

HOUSE No. 3187

The Commonwealth of Massachusetts

PRESENTED BY:

Adrian C. Madaro

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:	DATE ADDED:
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>1/20/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/25/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/30/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/30/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/1/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/2/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/3/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/13/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/13/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/13/2023</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/13/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/13/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/13/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/13/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/13/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/13/2023</i>

<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>2/13/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/13/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/13/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/13/2023</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/13/2023</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>2/13/2023</i>
<i>Kate Donaghue</i>	<i>19th Worcester</i>	<i>2/15/2023</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>2/15/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/15/2023</i>
<i>Edward R. Philips</i>	<i>8th Norfolk</i>	<i>2/21/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/21/2023</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/21/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/21/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>2/21/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/24/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>3/6/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>3/7/2023</i>

HOUSE No. 3187

By Representative Madaro of Boston, a petition (accompanied by bill, House, No. 3187) of Adrian C. Madaro and others relative to energy facilities siting improvement to address environmental justice, climate, and public health. Telecommunications, Utilities and Energy.

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:

29 -There is hereby established an energy facilities siting board within the department, but
30 not under the supervision or control of the department. Said board shall implement the provisions
31 contained in sections 69H to 69Q, inclusive, so as to provide a reliable energy supply for the
32 commonwealth with a minimum impact on the environment and public health, and with a
33 minimum impact on the overall wellbeing of residents located within two miles of the project at
34 the lowest possible cost after these impacts are considered. To accomplish this, the board shall
35 review the historic impacts of nearby industrial operations and undesirable land uses on

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

53 SECTION 3. Section 69H of chapter 164 shall be amended by removing the second
54 paragraph and replacing it with the following paragraph:

55 The board shall be composed of the secretary of energy and environmental affairs, who
56 shall serve as chairperson, the secretary of housing and economic development, the
57 commissioner of the department of environmental protection, the commissioner of the division
58 of energy resources, 2 commissioners of the commonwealth utilities commission, or the

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

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

78 SECTION 4. Section 69J¹/₄ of chapter 164 shall be amended by striking the third
79 paragraph and replacing it with the following paragraph:

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

102 SECTION 5. Section 69J¼ of chapter 164 shall be amended by striking the fifth and sixth
103 paragraphs and replacing them with the following two paragraphs:

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

125 make findings regarding alternative generating technologies for a proposed generating facility
126 whose expected emissions meet the technology performance standard in effect at the time of
127 filing.

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

146 The board shall have the authority to adopt regulations establishing programs to achieve
147 emissions reductions, climate adaptation, and environmental justice for the locations selected

148 using the most cost-effective measures identified. The board shall promulgate regulations that
149 establish timelines for reviewing a petition such that: (i) a generating facility that is powered by
150 fossil fuels has the longest period of time for going through the adjudicatory process; (ii) an
151 energy storage system or ancillary structure has a shorter period of time for going through the
152 adjudicatory process; and (iii) a generating facility that is powered by solar, wind, or geothermal
153 energy has the shortest period of time for going through the adjudicatory process. The Siting
154 Board shall promulgate regulations that define a generating facility that is powered by renewable
155 energy and ensure that the lifecycle of emissions and impacts are considered such that
156 technologies that have a lifecycle of emissions and impacts that create environmental burdens
157 shall not be defined as renewable energy.

158 SECTION 6. Section 69J of chapter 164 shall be amended by striking the third through
159 sixth paragraphs and replacing it with the following paragraphs:

160 - A petition to construct a facility shall include, in such form and detail as the board shall
161 from time to time prescribe, the following information: (1) a description of the facility, site and
162 surrounding areas; (2) an analysis of the need for the facility to benefit local energy needs within
163 the commonwealth; (3) a description of the alternatives to the facility, such as other methods of
164 transmitting or storing energy, other site locations, other sources of electrical power or gas,
165 including renewable sources of energy, or a reduction of requirements through load
166 management; (4) a description of the environmental impacts of the facility; (5) an environmental
167 justice impact statement detailing all potential impacts to environmental justice populations as
168 defined in section 62 of chapter 30 and comparing the proposed site to other potential sites that
169 do not impact environmental justice populations; (6) impacts of the facility with respect to
170 mitigating climate change; (7) plans for the facility to adapt to a changing climate including

