

HOUSE No. 3636

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

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 green jobs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>1/20/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>4/10/2017</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>4/7/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>4/6/2017</i>

HOUSE No. 3636

By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 3636) of Paul W. Mark and others for legislation to establish the Massachusetts energy efficiency authority. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act relative to green jobs.

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

1 The General Laws are hereby amended by inserting after chapter 25C the following
2 chapter:-

3 Chapter 25D

4 The Massachusetts Energy Efficiency Authority

5 Section 1. There is hereby created a body politic and corporate to be known as the
6 Massachusetts Energy Efficiency Authority, hereinafter in this chapter referred to as the
7 authority. The authority is hereby constituted a public instrumentality and the exercise by the
8 authority of the powers conferred by this chapter shall be considered to be the performance of an
9 essential government function.

10 The authority is hereby placed in the executive office of energy and environmental
11 affairs, but shall not be subject to the supervision or control of said office or of any board,

12 bureau, department or other center of the commonwealth, except as specifically provided in this
13 chapter.

14 Section 2. The authority shall establish and administer the Green Jobs Massachusetts
15 program, hereinafter in this chapter referred to as the program, established herein, to provide for
16 the billing and collection of on-bill recovery charges for payment of obligations of its customers
17 to the Massachusetts Green Jobs Loan Fund, established pursuant to section 3. The program shall
18 provide financial assistance in the form of loans to eligible recipients for the performance of
19 qualified energy efficiency services for eligible projects, subject to repayment in the form of on-
20 bill recovery charges on the recipient's utility bill. To the maximum extent practicable, funding
21 available from the authority shall be utilized to defray any costs associated with electronic data
22 interchange improvements or other costs of initiating and implementing this program. Billing
23 and collection services shall commence as soon as practicable after establishment of the
24 program.

25 The authority may suspend its offering of the on-bill recovery charge provided that the
26 authority makes a finding that there is a significant increase in arrears or utility service
27 disconnections that the authority determines is directly related to such charge, or a finding of
28 other good cause.

29 Section 3. (a) There is hereby established a fund to be known as the Massachusetts Green
30 Jobs Loan Fund, hereinafter the fund. The fund shall consist of:

31 (i) all moneys made available for the purpose of the fund pursuant to this section;

32 (ii) payments of principal and interest, including any late payment charges, made
33 pursuant to loan or financing agreements entered into with the authority or its designee pursuant
34 to this section; and

35 (iii) any interest earned by the investment of moneys in the fund;

36 (b) The fund shall consist of 2 accounts:

37 (i) one account which shall be maintained for monies to be made available to provide
38 loans to finance the cost of approved qualified energy efficiency services for residential
39 structures and multi-family structures; and

40 (ii) one account which shall be maintained for monies made available to provide loans to
41 finance the cost of approved qualified energy efficiency services for non-residential structures.

42 (c) The initial balance of the residential account established in clause (i) shall represent at
43 least 50 per cent of the total balance of the 2 accounts. The authority shall not commingle the
44 monies of the fund with any other monies of the authority or held by the authority, nor shall the
45 authority commingle the monies between accounts. Payments of principal, interest and fees
46 shall be deposited into the account created and maintained for the appropriate type of eligible
47 project.

48 Section 4. In administering the program, the authority shall:

49 (a) use monies made available for the fund to achieve the purposes of this chapter
50 including but not limited to making loans available for eligible projects;

51 (b) enter into contracts with 1 or more program implementers to perform such functions
52 as the authority deems appropriate;

53 (c) establish an on-bill recovery mechanism for repayment of loans for the performance
54 of qualified energy efficiency services for eligible projects provided that such on-bill recovery
55 mechanism shall provide for the utilization of any on-bill recovery programs established
56 pursuant to this chapter;

57 (d) establish standards for customer participation in such on-bill recovery mechanism,
58 including standards for reliable utility bill payment, current good standing on any mortgage
59 obligations, and such additional standards as the authority deems necessary; provided that in
60 order to provide broad access to on-bill recovery, the authority shall, to the fullest extent
61 practicable, consider alternative measures of creditworthiness that are prudent in order to
62 include participation by customers who are less likely to have access to traditional sources of
63 financing;

64 (e) to the extent feasible, make available on a pro rata basis, based on the number of
65 electric customers within the utility service territory, to combination electric and gas
66 corporations that offer on-bill recovery, up to \$500,000 to defray costs directly associated
67 with changing or upgrading billing systems to accommodate on-bill recovery charges;

68 (f) within 30 days of closing of a loan to a customer, pay a fee of \$100 per loan to the
69 combination electric and gas corporation in whose service territory such customer is located to
70 help defray the costs that are directly associated with implementing the program;

71 (g) within 30 days of closing of a loan to a customer, pay a servicing fee of 1 per cent
72 of the loan amount to the combination electric and gas corporation in whose service territory
73 such customer is located to help defray the costs that are directly associated with the
74 program; and

75 (h) exercise such other powers as are necessary for the proper administration of the
76 program, including at the discretion of the authority, entering into agreements with
77 applicants and with such state or federal agencies as necessary to directly receive rebates and
78 grants available for eligible projects and apply such funds to repayment of applicant loan
79 obligations.

