

SENATE No. 1604

The Commonwealth of Massachusetts

PRESENTED BY:

Michael R. Knapik

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 relieving the adverse effects of wind energy development.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>

SENATE No. 1604

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 1604) of Michael R. Knapik, William Smitty Pignatelli and Bruce J. Ayers for legislation to relieve the adverse effects of wind energy development. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relieving the adverse effects of wind energy development.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish a fund providing relief from wind turbine projects that have resulted in detrimental health effects or loss of property value or other adverse impacts to citizens, businesses, and municipalities of the Commonwealth and to make certain other changes in law necessary or appropriate to effectuate this important public purpose, 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 SECTION 1. This Act shall be entitled the “Wind Energy Relief Act,” and shall be
2 construed in a manner to achieve its public purpose, which is to ensure that citizens, businesses,
3 and municipalities adversely affected by the operation of a wind turbine receive appropriate
4 remuneration and assistance from the Commonwealth.

5 SECTION 2. Chapter 10 of the General Laws, as appearing in the 2010 Official Edition,
6 is hereby amended by adding at the end thereof the following new sections:-

7 Section 75. (a) There shall be established and set up on the books of the commonwealth a
8 separate fund known as the Wind Energy Relief Fund, hereinafter referred to as the Energy
9 Relief Fund. Each year, there shall be credited to the Energy Relief Fund, from the
10 Massachusetts Renewable Energy Trust Fund, which is credited all amounts collected under
11 section 20 of chapter 25 and any income derived from the investment of amounts credited to the
12 trust fund, or its successor entity, hereinafter referred to as the Trust Fund, \$15,000,000 by a
13 transfer from the Trust Fund to the Energy Relief Fund. Said transfer shall occur before any
14 other transfer of monies from the Trust Fund to any other account of the Commonwealth without

15 exception. All available monies in the Energy Relief Fund that are unexpended at the end of each
16 fiscal year shall not revert to the Trust Fund, the General Fund, or and other account of the
17 Commonwealth and shall be available for expenditure by the Energy Relief Fund in the
18 subsequent fiscal year.

19 (b) The Energy Relief Fund shall be held and applied by the Executive Office of
20 Administration and Finance which is hereby authorized and directed to promulgate rules and
21 regulations necessary to implement the provisions of this act. The Executive Office of
22 Administration and Finance shall make available the Energy Relief Fund to citizens, businesses,
23 and municipalities as compensation for losses incurred as a result of detrimental health effects or
24 any property loss or any other adverse impact resultant from the siting of a wind turbine in the
25 Commonwealth developed with any assistance from the Massachusetts Clean Energy Center,
26 hereinafter referred to as the Clean Energy Center. The Executive Office of Administration and
27 Finance shall make distributions from the Energy Relief Fund after developing a procedure for
28 valuing the loss suffered by a citizen, local business, or municipality in consultation with the
29 Executive Office of Housing and Economic Development, the Massachusetts Board of Realtors,
30 the Massachusetts Assessors Association, the Massachusetts Municipal Association, and the
31 Massachusetts Selectman's Association. Said procedure shall be developed prior to June 30,
32 2014. Further, an application for compensation from the Energy Relief Fund shall be approved or
33 denied within 180 days after being submitted to the Commonwealth. Any such application not
34 approved or denied within 180 days after being submitted to the Commonwealth shall be deemed
35 approved by operation of law. An applicant who may be denied compensation from the Energy
36 Relief Fund, whether a citizen, local business, or municipality, for a period of 30 days after said
37 denial, shall be entitled to appeal to the Department of Public Utilities, hereinafter referred to as
38 the Department, for a determination of the appeal by the Department no later than 60 days after
39 submission of the appeal to the Department.

40 (c) Compensation to a citizen, local business, or municipality shall not be limited to direct
41 monetary remuneration from the Energy Relief Fund and shall also include, but, not be limited to
42 full payment for residential or business relocation so long as Executive Office of Administration
43 and Finance consults with the Department of Public Health concerning health-related claims
44 prior to awarding such relocation assistance from the Energy Relief Fund.

