

SENATE No. 2113

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 energy facilities siting improvement to address environmental justice, climate, and public health.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|---------------------------------|--|------------------|
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | |
| <i>Lydia Edwards</i> | <i>Third Suffolk</i> | <i>1/18/2023</i> |
| <i>Liz Miranda</i> | <i>Second Suffolk</i> | <i>1/23/2023</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>1/31/2023</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>1/31/2023</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>1/31/2023</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>1/31/2023</i> |
| <i>John J. Cronin</i> | <i>Worcester and Middlesex</i> | <i>2/7/2023</i> |
| <i>James K. Hawkins</i> | <i>2nd Bristol</i> | <i>2/8/2023</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>2/8/2023</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>2/10/2023</i> |
| <i>Patrick M. O'Connor</i> | <i>First Plymouth and Norfolk</i> | <i>2/10/2023</i> |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>2/10/2023</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>2/14/2023</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>2/21/2023</i> |
| <i>Adam Gomez</i> | <i>Hampden</i> | <i>2/23/2023</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | <i>3/2/2023</i> |

| | | |
|----------------------------|---|-------------------|
| <i>Paul R. Feeney</i> | <i>Bristol and Norfolk</i> | <i>3/7/2023</i> |
| <i>Michael F. Rush</i> | <i>Norfolk and Suffolk</i> | <i>5/1/2023</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Worcester and Middlesex</i> | <i>7/6/2023</i> |
| <i>Pavel Payano</i> | <i>First Essex</i> | <i>11/13/2023</i> |
| <i>Manny Cruz</i> | <i>7th Essex</i> | <i>12/5/2023</i> |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>12/21/2023</i> |
| <i>Edward J. Kennedy</i> | <i>First Middlesex</i> | <i>12/21/2023</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> | <i>2/26/2024</i> |

SENATE No. 2113

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 2113) of Sal N. DiDomenico, Lydia Edwards, Liz Miranda, Vanna Howard and other members of the General Court for legislation relative to energy facilities siting reform to address environmental justice, climate, and public health. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2135 OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act relative to energy facilities siting improvement to address environmental justice, climate, and public health.

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. Section 69J^{1/4} of Chapter 164 is amended by inserting the following two
2 paragraphs after the first paragraph:-

3 Prior to an applicant submitting a petition to construct a facility or generating facility
4 pursuant to this section or petition for construction pursuant to Section 69J or petition for
5 construction of transmission lines pursuant to Section 71, a petitioner must develop a preliminary
6 project statement about the facility that includes detailed information about the need, public
7 health, environmental, and climate risks and burdens, environmental, energy, economic, and
8 health benefits for communities within five miles of the facility. As part of this statement, the
9 applicant must identify the location of all environmental justice populations within five miles of

10 the facility. The project statement shall include a statement of reasonable alternatives, such as
11 different designs and locations to avoid and minimize damage to the environment and public
12 health. Prior to filing a petition to the siting board, the preliminary project statement shall be
13 shared with community-based organizations, elected officials, and civic organizations who will
14 potentially be impacted by the project located within five miles, posted to a public website, and
15 translated into multiple languages, as relevant to the local populations. Within 30 days of
16 submitting that statement, the project proponent shall invite community-based organizations,
17 local elected officials, the director of environmental justice at the executive office of energy and
18 environmental affairs, and director of the energy facilities siting board to a meeting to review the
19 proposed project. An applicant shall make adjustments to the project that address environmental
20 justice population concerns about safety, public health, location, or mitigation, or abandon plans
21 to file its petition to the board. These tasks may be satisfied through procedures completed
22 during environmental review pursuant to chapter 30, sections 61 through 62H. The Secretary of
23 the Executive Office of Energy and Environmental Affairs, through a Massachusetts
24 Environmental Policy Act Certificate shall determine whether an applicant made adjustments to
25 the project that address environmental justice population concerns about safety, public health,
26 location, or mitigation.

