

CLIMATE BILL LEGISLATIVE SUMMARY

H.5060, An Act driving clean energy and offshore wind

OFFSHORE WIND AND OTHER CLEAN ENERGY GENERATION

Offshore Wind Industry Investment Program & Trust Fund (§4-6, 14-15, 18, 20, 44, 45, 73, 97-100)

- Establishes a Massachusetts Offshore Wind Industry Investment Program, administered by MassCEC, consisting of annual tax incentives, grants, loans, and other investments through the fund, and assistance from MassCEC in accessing other state or federal economic investment programs.
- The Massachusetts Offshore Wind Industry Investment Trust Fund can be used to:
 - promote the manufacture, fabrication, and assembly of domestic supply chain components of the offshore wind industry
 - stimulate increased financing for permanent manufacturing facilities
 - advance clean energy research, technology, and innovation, and
 - prepare individuals for offshore wind careers by supporting workforce training at a range of educational institutions and through regional employment boards.
- The \$35 million in total annual tax incentives is subject to a 10-year sunset clause, features a certification and clawback process, and can be used for:
 - Individual and corporate refundable jobs tax credits, respectively, that require a commitment to create at least 50 net new permanent full-time employees within the state.
 - Individual and corporate refundable capital investment tax credits, respectively, that require at least a \$35 million investment in an offshore wind facility and at least 200 new full-time employees.

Changes to Offshore Wind Procurement Process (§60-62)

- Strikes the price cap to allow for offshore wind project proposals that are cost-effective and promote economic development in the Commonwealth
- Addresses potential conflicts of interest by:
 - Requiring DOER, in consultation with an independent evaluator, to issue a final binding determination of the winning offshore wind bid.
 - Requiring DOER to consult with the utilities and the Attorney General regarding the choice of offshore wind solicitation methods, but removes them from the bid selection process.
- Requires bids to:
 - Create economic development and quality, high-demand jobs in the Commonwealth
 - Include benefits to environmental justice and low-income ratepayers
 - Include opportunities for diversity, equity and inclusion (DEI), including, a workforce diversity plan and a supplier diversity program plan

- Include an initial environmental and fisheries plan for the construction and operation of its offshore wind facility, including consideration of commercial, recreational, and aboriginal fishing rights
- Provide financial and technical assistance for long-term marine wildlife and habitat monitoring.
- Gives preference to bids that demonstrate benefits from:
 - Commitments for new capital investments in manufacture, fabrication, and assembly of offshore wind domestic supply chain components within Massachusetts
 - The maximization of economic development and employment contributions and the minimization and mitigation of ratepayer impacts, respectively, to the extent feasible
 - Mitigation and avoidance of detrimental environmental and socioeconomic impacts through meaningful consultation with impacted stakeholders
 - Additional benefits to low-income populations, including DEI opportunities
 - Employment opportunities for members of federally and state recognized tribes in the commonwealth, workers from low-income communities, and certified minority-owned and women-owned small business enterprises in the Commonwealth
 - Commitments to enter long-term contracts with approved municipal or government aggregators
 - Workforce agreements with appropriate labor organizations for construction, renovation, reconstruction, alteration, installation, demolition, expansion, maintenance and repair

Commercial Fisheries Commission (§79)

- Establishes a commercial fisheries commission to provide input on best practices for avoiding, minimizing and mitigating impacts to wildlife related to offshore energy generation and transmission.

Regional Clean Energy Procurements (§82, 85)

- Authorizes the EEA secretary, in consultation with DOER, to investigate participation in regional or multi-state competitive market-based mechanisms structures, systems or competitive solicitations, such as a Forward Clean Energy Market, in order to facilitate the development of clean energy generation resources
- Authorizes DOER to coordinate with other New England states in the competitive solicitation of long-term clean energy generation and transmission projects, such as on-shore wind in Maine to substitute for Quebec hydro imports that have been delayed through litigation

Solar Net Metering (§54-55)

- Eliminates the “donut hole” for on-site solar energy net metering, allowing Class I solar systems up to 25kW to be exempt from the cap.
- Loosens the “single parcel rule” by allowing, in certain circumstances, for net metering for facilities on the same parcels as solar facilities

Agro-Solar (§42-43, 63, 69)

- Increases to 10 years the roll-back tax period for a change in land use from agricultural or horticultural land that has been used to simultaneously site a renewable energy generating source.
- Permits land used primarily and directly for agricultural purposes to be used to site a renewable energy generating source if it does not impede in the continued use of the land for agricultural or horticultural purposes and deems such land to be agricultural or horticultural land.

