

HOUSE No. 2935

The Commonwealth of Massachusetts

PRESENTED BY:

Lori A. Ehrlich

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 adoption of the accompanying bill:

An Act to transition to a clean energy Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/17/2013</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>1/21/2013</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/30/2013</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>	<i>1/28/2013</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/1/2013</i>
<i>Ruth B. Balseer</i>	<i>12th Middlesex</i>	<i>1/29/2013</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2013</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2013</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>	<i>2/1/2013</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>2/1/2013</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/30/2013</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>	<i>1/31/2013</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	

<i>Anne M. Gobi</i>	<i>5th Worcester</i>	
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>	
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	
<i>Kevin J. Murphy</i>	<i>18th Middlesex</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	
<i>Stephen Kulik</i>	<i>1st Franklin</i>	
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>	
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/31/2013</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	
<i>John J. Binienda</i>	<i>17th Worcester</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/24/2013</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>	
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	

HOUSE No. 2935

By Ms. Ehrlich of Marblehead, a petition (accompanied by bill, House, No. 2935) of Lori A. Ehrlich and others relative to the use of coal as an energy resource in the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to transition to a clean energy Commonwealth.

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: For each electric generating facility located in the commonwealth that uses
2 coal as fuel, the owner and operator shall file a report with the commissioner of the department
3 of energy resources by July 1, 2013 detailing how greenhouse gas emissions emitted by the
4 facility will be reduced consistent with, and at least proportional to, the reductions mandated by
5 chapter 21N of the general laws, including the 2020 statewide greenhouse gas emissions limit
6 adopted by the secretary pursuant to section 4 thereof, and describing how the facility will
7 comply with regulations issued by the United States Environmental Protection Agency regarding
8 the control of Hazardous Air Pollutants under section 112 of the federal Clean Air Act, Standards
9 of Performance for fossil fuel fired steam electric generating units under section 111 of the
10 federal Clean Air Act, the National Ambient Air Quality Standards for ozone, particulate matter,
11 NO2 and SO2, and the Greenhouse Gas Tailoring Rule. The report shall include, but not be
12 limited to, the following:

13 (i) An assessment of achieving the reductions mandated by chapter 21N of the general
14 laws, including the 2020 statewide greenhouse gas emissions limit adopted by the secretary
15 pursuant to section 4 thereof;

16 (ii) An assessment of the potential for re-use of the site for alternative uses, including
17 electric generating alternatives that emit few or no greenhouse gas emissions, as well as
18 alternative uses that do not include electric generation; and

19 (iii) an assessment of the scope and cost of decommissioning, demolishing and
20 remediating the existing facility site for a range of alternative uses which shall include a full site

21 assessment and risk characterization study. The department of energy resources shall hold public
22 hearings to solicit public comment in response to such reports in each of the regions that have the
23 most significant exposure to air pollutants from coal-fired electric generation facilities.

24 SECTION 2: On or before January 1, 2014, the commissioner of the department of
25 energy resources shall adopt a plan for replacing all use of coal as an energy resource in the
26 commonwealth by 2020, including a plan for the orderly retirement of all baseload coal-fired
27 electric generating facilities and replacement with clean energy alternatives such as electric
28 transmission upgrades, energy efficiency, demand response and renewable energy alternatives
29 having low or no emissions of greenhouse gases and other regulated air pollutants. The
30 commissioner shall consult with all state agencies and regional authorities with jurisdiction over
31 electric generation, electric transmission, air emissions, public health, economic development
32 and the provision of reliable and affordable electrical service, to ensure the plan can be
33 implemented in an efficient and cost-effective manner while promoting economic development,
34 reducing the public health and climate impacts of electric generation, and increasing energy
35 security for the commonwealth. The plan shall take into account the greenhouse gas emission
36 reductions mandated by chapter 21N of the general laws, including the 2020 statewide
37 greenhouse gas emissions limit adopted by the secretary pursuant to section 4 thereof, as well as
38 regulations issued by the United States Environmental Protection Agency regarding the control
39 of Hazardous Air Pollutants under section 112 of the federal Clean Air Act, Standards of
40 Performance for fossil fuel fired steam electric generating units under section 111 of the federal
41 Clean Air Act, the National Ambient Air Quality Standards for ozone, particulate matter, NO₂
42 and SO₂, and the Greenhouse Gas Tailoring Rule. The plan also shall be informed by the reports
43 and related public comments submitted pursuant to section 1 of this act. The plan shall include,
44 but not be limited to, the following:

45 (i) an analysis of the extent to which each coal-fired electric generating facility can or
46 cannot operate in compliance with existing and reasonably foreseeable state and federal
47 environmental regulations, as well as the feasibility and cost of any modifications necessary to
48 meet the requirements of such regulations;

49 (ii) an assessment of the potential for re-use of each coal-fired electric generating facility
50 site for alternatives that emit few or no greenhouse gas emissions or other regulated air
51 pollutants, including electric generation and non-generation alternatives;

52 (iii) an assessment of measures to minimize economic impacts on host communities with
53 respect to each coal-fired electric generating facility that ceases operation on or before January 1,
54 2020, with such assessment taking into account costs such as any reductions in property tax
55 revenues and benefits such as reduced burdens on emergency and public health services;

56 (iv) an analysis of whether and to what extent alternatives are needed to ensure electric
57 system reliability, such as increased energy efficiency, demand response, low- or no-emissions
58 renewable energy, electric transmission upgrades and

59 (v) an assessment of site contamination as well as remediation measures necessary to
60 prepare the host site for alternative uses.

