

HOUSE No. 4241

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Michael Brady

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 bill:

An Act authorizing the city of Brockton to prevent the siting of a power plant in Brocton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael Brady	9th Plymouth
Christine E. Canavan	10th Plymouth
Geraldine Creedon	11th Plymouth
Thomas P. Kennedy	Second Plymouth and Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act authorizing the city of Brockton to prevent the siting of a power plant in Brockton.

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. WHEREAS, the city of Brockton pursuant to Art. 89 of the
2 Amendments to the Massachusetts Constitution, the Home Rule Amendment, may exercise
3 any power and perform any function relating to its government and affairs, including
4 protecting the public health, safety and welfare of its citizens;
- 5 WHEREAS, the city of Brockton is committed to having safe, clean, breathable air as
6 a fundamental right of every citizen of Brockton;
- 7 WHEREAS, it is an important function of the government of the city of Brockton to take
8 appropriate steps to improve air quality in areas that suffer from pollution;
- 9 WHEREAS on July 30, 2009, the Energy Facilities Siting Board (EFSB), a division of the
10 Massachusetts Department of Public Utilities, granted the required state license for
11 construction of a 350-megawatt electric generating facility in Brockton, subject to
12 significant conditions, including that the project's proponent 1) comply with the city's zoning
13 bylaws and other local regulations and 2) consult with the city on safety and traffic issues;
- 14 WHEREAS, in deciding that the proposed project did not warrant a general zoning
15 exemption or any specific exemption from the city's bylaws, EFSB reasoned that "the
16 benefits to the general public of the proposed use would not outweigh the adverse local
17 impacts."
- 18 WHEREAS, there is evidence that air pollution from fossil fuel electric power facilities
19 continues to degrade the atmosphere and has a devastating impact on public health,
20 contributing to preventable premature deaths, asthma attacks, and other respiratory illnesses;
- 21 WHEREAS, while all citizens are at risk from exposure to such air pollution, those living
22 closest to the facilities, children, senior citizens, and people with lung and heart disease, are
23 at greatest risk;

24 WHEREAS, it has been shown that the projected emissions from a fossil fuel electric
25 power facility in Brockton would significantly increase levels of particulate pollution in
26 the air that Brockton residents breathe; and

27 WHEREAS, the levels of particulate matter, PM2.5, in Brockton are already
28 approaching 90% of the federal threshold;

29 WHEREAS, eleven schools in Brockton have "statistically significantly higher" rates of
30 pediatric asthma, including the Edgar B. Davis School and South Junior High School, as
31 compared to the state average; and

32 WHEREAS, the current high levels of ozone, and the projected increase in PM2.5 pollution
33 from a fossil fuel electric power facility, are significant because of the health effects
34 associated with those pollutants.

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36 SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, in
37 the city of Brockton, and notwithstanding any rights of the city of Brockton to appeal said EFSB
38 decision(s), no fossil fuel electric power facility or facilities shall be sited in the city of Brockton,
39 nor shall a permit be granted for the establishment construction, expansion, maintenance, or
40 operation of such facility or facilities in any area which is less than 1 mile in linear distance from
41 a playground, licensed day-care center, school, church, area of critical environmental concern, as
42 determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or al!, area
43 occupied by residential housing. Said linear distance shall be measured from the outermost
44 perimeter of such facility to the outermost point of the aforementioned zones; provided, however
45 that any such facility in operation on January 1, 2007, shall not be subject to this act. For the
46 purpose of this section, "fossil fuel electric power facilities or facility" shall be defined as any
47 electric generating power plant that is fueled in whole or in part, by coal, oil or natural gas.

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49 SECTION 3. This act shall take effect upon its passage.