171 current and future flooding, storm surges, and sea level rise; (8) public health impacts of the
172 proposed facility; and (9) a cumulative impact assessment that considers an exposure, public
173 health or environmental risk, or other effect occurring in a specific geographical area, including
174 from any environmental pollution emitted or released routinely, accidentally, or otherwise, from
175 any source, and assessed based on the combined past, present, and reasonably foreseeable
176 emissions and discharges affecting the geographical area. The board shall be empowered to issue
177 and revise filing guidelines after public notice and a period for comment. A minimum of data
178 shall be required by these guidelines from the applicant for review concerning land use impact,
179 water resource impact, air quality impact, solid waste impact, radiation impact, public health
180 impact, environmental justice impact, and noise impact.

181 The board shall conduct a public hearing on every petition to construct a facility or notice
182 of intention to construct an oil facility within six months of the filing thereof. Such hearing shall
183 be an adjudicatory proceeding under the provisions of chapter thirty A. In addition, a public
184 hearing shall be held in each neighborhood in which a facility would be located or in which an
185 oil facility contained in a notice of intention to construct such facility is located, except that a
186 public hearing shall not be required in a locality containing a proposed site if such a hearing has
187 already been held in regard to that particular facility on that particular site in conjunction with a
188 previously filed petition. The public hearing shall ensure language access, including
189 simultaneous language interpretation in the languages spoken by a significant proportion of the
190 population in the neighborhood of the proposed facility, that allows residents and other attendees
191 to understand others' comments and that allows members of the department to understand
192 speakers' comments. The board shall approve a petition to construct a facility only if it
193 determines that it meets the following requirements: all information relating to current activities,

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

217 soundness of the applicant; in the case of an oil facility, the qualification and capability of the
218 applicant in the transshipment, transportation, storage, refining and marketing of oil or refined oil
219 products; that plans including buffer zones or alternatives thereto for the applicant's new facility
220 are consistent with current health, environmental protection and resource use and development
221 policies as adopted by the commonwealth.

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

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

238 Prior to constructing an oil facility or commencement of construction of a facility for the
239 refining of oil designed so that more than thirty-five per cent of its output could be gasoline or
240 refined oil products lighter than gasoline and prior to filing an environmental notification form or
241 environmental impact report pursuant to chapter 30, sections 61 through 62H, an applicant must
242 prepare a preliminary project statement that shall be shared with the director of environmental
243 justice at the executive office of energy and environmental affairs, energy facilities siting board
244 director, posted to a public website, and translated into multiple languages, as relevant to the
245 local population. Within 30 days of submitting that statement, the project proponent shall invite
246 civic, community-based organizations, local elected officials, and the director of environmental
247 justice at the executive office of energy and environmental affairs to review the proposed project.
248 An applicant shall make adjustments to the project or consider alternate locations that address
249 community concerns about safety, public health, or climate or abandon plans to file its petition to
250 the board. If an applicant makes an adjustment or considers alternate locations, it must send a
251 written summary of these changes to the director of environmental justice at the executive office
252 of energy and environmental affairs. Subsequent to the preliminary project statement and public
253 outreach, the applicant must file a notice of intention to construct such facility with the board.
254 Such notice shall include in such form and detail as the board shall reasonably prescribe, in
255 addition to a detailed description of the proposed facility and site, the following information for
256 the region expected to be served by the oil facility:

