



January 11, 2022

Senator Michael J. Barrett, Co-Chair
Joint Committee on Telecommunications, Utilities and Energy
State House, Room 109-D
Boston, MA 02133

Representative Jeffrey N. Roy, Co-Chair
Joint Committee on Telecommunications, Utilities and Energy
State House, Room 473B
Boston, MA 02133

Via Email magdalena.garncarz@mahouse.gov
dina.nathanson@masenate.gov

Re: **S.2596 An Act allowing municipalities to reasonably regulate solar siting (Senator Joanne M. Comerford and Senator Adam G. Hinds)**

Dear Chair Barrett, Chair Roy, and Members of the Committee:

On behalf of Mass Audubon's 140,000 members who reside in every town and city across the Commonwealth, I appreciate this opportunity to submit testimony in support of *S.2596 An Act allowing municipalities to reasonably regulate solar siting*.

Bold action is needed to address the urgent issue of climate change on people and the natural systems upon which we rely. Mass Audubon supports the Commonwealth's goal of achieving Net Zero greenhouse gas (GHG) emissions by 2050, including the new interim goals for emissions reductions, as defined in *An act creating a next-generation roadmap for Massachusetts climate policy* (Ch. 8, Acts of 2021). Conservation, efficiency, and transitioning off of fossil sources must remain top priorities, supported by a suite of state policies, programs and funding for the rapid, responsible deployment of clean renewable energy sources. Solar power generation systems are essential components of the Commonwealth's transitioning away from fossil fuels towards the decarbonization of our electricity generation and energy supply systems.

The Commonwealth also recognizes that natural and working lands¹ and waters provide many important and valuable ecosystem services. These include, but are not limited to, carbon sequestration and storage,

¹ "Natural and working lands"- lands within the commonwealth that: (i) are actively used by an agricultural owner or operator for an agricultural operation that includes, but is not limited to, active engagement in farming or ranching; (ii) produce forest products; (iii) consist of forests, grasslands, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands or wildlife habitats; or (iv) are used for recreational purposes, including parks, urban and community forests, trails or other similar open space land.
<https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter8>

flood prevention, air and water quality protection, habitat for native plants and animals, production of food and wood products, outdoor recreation, physical and mental health, and overall quality of life. The importance of protecting, managing and restoring natural systems' capacity to provide these services is increasingly important in light of the impacts of climate change, including more intense storms, floods, droughts and excessive heat.

The crises of climate, environmental justice, and biodiversity must be addressed together, as they are intertwined²³. Climate mitigation efforts including renewable energy development need to be undertaken in a manner that does not exacerbate the biodiversity crisis or environmental injustices.

There are over 1 million acres of land already developed within Massachusetts. To the extent feasible, solar power should be deployed within these developed portions of the landscape, close to power demand. Recognizing that additional land will be required in order to meet the solar portion of renewable energy goals, land use plans and regulations should guide those projects to locations where the impacts on the ecosystem services provided by natural and working lands are minimized.

Many municipalities across Massachusetts have adopted local solar zoning bylaws in order to balance these public interests and guide large scale solar arrays to suitable locations that will not unduly impact important natural resources. These bylaws are often based upon a model bylaw and guidance from the state Department of Energy Resources⁴, which recommends that small and medium scale solar be allowed community-wide and that large-scale ground mounted solar can be limited to specific districts. These bylaws were also reviewed and approved by the Attorney General's office, as is required for all local bylaws and ordinances.

Despite adherence to this guidance from the state, the bylaws in several communities have been challenged by solar developers. A case is now pending before the Supreme Judicial Court (SJC), where the SJC will decide "whether allowing solar energy facilities in certain areas of a municipality but prohibiting them in other areas is permissible or whether it constitutes unreasonable regulation in contravention of the statute," MGL Ch.40A S.3.⁵

The solar zoning exemption language in Ch.40A was adopted decades ago, to allow homeowners and businesses to install solar arrays on rooftops and otherwise ancillary to buildings. The technology for large scale ground mounted arrays did not exist at that time. S.2596 would clarify the statute, appropriately allowing municipalities to retain their Home Rule authority to determine locations within the community where large-scale ground-mounted solar arrays are and are not appropriate based on local land use plans and rules developed in the public interest.

The state needs to carefully align energy, climate, equity, and natural resources programs and policies for a consistent and predictable path forward to achieve mutually beneficial goals. The lack of reconciliation and alignment of goals for protecting, managing and restoring natural resources with programs supporting solar buildout is resulting in increased environmental impacts and social conflicts that delay renewable energy projects, drive up costs, and slow the clean energy transition. This unfortunate cycle of conflict has been a hallmark of development of renewable energy in Massachusetts and elsewhere. We cannot repeat this cycle of conflict in the expansion of clean energy and expect to meet the Commonwealth's

² Pörtner, H.O., et al. 2021. Scientific outcome of the IPBES-IPCC co-sponsored workshop on biodiversity and climate change; IPBES secretariat, Bonn, Germany, DOI:10.5281/zenodo.4659158.

⁴ https://www.mass.gov/files/documents/2017/10/26/Model%20Solar%20Zoning%20Documents_0.pdf

⁵ [https://www.mass.gov/info-details/amicus-announcements-from-september-2021-to-august-2022#october-2021-Tracer Lane II Realty, LLC v. City of Waltham et al, SJC-13195](https://www.mass.gov/info-details/amicus-announcements-from-september-2021-to-august-2022#october-2021-Tracer+Lane+II+Realty,+LLC+v.+City+of+Waltham+et+al,+SJC-13195)

climate goals. This bill would ensure that municipalities can appropriately plan for and regulate solar facilities while also protecting other vital public interests.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "E. Heidi Ricci". The signature is written in a cursive style with a prominent flourish at the end of the name.

E. Heidi Ricci
Director of Policy and Advocacy