27 SECTION 2. Section 69H of chapter 164 shall be amended by striking the first paragraph
28 and replacing it with the following two paragraphs:- "There is hereby established an energy
29 facilities siting board within the department, but not under the supervision or control of the
30 department. Said board shall implement the provisions contained in sections 69H to 69Q,
31 inclusive, so as to provide a reliable energy supply for the commonwealth with a minimum
32 impact on the environment and public health, and with a minimum impact on the overall well-

33 being of residents located within two miles of the project at the lowest possible cost after these
34 impacts are considered. To accomplish this, the board shall review the historic impacts of nearby
35 industrial operations and undesirable land uses on environmental justice populations,
36 environmental, climate, and public health impacts, the need for and the cost of transmission
37 lines, natural gas pipelines, facilities for the manufacture and storage of gas, and oil facilities;
38 provided, however, that the board shall review only the environmental impacts of generating
39 facilities, consistent with the commonwealth's policy of allowing market forces to determine the
40 need for and cost of such facilities. Such reviews shall be conducted consistent with section
41 69J1/4 for generating facilities and with section 69J for all other facilities. Before approving the
42 construction, operation and/or alteration of facilities, the board shall determine whether cost-
43 effective efficiency and conservation opportunities provide an appropriate alternative to the
44 proposed facility. All petitions shall (a) demonstrate to the board that the planning, design,
45 engineering and specifications for the project include adaptation measures sufficient to address
46 climate risks that will arise over the economic life of the project or the term of financing,
47 whichever is longer, based on the best available climate science; and (b) disclose in all design
48 engineering, architectural, or other drawings the climate assumptions used in evaluating and
49 addressing climate risks. It shall be the policy of the Commonwealth to minimize the negative
50 impacts of climate change and the energy transition on environmental justice populations and
51 prioritize renewable energy and climate adaptation investment in these areas."

52 SECTION 3. Section 69H of chapter 164 shall be amended by removing the second
53 paragraph and replacing it with the following paragraph:- "The board shall be composed of the
54 secretary of energy and environmental affairs, who shall serve as chairperson, the secretary of
55 housing and economic development, the commissioner of the department of environmental

56 protection, the commissioner of the division of energy resources, 2 commissioners of the
57 commonwealth utilities commission, or the designees of any of the foregoing, and 5 public
58 members to be appointed by the governor for a term coterminous with that of the governor, 1 of
59 whom shall be experienced in environmental issues, 1 of whom shall be experienced in labor
60 issues, 1 of whom shall be experienced in energy issues, and 2 of whom shall be experienced in
61 community issues associated with the siting of energy facilities with at least of one these
62 members who resides in an environmental justice population and has experience with
63 environmental justice principles and at least one of these members who is a tribal representative
64 or representative of an Indigenous organization. The board shall not include as a public member
65 any person who receives, or who has received during the past two years a significant portion of
66 his or her income directly or indirectly from the developer of an energy facility or an electric, gas
67 or oil company. The public members shall serve on a part-time basis, receive \$100 per diem of
68 board service, and shall be reimbursed by the commonwealth for all reasonable expenses actually
69 and necessarily incurred in the performance of official board duties.

70 Upon the resignation of any public member, the governor shall appoint a successor,
71 following consultation with the environmental justice council as required by section 62K of
72 chapter 30, for the unexpired portion of the term. When appointing new members to the board,
73 the governor shall ensure that at least two members have expertise in the siting of renewable
74 energy generating facilities and energy storage systems. No person shall be appointed to serve
75 more than two consecutive full terms."

76 SECTION 4. Section 69J¼ of chapter 164 shall be amended by striking the third
77 paragraph and replacing it with the following paragraph:- "A petition to construct a generating
78 facility shall include, in such form and detail as the board shall from time to time prescribe, the

79 following information: (i) a description of the proposed generating facility, including any
80 ancillary structures and related facilities; (ii) a description of the environmental impacts and the
81 costs associated with the mitigation, control, or reduction of the environmental impacts of the
82 proposed generating facility; (iii) a description of the project development and site selection
83 process used in choosing the design and location of the proposed generating facility; (iv) either
84 (a) evidence that the expected emissions from the facility meet the technology performance
85 standard in effect at the time of filing, or (b) a description of the environmental impacts, costs,
86 and reliability of other fossil fuel generating technologies, and an explanation of why the
87 proposed technology was chosen; (v) an environmental justice impact statement detailing all
88 potential impacts to environmental justice populations as defined in section 62 of chapter 30 and
89 comparing the proposed site to other potential sites that do not impact environmental justice
90 populations; (vi) impacts of the facility with respect to mitigating climate change; (vii) plans for
91 the facility to adapt to a changing climate including current and future flooding, storm surges,
92 and sea level rise; (viii) public health impacts of the proposed facility; (ix) a cumulative impact
93 assessment that considers an exposure, public health or environmental risk, or other effect
94 occurring in a specific geographical area, including from any environmental pollution emitted or
95 released routinely, accidentally, or otherwise, from any source, and assessed based on the
96 combined past, present, and reasonably foreseeable emissions and discharges affecting the
97 geographical area; and (x) any other information necessary to demonstrate that the generating
98 facility meets the requirements for approval specified in this section."

