HOUSE DOCKET, NO. 1341 FILED ON: 1/16/2013

HOUSE . . . . . No. 2987

The Commonwealth of Massachusetts

PRESENTED BY:

David T. Vieira

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 passage of the accompanying:

An Act relieving the adverse effects of wind energy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
David T. Vieira	*3rd Barnstable*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Brian R. Mannal	*2nd Barnstable*
William Smitty Pignatelli	*4th Berkshire*
Sarah K. Peake	*4th Barnstable*
Thomas J. Calter	*12th Plymouth*
Kimberly N. Ferguson	*1st Worcester*
Bruce J. Ayers	*1st Norfolk*

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By Mr. Vieira of Falmouth, a petition (accompanied by bill, House, No. 2987) of David T. Vieira and others relative to establishing energy relief funds to provide relief for detrimental health effects and property losses caused by wind energy generation. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

An Act relieving the adverse effects of wind energy.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith to establish a fund providing relief from wind turbine projects that have resulted in detrimental health effects or loss of property value or other adverse impacts to citizens, businesses, and municipalities of the Commonwealth and to make certain other changes in law, necessary or appropriate to effectuate this important public purpose;, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. This Act shall be entitled the "Wind Energy Relief Act," and shall be construed in a manner to achieve its public purpose, which is to ensure that citizens, businesses, and municipalities adversely affected by the operation of a wind turbine receive appropriate remuneration and assistance from the Commonwealth.

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SECTION 2. Chapter 10 of the General Laws is hereby amended by adding the following sections:-

Section 75. (a) There shall be established and set up on the books of the commonwealth a separate fund known as the Wind Energy Relief Fund, hereinafter referred to as the Energy Relief Fund. Each year, there shall be credited to the Energy Relief Fund, from the Massachusetts Renewable Energy Trust Fund, which is credited all amounts collected under section 20 of chapter 25 and any income derived from the investment of amounts credited to the trust fund, or its successor entity, hereinafter referred to as the Trust Fund, $15,000,000 by a

14 transfer from the Trust Fund to the Energy Relief Fund. Said transfer shall occur before any
15 other transfer of monies from the Trust Fund to any other account of the Commonwealth without
16 exception. All available monies in the Energy Relief Fund that are unexpended at the end of each
17 fiscal year shall not revert to the Trust Fund, the General Fund, or any other account of the
18 Commonwealth and shall be available for expenditure by the Energy Relief Fund in the
19 subsequent fiscal year.

20 (b) The Energy Relief Fund shall be held and applied by the Executive Office of
21 Administration and Finance which is hereby authorized and directed to promulgate rules and
22 regulations necessary to implement the provisions of this act. The Executive Office of
23 Administration and Finance shall make available the Energy Relief Fund to citizens, businesses,
24 and municipalities as compensation for losses incurred as a result of detrimental health effects or
25 any property loss or any other adverse impact resultant from the siting of a wind turbine in the
26 Commonwealth developed with any assistance from the Massachusetts Clean Energy Center,
27 hereinafter referred to as the Clean Energy Center. The Executive Office of Administration and
28 Finance shall make distributions from the Energy Relief Fund after developing a procedure for
29 valuing the loss suffered by a citizen, local business, or municipality in consultation with the
30 Executive Office of Housing and Economic Development, the Massachusetts Board of Realtors,
31 the Massachusetts Assessors Association, the Massachusetts Municipal Association, and the
32 Massachusetts Selectman's Association. Said procedure shall be developed prior to June 30,
33 2014. Further, an application for compensation from the Energy Relief Fund shall be approved or
34 denied within 180 days after being submitted to the Commonwealth. Any such application not
35 approved or denied within 180 days after being submitted to the Commonwealth shall be deemed
36 approved by operation of law. An applicant who may be denied compensation from the Energy
37 Relief Fund, whether a citizen, local business, or municipality, for a period of 30 days after said
38 denial, shall be entitled to appeal to the Department of Public Utilities, hereinafter referred to as
39 the Department, for a determination of the appeal by the Department no later than 60 days after
40 submission of the appeal to the Department.

41 (c) Compensation to a citizen, local business, or municipality shall not be limited to direct
42 monetary remuneration from the Energy Relief Fund and shall also include, but, not be limited to
43 full payment for residential or business relocation so long as Executive Office of Administration
44 and Finance consults with the Department of Public Health concerning health-related claims
45 prior to awarding such relocation assistance from the Energy Relief Fund.