- Directs DOER to include additional incentives for pollinator-friendly solar installations in the solar incentive program and any successor solar incentive programs.
- Establishes a commission to examine opportunities for farms and agricultural lands for the development of agri-voltaic projects.

Biomass RPS Program Repeal (§33-36, 88)

- Removes biomass from the renewable portfolio standard

Anaerobic Digestion (§40)

- Requires DOER to issue a one-time procurement at an incentive level sufficient to stimulate the deployment of anaerobic digestion facilities.

GRID READINESS

Independent Transmission Planning (§70-71)

- Authorizes DOER, in possible coordination with other states, to solicit proposals for independent transmission solutions to deliver offshore wind energy to the existing onshore grid.
- Creates a Clean Energy Transmission Working Group to analyze costs, cost-allocation measures, and regional coordination opportunities for transmission infrastructure upgrades necessary to support MA’s clean energy goals. Group must submit report to Legislature by December 2023.

Interconnecting Renewables to the Grid (§52, 53, 72, 75-76)

- Creates a Grid Modernization Advisory Council.
- Requires utility companies to proactively upgrade the transmission and distribution grid to improve reliability, resilience, and interconnection of renewable energy sources.
- Utility companies must consult the Advisory Council when creating electric-sector modernization plans, before submitting them to the DPU for approval.
- Requires electric utilities to file with the DPU at least one electric rate tariff for standalone energy storage systems.

Energy Storage Benchmarks (§80)

- DOER, in consultation with MassCEC, must study how to optimize the deployment and utilization of long-duration and mid-duration energy storage systems. If deemed beneficial, the department must issue procurements for up to 4,800 gigawatt-hours total of mid-duration and long-duration storage.
- DOER shall recommend energy storage benchmarks to be incorporated into the 2025 – 2050 Roadmap plans.

GREEN TRANSPORTATION

Transition to Electric Vehicles (§1, 46-47, 86, 87, 92, 96)

- Would make the sale of non-zero emission vehicles by a dealership after January 1, 2035 an unfair or deceptive act or practice under Chapter 93B.
- Gives the DPU's division that manages TNCs (Transportation Network Companies, like Uber and Lyft) an emissions reduction role.

- Requires DOT to compile a motor vehicle database so municipalities and the public can better plan for vehicle electrification in their neighborhoods.
- Instructs MassCEC to develop a guide and website detailing the costs and availability of electric vehicles.

EV Incentives (§39, 41, 93, 95)

- Creates an Electric Vehicle Adoption Incentive Trust Fund to be expended by DOER for funding electric vehicle incentive programs
- Increases by \$1,000 (to \$3,500) the rebate for qualifying purchases and leases of zero-emission passenger cars and light duty trucks and costing \$55,000 or less and offers an additional \$1,000 to purchasers who are trading in an internal combustion vehicle.
- Adds an additional \$1,500 rebate for low-income customers.
- Requires MOR-EV to offer rebates to medium and heavy duty zero-emission vehicles.
- Defines ZEVs and qualifications for MOR-EV.
- Creates a new outreach program for underserved and low-income communities, as well as communities with high proportions of high-emission vehicles.
- Requires an annual MOR-EV review that includes participation from low- and moderate-income households and organizes data by race and ethnicity. Cost-effectiveness is reviewed every 3 years.

EV Charging (§38, 64, 80, 81, 89-90)

- Requires the state building and electrical codes to include requirements for EV charging for residential and commercial buildings
- Establishes an intergovernmental coordinating council to implement an EV charging infrastructure deployment plan.
- Requires MassDOT, in consultation with the MBTA, to make provision for installing and maintaining EV charging stations for public use on the MassPike, parking lots of at least 5 commuter rail stations, parking lots of at least 5 subway stations, and a parking lot of at least one ferry terminal
- Requires distribution companies to submit off-peak time of use rate proposals for electric vehicle charging stations within 6 months.

