> |
| <i>Edward R. Philips</i> | <i>8th Norfolk</i> | <i>3/15/2023</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>3/16/2023</i> |
| <i>Tommy Vitolo</i> | <i>15th Norfolk</i> | <i>3/20/2023</i> |
| <i>John J. Mahoney</i> | <i>13th Worcester</i> | <i>5/16/2023</i> |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>6/22/2023</i> |
| <i>Daniel J. Ryan</i> | <i>2nd Suffolk</i> | <i>7/6/2023</i> |
| <i>Pavel Payano</i> | <i>First Essex</i> | <i>11/7/2023</i> |
| <i>Manny Cruz</i> | <i>7th Essex</i> | <i>12/8/2023</i> |

HOUSE No. 3161

By Representative Fernandes of Falmouth, a petition (accompanied by bill, House, No. 3161) of Dylan A. Fernandes and others relative to offshore wind. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act strengthening Massachusetts as the national leader in offshore wind.

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. The second paragraph of section 40 of chapter 131 of the General Laws, as
2 appearing in the 2020 Official Edition, is hereby amended by adding the following sentence:-
3 Project sites that are to be used for any necessary construction, renovation, reconstruction,
4 alteration, installation, demolition, expansion, maintenance or repair to further any offshore wind
5 generation solicitations or procurements required under section 83C of said chapter 169 of the
6 acts of 2008, as amended by section 61 of chapter 179 of the acts of 2022, shall be exempt from
7 this section.

8 SECTION 2. Section 15 of chapter 132A of the General Laws, as so appearing, is hereby
9 amended by inserting after the word “plan;”, in line 13, the following word:- and.

10 SECTION 2A. Said section 15 of said chapter 132A, as so appearing, is hereby further
11 amended by striking out, in lines 17 to 26, inclusive the following words:- and (iii) in
12 municipalities where regional planning agencies have regulatory authority, a regional planning

13 agency shall define the appropriate scale of offshore renewable energy facilities and review such
14 facilities as developments of regional impact, and the applicant may seek review of the regional
15 planning agency's development of regional impact determination, but not its determination of
16 appropriate scale, pursuant to the authority of the energy facilities siting board to issue
17 certificates of environmental impact and public interest pursuant to sections 69K to 69O,
18 inclusive, of chapter 164.

19 SECTION 2B. Notwithstanding any general or special law to the contrary, any necessary
20 construction, renovation, reconstruction, alteration, installation, demolition, expansion,
21 maintenance or repair to further offshore wind generation solicitations or procurements required
22 under section 83C of said chapter 169 of the acts of 2008, as amended by section 61 of chapter
23 179 of the acts of 2022, shall be exempt from regional planning agency review process,
24 including development of regional impact review.

25 SECTION 3. Section 83C of chapter 169 of the acts of 2008, inserted by section 12 of
26 said chapter 188 of the acts of 2016 and as most recently amended by section 61 of chapter 179
27 of the acts of 2022, is hereby amended by striking out subsection (b) and inserting in place
28 thereof the following subsection:

29 “(b) The timetable and method for solicitations of long-term contracts shall be proposed
30 by the department of energy resources in coordination with the distribution companies using a
31 competitive bidding process and shall be subject to review and approval by the department of
32 public utilities. The department of energy resources shall consult with the distribution companies
33 and the attorney general regarding the choice of solicitation methods. A solicitation may be
34 coordinated and issued jointly with other New England states or entities designated by those

35 states. The distribution companies, in coordination with the department of energy resources, may
36 conduct 1 or more competitive solicitations through a staggered procurement schedule developed
37 by the department of energy resources; provided, however, that the schedule shall ensure that the
38 distribution companies enter into cost-effective long-term contracts for offshore wind energy
39 generation equal to approximately 11,200 megawatts of aggregate nameplate capacity not later
40 than June 30, 2035, including capacity authorized pursuant to section 21 of chapter 227 of the
41 acts of 2018 and section 61 of chapter 179 of the acts of 2022; provided further, that after June
42 30, 2035, the department of energy resources shall be able to make additional procurements in
43 excess of 11,200 megawatts of aggregate nameplate capacity; provided further, that individual
44 solicitations shall seek proposals for not less than 400 megawatts of aggregate nameplate
45 capacity of offshore wind energy generation resources. The staggered procurement schedule
46 shall be developed by the department of energy resources and shall specify that any subsequent
47 solicitation shall occur within 24 months of a previous solicitation. The department of energy
48 resources shall provide a long-term timeline for future solicitations 5 years in advance. The
49 department of energy resources shall create a public permitting dashboard on its website,
50 targeted toward and accessible to the general public, that displays each project's progress in
51 solicitation and permitting processes. Proposals received pursuant to a solicitation under this
52 section shall be subject to review by the department of energy resources and the executive office
53 of housing and economic development in consultation with the independent evaluator and the
54 electric distribution companies shall offer technical advice. As part of the evaluation process, the
55 department of energy resources shall produce a numeric score for each bid's economic
56 development commitments and for plans for financial and technical assistance to support wildlife
57 and habitat monitoring.”

