

**SENATE . . . . . No. 2155**

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**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 relative to enhancing reliability of renewable resources in the Commonwealth.

PETITION OF:

NAME:

*Julian Cyr*

DISTRICT/ADDRESS:

*Cape and Islands*

**SENATE . . . . . No. 2155**

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 2155) of Julian Cyr for legislation to enhance reliability of renewable resources in the Commonwealth. Telecommunications, Utilities and Energy.

**The Commonwealth of Massachusetts**

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

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

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to fully utilize all domestic energy storage resources available to the commonwealth to reach the net zero greenhouse gas emissions limit; and

*Whereas*, the commonwealth has established a 2050 statewide emissions limit of net zero greenhouse gas emissions; and

*Whereas*, the commonwealth has already executed significant procurements of large-scale domestic renewable energy resources including offshore wind, and has authorized additional procurements to commence in the coming years; and

*Whereas*, to meet the commonwealth’s greenhouse gas reduction requirements, large-scale and long-duration energy storage resources will be needed to balance the variability of renewable generation and fill in energy gaps; and

*Whereas*, pumped storage and other long-duration energy storage resources currently face barriers to full utilization, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the 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 83B of chapter 169 of the acts of 2008, as inserted by chapter 188  
2 of the acts of 2016, is hereby amended by inserting after the definition of “Distribution  
3 company” the following definition:-

4           “Existing energy storage peak renewable power”, the generation moved to higher demand  
5 on-peak periods by an energy storage system, as defined in section 1 of chapter 164, that  
6 commenced commercial operations or provided incremental new capability at an existing storage  
7 system before January 1, 2023; provided, however, that such energy storage system is at least 50  
8 megawatts of nameplate capacity and its transportation of energy or stored potential energy from  
9 periods of lower demand to periods of higher demand is coordinated with the renewable  
10 generation produced in lower demand periods under other solicitations performed under chapter  
11 169 of the acts of 2008. While the energy storage system must be located in Massachusetts, the  
12 renewable energy generation moved from lower demand periods to higher demand periods may  
13 be from resources located anywhere within New England, an adjacent electric system, or federal  
14 waters adjacent to New England.

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

17           “New energy storage peak renewable power”, the generation moved from lower demand  
18 periods to higher demand periods by an energy storage system, as defined in section 1 of chapter  
19 164, that commenced commercial operations or provided incremental new capability at an  
20 existing storage system on or after January 1, 2020; provided, however, that such transportation  
21 of energy or stored potential energy by the energy storage system from periods of lower demand  
22 to periods of higher demand is coordinated with the renewable generation produced in lower  
23 demand periods under other solicitations performed under chapter 169 of the acts of 2008. While  
24 the energy storage system must be located in Massachusetts, the renewable energy generation  
25 moved from lower demand periods to higher demand periods may be from resources located

26 anywhere within New England, an adjacent electric system, or federal waters adjacent to New  
27 England.

28 SECTION 3. Chapter 169 of the acts of 2008 is hereby amended by inserting after section  
29 83D, inserted by chapter 188 of the acts of 2016, the following section:-

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

40 (b) The timetable and method for solicitations of 10-20 year contracts shall be proposed  
41 jointly by the distribution companies and the department of energy resources using a competitive  
42 bidding process, and shall be subject to review and approval by the department of public utilities.  
43 The distribution companies, in coordination with the department of energy resources, shall  
44 consult with the attorney general regarding the choice of solicitation methods. The distribution  
45 companies shall enter into cost-effective 10-20 year contracts for peak renewable power from  
46 energy storage resources up to 4,800 gigawatt hours of renewable generation delivered to periods  
47 of high demand each year. Proposals received pursuant to a solicitation under this section shall

48 be subject to review by the department of energy resources. If the department of energy  
49 resources, in consultation with the distribution companies and the independent evaluator,  
50 determines that reasonable proposals were not received pursuant to a solicitation, the department  
51 may terminate the solicitation, and may require additional solicitations to fulfill the requirements  
52 of this section.

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

66 (d) There shall be a selection committee that evaluates bid submissions and selects the  
67 winning bid. The committee shall consist of the following members: the secretary of energy and  
68 environmental affairs, who shall be the chair; the attorney general; the secretary of housing and  
69 economic development; and the house and senate chairs of the joint committee on  
70 telecommunications, utilities and energy.

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

73 (f) A proposed 10-20 year contract shall be subject to the review and approval of the  
74 department of public utilities. As part of its approval process, the department of public utilities  
75 shall consider recommendations by the attorney general, which shall be submitted to the  
76 department of public utilities within 45 days following the filing of a proposed 10-20 year  
77 contract with the department of public utilities. The department of public utilities shall consider  
78 the potential costs and benefits of the proposed 10-20 year contract and shall approve a proposed  
79 10-20 year contract if the department finds that the proposed contract is a cost-effective  
80 mechanism to move renewable energy from periods of low electric demand to periods of higher  
81 electric demand on a long-term basis, taking into account the factors outlined in this section. A  
82 distribution company shall be entitled to cost recovery of payments made under a 10-20 year  
83 contract approved under this section.

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

94 and (2) upon the opening of an investigation by the department of public utilities into a proposed  
95 10-20 year contract for a winning bid proposal, file a report with the department of public  
96 utilities that summarizes and analyzes the solicitation and the bid selection process, and provide  
97 the independent evaluator's assessment of whether all bids were evaluated in a fair and objective  
98 manner. The independent evaluator shall have access to the information and data related to the  
99 competitive solicitation and bid selection process that is necessary to fulfill the purposes of this  
100 subsection; provided, however, that the independent evaluator shall ensure that all proprietary  
101 information remains confidential. The department of public utilities shall consider the findings of  
102 the independent evaluator and may adopt recommendations made by the independent evaluator  
103 as a condition for approval. If the independent evaluator concludes in the findings that the  
104 solicitation and bid selection of a 10-20 year contract was not fair and objective and that the  
105 process was substantially prejudiced as a result, the department of public utilities shall reject the  
106 winning bid proposal.

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

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

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

116 (k) If this section is subjected to a legal challenge, the department of public utilities may  
117 suspend the applicability of the challenged provision during the pendency of the action until a  
118 final resolution, including any appeals, is obtained and shall issue an order and take other actions  
119 as are necessary to ensure that the provisions not subject to the challenge are implemented  
120 expeditiously to achieve the public purposes of this section.