

SENATE No. 675

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

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 creating a climate bank in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/13/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/13/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/13/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/13/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/13/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/13/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/16/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/21/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>2/21/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>2/21/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/23/2023</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/6/2023</i>

SENATE No. 675

By Mr. Mark, a petition (accompanied by bill, Senate, No. 675) of Paul W. Mark, Susannah M. Whipps, Joanne M. Comerford, John J. Cronin and other members of the General Court for legislation to create a climate bank in Massachusetts. Financial Services.

The Commonwealth of Massachusetts

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

An Act creating a climate bank in Massachusetts.

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

1 The General Laws are hereby amended by inserting after section 14 of chapter 23J the
2 following new section:-

3 Section 15.

4 (a) As used in this chapter the following words shall have the following meanings unless
5 the context clearly requires otherwise:-

6 “Bank”, the Massachusetts Climate Bank established pursuant to subsection (b).

7 “Board”, the Massachusetts Climate Board established pursuant to subsection (c).

8 “Bonds” or “notes”, such bonds and notes as are issued by the bank pursuant to this
9 chapter.

10 “Climate and clean energy innovations”, all innovations, or uses of technologies,
11 services, and solutions, or innovative financing to address climate resiliency, mitigate
12 greenhouse gas emissions or support clean energy. This could include greenhouse gas mitigation
13 through decarbonization or deployment of climate and clean energy innovations to advance
14 compliance with the statewide greenhouse gas emission limits and sub-limits established
15 pursuant to chapter 21N.

16 “Center”, the Massachusetts clean technology energy center established by chapter 23J
17 section 2.

18 “Secretary”, the secretary of the executive office of energy and environmental affairs.

19 (b) There shall be established and placed within the center a body politic and corporate to
20 be known as the Massachusetts Climate Bank. The bank is hereby constituted a public
21 instrumentality and the exercise by the bank of the powers conferred by this chapter shall be
22 considered to be the performance of an essential governmental function.

23 The bank is hereby placed in the center but shall not be subject to the supervision or
24 control of any board, bureau, department or other center of the commonwealth, except as
25 specifically provided in this chapter.

26 (c) The bank shall be governed by the board and shall continue as long as it shall have
27 bonds or notes or guarantee commitments outstanding and until its existence is terminated by
28 law. Upon the termination of the existence of the bank, all right, title and interest in and to all of
29 its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and
30 be possessed, performed and assumed by the center.

31 (d) It shall be the duty and purpose of the bank to: (1) evaluate, coordinate and facilitate
32 innovative financing solutions for climate and clean energy innovations in the public, private,
33 and non-profit sectors throughout the commonwealth and in line with achieving the
34 commonwealth's greenhouse gas emissions limits and sub-limits pursuant to chapter 21N; (2)
35 provide loans including loan refinancing, loan guarantees, credit enhancements, debt
36 securitization, insurance, portfolio insurance, and other forms of financing support, technical
37 assistance or risk management to qualified climate and clean energy innovations; (3) foster the
38 development and consistent application of transparent underwriting standards, standard
39 contractual terms, and measurement and verification protocols for qualified climate and clean
40 energy innovations; (4) ease the economic effects of transitioning from a carbon-based economy
41 to a clean energy economy; (5) facilitate job creation through the construction and operation of
42 climate and clean energy innovations; (6) facilitate and accelerate the deployment of climate and
43 clean energy innovations and promote climate resilience in disadvantaged and low-income
44 communities; and (7) work to eliminate the use of fossil fuels and carbon emitting fuels
45 throughout the commonwealth and across all sectors.

