

HOUSE No. 4241

The Commonwealth of Massachusetts

In the Year Two Thousand 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 Amendments
2 to the Massachusetts Constitution, the Home Rule Amendment, may exercise any power and
3 perform any function relating to its government and affairs, including protecting the public
4 health, safety and welfare of its citizens;

5 WHEREAS, the city of Brockton is committed to having safe, clean, breathable air as a
6 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
10 the Massachusetts Department of Public Utilities, granted the required state license for
11 construction of a 350-megawatt electric generating facility in Brockton, subject to significant
12 conditions, including that the project's proponent 1) comply with the city's zoning bylaws and
13 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 benefits to
16 the general public of the proposed use would not outweigh the adverse local impacts."

17 WHEREAS, there is evidence that air pollution from fossil fuel electric power facilities
18 continues to degrade the atmosphere and has a devastating impact on public health, contributing
19 to preventable premature deaths, asthma attacks, and other respiratory illnesses;

20 WHEREAS, while all citizens are at risk from exposure to such air pollution, those living
21 closest to the facilities, children, senior citizens, and people with lung and heart disease, are at
22 greatest risk;

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

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

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

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

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

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