

HOUSE No. 1118

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Vega

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 incentivizing solar energy systems on brownfields.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>1/18/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/2/2017</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>2/2/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>2/2/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/26/2017</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>	<i>1/26/2017</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	<i>2/1/2017</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/26/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2017</i>

HOUSE No. 1118

By Mr. Vega of Holyoke, a petition (accompanied by bill, House, No. 1118) of Aaron Vega and others relative to zoning appeals of proposed solar energy system installations on brownfields. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act incentivizing solar energy systems on brownfields.

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

1 1. Any renewable energy supplier proposing to install a solar energy system with greater
2 than 500 kw of capacity on a parcel or parcels of land meeting the definition of a brownfield, as
3 established in Chapter 206 of the Acts of 1998, within a municipality with greater than 15,000
4 residents which has yet to generate at least 5 megawatts of renewable power within its political
5 boundaries, may submit to the Board of Appeals, established under Section 12 of Chapter 40A, a
6 single application to install such a solar energy system in lieu of separate applications to the
7 applicable local boards. This is not designed to discount the energy that small roof-top solar
8 systems provide; therefore, installed rooftop systems may be aggregated to reach a sum total of
9 the amount of power generated within a municipality.

10 The Board of Appeals shall forthwith notify each such local board, as applicable, of the
11 filing of such application by sending a copy thereof to such local boards for their
12 recommendations and shall, within thirty days of the receipt of such application, hold a public

13 hearing on the same. The board of appeals shall request the appearance at said hearing of such
14 representatives of said local boards as are deemed necessary or helpful in making its decision
15 upon such application and shall have the same power to issue permits or approvals as any local
16 board or official who would otherwise act with respect to such application, including but not
17 limited to the power to attach to said permit or approval conditions and requirements with
18 respect to visual impact, screening, site plan, wetlands protection, historic preservation, fire
19 safety, size or shape, or stormwater consistent with the terms of this section.

20 The Board of Appeals, in making its decision on said application, shall take into
21 consideration the recommendations of the local boards and shall have the authority to use the
22 testimony of consultants. The board of appeals shall adopt rules, not inconsistent with the
23 purposes of this chapter, for the conduct of its business pursuant to this chapter and shall file a
24 copy of said rules with the city or town clerk.

25 The provisions of Section 11 of Chapter 40A shall apply to all such hearings. The Board
26 of Appeals shall render a decision, based upon a majority vote of said board, within forty days
27 after the termination of the public hearing and, if favorable to the applicant, shall forthwith issue
28 a Comprehensive Solar Generation Permit or approval. If said hearing is not convened or a
29 decision is not rendered within the time allowed, unless the time has been extended by mutual
30 agreement between the board and the applicant, the application shall be deemed to have been
31 allowed and the Comprehensive Solar Generation Permit or approval shall forthwith issue. Any
32 person aggrieved by the issuance of a Comprehensive Solar Generation Permit or approval may
33 appeal to the court as provided in Section 17 of chapter 40A.

3. Whenever an application filed under the provisions of section one is denied, or is granted with such conditions and requirements as to make the solar energy system uneconomic, the applicant shall have the right to appeal to the Department of Public Utilities a review of the same. Such appeal shall be taken within twenty days after the date of the notice of the decision by the board of appeals by filing with said Department a statement of the prior proceedings and the reasons upon which the appeal is based. The Department shall forthwith notify the Board of Appeals of the filing of such petition for review and the latter shall, within ten days of the receipt of such notice, transmit a copy of its decision and the reasons thereof to the Department. Such appeal shall be heard by the Department within twenty days after receipt of the applicant's statement. A stenographic record of the proceedings shall be kept and the Department shall render a written decision, based upon a majority vote, stating its findings of fact, its conclusions and the reasons thereof within thirty days after the termination of the hearing, unless such time shall have been extended by mutual agreement between the Department and the applicant. Such decision may be reviewed in the superior court.

The hearing shall be limited to the issue of whether, in the case of the denial of an application, the decision of the board of appeals was reasonable and consistent with local needs and, in the case of an approval of an application with conditions and requirements imposed, whether such conditions and requirements make the construction or operation of such solar energy system uneconomic and whether they are consistent with local needs to reduce greenhouse gas emissions. If the Department finds, in the case of a denial, that the decision of the board of appeals was unreasonable and not consistent with local needs, it shall vacate such decision and shall direct the board to issue a Comprehensive Solar Generation Permit or approval to the applicant. If the Department finds, in the case of an approval with conditions and

57 requirements imposed, that the decision of the board makes the building or operation of such
58 solar energy system uneconomic and is not consistent with local needs, it shall order such board
59 to modify or remove any such condition or requirement so as to make the proposal no longer
60 uneconomic and to issue any necessary permit or approval; provided, however, that the
61 Department shall not issue any order that would permit the building or operation of such solar
62 energy system. The Board of Appeals shall carry out the order of the Department within thirty
63 days of its entry and, upon failure to do so, the order of said Department shall, for all purposes,
64 be deemed to be the action of said board, unless the petitioner consents to a different decision or
65 order by such board.