99 SECTION 5. Section 69J¹/₄ of chapter 164 shall be amended by striking the fifth and sixth
100 paragraphs and replacing them with the following two paragraphs:- "The board shall approve a
101 petition to construct a generating facility only if the board determines that the petition meets all

102 of the following requirements: (i) the description of the proposed generating facility and its
103 environmental impacts are substantially accurate and complete; (ii) the description of the site
104 selection process used is accurate; (iii) the plans for the construction of the proposed generating
105 facility are consistent with current health, environmental protection, climate, and environmental
106 justice policies of the commonwealth and with such policies as are adopted by the
107 commonwealth for the specific purpose of guiding the decisions of the board; (iv) such plans
108 minimize the environmental impacts consistent with the minimization of costs associated with
109 the mitigation, control, and reduction of the environmental impacts of the proposed generating
110 facility; (v) the environmental justice impact statement demonstrates a finding of environmental
111 and energy benefits to the impacted environmental justice populations without environmental or
112 energy burdens; (vi) the cumulative impact assessment demonstrates that there is no adverse
113 public health, environmental, or climate impact to the impacted communities; and (vii) if the
114 petitioner was required to provide information on other fossil fuel generating technologies, the
115 construction of the proposed generating facility on balance contributes to a reliable, low-cost,
116 diverse, regional energy supply with minimal environmental impacts that will contribute to the
117 commonwealth achieving its climate targets pursuant to chapter 21N. The board may, at its
118 discretion, evaluate alternative sites for a generating facility if the applicant or resident living
119 within two miles of the facility requests such an evaluation, or if such an evaluation is an
120 efficient method of administering an alternative site review required by another state or local
121 agency. Nothing in this chapter shall be construed as requiring the board to make findings
122 regarding alternative generating technologies for a proposed generating facility whose expected
123 emissions meet the technology performance standard in effect at the time of filing.

124 The board shall, after review of the environmental justice impact statement, deny a
125 petition for a new facility or for the expansion of an existing facility, or apply new conditions to
126 the renewal of an existing facility’s approval, upon a finding that approval of the petition, as
127 proposed, would, together with other environmental, climate, or public health stressors affecting
128 the environmental justice population, cause or contribute to adverse cumulative environmental,
129 climate, or public health stressors in the overburdened community that are higher than those
130 borne by other communities within the Commonwealth or other geographic unit of analysis as
131 determined by the executive office of energy and environmental affairs pursuant to rule,
132 regulation, or guidance. The board may, after review of the environmental justice impact
133 statement, deny a petition for a renewable energy-powered facility, associated ancillary structure,
134 or for the expansion of an existing renewable energy-powered facility, associated ancillary
135 structure, or apply new conditions to the renewal of an existing facility’s approval, upon a
136 finding that approval of the petition, as proposed, would, together with other environmental,
137 climate, or public health stressors affecting the environmental justice population, cause or
138 contribute to adverse cumulative environmental, climate, or public health stressors in the
139 overburdened community that are higher than those borne by other communities within the
140 Commonwealth or other geographic unit of analysis as determined by the executive office of
141 energy and environmental affairs pursuant to rule, regulation, or guidance.

142 The board shall have the authority to adopt regulations establishing programs to achieve
143 emissions reductions, climate adaptation, and environmental justice for the locations selected
144 using the most cost-effective measures identified. The board shall promulgate regulations that
145 establish timelines for reviewing a petition such that: (i) a generating facility that is powered by
146 fossil fuels has the longest period of time for going through the adjudicatory process; (ii) an

147 energy storage system or ancillary structure has a shorter period of time for going through the
148 adjudicatory process; and (iii) a generating facility that is powered by solar, wind, or geothermal
149 energy has the shorted period of time for going through the adjudicatory process. The Siting
150 Board shall promulgate regulations that define a generating facility that is powered by renewable
151 energy and ensure that the lifecycle of emissions and impacts are considered such that
152 technologies that have a lifecycle of emissions and impacts that create environmental burdens
153 shall not be defined as renewable energy."