46 (e) The bank shall be governed, and its corporate powers exercised by a board of
47 directors known as the Massachusetts Climate Finance Board. The board shall consist of 11
48 members, 1 of whom shall be the commissioner of banks, who shall serve ex officio, or her
49 designee, 1 of whom shall be the secretary of energy and environmental affairs, who shall serve
50 ex officio, or her designee, 1 of whom shall be the executive director of the center, who shall
51 serve ex officio, and 8 members appointed by the governor, 2 of whom shall be experienced in
52 the field of evaluating and underwriting sustainability-focused (Environmental, Social and
53 Governance) public or private finance transactions, 1 of whom shall be a historically under-

54 represented group (women, or minority) with experience in the field of banking, public or private
55 finance transactions selected from a list of 3 nominees submitted by the president of the senate, 1
56 of whom shall have at least 10 years' experience in climate impact and resiliency including land,
57 water, or air issues, 1 of whom shall be a technical expert with at least 10 years' experience in
58 the field of the design or construction of high-performance buildings, 1 of whom has expertise in
59 sustainability (Environmental, Social and Governance) investment measurement and reporting
60 selected from a list of 3 nominees submitted by the speaker of the house of representatives, 1 of
61 whom shall be the leader of a community-based banking organization selected from a list of 3
62 nominees submitted by the president of the senate, and 1 of whom shall be a representative of
63 historically climate-impacted rural or coastal towns or municipalities selected from a list of 3
64 nominees submitted by the speaker of the house of representatives. Each of the 8 directors
65 appointed by the governor shall serve for a term of 3 years, potentially extendable by another 2
66 years with board consent. The executive director of the center shall serve as the chairperson of
67 the board and board members shall annually elect a vice-chairperson of the board. Each director
68 shall serve without compensation but may be reimbursed for actual and necessary expenses
69 reasonably incurred in the performance of their duties, including reimbursement for reasonable
70 travel. Any person appointed to fill a vacancy in the office of a member of the board shall be
71 appointed in a like manner and shall serve for only the unexpired term of such former member.
72 Any director shall be eligible for reappointment. Any director may be removed from his
73 appointment by the governor for cause.

74 (f) A majority of directors shall constitute a quorum and the affirmative vote of a
75 majority of directors present at a duly called meeting, if a quorum is present, shall be necessary
76 for any action to be taken by the board. Any action required or permitted to be taken at a meeting

77 of the directors may be taken without a meeting if all of the directors' consent in writing to such
78 action and such written consent is filed with the records of the minutes of the meetings of the
79 board. Such consent shall be treated for all purposes as a vote at a meeting. Each director shall
80 make full disclosure, under subsection (g), of his or her financial interest, if any, in matters
81 before the board by notifying the state ethics commission, in writing, and shall abstain from
82 voting on any matter before the board in which he or she has a financial interest, unless
83 otherwise permissible under chapter 268A.

84 (g) Chapters 268A and 268B shall apply to all ex-officio directors of the bank. Said
85 chapters 268A and 268B shall apply to all other directors, except that the bank may purchase
86 from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any
87 director of the bank is in any way interested or involved; provided, however, that such interest or
88 involvement is disclosed in advance to the members of the board and recorded in the minutes of
89 the board; and provided, further, that no director having such an interest or involvement may
90 vote on any matter in which he has a financial interest, unless otherwise permissible under
91 chapter 268A. Employment by the commonwealth or service in any agency thereof shall not be
92 deemed to be such an interest or involvement.

93 (h) The board shall have the power to appoint and employ an executive director who shall
94 be the chief executive, administrator and operational officer of the bank and shall direct and
95 supervise the administrative affairs and the general management of the bank. The executive
96 director of the bank shall report to and be under the general supervision of the executive director
97 of the center. The executive director of the bank shall appoint and the bank shall employ a chief
98 financial and accounting officer and may, subject to the general supervision of the board and the
99 executive director of the center, employ other employees, consultants, agents, including legal

100 counsel and advisors, and shall attend meetings of the board. Officers and employees of the
101 center may also serve as officers and employees of the bank. No funds shall be loaned,
102 transferred or otherwise dispersed by the bank without the approval of the board and the
103 signature of an executive of the bank and in accordance with policies and procedures approved
104 by the board.

105 (i) The board shall elect a treasurer and a secretary. The secretary of the board shall keep
106 a record of the proceedings of the board and shall be custodian of all books, documents, and
107 papers filed by the board and of its minute book and seal. The secretary of the board shall cause
108 copies to be made of all minutes and other records and documents of the bank and shall certify
109 that such copies are true copies, and all persons dealing with the bank may rely upon such
110 certification.

