HOUSE DOCKET, NO. 2777 FILED ON: 1/16/2015

HOUSE . . . . . No. 3527

The Commonwealth of Massachusetts

PRESENTED BY:

Michelle M. DuBois

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 relative to the construction of generating facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michelle M. DuBois	*10th Plymouth*
Jason M. Lewis	*Fifth Middlesex*
Carmine L. Gentile	*13th Middlesex*
James B. Eldridge	*Middlesex and Worcester*
Denise Provost	*27th Middlesex*
Walter F. Timilty	*7th Norfolk*
David M. Rogers	*24th Middlesex*
Marcos A. Devers	*16th Essex*
Daniel J. Ryan	*2nd Suffolk*
Tom Sannicandro	*7th Middlesex*
Aaron Vega	*5th Hampden*
Chris Walsh	*6th Middlesex*
Frank I. Smizik	*15th Norfolk*
Jose F. Tosado	*9th Hampden*
Jonathan Hecht	*29th Middlesex*

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By Ms. DuBois of Brockton, a petition (accompanied by bill, House, No. 3527) of Michelle M. DuBois and others relative to the environmental impact documents required to apply for a permit to construct an electric generating facility. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the construction of generating facilities.

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

SECTION 1. Section 69G of chapter 164 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the definition of "Department" the following definition:-

"Director of environmental justice", the director within the executive office of energy and environmental affairs, appointed pursuant to section 1 of Executive Order 552.

SECTION 2. Said section 69G of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Electric company" the following 2 definitions:-

"Environmental justice", the right to be protected from environmental pollution, and to live in and enjoy a clean and healthful environment. Environmental justice shall include the equal protection and meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies and the equitable distribution of environmental benefits, and is based on the concept that all people have

13 a right to be protected from environmental pollution and to live in and enjoy a clean and healthy
14 environment regardless of race, income, national origin or English language proficiency.

15 “Environmental justice population”, a neighborhood: (i) whose annual median household
16 income is equal to or less than 65 per cent of the median household income for the
17 commonwealth; (ii) whose population is equal to or greater than 25 per cent minority or foreign
18 born individuals, or individuals lacking English language proficiency according to federal census
19 data; or (iii) otherwise identified as an environmental justice population by the executive office
20 of energy and environmental affairs.

21 SECTION 3. Section 69J¼ of said chapter 164, as so appearing, is hereby amended by
22 inserting after the second paragraph the following 4 paragraphs:-

23 No applicant shall submit a petition to construct a generating facility without first
24 submitting a preliminary statement regarding such generating facility. A preliminary statement
25 shall contain, at a minimum, the following information:- (i) a description of the proposed
26 generating facility and a list of its possible locations; (ii) potential environmental and public
27 health

28 impacts resulting from the construction and operation of the proposed generating facility
29 (iii) an analysis of how the proposed generating facility may impact environmental justice
30 populations; (iv) a list of proposed studies or reports that the applicant plans to undertake or that
31 have been previously published to evaluate potential environmental and public health impacts;
32 (v) proposed measures for minimizing any environmental and public health effects; (vi) the
33 contact information for at least 1 individual associated with and knowledgeable about the
34 proposed generating facility; (vii) an identification list of all federal, state and local permits,

35 approvals, certifications or other such authorizations necessary for the construction, operation
36 and maintenance of the proposed generating facility; and (vii) any other relevant information that
37 the board shall require.

38 The preliminary statement shall be submitted to the board, the director of environmental
39 justice, any identifiable community groups with members living or working within 5 miles of a
40 possible location for the proposed generating facility, the city council or board of selectman for
41 each of the proposed locations, and the public library for each proposed location. If the proposed
42 generating facility may be located within 5 miles of an environmental justice population, the
43 applicant shall also provide copies of the preliminary statement in the primary language of such
44 environmental justice population, where applicable. To facilitate the pre-petition and petition
45 processes and enable residents to participate in decisions that affect their health and safety and
46 the environment, the applicant and siting board shall provide opportunities for resident
47 involvement. The primary goals of the resident participation process shall be to facilitate
48 communication between the applicant and interested or affected persons. The process shall
49 foster the active involvement of the interested or affected persons.