Public Transit (§48-51, 65, 78, 91)

- Requires DESE and DOER to conduct a study looking at the opportunities and challenges of electrifying our school bus fleet.
- Requires MassDOT to help each RTA develop its own electrification rollout plan.
- Requires MBTA Mass Transportation maintenance program to report on and account for climate change.
- Requires new MBTA bus purchases and leases to be ZEVs by 2030 and the entire MBTA fleet to be ZEV by 2040.
- Requires MBTA to consider greenhouse gas emissions, climate change, and environmental resiliency within its capital planning processes.
- Requires the MBTA to prioritize deployment of zero-emission buses on routes that go through underserved communities.

BUILDING DECARBONIZATION

Future of Gas (§22, 32, 56-59, 66-68, 77)

- Eliminates natural gas extensions from C-PACE
- Requires DPU to convene a stakeholder working group to develop recommendations for regulatory and legislative changes to align gas system enhancement plans with statewide greenhouse gas emissions limits.
- Prevents the DPU from approving any company-specific plan, filed pursuant to Docket No. 20-80 (“the Future of Gas”), prior to the conduct of an adjudicatory proceeding.
- Encourages DPU to remove impediments for the development of efficient heat generation technologies, including networked geothermal heating systems.
- Expands eligible GSEP replacement projects to non-emitting renewable thermal installations and advanced gas leak repairs.
- Expands gas company reporting obligations under networked geothermal pilots and stipulates that the DPU may require the utilities taking part in the pilots to submit roadmaps for decommissioning gas infrastructure.

Large Building Emissions (§41, 83)

- Expands C-PACE to include commercial energy improvements that exceed energy code requirements or meet a nationally-recognized energy standard
- Requires an assessment of K-12 schools for ways to shift from fossil fuels, boost energy efficiency, and improve indoor air quality.
- Requires large buildings (20,000 sq. ft. and larger) across the commonwealth to report their energy usage annually.

MassSave Changes (§23-31, 87A, 94)

- Starting with the next Mass Save plan (2025-2027), ends Mass Save incentives to install fossil fuel infrastructure in buildings, except as a backup for an electric heat pump.
- Requires that the utilities’ quarterly reports on the implementation of the efficiency plans to the EEAC include data on Mass Save’s service to low-income ratepayers.
- Implements Mass Save reforms to increase participation by low-income households and renters and mandates more data collection on the effort.

10-Community Fossil Fuel Free New Construction Demonstration Program (§84)

- Authorizes ten cities and towns to require fossil fuel-free new construction, but with two important provisos: (1) each community must first meet the 10% affordable housing target set by state law (chapter 40B); and (2) each must exempt life sciences labs and health care facilities from the all-electric requirement.

INDUSTRY SUPPORT

Changes to the Massachusetts Clean Energy Center (§ 3, 7, 8-13, 16-17)

- Increases the number of members on the MassCEC Board of Directors from 12 to 15. Ensures some of the Governor’s appointments are through nominations made by Speaker of the House and Senate President (2 each).
- Charges MassCEC with serving as a focal point and providing state-wide coordination for offshore wind initiatives.
- Qualifies cutting-edge technologies – fusion energy and networked geothermal energy -- for MassCEC support.

Education (§2, 19, 74)

- Requires the Executive Office of Labor and Workforce Development to annually create a list of high-demand jobs and share it with the Department of Elementary and Secondary Education.
- Creates a DESE high school OSW credential training pilot program through which DESE would reimburse school districts for each student that obtains the credentials.
- Creates a program director for the clean energy equity workforce and market development fund, who in addition to preparing guidelines on DEI best practices for the offshore wind industry, would also report annually on not only this program’s activities but also MassCEC’s plans for continued programming to achieve the Commonwealth’s DEI goals.

Green Communities (§37)

- Raises the maximum project cost allowed under the Green Communities Act from \$100,000 to \$300,000.