111 (j) All officers and employees of the bank having access to its cash or negotiable
112 securities shall give bond to the bank at its expense in such amounts and with such surety as the
113 board may prescribe. The persons required to give bond may be included in one or more blanket
114 or scheduled bonds.

115 (k) Board members, officers and employees of the bank shall not be liable to the
116 commonwealth, to the bank or to any other person as a result of their activities, whether
117 ministerial or discretionary, as such board members, employees or officers, except for willful
118 dishonesty or intentional violations of law. Neither members of the board nor any person
119 executing bonds or policies of insurance shall be liable personally thereon or be subject to any
120 personal liability or accountability by reason of the issuance thereof. The board shall purchase

121 liability insurance for board members, officers and employees of the bank and may indemnify
122 such persons against claims of others.

123 (l) An action of the bank may take effect immediately and need not be published or
124 posted unless otherwise provided by law. Meetings of the board shall be subject to section 18-25
125 of chapter 30A; but said section 18-25 shall not apply to any meeting of members of the bank
126 serving ex officio in the exercise of their duties as officers of the commonwealth so long as no
127 matters relating to the official business of the bank are discussed and decided at the meeting. The
128 bank shall be subject to all other provisions of said chapter 30A, and records pertaining to the
129 administration of the center shall be subject to section 42 of chapter 30 and section 10 of chapter
130 66. All monies of the bank shall be considered to be public funds for purposes of chapter 12A.
131 The operations of the center shall be subject to chapters 268A and 268B and all other operational
132 or administrative standards or requirements to the same extent as the office of state treasurer.

133 (m) Any documentary materials or data whatsoever made or received by a member or
134 employee of the bank and consisting of, or to the extent that such materials or data consist of,
135 trade secrets or commercial or financial information regarding the operation of any business
136 conducted by an applicant for any form of assistance that the center is empowered to render or
137 regarding the competitive position of such applicant in a particular field of endeavor, shall not be
138 deemed public records of the center and shall not be subject to section 10 of chapter 66. Any
139 discussion or consideration of such trade secrets or commercial or financial information may be
140 held by the board in executive sessions closed to the public, notwithstanding section 11A1/2 of
141 chapter 30A, but the purpose of any such executive session shall be set forth in the official
142 minutes of the center and no business that is not directly related to such purpose shall be
143 transacted nor shall any vote be taken during such executive session.

144 (n) In furtherance of the public purposes set forth in subsection (d), the bank may expend
145 money to: (i) make grants, contracts, loans, equity investments, energy production credits, ensure
146 climate mitigation covenants or green covenants, bill credits or rebates or make other forms of
147 financial or technical assistance or instruments available to customers; (ii) provide financial or
148 debt service obligation assistance; or (iii) take any other action, in such forms, under such terms
149 and conditions and under such selection procedures as the bank deems appropriate and otherwise
150 in a manner consistent with good business practices; provided that the bank shall endeavor to
151 leverage the full range of resources, expertise and participation of other state and federal
152 agencies and instrumentalities in the design and implementation of programs conducted pursuant
153 to this section.

154 (o) The bank shall have all powers necessary and convenient to carry out and effectuate
155 its purposes including, without limiting the generality of the foregoing, the power to:

156 (1) adopt and amend by-laws, regulations and procedures for the governance of its affairs
157 and the conduct of its business for the administration and enforcement of this chapter
158 notwithstanding chapter 30A;

159 (2) exercise any powers necessary for the commonwealth to be in compliance with
160 federal law;

161 (3) maintain offices at places within the commonwealth and conduct meetings of the
162 bank in accordance with its by-laws;

163 (4) promote economy and efficiency and leverage federal funding and private sector
164 investment;

165 (5) establish criteria and establish procedures for project selection for use in selecting
166 qualifying climate and clean energy innovations to receive funds, provided not less than 20% of
167 such funds are designated for rural and coastal communities;

168 (6) enter into agreements and transactions with federal, state and municipal agencies and
169 other public institutions and private individuals, partnerships, firms, corporations, associations
170 and other entities on behalf of the bank;