50 Each preliminary statement submitted pursuant to this section shall be accompanied by a
51 fee equal to $1,000 per 10 megawatts of generating capacity. The board shall deposit the fee into
52 a separate account, which the board shall maintain. The board may make expenditures from the
53 account in order to defray costs associated with the preliminary statement and petition review
54 process, as they may be incurred by local governments, the board, or other parties. Such costs
55 may include, but shall not be limited to, expert witness fees, consultant fees, legal fees or other
56 administrative costs.

57 The board shall hold at least 1 public hearing in each possible location wherein the
58 proposed generating facility may be located, the goal of which shall be to allow the residents of
59 each potential host community to participate in a decision that affects their health, safety and
60 environment and to facilitate the active involvement of, and communication between, all
61 interested and affected parties.

62 SECTION 4. Said section 69J¼ of said chapter 164, as so appearing, is hereby further
63 amended by striking out, in line 40, the words "and (v)" and inserting in place thereof the
64 following:- (v) a description of any environmental justice population within 10 miles of the
65 proposed generating facility and the potential impacts on such populations; (vi) a cumulative
66 impact analysis of air and water quality within 10 miles of the proposed generating facility, or
67 such other radius as may be established by the board in regulation, which shall consider all
68 available data on projected emissions of air pollutants, water pollutants and air toxins, currently
69 existing industrial and commercial facilities, and any identifiable proposed industrial or
70 commercial facility not yet constructed; (vii) a comparison between the demographic, economic,
71 and physical characteristics of (a) communities within 10 miles of the proposed generating
72 facility, and (b) the county as a whole within which the proposed generating facility may be
73 located, which shall include data on racial and ethnic groups, income levels, open space
74 availability, and public health considerations; (viii) an explanation of why the proposed
75 generating facility is necessary to meet regional requirements for additional capacity; and (ix).

76 SECTION 5. The fifth paragraph of said section 69J¼ of said chapter 164, as so
77 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the
78 following 2 sentences:-

79 For every proposed generating facility that seeks to be located within 10 miles of a state-
80 designated environmental justice population, the board shall perform a meaningful substantive
81 analysis of the proposed facility and describe all environmental justice considerations. The board
82 shall, within 1 year from the date of filing, approve a petition to construct a generating facility if
83 the board determines that the petition meets the following requirements: (i) the proposed
84 generating facility would not burden an environmental justice population located within a 10
85 mile radius; (ii) the description of the proposed generating facility and its environmental impacts
86 are substantially accurate and complete; (iii) the description of the site selection process used is
87 accurate and complete; (iv) proposed facilities within 10 miles of an environmental justice
88 community have had a cumulative impact analysis of air quality and water quality completed,
89 which took into consideration all available data associated with projected emissions of air
90 pollution, water pollution, and air toxins from the proposed generating facility and other existing
91 industrial and commercial facilities, as well as sources permitted and yet to be constructed; (v)
92 the applicant has sufficiently demonstrated that the proposed generating facility is necessary to
93 meet regional requirements for additional capacity; (vi) the plans for the construction of the
94 proposed generating facility are consistent with current health and environmental protection
95 policies of the commonwealth and with such energy policies as are adopted by the
96 commonwealth for the specific purpose of guiding the decisions of the board; (vii) such plans
97 minimize the environmental impacts consistent with the minimization of costs associated with
98 the mitigation, control, and reduction of the environmental and public health impacts of the
99 proposed generating facility; and (viii) if the petitioner was required to provide information on
100 other fossil fuel generating technologies, the construction of the proposed generating facility on
101 balance contributes to a reliable, low-cost, diverse, regional energy supply with minimal

102 environmental impacts. Where a proposed generating facility would be located within 10 miles
103 of an environmental justice population, the board shall include with its approval a substantive
104 analysis of the generating facility's potential effects on the environmental justice population,
105 which shall describe all environmental justice factors considered by the board.