Clean Energy Investment Fund (§21)

- Establishes and regulates the Clean Energy Investment Fund; requires administration of the fund by the Massachusetts Clean Energy Technology Center.
- The Center shall make expenditures from the fund for the following purposes:
 - Advancing clean energy research and technologies
 - Deploying clean energy technologies to advance compliance with statewide GHG emission limits and standards
 - Providing clean-energy industry-related workforce development and technical training programs for public higher education and vocational-technical education institutions
 - Developing a regional strategy, inclusive of federally recognized tribes within the Commonwealth, for regional employment boards to support the development of the clean energy industry
 - Supporting infrastructure such as port and canal infrastructure development related to the clean energy industry
 - Matching funds to secure federal funding to support the clean energy industry
 - Supporting research and development in the clean energy industry, including but not limited to the interrelationship between clean energy infrastructure and existing natural habitats
 - Supporting improved outcomes from the development of clean energy resources
 - Supporting the long-term coexistence and sustainability of the fishing and clean energy industries
 - Providing for the necessary and reasonable administrative and personnel costs of the center or of the executive office of energy and environmental affairs related to administering the fund

LEGISLATURE’S FURTHER AMENDMENT TO GOVERNOR BAKER’S AMENDMENTS (H.5141)

MAJOR AMENDMENTS - ADOPTED

Offshore Wind And Other Clean Energy Generation: Changes to Offshore Wind Procurement Process (§61)

- Removes the price cap entirely from the 83C Offshore Wind solicitation process. The conference committee report (H.5060) had previously removed the price cap when 3 or more offshore wind developers bid into a solicitation, and had retained a modified price cap when bids submitted by 2 or less developers were more expensive than the previous procurement. In such a scenario, DPU was authorized determining a bid’s price to adjust for costs due to inflation and reasonably certain capital investments in the domestic supply chain.

Technical Edits

- Adopted technical edits in a number of sections to clarify intent, improve terminology, and optimize policy frameworks, including:
 - Offshore Wind Industry Investment Program – improvements to certification process (§14)
 - References to “federally recognized and state acknowledged tribes” in multiple sections (§18, 19, 21, 41 and 61)
 - Clean Energy Investment Fund – adds language to allow MassCEC to use the money for its intended purposes (§21)
 - Energy Efficiency Programs – multiple improvements to sections on Mass Save programs (§26, 31, 94)
 - Large building energy reporting (§41); Gas System Enhancement Working Group (§68); Green Communities Program (§37); Electric and Fossil Fuel School Buses Comparison (§87); and Off-Hour EV Charging Rebates (§90), among other sections

MAJOR AMENDMENTS - MODIFIED

Industry Support: Changes to the Massachusetts Clean Energy Center (§8-9)

- **The Governor sought to** address the issue of the Legislature making appointments to MassCEC’s board of directors, a quasi-governmental agency, which the Supreme Judicial Court has articulated would violate the Massachusetts Constitution. He proposed the Legislature make nominations for boards seats while the Executive Branch would remain the appointing authority. He further reversed the Legislature’s expansion of the board of directors.
 - **The Legislature** amended this amendment by agreeing to retain the Executive Branch as the appointing authority but rejected the Governor’s attempt to remove the following members from serving on the board:

- 1) a union representative nominated by the Speaker;
- 2) an expert in electricity distribution, generation, supply or power or energy economics
- 3) an additional member serving as a president of a private higher ed institution

Green Transportation: EV Intergovernmental Coordinator Council (§81)

- **The Governor sought to** address an analogous constitution concern about the Legislature designating the Senate and House TUE Chairs (or their designees) to serve on the council which as drafted in the conference committee report would influence the expenditure of appropriated grant funds.
 - **The Legislature** amended this amendment by removing the council’s ability to coordinate grant programs and also made the Senate and House TUE Chairs or their designees non-voting members of the council with respect to any spending matter.