58 SECTION 4. Chapter 23J of the General Laws is hereby amended by adding the
59 following section:-

60 Section 16. The center shall issue guidance to businesses, nonprofit organizations, a
61 municipality or group of municipalities with an approved municipal load aggregation plan
62 pursuant to section 134 of chapter 164 or other government entities directly or through an
63 aggregation pursuant to section 137 of said chapter 164, on how to enter into long-term contracts
64 to purchase offshore wind energy. The guidance shall be posted on the center’s website not later
65 than December 31, 2024.

66 SECTION 5. Section 20 of chapter 25 of the General Laws, as appearing in the 2022
67 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
68 the following subsection:

69 “(a) The department shall require a mandatory charge of 14.65 mill per therm for all
70 natural gas consumers and a mandatory charge of 0.5 mill per kilowatt-hour for all electricity
71 consumers, except those served by a municipal lighting plant that does not supply generation
72 service outside its own service territory or does not open its service territory to competition at the
73 retail level, to support the development and promotion of renewable energy projects. All
74 revenues generated by the mandatory charge for natural gas consumers shall be deposited into
75 the Massachusetts Renewable Energy Trust Fund established in section 9A of chapter 179 of the
76 Acts of 2022. All revenues generated by the mandatory charge for electricity consumers shall be
77 deposited into the Massachusetts Offshore Wind Industry Investment Trust Fund established in
78 said 9A of chapter 179 of the Acts of 2022.”

79 SECTION 6. Section 83C of chapter 169 of the acts of 2008, inserted by section 12 of
80 said chapter 188 of the acts of 2016 and as most recently amended by section 61 of chapter 179
81 of the acts of 2022, is hereby amended by striking out subsection (b) and inserting in place
82 thereof the following subsection:

83 “(c) The department of energy resources may condition the determination of any winning
84 bid upon a bidder’s inclusion of regional or project-specific transmission costs or, alternatively,
85 upon the bidder’s agreement to utilize transmission procured in a separate solicitation conducted
86 by the department. The department shall give preference to proposals that demonstrate benefits
87 from: (i) direct and reasonably certain commitments made on or after July 1, 2022 to capital
88 investments in the manufacture, fabrication and assembly within the commonwealth of domestic
89 supply chain components of the offshore wind industry; (ii) mitigation, minimization and
90 avoidance of detrimental environmental and socioeconomic impacts, including through
91 meaningful consultation with impacted environmental and socioeconomic stakeholders,
92 including federally recognized tribes and commercial and recreational fishing; (iii) support for
93 workforce harmony and community benefits through workforce agreements with appropriate
94 labor organizations for construction, renovation, reconstruction, alteration, installation,
95 demolition, expansion, maintenance and repair; (iv) training and employment opportunities for
96 members of federally recognized tribes in the commonwealth, workers from low-income
97 communities and certified minority-owned and women-owned small business enterprises in the
98 commonwealth; (v) training and employment opportunities for residents of communities adjacent
99 to construction; (vi) training and employment opportunities to citizens of the commonwealth
100 who have been residents of the commonwealth for at least six months at the commencement of
101 their employment; (vii) the maximization of investments in the commonwealth’s port

102 infrastructure; (viii) the maximization, to the extent feasible, of economic development and
103 employment contributions to the commonwealth; (ix) additional benefits to low-income
104 communities and low-income ratepayers in the commonwealth, including opportunities for
105 diversity, equity and inclusion; (x) minimization and mitigation, to the extent feasible, of
106 ratepayer impacts; (xi) commitments to enter into long-term contracts to purchase offshore wind
107 energy with businesses, nonprofit organizations, a municipality or group of municipalities with
108 an approved municipal load aggregation plan pursuant to section 134 of chapter 164 of the
109 General Laws or other government entities directly or through an aggregation pursuant to section
110 137 of said chapter 164; (xii) energy storage, including new and existing mid-duration and long-
111 duration energy storage systems; (xiii) resources able to guarantee firm energy delivery; and
112 (xiv) improvements to native biological diversity within the lease area, including but not limited
113 to the provision of artificial reefs, aquaculture, seaweed farming, and other such measures that
114 the department deems beneficial to biological diversity. The department of energy resources
115 shall, in consultation with the independent evaluator, issue a final, binding determination of the
116 winning bid; provided, however, that the final contract executed shall be subject to review by the
117 department of public utilities, and the department of public utilities may allow contractual
118 adjustments for project cost differentials attributable to the utilization or non-utilization of
119 separate transmission procured by the commonwealth. The department of energy resources may
120 require additional solicitations to fulfill the requirements of this section. If the department of
121 energy resources, in consultation with the independent evaluator, determines that reasonable
122 proposals were not received pursuant to a solicitation, the department may terminate the
123 solicitation and may require additional solicitations to fulfill the requirements of this section.”

