

HOUSE No. 3561

Sections 36 contained in the engrossed Bill making appropriations for the fiscal year 2014 (see House, No. 3538), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment F of House, No. 3566). July 12, 2013.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to distribution of regional greenhouse gas initiative auction proceeds.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to distribute certain payments, 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:

1 Subsection (c) of section 22 of chapter 21A of the General Laws is hereby amended by
2 striking out paragraph (1), as amended by section 33 of chapter 68 of the acts of 2011, and
3 inserting in place thereof the following paragraph:-

4 (1) The department shall provide, by regulation, that all allowances issued under the
5 program shall be offered for sale by auction. The proceeds recovered from the allowance
6 auctions shall be deposited in the RGGI Auction Trust Fund established in section 35II of
7 chapter 10. The proceeds shall be used without further appropriation for the following purposes
8 only and shall be in a proportion to be determined by the department of energy resources with
9 the approval of the secretary:

10 (i) to reimburse a municipality in which the property tax receipts from an electric
11 generating station, including, for the purposes of this clause, payments in lieu of taxes and other
12 compensation specified in an agreement between a municipality and an affected property owner,
13 are reduced due to full or partial decommissioning of the facility or other change in operating
14 status of the facility if such action also reduces the commonwealth's greenhouse gas emissions
15 from the electric generator sector under the goals established pursuant to chapter 21N; provided,
16 however, that the amount of such reimbursement shall be determined by calculating the

17 difference between the amount of the tax receipts, including payments in lieu of taxes or other
18 compensation paid by the electric generating station in the current tax year and the amount of the
19 tax receipts, including payments in lieu of taxes or other compensation paid by the electric
20 generating station in the year prior to the full or partial decommissioning or other change in
21 operating status of the facility; provided further, that no reimbursement shall be made if, in a tax
22 year, the aggregate amount paid to a municipality by the owner of an electric generating station,
23 including, but not limited to, payments in lieu of taxes and other compensation, exceeds the
24 aggregate amount paid to that municipality by that owner in the year prior to the full or partial
25 decommissioning or other change in operating status of the facility; provided further, that after
26 full or partial decommissioning or other change in operating status of the facility, the electric
27 generating station's tax obligation shall be based, on an annual basis, on tax receipts, including
28 payments in lieu of taxes or other compensation that have been negotiated in good faith by the
29 electric generating station and municipality on or before January 30 of the current tax year;
30 provided further, that if the electric generating station and municipality have not negotiated in
31 good faith payments in lieu of taxes and other compensation in the nature of property tax
32 payments by said January 30, then the facility's tax obligation shall be determined by an
33 independent third party assessor paid by said facility, but selected jointly by the municipality and
34 the facility, or if they are unable to arrive at a joint selection, by the department of revenue;
35 provided further, that the municipality shall be entitled to reimbursement for the difference
36 between the amount called for in such assessment and the amount of the tax receipts, including
37 payments in lieu of taxes or other compensation paid in the year prior to the full or partial
38 decommissioning or other change in operating status of the facility; provided further, that such
39 independent assessment shall be filed with any request for funds under this clause; and provided
40 further, that payments from the fund shall be prioritized so that the first payments from the fund
41 shall be made to municipalities under this clause;

42 (ii) to reimburse a municipality in which the property tax receipts from an electric
43 generating station, including, for the purposes of this clause, payments in lieu of taxes and other
44 compensation specified in an agreement between a municipality and an affected property owner,
45 are reduced due to a reduction in capacity factor, occurring after July 1, 2012, at a dual coal and
46 oil fired facility of at least 50 per cent from the average capacity factor of the previous 10 years,
47 if such action also reduces the commonwealth's greenhouse gas emissions from the electric
48 generator sector under the goals established pursuant to chapter 21N; provided, however, that the
49 amount of such reimbursement shall be determined by calculating the difference between the
50 amount of the tax receipts, including payments in lieu of taxes or other compensation paid by the
51 electric generating station in the current tax year and the amount of the tax receipts, including
52 payments in lieu of taxes or other compensation paid by the electric generating station in the year
53 prior to the full or partial decommissioning or other change in operating status of the facility;
54 provided further, that no reimbursement shall be made if, in a tax year, the aggregate amount
55 paid to a municipality by the owner of an electric generating station including, but not limited to,
56 payments in lieu of taxes and other compensation, exceeds the aggregate amount paid to that

57 municipality by that owner in the year prior to the full or partial decommissioning or other
58 change in operating status of the facility; and provided further, that the amount of such
59 reimbursement shall not exceed \$3,000,000 in a calendar year;

60 (iii) to fund the green communities program established in section 10 of chapter 25A;

61 (iv) to provide zero interest loans to municipalities, which are not green communities
62 pursuant to said section 10 of said chapter 25A for energy efficiency projects;

63 (v) to promote energy efficiency, conservation and demand response; and

64 (vi) to reimburse the commonwealth for costs associated with the administration of the
65 cap and trade program.