Building Decarbonization: 10-Community Fossil Fuel Free New Construction Demonstration Program (§84)

- **The Governor sought to** limit the ability for municipalities within the 10-Community Fossil-Fuel Free New Construction Demonstration Program to adopt ordinances and by-laws that restrict or prohibit new building construction or major renovation projects that are not “fossil fuel-free.” The amendment would have required these ordinances and by-laws to not go into effect unless 50% of the Commonwealth’s annual electric consumption is generated from clean energy sources. Further, the amendment called for DOER to promulgate regulations providing for uniform implementation among participating towns; that multi-family housing be added to the building types that are exempted; and that communities be able to participate in this program only if they have taken appropriate action to encourage housing production.
 - **The Legislature** amended this amendment by striking the requirement for 50% of the state’s electricity consumption to be generated from clean energy as pre-condition for ordinances and by-laws to go into effect; striking the requirement for uniform implementation; agreeing to exempt hospitals from these requirements; and retaining provisions from the conference committee report, including that each participating community must first meet the 10% affordable housing target set by state law (chapter 40B); and each must exempt life sciences labs and health care facilities from the all-electric requirement.

Grid Readiness: Interconnecting Renewables to the Grid (§53)

- **The Governor sought to** make numerous changes to this section including but not limited to shifting the process from utilities developing electric sector modernization plans, which then receive council input, to requiring DPU to convene a stakeholder process to establish rules and regulations.
 - **The Legislature** agreed to certain technical changes to place the MassCEC executive director on the council rather than the DEP Commissioner and to technical date changes improve the process, but rejects the remaining numerous changes.

MAJOR AMENDMENTS - REJECTED

Offshore Wind and Other Major Clean Energy Generation: Woody Biomass RPS Program Repeal (§33-36, 88)

- The Governor sought to weaken the Woody Biomass RPS Program Repeal sections in the following manner:
 - He struck the grandfathering language inserted by the Legislature that would have applied only to facilities already qualified by DOER in the RPS program prior to January 1, 2022.
 - Instead, he proposed grandfathering all woody biomass facilities in existence prior to January 1, 2022.
 - In concert with forthcoming DOER regulations loosening RPS eligibility for existing woody biomass facilities, the Governor’s amendment would have created a loophole for inefficient woody biomass plants to incentives through the RPS
 - By rejecting this amendment, that loophole is closed, and forthcoming regulatory provisions on the matter will be negated

Green Transportation: No Non-EV New Vehicle Dealership Sales By 2035 (§46, 96)

- The Governor sought to strike provisions that would make the sale of non-zero emission vehicles by a dealership after January 1, 2035 an unfair or deceptive act or practice under Chapter 93B. Contrary to the Governor’s claim in his filing letter, this provision does not conflict with federal law. It is further consistent with the requirement for all passenger vehicles sales to be electric by 2035, as required by the Baker-Polito Administration’s 2025/2030 Clean Energy and Climate Plan and California Air Resource Board’s Advanced Clean Cars II.

Industry Support: \$750 Million in ARPA Funding (§67A, 67B)

- The Governor sought to insert two new sections that would have allocated \$750 million in ARPA funding for clean energy initiatives, however, the Legislature has already committed over \$3 billion this session in decarbonization efforts across various legislative vehicles. These provisions, when signed by the Governor, would make the Administration’s proposed \$750 million duplicative.

Offshore Wind and Other Major Clean Energy Generation: Anaerobic Digestion (§40)

- The Governor sought to strike a one-time DOER-run procurement beginning January 1, 2023 for anaerobic digestion facilities sufficient to stimulate deployment and substitute in its place authorization for DOER to conduct an anaerobic digestion program with no implementation dates.

Offshore Wind and Other Major Clean Energy Generation: Energy Storage Benchmarks (§80)

- The Governor sought to create a sunset date of December 31, 2037 by which DOER’s authorization to procure up to 4,800 gigawatt-hours of mid-duration and long-duration energy storage would expire. The 2037 sunset date would have stopped well short of the Commonwealth’s 2050 net zero target.

Grid Readiness: Independent Transmission Planning (§71)

- The Governor sought to replace the Clean Energy Transmission Working Group with a DOER-led study with consultation from stakeholders. The amendment has no requirement for when DOER has to start the study or for how often it must consult with stakeholders, whereas the Clean Energy Transmission Working Group must have its first meeting by April 1, 2023 and requires multiple meetings. Both the amendment and the conference committee report require a report with recommendations by December 31, 2023.