124 SECTION 7. Construction, installation or maintenance of any offshore wind energy
125 generation pursuant to section 83C of said chapter 169 of the acts of 2008, as inserted by section
126 12 of chapter 188 of the acts of 2016 and amended by section 61 of chapter 179 of the acts of
127 2022, are public works and construction projects and shall be subject to sections 26 and 27 of
128 chapter 149 of the General Laws.

129 SECTION 8. Section 9A of said chapter 23J is hereby amended by striking subsection (7)
130 in subsection 6 and inserting in place thereof the following:

131 “(7) prepare individuals for offshore wind careers by supporting workforce training
132 provided at: (i) state and municipal public higher education institutions, private higher education
133 institutions and vocational-technical education institutions, including basic safety training and
134 basic technical training programs; provided, that the center shall prioritize awards to education
135 institutions seeking accreditation in internationally recognized training standards, including, but
136 not limited to, standards developed by the Global Wind Organisation as well a higher education
137 institutions offering stackable credits to incentivize offshore wind career building; (ii) state and
138 municipal public higher education institutions, private higher education institutions and
139 vocational-technical education institutions for the development, expansion and promotion of
140 offshore wind professional certificate programs and courses tailored to careers in the offshore
141 wind industry; (iii) state and municipal public higher education institutions, private higher
142 education institutions and vocational-technical education institutions for the sponsorship of
143 award, scholarship and paid internship programs to support the education and training of
144 individuals seeking careers in the offshore wind industry; provided, that the center shall prioritize
145 the promotion of careers in the skilled trades, water transportation, operations and maintenance
146 and other occupations that the center may identify as high priority; and (iv) regional employment

147 boards, to develop regional strategies to support the development of the offshore wind industry,
148 which strategies may be published as addenda to their workforce development blueprints;
149 provided, that recipients of funds under this clause shall demonstrate a commitment to workforce
150 training for members of socially or economically disadvantaged communities;”

151 SECTION 9. Chapter 23J of the General Laws is hereby amended by adding the
152 following section:

153 “Section 17. Based on the Boston Area and South Coast and North Shore offshore wind
154 ports and infrastructure assessments completed by the center in 2017 and 2022 respectively, the
155 center shall create a strategic coastal report that outlines when and how the state should
156 repurpose each port to support the state’s offshore wind industry. The report should include a
157 strategic vision for a comprehensive port infrastructure offshore wind network in Massachusetts.

158 The center shall submit its report to the department of public utilities, the joint committee
159 on telecommunications, utilities and energy, the senate and house committees on global warming
160 and climate change and the clerks of the senate and house of representatives no later than July
161 31, 2024.”

162 SECTION 10. \$200,000,000 shall be allocated to the Massachusetts Offshore Wind
163 Industry Investment Fund, established in section 9A of chapter 23J of the General Laws as
164 amended by section 18 of chapter 179 of the Acts of 2022, to be used for port infrastructure
165 improvements.

166 SECTION 11. Chapter 30 of the General Laws is hereby amended by striking out section
167 62K and inserting in place thereof the following subsection:

168 “Section 62K. (a) The secretary shall consider the environmental justice principles, as
169 defined in section 62, in making any policy or determination, or taking any action relating to a
170 project review, undertaken pursuant to sections 61 through 62J, inclusive, to reduce the potential
171 for unfair or inequitable effects upon an environmental justice population.

172 To further the environmental justice principles the secretary shall direct its agencies,
173 including the departments, divisions, boards and offices under the secretary's control and
174 authority, to consider the environmental justice principles in making any policy, determination or
175 taking any other action related to a project review, or in undertaking any project pursuant to said
176 sections 61 through 62J, inclusive, and related regulations that is likely to affect environmental
177 justice populations.