171 (7) institute and administer separate accounts and funds for the purposes of making
172 allocations, grants or loans to qualifying climate and clean energy innovations to receive funds
173 pursuant to section 5;

174 (8) sue and be sued in its own name, plead and be impleaded;

175 (9) issue bonds, notes and other evidences of indebtedness as provided in this chapter;

176 (10) lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage assets, title
177 to which has been acquired in any manner;

178 (11) acquire real and personal property, or any interest in real or personal property, by
179 gift, purchase, transfer, foreclosure, lease, or otherwise, including rights or easements; hold, sell,
180 assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any
181 interest therein, or mortgage any interest owned by it or under its control, custody or in its
182 possession; release or relinquish any right, title, claim, lien, interest, easement or demand
183 however acquired, including any equity or right of redemption in property foreclosed by it; take
184 assignments of leases and rentals, proceed with foreclosure actions or take any other actions
185 necessary or incidental to the performance of its corporate purposes including, but not limited to,

186 making or delegating to a lessee or a licensee to make improvements or alterations to the real
187 property of the bank, or any interest thereon or engage in construction on or renovation at such
188 property or interest;

189 (12) invest funds held in reserves or sinking funds or funds not required for immediate
190 disbursement, in such investments as may be provided in a financing document relating to the
191 use of such funds, or, if not so provided, as the board may determine;

192 (13) appear on its own behalf before boards, commissions, departments or other agencies
193 of municipal, state or federal government;

194 (14) obtain insurance;

195 (15) apply for and accept subventions, grants, loans, advances and contributions from any
196 source of money, property, labor or other things of value, to be held, used and applied for its
197 corporate purposes; provided, however, that the center shall not accept funding from any source,
198 including any federal agency, if the receipt of said funding would limit the bank's ability to
199 promote its public purposes; and provided further, that all such funds shall be placed, in their
200 entirety, in the bank;

201 (16) provide and pay for such advisory services and technical assistance as may be
202 necessary or desired to carry out the purposes of this chapter;

203 (17) establish and collect such fees and charges as the bank without further appropriation
204 shall determine to be reasonable, and receive and apply revenues from fees and charges to the
205 purposes of the bank or allotment by the commonwealth or any political subdivision thereof;
206 provided, however, that all said revenues shall be placed, in their entirety, in the bank;

207 (18) make loans to any person for the acquisition, construction, alteration or any
208 combination thereof, or other financing of a project including, but not limited to, loans to lending
209 institutions under terms and conditions requiring the proceeds of such loans to be used by such
210 lending institutions for the making of loans to users for qualified projects;

211 (19) disburse, appropriate, grant, loan or allocate funds for the purposes of investing in
212 climate and clean energy as directed in this chapter;

213 (20) provide assistance to local entities and authorities, public bodies and private
214 corporations for the purposes of maximizing opportunities for expanding climate and clean
215 energy innovations, attracting new climate and clean energy entities and advanced technology
216 investments, fostering new innovative research and creating new manufacturing and
217 development initiatives in the commonwealth;

218 (21) prepare, publish and distribute, with or without charge, as the bank may determine,
219 such studies, reports and bulletins and other material as the bank deems appropriate;

220 (22) exercise any other powers of a corporation organized under chapter 156B;

221 (23) engage accountants, architects, attorneys, engineers, planners, real estate experts and
222 other consultants as may be necessary in its judgment to carry out the purposes of this section
223 and to fix their compensation;

224 (24) take any actions necessary or convenient to the exercise of any power or the
225 discharge of any duty provided for by this section; and

226 (25) enter into agreements or other transactions with any person, including without
227 limitation any public entity or other governmental instrumentality or agency in connection with
228 its powers and duties under this section.

229 Irrespective of the above powers, the bank may not invest in or hold common stock or
230 another equity investment in natural gas and utility scale biomass projects.

231 (p) The bank may set up and maintain such separate funds and accounts as are necessary
232 to provide and direct funding to qualifying climate and clean energy innovations. Such funds or
233 accounts shall be credited with any appropriations authorized by the general court, bond or note
234 proceeds, grants, gifts, donations, bequests or other monies received in accordance with the law.
235 The bank may make loans from such funds or accounts.

