

SENATE No. 2178

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

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 better buildings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/14/2023</i>

SENATE No. 2178

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 2178) of Rebecca L. Rausch and James B. Eldridge for legislation relative to better buildings. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act relative to better buildings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 25A of the General Laws, as appearing in the 2020 Official Edition, is hereby
2 amended by inserting the following section:-

3 Section 21. Better Buildings Act. (a) For purposes of this section, the following words
4 shall have the following meanings unless the context clearly requires otherwise:-

5 “Building”, a building or multiple buildings on a parcel, or any grouping of buildings
6 designated by the department as an appropriate unit for the purposes of verifying compliance
7 with building performance standards established under this section.

8 “Building energy reporting program,” requirements for the owners of large buildings to
9 report building energy use on an annual basis and for the department to make this information
10 publicly available, pursuant to section 20 of chapter 25A.

11 “Department”, the department of energy resources.

12 “Energy”, electricity, natural gas, steam, hot or chilled water, heating oil, propane or
13 other products designated by the department that are used for heating, cooling, lighting,
14 industrial and manufacturing processes, water heating, cooking, clothes drying or other purposes.

15 “Greenhouse gas emissions,” emissions of greenhouse gasses, as defined in chapter 21N,
16 from the energy consumed annually at a large building, measured in metric tons of carbon
17 dioxide equivalent or similar units; provided, that greenhouse gas emissions shall not include
18 emissions associated with separately-metered electricity used to charge vehicles or other energy
19 uses determined by the department to be unrelated to the operation of the building.

20 “Gross floor area”, the total floor area contained within a building measured to the
21 external face of the external walls.

22 “Large building”, a building with at least 20,000 square feet of gross floor area; provided,
23 however, that the department may establish by regulation a lower threshold for a building to be
24 considered a large building under this section.

25 “Normalized greenhouse gas emissions,” greenhouse gas emissions normalized for
26 weather and other factors at the discretion of the department.

27 “Normalized greenhouse gas emissions intensity,” normalized greenhouse gas emissions
28 for a building divided by the gross floor area of the building.

29 “Normalized site energy use,” site energy use normalized for weather and other factors at
30 the discretion of the department.

31 “Normalized site energy use intensity,” normalized site energy use for a building divided
32 by the gross floor area of the building.

33 “Owner”, the owner of record of a building or a designated agent thereof including, but
34 not limited to, an association or organization of unit owners responsible for management of a
35 condominium, the board of directors of a cooperative apartment corporation or the net lessee of a
36 building subject to a net lease with a term of not less than 30 years, inclusive of all renewal
37 options.

38 “Site energy use,” the total energy consumed annually at a large building, measured in
39 thousand British thermal units (kBtu) or similar units; provided, that site energy use shall not
40 include separately-metered electricity used to charge vehicles or other energy uses determined by
41 the department to be unrelated to the operation of the building.

42 (b) The department shall establish building performance standards for each large building
43 type and occupancy. The department may designate subcategories within each building type and
44 occupancy to establish building performance standards.

45 (c) For each building type and occupancy, and for any subcategories as designated by the
46 department, the department shall establish a final building performance standard that shall apply
47 in the year 2050 and each year thereafter. The department shall also establish interim building
48 performance standards for each 5-year period beginning in 2025, and these standards shall apply
49 in each year of the relevant 5-year period. For each building type and occupancy, and for any
50 subcategories as designated by the department, final and interim building performance standards
51 shall set either (1) the maximum normalized site energy use intensity, (2) the maximum
52 normalized greenhouse gas emissions intensity, or (3) both the maximum normalized site energy
53 use intensity and maximum normalized greenhouse gas emissions intensity.

54 (d) The department shall establish building performance standards at levels that are: (i) at
55 least as stringent as the median normalized site energy use intensity or normalized greenhouse
56 gas emissions intensity of large buildings of each building type at the time, based on data
57 collected through the building energy reporting program; and (ii) consistent with achieving the
58 greenhouse gas emissions limits and sublimits established under chapter 21N. The department
59 may revise building performance standards based on significant new information about building
60 energy use, market conditions, and innovations in energy efficiency and electrification
61 technologies.