178 In addition, the secretary shall establish standards and guidelines for the implementation,
179 administration and periodic review of environmental justice principles by the executive office of
180 energy and environmental affairs and its agencies.

181 (b) The executive office of energy and environmental affairs, in consultation with the
182 executive office for administration and finance shall conduct a study to explore the potential
183 benefits of providing financial incentives to companies who invest in port infrastructure
184 development in environmental justice communities. Pursuant to the findings of this study and
185 subject to funding availability, the executive office of energy and environmental affairs and the
186 executive office for administration and finance may establish a grant program to incentivize port
187 development in environmental justice communities.

188 SECTION 12. Section 83C of chapter 169 of the acts of 2008, inserted by section 12 of
189 said chapter 188 of the acts of 2016 and as most recently amended by section 61 of chapter 179

190 of the acts of 2022, is hereby amended by striking out subsection (e(1)) and inserting in place
191 thereof the following subsection:

192 (e)(1) The department of public utilities shall promulgate regulations consistent with this
193 section. The regulations shall: (i) allow developers of offshore wind energy generation to submit
194 proposals for long-term contracts consistent with this section; (ii) require that a proposed long-
195 term contract executed by the distribution companies under a proposal be filed with, and
196 approved by, the department of public utilities before becoming effective; (iii) require associated
197 transmission costs to be incorporated into a proposal; provided, however, that, to the extent there
198 are regional or project-specific transmission costs included in a bid, the department of public
199 utilities may, if it finds such recovery to be in the public interest, authorize or require the
200 contracting parties to seek recovery of such transmission costs from other states or from
201 benefitted entities or populations in other states through federal transmission rates, consistent
202 with policies and tariffs of the Federal Energy Regulatory Commission; and (iv) require that
203 proposals meet the following criteria: (A) where feasible, create and foster economic
204 development and quality, high-demand jobs in the commonwealth; (B) provide enhanced
205 electricity reliability, system safety and energy security; (C) contribute to reducing winter
206 electricity price spikes; (D) be cost effective and beneficial to electric ratepayers in the
207 commonwealth over the term of the contract, taking into consideration potential costs and
208 benefits to the ratepayers, including potential economic and environmental benefits and
209 opportunities to equitably allocate costs to, and equitably share costs with, other states and
210 populations within other states that may benefit from offshore wind generation procured by the
211 commonwealth; (E) avoid line loss and mitigate transmission costs to the extent possible and
212 ensure that transmission cost overruns, if any, are not borne by ratepayers; (F) adequately

213 demonstrate project viability in a commercially reasonable timeframe; (G) allow offshore wind
214 energy generation resources to be paired with energy storage systems, including new and
215 existing mid-duration and long-duration energy storage systems; (H) include an initial
216 comprehensive environmental and fisheries mitigation plans for the construction and operation
217 of such offshore wind facilities, including consideration of commercial, recreational and
218 indigenous fishing rights; (I) provide financial and technical assistance to support robust
219 monitoring of wildlife and habitat through contributions to regional and tribal research efforts
220 worth not less than 5 per cent of a bid's overall score; (J) include benefits to environmental
221 justice populations and low-income ratepayers in the commonwealth; (K) include opportunities
222 for diversity, equity and inclusion, including, at a minimum, a workforce diversity plan and a
223 supplier diversity program plan; and (L) require the use of project labor agreements.

224 SECTION 13. Notwithstanding any general or special law to the contrary, the secretary
225 of the executive office of energy and environmental affairs shall establish an advisory council on
226 offshore wind wildlife habitat management, hereinafter advisory council, comprised of key
227 experts and stakeholders in wildlife monitoring and protection, representation from both
228 federally recognized tribes residing in the commonwealth, and relevant state and federal
229 agencies.

230 The advisory council shall provide input to the office of coastal zone management on best
231 practices for avoiding, minimizing and mitigating impacts to wildlife, including, but not limited
232 to, threatened or endangered species such as North Atlantic right whales, coastal and marine
233 habitats, and natural resources and ecosystems; and traditional or existing water-dependent uses,
234 by: (a) establishing baseline standards for monitoring and mitigation plans required by section
235 83C(e)(1)(v)(H) of chapter 169 of the acts of 2008; (b) advising on and monitoring the

236 expenditure of funds raised through any long-term contracts dedicated for wildlife monitoring
237 and mitigation; and (c) conducting an ongoing review of implemented monitoring and mitigation
238 programs and provide feedback and recommendations on an as-needed basis, to be considered by
239 the office. Pre-construction engagement of the advisory council shall correspond with project
240 development, solicitation and permitting and a process to determine federal consistency with
241 approved coastal management programs.