154 SECTION 6. Section 69J of chapter 164 shall be amended by striking the third through
155 sixth paragraphs and replacing them with the following paragraphs:- "A petition to construct a
156 facility shall include, in such form and detail as the board shall from time to time prescribe, the
157 following information: (1) a description of the facility, site and surrounding areas; (2) an analysis
158 of the need for the facility to benefit local energy needs within the commonwealth; (3) a
159 description of the alternatives to the facility, such as other methods of transmitting or storing
160 energy, other site locations, other sources of electrical power or gas, including renewable sources
161 of energy, or a reduction of requirements through load management; (4) a description of the
162 environmental impacts of the facility; (5) an environmental justice impact statement detailing all
163 potential impacts to environmental justice populations as defined in section 62 of chapter 30 and
164 comparing the proposed site to other potential sites that do not impact environmental justice
165 populations; (6) impacts of the facility with respect to mitigating climate change; (7) plans for
166 the facility to adapt to a changing climate including current and future flooding, storm surges,
167 and sea level rise; (8) public health impacts of the proposed facility; and (9) a cumulative impact
168 assessment that considers an exposure, public health or environmental risk, or other effect
169 occurring in a specific geographical area, including from any environmental pollution emitted or

170 released routinely, accidentally, or otherwise, from any source, and assessed based on the
171 combined past, present, and reasonably foreseeable emissions and discharges affecting the
172 geographical area. The board shall be empowered to issue and revise filing guidelines after
173 public notice and a period for comment. A minimum of data shall be required by these guidelines
174 from the applicant for review concerning land use impact, water resource impact, air quality
175 impact, solid waste impact, radiation impact, public health impact, environmental justice impact,
176 and noise impact.

177 The board shall conduct a public hearing on every petition to construct a facility or notice
178 of intention to construct an oil facility within six months of the filing thereof. Such hearing shall
179 be an adjudicatory proceeding under the provisions of chapter thirty A. In addition, a public
180 hearing shall be held in each neighborhood in which a facility would be located or in which an
181 oil facility contained in a notice of intention to construct such facility is located, except that a
182 public hearing shall not be required in a locality containing a proposed site if such a hearing has
183 already been held in regard to that particular facility on that particular site in conjunction with a
184 previously filed petition. The public hearing shall ensure language access, including
185 simultaneous language interpretation in the languages spoken by a significant proportion of the
186 population in the neighborhood of the proposed facility, that allows residents and other attendees
187 to understand others' comments and that allows members of the department to understand
188 speakers' comments. The board shall approve a petition to construct a facility only if it
189 determines that it meets the following requirements: all information relating to current activities,
190 environmental impacts, facilities agreements and energy policies as adopted by the
191 commonwealth is substantially accurate, based on information that is no later than three years
192 old, and complete; projections of the demand for electric power, or gas requirements and of the

193 capacities for existing and proposed facilities are based on substantially accurate historical
194 information and reasonable statistical projection methods and include an adequate consideration
195 of conservation and load management; provided, however, that the department or board shall not
196 require in any gas forecast or hearing conducted thereon the presentation of information relative
197 to the demand for gas; projections relating to service area, facility use and pooling or sharing
198 arrangements are consistent with such forecasts of other companies subject to this chapter as may
199 have already been approved and reasonable projections of activities of other companies in the
200 New England area; plans for expansion and construction of the applicant's new facilities are
201 consistent with current health, environmental protection, and resource use and development
202 policies as adopted by the commonwealth; the environmental justice impact statement
203 demonstrates a finding of environmental and energy benefits to the impacted environmental
204 justice populations without any environmental or energy burdens; the cumulative impact
205 assessment demonstrates that there is no adverse public health, environmental, or climate impact
206 to the impacted communities; are consistent with the policies stated in section sixty-nine H to
207 provide a necessary energy supply for the commonwealth with a minimum impact on the
208 environment at lowest possible cost; and in the case of a notice of intent to construct an oil
209 facility, that all information regarding sources of supply for such facility and financial
210 information regarding the applicant and its proposed facility are substantially accurate and
211 complete; that it is satisfied as to the adequacy of the applicant's capital investment plans to
212 complete its facility; the long term economic viability of the facility; the overall financial
213 soundness of the applicant; in the case of an oil facility, the qualification and capability of the
214 applicant in the transshipment, transportation, storage, refining and marketing of oil or refined oil
215 products; that plans including buffer zones or alternatives thereto for the applicant's new facility

216 are consistent with current health, environmental protection and resource use and development
217 policies as adopted by the commonwealth.