46 (d) There shall be established and set up on the books of the Commonwealth a separate
47 fund known as the Wind Turbine Decommissioning or Relocation Fund, hereinafter referred to
48 as the Turbine Decommissioning Fund. Each year, there shall be credited to the Turbine
49 Decommissioning Fund, from the Massachusetts Renewable Energy Trust Fund, which is
50 credited all amounts collected under section 20 of chapter 25 and any income derived from the
51 investment of amounts credited to the trust fund, or its successor entity, hereinafter referred to as
52 the Trust Fund, $7,500,000 by a transfer from the Trust Fund to the Turbine Decommissioning

53 Fund. Said transfer shall occur after the transfer to the Energy Relief Fund, in accord with this
54 Act, and before any other transfer of monies from the Trust Fund to any other account of the
55 Commonwealth without exception. All available monies in the Turbine Decommissioning Fund
56 that are unexpended at the end of each fiscal year shall not revert to the Trust Fund, the General
57 Fund, or any other account of the Commonwealth and shall be available for expenditure by the
58 Turbine Decommissioning Fund in the subsequent fiscal year.

59 (e) The Turbine Decommissioning Fund shall be held and applied by the Executive
60 Office of Administration and Finance which is hereby authorized and directed to promulgate
61 rules and regulations necessary to implement the provisions of this act. The Executive Office of
62 Administration and Finance shall make available monies from the Turbine Decommissioning
63 Fund to municipalities of the Commonwealth as compensation for decommissioning or
64 relocation of a wind turbine located within their jurisdiction that was developed upon false,
65 misleading, or inaccurate information, reasonably relied upon by the municipality, in its final
66 determination to allow construction of the wind turbine.

67 (f) The Executive Office of Administration and Finance shall make distributions from the
68 Turbine Decommissioning Fund after developing a procedure for reviewing a municipality's
69 application for assistance under this act in consultation with the Massachusetts Municipal
70 Association and the Massachusetts Selectman's Association. Said procedure shall be developed
71 prior to June 30, 2014. Further, an application for assistance from the Turbine Decommissioning
72 Fund shall be approved or denied within 180 days after being submitted to the Commonwealth.
73 Any such application not approved or denied within 180 days after being submitted to the
74 Commonwealth shall be deemed approved by operation of law. A municipality, which may be
75 denied assistance from the Turbine Decommissioning Fund, for a period of 30 days after said
76 denial, shall be entitled to appeal to Energy Facilities Siting Board for a determination of the
77 appeal no later than 60 days after submission of an appeal.

78 SECTION 3. Chapter 10 of the General Laws is hereby amended by adding the
79 following section:-

80 Section 35FF (f). No funds shall be transferred or otherwise made available to the
81 Massachusetts Alternative and Clean Energy Investment Trust Fund, or to any other fund or
82 account administered by the Clean Energy Center, until after the Energy Relief Fund and the
83 Turbine Decommissioning Fund have received their respective transfers from the Massachusetts
84 Renewable Energy Trust Fund or its successor entity.

85 SECTION 4. Section 20(a) of Chapter 25 of the General Laws is amended by
86 striking it in its entirety and replacing it with the following new section:-

87 Section 20. (a) The department shall require a mandatory charge of 0.5 mill per kilowatt-
88 hour for all electricity consumers, except those served by a municipal lighting plant which does
89 not supply generation service outside its own service territory or does not open its service

90 territory to competition at the retail level, to support the development and promotion of
91 renewable energy projects and to provide assistance to consumers, businesses, and municipalities
92 seeking relief from the effects of wind energy development. All revenues generated by the
93 mandatory charge shall be deposited into the Massachusetts Renewable Energy Trust Fund,
94 established under section 9 of chapter 23J.

95 SECTION 5. Section 9(b) of Chapter 23J of the General Laws is amended by
96 striking it in its entirety and replacing it with the following new section:-

97 Section 9. (b) After fully funding the Wind Energy Relief Fund and the Wind Turbine
98 Decommissioning Fund, as established by the General Laws, the center may make expenditures
99 from the trust fund for the public purpose of generating the maximum economic and
100 environmental benefits over time from renewable energy to the ratepayers of the commonwealth
101 through a series of initiatives which exploit the advantages of renewable energy in a more
102 competitive energy marketplace by: (i) promoting the increased availability, use and affordability
103 of renewable energy; (ii) by making operational improvements to existing renewable energy
104 projects and facilities which, in the determination of the center, would yield more significant
105 results in the development of renewable energy if such funds were made available for the
106 creation of new renewable energy facilities; and (iii) by fostering the formation, growth,
107 expansion and retention within the commonwealth of preeminent clusters of renewable energy
108 and related enterprises, institutions and projects which serve the citizens of the commonwealth
109 consistent with a strategic plan or annual operational plan.

110 SECTION 6. The Department of Public Utilities is hereby authorized and
111 directed to promulgate rules and regulations necessary to implement the provisions of this act.
112 The Energy Facilities Siting Board is hereby authorized and directed to promulgate rules and
113 regulations necessary to implement the provisions of this act.