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

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

262 (3) An analysis of the proposed facility including but not limited to the description of
263 alternatives to the planned action, such as other site locations, other oil facilities, and no
264 additional oil facilities; a description of the environmental impact of the proposed facility, said
265 description to include buffer zones and other measures to minimize damage to the environment;
266 all potential impacts to environmental justice populations; impacts of the facility with respect to
267 mitigating climate change; plans for the facility to adapt to a changing climate including current
268 and future flooding, storm surges, and sea level rise; public health impacts of the proposed
269 facility; and a cumulative impact assessment that considers an exposure, public health or
270 environmental risk, or other effect occurring in a specific geographical area, including from any
271 environmental pollution emitted or released routinely, accidentally, or otherwise, from any
272 source, and assessed based on the combined past, present, and reasonably foreseeable emissions
273 and discharges affecting the geographical area; and a facility is required to meet local energy use
274 needs and that such need cannot be accomplished through less harmful means. The board shall
275 after public notice and a period for comment be empowered to issue and revise its own list of
276 guidelines. A minimum of data shall be required by these guidelines from the applicant for
277 review concerning land use impact, water resource impact, air quality impact, solid waste
278 impact, radiation impact, public health impact, environmental justice impact, and noise impact.

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

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

285 SECTION 7. Section 69I of chapter 164 is hereby amended by adding the following
286 paragraph:

287 - A project proponent shall publicly disclose energy load forecast data that demonstrates
288 the local need for the facility to ensure reliability. Long-range forecasts must demonstrate local
289 need for a generating facility at particular facility locations.

290 SECTION 8. Section 69G of chapter 164 shall be amended to include the following
291 definition for “public hearing”:

292 - “Public hearing” means a hearing to discuss a proposed project that shall ensure
293 language access, including simultaneous language interpretation in the languages spoken by a
294 significant proportion of the population in the neighborhood of the proposed facility, that allows
295 residents and other attendees to understand others’ comments and that allows members of the
296 department, board members, and attendees to understand speakers’ comments.

297 SECTION 9. Section 69G of chapter 164 shall be amended to strike the existing
298 definition for “generating facility” and replace it with the following definition:-

299 “Generating facility,” any generating unit designed for or capable of operating at a gross
300 capacity of 35 megawatts or more, including associated buildings, ancillary structures,
301 transmission and pipeline interconnections that are not otherwise facilities, and fuel storage
302 facilities.

303 SECTION 10. Section 69K of chapter 164 shall be amended to strike the fifth paragraph
304 and replace it with the following paragraph:

305 “A certificate shall be issued only in accordance with the provisions of sections sixty-
306 nine K to sixty-nine O, inclusive. Notwithstanding the provisions of any other law to the
307 contrary, a certificate may be so issued only if the facility does not create greenhouse gas
308 emissions that would cause or contribute to the Commonwealth not meeting its climate mandates
309 under chapter 21N or environmental burdens on an environmental justice population as defined
310 by section 62 of chapter 30. If so issued, no state agency or local government shall require any
311 approval, consent, permit, certificate or condition for the construction, operation or maintenance
312 of the facility with respect to which the certificate is issued and no state agency or local
313 government shall impose or enforce any law, ordinance, by-law, rule or regulation nor take any
314 action nor fail to take any action which would delay or prevent the construction, operation or
315 maintenance of such facility; provided, however, that the board shall not issue a certificate the
316 effect of which would be to grant or modify a permit, approval or authorization which, if so
317 granted or modified by the appropriate state or local agency, would be invalid because of a
318 conflict with applicable federal water or air standards or requirements. A certificate, if issued,
319 shall be in the form of a composite of all individual permits, approvals or authorizations which
320 would otherwise be necessary for the construction and operation of the facility and that portion
321 of the certificate which relates to subject matters within the jurisdiction of a state or local agency
322 shall be enforced by said agency under the other applicable laws of the commonwealth as if it
323 had been directly granted by the said agency. The board shall promulgate detailed regulations
324 that describe the timing for review of a certificate pursuant to this section, contents of the

325 petition, and procedures to engage with environmental justice populations and other stakeholders
326 prior to and throughout the proceeding.”