218 If the board determines the standards set forth above have not been met, it shall reject in
219 whole or in part the petition, setting forth in writing its reasons for such rejections, or approve
220 the petition subject to stated conditions. In the event of rejection or conditioned approval, the
221 applicant may within six months submit an amended petition. A public hearing on the amended
222 petition shall be held on the same terms and conditions applicable to the original petition. The
223 board shall, after review of the environmental justice impact statement, deny a petition for a new
224 facility or for the expansion of an existing facility, or apply new conditions to the renewal of an
225 existing facility's approval, upon a finding that approval of the petition, as proposed, would,
226 together with other environmental, climate, or public health stressors affecting the environmental
227 justice population, cause or contribute to adverse cumulative environmental, climate, or public
228 health stressors in the overburdened community that are higher than those borne by other
229 communities within the Commonwealth or other geographic unit of analysis as determined by
230 the executive office of energy and environmental affairs pursuant to rule, regulation, or guidance.

231 The board and department of public utilities shall have the authority to adopt regulations
232 establishing programs to achieve emissions reductions for the locations selected using the most
233 cost-effective measures identified.

234 Prior to constructing an oil facility or commencement of construction of a facility for the
235 refining of oil designed so that more than thirty-five percent of its output could be gasoline or
236 refined oil products lighter than gasoline and prior to filing an environmental notification form or
237 environmental impact report pursuant to chapter 30, sections 61 through 62H, an applicant must

238 prepare a preliminary project statement that shall be shared with the director of environmental
239 justice at the executive office of energy and environmental affairs, energy facilities siting board
240 director, posted to a public website, and translated into multiple languages, as relevant to the
241 local population. Within 30 days of submitting that statement, the project proponent shall invite
242 civic, community-based organizations, local elected officials, and the director of environmental
243 justice at the executive office of energy and environmental affairs to review the proposed project.
244 An applicant shall make adjustments to the project or consider alternate locations that address
245 community concerns about safety, public health, or climate or abandon plans to file its petition to
246 the board. If an applicant makes an adjustment or considers alternate locations, it must send a
247 written summary of these changes to the director of environmental justice at the executive office
248 of energy and environmental affairs. Subsequent to the preliminary project statement and public
249 outreach, the applicant must file a notice of intention to construct such facility with the board.
250 Such notice shall include in such form and detail as the board shall reasonably prescribe, in
251 addition to a detailed description of the proposed facility and site, the following information for
252 the region expected to be served by the oil facility:

253 (1) A description of the applicant's current activities involving the transshipment,
254 transportation, storage, or refining of oil or refined oil products and all anticipated impacts to
255 environmental justice populations.

256 (2) A description of the applicant's qualification and capability in transshipment,
257 transportation, storage, refining and marketing of oil or refined oil products.

258 (3) An analysis of the proposed facility including but not limited to the description of
259 alternatives to the planned action, such as other site locations, other oil facilities, and no

260 additional oil facilities; a description of the environmental impact of the proposed facility, said
261 description to include buffer zones and other measures to minimize damage to the environment;
262 all potential impacts to environmental justice populations; impacts of the facility with respect to
263 mitigating climate change; plans for the facility to adapt to a changing climate including current
264 and future flooding, storm surges, and sea level rise; public health impacts of the proposed
265 facility; and a cumulative impact assessment that considers an exposure, public health or
266 environmental risk, or other effect occurring in a specific geographical area, including from any
267 environmental pollution emitted or released routinely, accidentally, or otherwise, from any
268 source, and assessed based on the combined past, present, and reasonably foreseeable emissions
269 and discharges affecting the geographical area; and a facility is required to meet local energy use
270 needs and that such need cannot be accomplished through less harmful means. The board shall
271 after public notice and a period for comment be empowered to issue and revise its own list of
272 guidelines. A minimum of data shall be required by these guidelines from the applicant for
273 review concerning land use impact, water resource impact, air quality impact, solid waste
274 impact, radiation impact, public health impact, environmental justice impact, and noise impact.