62 (e) The department may establish an option for campus-wide performance standards for
63 post-secondary educational institutions and hospitals with multiple buildings in a single location
64 that have the same owner; provided, that such campus-wide performance standards shall require
65 reductions in normalized site energy use intensity or normalized greenhouse gas emissions
66 intensity similar to those standards established for individual buildings under subsections (b)
67 through (d).

68 (f) The department may, in coordination with utility companies and the department of
69 public utilities, establish financial and technical assistance programs for owners to meet building
70 performance standards. In establishing such programs, the department shall consider the
71 financial need of owners and equitable access to programs and technologies, and may establish
72 higher incentives for owners of buildings that achieve greater reductions in normalized site
73 energy use intensity or normalized greenhouse gas emissions intensity than required by the
74 standards.

75 (g) The department shall establish criteria for owners facing extraordinary hardships to
76 seek an extension of the deadline to meet building performance standards for one or more of
77 their buildings. Upon application by an owner, the department may grant an extension of up to 3
78 years.

79 (h) If, due to unusual circumstances, an owner believes that a building cannot reasonably
80 meet one or more of the applicable interim or final building performance standards, the owner
81 may propose a building performance action plan for the department's approval. Such a plan shall
82 include proposed improvements to the building and a timeline for the implementation of these
83 improvements, and shall be designed to achieve reductions in normalized site energy use
84 intensity or normalized greenhouse gas emissions intensity that are equivalent to or as close as
85 practicable to the final building performance standard. Once a building performance action plan
86 is approved by the department, a building shall be deemed to be in compliance with the
87 requirements of this section as long as the terms of the building performance action plan are met
88 on a timely basis. The department shall review building performance action plans at least once
89 every 5 years, and may require modifications to these plans or rescind previously granted
90 approval.

91 (i) An owner of a large building that fails to meet the applicable interim building
92 performance standard may comply by paying an alternative compliance fee. Such fee shall be
93 assessed annually for each year that a building fails to meet the standard. The department shall
94 determine the amount of alternative compliance fees at least 12 months in advance of each
95 compliance date, and such amounts shall be assessed on the basis of factors including the gross
96 floor area and the amount by which the normalized site energy use intensity or normalized
97 greenhouse gas emissions intensity exceeds the interim standard. To the extent possible, the

98 department shall set the amount of alternative compliance fees to incentivize building owners to
99 meet the interim building performance standard rather than pay the alternative compliance fee.

100 (j) The department shall establish civil penalties for owners of buildings that fail to meet
101 the applicable building performance standard and do not pay alternative compliance fees, and
102 owners of buildings that fail to comply with the terms of their building performance action plans;
103 provided, however, that no such penalty shall be assessed on or passed through to a lessee of a
104 unit within a large building that comprises less than 5 per cent of the total gross floor area of the
105 large building.

106 (k) Alternative compliance fees and civil penalties collected by the department shall be
107 deposited into a separate account established by the department. Any funds collected shall be
108 used first to pay for the costs incurred by the department in administering this section, and any
109 remaining funds shall be used to assist owners of large buildings in meeting the requirements of
110 this section and to support energy efficiency and electrification retrofits in low-income housing.
111 The department shall appoint an advisory committee, consisting of community, municipal
112 government, and industry representatives, to direct the expenditure of funds from this account.
113 The department shall publish an annual report on its website listing disbursements from this
114 account.

115 (l) Documents received, created, or maintained by the department under this section shall
116 be public records.

117 (m) Nothing in this section shall prohibit municipalities from establishing and enforcing
118 energy performance standards, greenhouse gas emission standards, or other environmental
119 standards for buildings that exceed the requirements of this section. The department shall

120 coordinate with municipal officials on the establishment and enforcement of building
121 performance standards, and may establish a single process for owners to demonstrate compliance
122 with both municipal and statewide building performance standards; provided, that such a
123 compliance process shall require reductions in normalized site energy use intensity or normalized
124 greenhouse gas emissions intensity that are at least as stringent as the statewide building
125 performance standards established pursuant to this section.

126 (n) The department shall promulgate regulations to implement this section within one
127 year of its effective date.