327 SECTION 11. Section 62K1/2 of chapter 164 shall be amended to strike the third
328 paragraph and replace it with the following paragraph:

329 A certificate shall be issued only in accordance with the provisions of sections 69K to
330 69O1/2, inclusive. Notwithstanding the provisions of any other law to the contrary, a certificate
331 may be so issued only if the generating facility does not generate greenhouse gas emissions that
332 would cause or contribute to the Commonwealth not meeting its climate mandates under chapter
333 21N or environmental burdens on an environmental justice population as defined by section 62
334 of chapter 30.; provided, however, that when so issued no state agency or local government shall
335 require any approval, consent, permit, certificate, or condition for the construction, operation, or
336 maintenance of the generating facility with respect to which the certificate is issued, and no state
337 agency or local government shall impose or enforce any law, ordinance, by-law, rule, or
338 regulation nor take any action nor fail to take any action which would delay or prevent the
339 construction, operation, or maintenance of such generating facility; provided, however, that the
340 board shall not issue a certificate, the effect of which would be to grant or modify a permit,
341 approval, or authorization, which, if so granted or modified by the appropriate state or local
342 agency, would be invalid because of a conflict with applicable federal water or air standards or
343 requirements. A certificate, if issued, shall be in the form of a composite of all individual
344 permits, approvals, or authorizations which would otherwise be necessary for the construction
345 and operation of the generating facility, and that portion of the certificate which relates to subject
346 matters within the jurisdiction of a state or local agency shall be enforced by said agency under
347 the other applicable laws of the commonwealth as if it had been directly granted by the said

348 agency. The board shall promulgate detailed regulations that describe the timing for review of a
349 certificate pursuant to this section, contents of the petition, and procedures to engage with
350 environmental justice populations and other stakeholders prior to and throughout the proceeding.

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

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

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

371 (6) An environmental justice impact statement shall include a description of the
372 environmental impact of the proposed facility, said description to include buffer zones and other
373 measures to minimize damage to the environment; all potential impacts to environmental justice
374 populations; impacts of the facility with respect to mitigating climate change; plans for the
375 facility to adapt to a changing climate including current and future flooding, storm surges, and
376 sea level rise; public health impacts of the proposed facility; and a cumulative impact assessment
377 that considers an exposure, public health or environmental risk, or other effect occurring in a
378 specific geographical area, including from any environmental pollution emitted or released
379 routinely, accidentally, or otherwise, from any source, and assessed based on the combined past,
380 present, and reasonably foreseeable emissions and discharges affecting the geographical area;
381 and a facility is required to meet local energy use needs and that such need cannot be
382 accomplished through less harmful means. The board shall after public notice and a period for
383 comment be empowered to issue and revise its own list of guidelines. A minimum of data shall
384 be required by these guidelines from the applicant for review concerning land use impact, water
385 resource impact, air quality impact, solid waste impact, radiation impact, public health impact,
386 environmental justice impact, and noise impact.

387 SECTION 14. Section 69O of chapter 164 shall be amended to strike the first paragraph
388 and replace it with the following paragraph:

389 The board shall by a majority vote render a decision upon the petition either by denying
390 the petition or by granting the petition, or by granting the petition subject to such terms and

391 conditions as the board may determine. Neither the board nor any other person shall be bound by
392 the requirements of section sixty-one to sixty-two H, inclusive, of chapter thirty to the extent that
393 compliance with said requirements will prevent the board from rendering a decision upon the
394 petition within the time limits of this section. The Siting Board shall promulgate regulations that
395 establish timelines for reviewing a petition for a certificate of public interest such that: (i) a
396 generating facility that is powered by fossil fuels has the longest period of time for going through
397 the adjudicatory process; (ii) an energy storage system or ancillary structure has a shorter period
398 of time for going through the adjudicatory process; and (iii) a generating facility that is powered
399 by renewable energy has the shorted period of time for going through the adjudicatory process.
400 The Siting Board shall promulgate regulations that define a generating facility that is powered by
401 renewable energy and ensure that the lifecycle of emissions and impacts are considered such that
402 technologies that have a lifecycle of emissions and impacts that create environmental burdens
403 shall not be defined as renewable energy.