275 (4) A description of proposed sources of supply of crude oil or refined oil products for the
276 oil facility which is the subject of the notice; if such sources are persons not controlled by the
277 applicant, certified copies of any contracts, letters of intent or any other understandings.

278 (5) A description of the capital investment plan proposed for such facility, and the overall
279 financial soundness of the company and economic viability of the facility, including insurance
280 coverage during construction and operation."

281 SECTION 7. Section 69I of chapter 164 is hereby amended by adding the following
282 paragraph:- "A project proponent shall publicly disclose energy load forecast data that
283 demonstrates the local need for the facility to ensure reliability. Long-range forecasts must
284 demonstrate local need for a generating facility at particular facility locations."

285 SECTION 8. Section 69G of chapter 164 shall be amended to include the following
286 definition for "public hearing":- "Public hearing" means a hearing to discuss a proposed project
287 that shall ensure language access, including simultaneous language interpretation in the
288 languages spoken by a significant proportion of the population in the neighborhood of the
289 proposed facility, that allows residents and other attendees to understand others' comments and
290 that allows members of the department, board members, and attendees to understand speakers'
291 comments."

292 SECTION 9. Section 69G of chapter 164 shall be amended to strike the existing
293 definition for "generating facility" and replace it with the following definition:- "Generating
294 facility," any generating unit designed for or capable of operating at a gross capacity of 35
295 megawatts or more, including associated buildings, ancillary structures, transmission and
296 pipeline interconnections that are not otherwise facilities, and fuel storage facilities."

297 SECTION 10. Section 69K of chapter 164 shall be amended to strike the fifth paragraph
298 and replace it with the following paragraph:- "A certificate shall be issued only in accordance
299 with the provisions of sections sixty-nine K to sixty-nine O, inclusive. Notwithstanding the
300 provisions of any other law to the contrary, a certificate may be so issued only if the facility does
301 not create greenhouse gas emissions that would cause or contribute to the Commonwealth not
302 meeting its climate mandates under chapter 21N or environmental burdens on an environmental

303 justice population as defined by section 62 of chapter 30. If so issued, no state agency or local
304 government shall require any approval, consent, permit, certificate or condition for the
305 construction, operation or maintenance of the facility with respect to which the certificate is
306 issued and no state agency or local government shall impose or enforce any law, ordinance, by-
307 law, rule or regulation nor take any action nor fail to take any action which would delay or
308 prevent the construction, operation or maintenance of such facility; provided, however, that the
309 board shall not issue a certificate the effect of which would be to grant or modify a permit,
310 approval or authorization which, if so granted or modified by the appropriate state or local
311 agency, would be invalid because of a conflict with applicable federal water or air standards or
312 requirements. A certificate, if issued, shall be in the form of a composite of all individual
313 permits, approvals or authorizations which would otherwise be necessary for the construction
314 and operation of the facility and that portion of the certificate which relates to subject matters
315 within the jurisdiction of a state or local agency shall be enforced by said agency under the other
316 applicable laws of the commonwealth as if it had been directly granted by the said agency. The
317 board shall promulgate detailed regulations that describe the timing for review of a certificate
318 pursuant to this section, contents of the petition, and procedures to engage with environmental
319 justice populations and other stakeholders prior to and throughout the proceeding.”

320 SECTION 11. Section 62K1/2 of chapter 164 shall be amended to strike the third
321 paragraph and replace it with the following paragraph:- "A certificate shall be issued only in
322 accordance with the provisions of sections 69K to 69O1/2, inclusive. Notwithstanding the
323 provisions of any other law to the contrary, a certificate may be so issued only if the generating
324 facility does not generate greenhouse gas emissions that would cause or contribute to the
325 Commonwealth not meeting its climate mandates under chapter 21N or environmental burdens

326 on an environmental justice population as defined by section 62 of chapter 30.; provided,
327 however, that when so issued no state agency or local government shall require any approval,
328 consent, permit, certificate, or condition for the construction, operation, or maintenance of the
329 generating facility with respect to which the certificate is issued, and no state agency or local
330 government shall impose or enforce any law, ordinance, by-law, rule, or regulation nor take any
331 action nor fail to take any action which would delay or prevent the construction, operation, or
332 maintenance of such generating facility; provided, however, that the board shall not issue a
333 certificate, the effect of which would be to grant or modify a permit, approval, or authorization,
334 which, if so granted or modified by the appropriate state or local agency, would be invalid
335 because of a conflict with applicable federal water or air standards or requirements. A certificate,
336 if issued, shall be in the form of a composite of all individual permits, approvals, or
337 authorizations which would otherwise be necessary for the construction and operation of the
338 generating facility, and that portion of the certificate which relates to subject matters within the
339 jurisdiction of a state or local agency shall be enforced by said agency under the other applicable
340 laws of the commonwealth as if it had been directly granted by the said agency. The board shall
341 promulgate detailed regulations that describe the timing for review of a certificate pursuant to
342 this section, contents of the petition, and procedures to engage with environmental justice
343 populations and other stakeholders prior to and throughout the proceeding."

