

HOUSE No. 4471

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 27, 2020.

The committee on Revenue, to whom was referred the petition (accompanied by bill, House, No. 2427) of Edward F. Coppinger and others relative to fuel cell technology, reports recommending that the accompanying bill (House, No. 4471) ought to pass.

For the committee,

MARK J. CUSACK.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to fuel cell technology.

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

1 SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out, in line 13, the words “or Forty-fifth” and
3 inserting in place thereof the following words:-

4 , Forty-fifth or Forty-fifth B.

5 SECTION 2. Said section 5 of said chapter 59, as so appearing, is hereby further
6 amended by inserting after clause Forty-fifth A the following clause:-

7 Forty-fifth B, Any qualified fuel cell powered system, the construction of which was
8 commenced after January 1, 2020, that is capable of producing not more than 125 per cent of the
9 annual energy needs of the real property upon which it is located, which shall include contiguous
10 or non-contiguous real property owned or leased by the owner. Any other qualified fuel cell
11 powered system shall be exempt provided that the owner has made to the city or town where the
12 system is located a payment in lieu of taxes. A city or town, acting through the board or officer
13 authorized by its legislative body, may execute an agreement for the payment in lieu of taxes

14 with the owner of a qualified fuel cell powered system in the municipality where the qualified
15 fuel cell powered system is located. Unless otherwise provided by such agreement, (1) a notice
16 of the payment in lieu of tax owed for each fiscal year shall be mailed to the owner and due on
17 the dates by which a tax assessed under this chapter would be payable without interest; (2) all
18 provisions of law regarding billing and collecting a tax assessed under this chapter shall apply to
19 the payment in lieu of taxes, including the payment of interest; and (3) upon issuance of the
20 notice, the owner shall have the remedies provided by section 59, section 64 and all other
21 applicable provisions of law for the abatement and appeal of taxes upon real estate. An
22 exemption under this clause shall be allowed only for a period of 20 years from the date of
23 completion of the construction of the qualified fuel cell powered system; provided, however, that
24 no exemption shall be allowed for any year within that period when the qualified fuel cell
25 powered system is not capable of producing energy as required by this clause. Each owner shall
26 annually, on or before March 1, make a declaration under oath to the assessors regarding the
27 system and power generated for the previous calendar year. This clause shall not apply to
28 projects developed under section 1A of chapter 164.

29 For the purposes of this clause, “qualified fuel cell powered system” shall mean an
30 integrated system comprised of a fuel cell stack assembly and associated components that
31 utilizes and converts natural gas or renewable fuels into electricity and is being utilized as the
32 primary or auxiliary power system for the real property upon which it is located, which shall
33 include contiguous or non-contiguous real property owned or leased by the owner, or in which
34 the owner otherwise holds an interest.

35 SECTION 3. Subsection (b) of section 38H of said chapter 59, as so appearing, is hereby
36 amended by inserting after the first sentence the following sentence:- For purposes of this

37 subsection, a generation facility shall not include a facility powered by a qualified fuel cell
38 powered system, as defined in clause Forty-fifth B of section 5, to generate electricity.