61 Prior to adopting a final plan, the department of energy resources shall hold public
62 hearings in each of the regions that have the most significant exposure to air pollutants from
63 coal-fired electric generation facilities.

64 SECTION 3: Chapter 25A of the general laws, as appearing in the 2008 edition, is
65 hereby amended by inserting after section 11I the following sections:

66 Section 11J. (1) The department shall establish a greenhouse gas emissions performance
67 standard for all retail electricity suppliers selling electricity to end-use customers in the
68 commonwealth. Beginning January 1, 2015, the greenhouse gas emissions performance standard
69 that must be achieved by each electric generating facility from which retail electricity suppliers
70 purchase electricity for delivery to end-use customers in the commonwealth shall be the lower of
71 (a) nine hundred pounds of greenhouse gases per megawatt hour; or (b) the average greenhouse
72 gas emissions of all electric generating facilities in operation during the prior calendar year in the
73 ISO-New England control area. Such emissions performance standard shall apply to all
74 electricity delivered to end-use customers in the commonwealth on or after January 1, 2015,
75 without regard to when the electricity was purchased or contracted for purchase.

76 (2) Any electric generation facility having a first commercial operation date after January
77 1, 2011 and located in the commonwealth must comply with the greenhouse gas emissions
78 performance standard established in subsection (1) of this section from the time of its first
79 commercial operation date and continuing thereafter.

80 (3) In determining the rate of emissions of greenhouse gases for electric generating
81 facilities under this section, the total emissions associated with producing electricity shall be
82 included.

83 (4) The department shall establish an output-based methodology to ensure that the
84 calculation of emissions of greenhouse gases for a cogeneration or combined heat and power
85 facility recognizes the total usable energy output of the process, and includes all greenhouse
86 gases emitted by the facility in the production of both electrical and thermal energy.

87 (5) The department shall adopt regulations to implement and enforce the greenhouse gas
88 emissions performance standard under this section, including regulations establishing procedures
89 for verification of greenhouse gas emissions and rules establishing penalties for any failure to
90 comply with the greenhouse gas emissions performance standard. The department shall revise

91 the standard downward as necessary to achieve the interim emissions limits established for 2030
92 and 2040 pursuant to section 3 of chapter 21N of the general laws and the 2050 limit established
93 pursuant to section 3 of chapter 21N of the general laws.

94 Section 11K. There is hereby established within the department of energy resources and
95 set upon the books of the commonwealth a Community Transitioning Fund for the purpose of
96 mitigating impacts of the retirement of coal-fired electric generation facilities on employees of
97 such facilities and on the municipalities where such facilities are located. There shall be credited
98 to the fund revenue from appropriations or other monies authorized by the general court and
99 specifically designated to be credited to the fund, and gifts, grants, private contributions,
100 repayment of loans, investment income earned on the fund's assets, and any other sources.
101 Money remaining in the fund at the end of a fiscal year shall not revert to the general fund.

102 (1) A community transitioning fee shall be established in an amount not less than one
103 dollar for each ton of carbon dioxide emitted by any electric generating facility having a net
104 generating capacity of 75 megawatts or more. The fee shall be remitted to the department of
105 revenue on the last day of each month based on the amount of carbon dioxide emitted during the
106 preceding month.

107 (2) An owner of an affected electric generating facility shall be liable for the fee until it
108 has been paid to the commonwealth.

109 (3) All fees collected pursuant to this section shall be deposited in the fund and shall be
110 disbursed for the purposes of mitigating the impacts of the retirement of coal-fired electric
111 generation facilities on employees of such facilities and the municipalities where such facilities
112 are located. The state treasurer shall not deposit or transfer revenues generated pursuant to
113 subsection (1) to the General Fund or any other fund other than the Community Transitioning
114 Fund.

115 (4) The commissioner shall set the amount of the community transitioning fee, which
116 shall be not less than one dollar for each ton of carbon dioxide emitted by each affected electric
117 generating facility.

118 The department shall maintain the fund as a separate fund, and shall cause it to be audited
119 by an independent accountant on an annual basis in accordance with accepted accounting
120 principles.

121

122 The commissioner shall be treasurer, trustee, and custodian of the fund, and shall
123 administer such fund in accordance with the provisions of this section, and shall pay all warrants
124 drawn upon it in accordance with the provisions of this section and with such regulations as the
125 department may promulgate.

126

127 A governing board of not less than nine individuals with an interest in matters relating to
128 the general purpose of the fund shall assist the department in matters related to the fund and in
129 the implementation of this section. The governing board shall include: the commissioner, who
130 shall serve as chair; the secretary of energy and environmental affairs or a designee; the secretary
131 of labor and workforce development or a designee; the secretary of housing and economic
132 development or a designee; a representative of a labor organization representing electric-
133 generation facilities workers recommended by the president of the Massachusetts AFL-CIO; a
134 representative of the Massachusetts Municipal Association; and three members to be appointed
135 by the governor, who shall have knowledge and experience in one or more of the following
136 areas: regional environmental concerns; renewable energy and energy efficiency; and worker
137 training programs pertaining to renewable energy or energy efficiency.

138 SECTION 4: Section 2(a) of Chapter 23J of the general laws, as appearing in the 2008
139 official edition, is hereby amended by striking subsection xi and replacing it with the following –

140 – (xi) establishing programs to ensure smooth transitions for workers from coal
141 or oil-fired electric power generating facilities to clean energy jobs; and (xii) performing any
142 other actions necessary to effectuate the state's public interests.