344 SECTION 12. Section 69L of chapter 164 shall be amended to add the following
345 paragraph after section (5):-

346 "(6) An environmental justice impact statement shall include a description of the
347 environmental impact of the proposed facility, said description to include buffer zones and other
348 measures to minimize damage to the environment; all potential impacts to environmental justice

349 populations; impacts of the facility with respect to mitigating climate change; plans for the
350 facility to adapt to a changing climate including current and future flooding, storm surges, and
351 sea level rise; public health impacts of the proposed facility; and a cumulative impact assessment
352 that considers an exposure, public health or environmental risk, or other effect occurring in a
353 specific geographical area, including from any environmental pollution emitted or released
354 routinely, accidentally, or otherwise, from any source, and assessed based on the combined past,
355 present, and reasonably foreseeable emissions and discharges affecting the geographical area;
356 and a facility is required to meet local energy use needs and that such need cannot be
357 accomplished through less harmful means. The board shall after public notice and a period for
358 comment be empowered to issue and revise its own list of guidelines. A minimum of data shall
359 be required by these guidelines from the applicant for review concerning land use impact, water
360 resource impact, air quality impact, solid waste impact, radiation impact, public health impact,
361 environmental justice impact, and noise impact."

362 SECTION 13. Section 69L1/2 of chapter 164 shall be amended to add the following
363 paragraph after section (5):

364 "(6) An environmental justice impact statement shall include a description of the
365 environmental impact of the proposed facility, said description to include buffer zones and other
366 measures to minimize damage to the environment; all potential impacts to environmental justice
367 populations; impacts of the facility with respect to mitigating climate change; plans for the
368 facility to adapt to a changing climate including current and future flooding, storm surges, and
369 sea level rise; public health impacts of the proposed facility; and a cumulative impact assessment
370 that considers an exposure, public health or environmental risk, or other effect occurring in a
371 specific geographical area, including from any environmental pollution emitted or released

372 routinely, accidentally, or otherwise, from any source, and assessed based on the combined past,
373 present, and reasonably foreseeable emissions and discharges affecting the geographical area;
374 and a facility is required to meet local energy use needs and that such need cannot be
375 accomplished through less harmful means. The board shall after public notice and a period for
376 comment be empowered to issue and revise its own list of guidelines. A minimum of data shall
377 be required by these guidelines from the applicant for review concerning land use impact, water
378 resource impact, air quality impact, solid waste impact, radiation impact, public health impact,
379 environmental justice impact, and noise impact."

380 SECTION 14. Section 69O of chapter 164 shall be amended to strike the first paragraph
381 and replace it with the following paragraph:- "The board shall by a majority vote render a
382 decision upon the petition either by denying the petition or by granting the petition, or by
383 granting the petition subject to such terms and conditions as the board may determine. Neither
384 the board nor any other person shall be bound by the requirements of section sixty-one to sixty-
385 two H, inclusive, of chapter thirty to the extent that compliance with said requirements will
386 prevent the board from rendering a decision upon the petition within the time limits of this
387 section. The Siting Board shall promulgate regulations that establish timelines for reviewing a
388 petition for a certificate of public interest such that: (i) a generating facility that is powered by
389 fossil fuels has the longest period of time for going through the adjudicatory process; (ii) an
390 energy storage system or ancillary structure has a shorter period of time for going through the
391 adjudicatory process; and (iii) a generating facility that is powered by renewable energy has the
392 shorted period of time for going through the adjudicatory process. The Siting Board shall
393 promulgate regulations that define a generating facility that is powered by renewable energy and
394 ensure that the lifecycle of emissions and impacts are considered such that technologies that have

395 a lifecycle of emissions and impacts that create environmental burdens shall not be defined as
396 renewable energy."