45 (d) There shall be established and set up on the books of the Commonwealth a separate
46 fund known as the Wind Turbine Decommissioning or Relocation Fund, hereinafter referred to
47 as the Turbine Decommissioning Fund. Each year, there shall be credited to the Turbine
48 Decommissioning Fund, from the Massachusetts Renewable Energy Trust Fund, which is
49 credited all amounts collected under section 20 of chapter 25 and any income derived from the
50 investment of amounts credited to the trust fund, or its successor entity, hereinafter referred to as
51 the Trust Fund, \$7,500,000 by a transfer from the Trust Fund to the Turbine Decommissioning
52 Fund. Said transfer shall occur after the transfer to the Energy Relief Fund, in accord with this
53 Act, and before any other transfer of monies from the Trust Fund to any other account of the

54 Commonwealth without exception. All available monies in the Turbine Decommissioning Fund
55 that are unexpended at the end of each fiscal year shall not revert to the Trust Fund, the General
56 Fund, or and other account of the Commonwealth and shall be available for expenditure by the
57 Turbine Decommissioning Fund in the subsequent fiscal year.

58 (e) The Turbine Decommissioning Fund shall be held and applied by the Executive
59 Office of Administration and Finance which is hereby authorized and directed to promulgate
60 rules and regulations necessary to implement the provisions of this act. The Executive Office of
61 Administration and Finance shall make available monies from the Turbine Decommissioning
62 Fund to municipalities of the Commonwealth as compensation for decommissioning or
63 relocation of a wind turbine located within their jurisdiction that was developed upon false,
64 misleading, or inaccurate information, reasonably relied upon by the municipality, in its final
65 determination to allow construction of the wind turbine.

66 (f) The Executive Office of Administration and Finance shall make distributions from the
67 Turbine Decommissioning Fund after developing a procedure for reviewing a municipality's
68 application for assistance under this act in consultation with the Massachusetts Municipal
69 Association and the Massachusetts Selectman's Association. Said procedure shall be developed
70 prior to June 30, 2014. Further, an application for assistance from the Turbine Decommissioning
71 Fund shall be approved or denied within 180 days after being submitted to the Commonwealth.
72 Any such application not approved or denied within 180 days after being submitted to the
73 Commonwealth shall be deemed approved by operation of law. A municipality, which may be
74 denied assistance from the Turbine Decommissioning Fund, for a period of 30 days after said
75 denial, shall be entitled to appeal to Energy Facilities Siting Board for a determination of the
76 appeal no later than 60 days after submission of an appeal.

77 SECTION 3. Chapter 10 of the General Laws, as appearing in the 2010 Official Edition,
78 is hereby amended by adding the following section:-

79 Section 35FF (f). No funds shall be transferred or otherwise made available to the
80 Massachusetts Alternative and Clean Energy Investment Trust Fund, or to any other fund or
81 account administered by the Clean Energy Center, until after the Energy Relief Fund and the
82 Turbine Decommissioning Fund have received their respective transfers from the Massachusetts
83 Renewable Energy Trust Fund or its successor entity.

84 SECTION 4. Section 20(a) of Chapter 25 of the General Laws is amended by striking it
85 in its entirety and replacing it with the following new section:-

86 Section 20. (a) The department shall require a mandatory charge of 0.5 mill per kilowatt-
87 hour for all electricity consumers, except those served by a municipal lighting plant which does
88 not supply generation service outside its own service territory or does not open its service
89 territory to competition at the retail level, to support the development and promotion of
90 renewable energy projects and to provide assistance to consumers, businesses, and municipalities

91 seeking relief from the effects of wind energy development. All revenues generated by the
92 mandatory charge shall be deposited into the Massachusetts Renewable Energy Trust Fund,
93 established under section 9 of chapter 23J.

94 SECTION 5. Section 9(b) of Chapter 23J of the General Laws is amended by striking it
95 in its entirety and replacing it with the following new section:-

96 Section 9. (b) After fully funding the Wind Energy Relief Fund and the Wind Turbine
97 Decommissioning Fund, as established by the General Laws, the center may make expenditures
98 from the trust fund for the public purpose of generating the maximum economic and
99 environmental benefits over time from renewable energy to the ratepayers of the commonwealth
100 through a series of initiatives which exploit the advantages of renewable energy in a more
101 competitive energy marketplace by: (i) promoting the increased availability, use and affordability
102 of renewable energy; (ii) by making operational improvements to existing renewable energy
103 projects and facilities which, in the determination of the center, would yield more significant
104 results in the development of renewable energy if such funds were made available for the
105 creation of new renewable energy facilities; and (iii) by fostering the formation, growth,
106 expansion and retention within the commonwealth of preeminent clusters of renewable energy
107 and related enterprises, institutions and projects which serve the citizens of the commonwealth
108 consistent with a strategic plan or annual operational plan.

109 SECTION 6. The Department of Public Utilities is hereby authorized and directed to
110 promulgate rules and regulations necessary to implement the provisions of this act. The Energy
111 Facilities Siting Board is hereby authorized and directed to promulgate rules and regulations
112 necessary to implement the provisions of this act.