236 (q) The bank may issue and sell bonds or notes of the bank for the purpose of providing
237 funds to finance qualifying climate and clean energy innovations. Any bond or note issued under
238 this section: (1) shall constitute the corporate obligation of the bank; (2) shall not constitute a
239 debt of the commonwealth within the meaning or application of the constitution of the
240 commonwealth; and (3) shall be payable solely as to both principal and interest from (i) the
241 proceeds of bonds or notes, if any; (ii) investment earnings on the proceeds of bonds or notes; or
242 (iii) other funds available to the bank for such purpose.

243 (r) The board shall develop a comprehensive application process by which persons may
244 submit plans for climate and energy innovations technologies for review and approval by the
245 bank. An approved climate and clean energy innovation technology plan shall be considered a
246 qualifying plan. The bank shall enter into funding agreements with the proponents of such

247 qualifying plans, which shall detail the terms of a disbursement of funds from the bank for the
248 plan and specific terms for the repayment or recoupment of funds.

249 (s) The board shall adopt policies and procedures as necessary to implement this chapter.

250 (t) Within 180 days of enactment, the board shall establish bylaws, policies, and
251 procedures governing the operations of the bank not addressed specifically by the legislation.

252 (u) In addition to its purposes as defined in section (d), the bank is directed to create a
253 public sustainability benefit policy to fulfill the purpose of the bank as defined by section (d).
254 The board shall adopt a written public sustainability benefit policy that includes reporting
255 metrics as well as procedures. The board shall file a copy of that policy with the governor, the
256 comptroller, the clerks of the house of representatives and senate, and the house and senate
257 chairs of the joint committee on telecommunications, utilities and energy, within 30 days after its
258 adoption. Whenever a board changes its public sustainability benefit policy, it shall file a copy of
259 the new policy with the governor, the comptroller, the clerks of the house of representatives and
260 senate, and the house and senate chairs of the joint committee on telecommunications, utilities
261 and energy.

262 The public sustainability benefit policy shall include a statement that material, relevant,
263 and decision-useful sustainability factors related to the goals of the bank have been or are
264 regularly considered by the bank, within the bounds of financial and fiduciary prudence, in
265 evaluating investment decisions. Such factors will be derived from industry accepted public
266 sustainability benefit guidelines such as the United Nations Sustainable Development Goals and
267 the Sustainability Accounting Standards Board (SASB) standards for impact.

268 (v) The books and records of the bank shall be subject to an audit by the state auditor, in
269 accordance with generally accepted government auditing standards, as often as the state auditor
270 determines is necessary.

271 (w) The bank shall annually report to the governor, the comptroller, the clerks of the
272 house of representatives and senate, and the chairs of the joint committee on
273 telecommunications, utilities and energy, on the financial condition and performance of the bank
274 and provide an analysis of the bank's effect on the State to ensure that it is consistent with the
275 bank's purposes set forth in section (b), particularly the bank's effect on the public sustainability
276 benefit goals derived from goals of the bank.

277 (x) Funding for the bank in any single fiscal year shall be available, without the need for
278 further appropriation, in a total amount of not less than \$10,000,000 from: (1) money generated
279 by all cap and trade pollution control programs; (2) amounts from alternative compliance
280 payments established and administered under 225 CMR 14.00 adopted under chapter 25A
281 section 11F; and (3) other funds that the secretary may provide through fees from enforcement of
282 market-based compliance mechanisms under chapter 21N, the Climate Protection and Green
283 Economy Act. Funds collected under this section shall be deposited into the bank for the purpose
284 of carrying out this chapter. Any unexpended funds at the end of the fiscal year shall not revert to
285 the General Fund and shall be carried over from year to year and may be expended in subsequent
286 years without appropriation.

287 (y) The bank may also accept deposits of government assets and funds from any state
288 public institution. The bank may pay interest on deposits of public funds and may offer other
289 financial products to the state treasurer and other public institutions.

290 (z) By request of the governor, the state treasurer may also issue and sell up to
291 \$750,000,000 in bonds within a given fiscal year to capitalize the bank.