80 Section 5. (a) The authority shall, within 45 days of the effective date of this section,
81 commence a proceeding to investigate the implementation by each combination electric and gas
82 corporation having annual revenues in excess of \$200,000,000 dollars of a billing and
83 collection service for on-bill recovery charges in payment of obligations of its customers to
84 the fund established pursuant to section 3 and, within 150 days of the effective date of this
85 section, the authority shall make a determination establishing the billing and collection
86 procedures for such on-bill recovery charges. The authority shall require such electric and gas
87 corporations to offer billing and collection services for green jobs on-bill recovery charges for
88 eligible customers within 300 days of the effective date of this section. To the extent
89 practicable, such electric and gas corporations shall utilize existing electronic data
90 interchange infrastructure or other existing billing infrastructure to implement their billing and
91 collection responsibilities under this section, and shall utilize funding available from the
92 authority to defray any costs associated with electronic data interchange improvements or
93 other costs of initiating and implementing this program.

94 (b) To ensure proper program design and implementation, each electric and gas
95 corporation shall initially limit the number of customers who pay an on-bill recovery charge at
96 any given time to no more than one half of 1 percent of its total customers, on a first come, first
97 served basis. Prior to reaching such limit, the authority shall review said limit, and shall increase

98 said limit provided that the authority finds that the program has not caused significant harm to
99 the electric or gas company or its ratepayers.

100 (c) The authority may suspend such an electric and gas corporation's offering of the on-
101 bill recovery charge provided that the authority, after conducting a hearing, makes a finding
102 that there is a significant increase in arrears or utility service disconnections that the authority
103 determines is directly related to the on-bill recovery charge, or a finding of other good cause.

104 (d) The on-bill recovery charge shall be collected on the bill from the customer's
105 electric corporation unless the qualified energy efficiency services at that customer's premises
106 result in more projected energy savings on the customer's gas bill than the electric bill, in
107 which case such charge shall be collected on the customer's gas corporation bill.

108 (e) The authority shall determine an appropriate percentage, up to 15 per cent, of the
109 energy savings from qualified energy efficiency services, financed with a loan pursuant to
110 section seven that is subject to an on-bill recovery charge, to be credited to the combination
111 electric and gas corporation that is issuing the bill for such charge, for purposes of meeting
112 such corporation's targets under energy efficiency programs established by the authority.

113 Section 6. Schedules for the collection and billing of on-bill recovery charges shall
114 provide:

115 (a) that billing and collection services shall be available to all customers who have
116 met the standards established by the authority for participation in the on-bill recovery
117 mechanism under the program and have executed an agreement for the performance of qualified
118 energy efficiency services under such program; provided, however, that for residential
119 properties any such customer must hold primary ownership or represent the primary owner or

120 owners of the premises and hold primary meter account responsibility or represent the primary
121 holder or holders of meter account responsibility for all meters to which such on-bill recovery
122 charges will apply;

123 (b) that the responsibilities of such electric and gas corporation are limited to providing
124 billing and collection services for on-bill recovery charges as directed by the authority;

125 (c) that the rights and responsibilities of residential customers paying on-bill recovery
126 charges shall be governed by the provisions of section 11;

127 (d) unless fully satisfied prior to sale or transfer, that (i) the on-bill recovery charges
128 for any services provided at the customer's premises shall survive changes in ownership,
129 tenancy or meter account responsibility, and (ii) that arrears in on-bill recovery charges at the
130 time of account closure or meter transfer shall remain the responsibility of the incurring
131 customer, unless expressly assumed by a subsequent purchaser of the property subject to such
132 charges;

133 (e) not less than 45 days after closure of an account that is subject to an on-bill
134 recovery charge, and provided that the customer does not re-establish service with such electric
135 and gas corporation, it shall be the responsibility of the authority and not the electric and gas
136 corporation to collect any arrears that are due and owing;

137 (f) a customer remitting less than the total amount due for electric or gas services and
138 on-bill recovery charges shall have such partial payment first applied as payment for electric or
139 gas services and any remaining amount will be applied to the on-bill recovery charge;

140 (g) billing and collection services shall be available without regard to whether the energy
141 or fuel delivered by the utility is the customer's primary energy source;

142 (h) unless otherwise precluded by law, participation in the program shall not affect a
143 customer's eligibility for any rebate or incentive offered by a utility; and

144 (i) any other provisions necessary to provide for the billing and collection of on-bill
145 recovery charges.

146 The authority shall not approve any application for the conversion to submetering of any
147 master meter which is subject to any on-bill recovery charges.

148 Section 7. (a) The authority shall provide financial assistance in the form of loans for the
149 performance of qualified energy efficiency services for eligible projects on terms and conditions
150 established by the authority.

151 (b) Loans made by the authority pursuant to this section shall be subject to the following
152 limitations:

153 (i) eligible projects shall meet cost effectiveness standards developed by the authority;

154 (ii) loans shall not exceed \$13,000 per applicant for approved qualified energy
155 efficiency services for residential structures, and \$26,000 per applicant for approved qualified
156 energy efficiency services for non-residential structures, provided, however, that the
157 authority may permit a loan in excess of such amounts if the total cost of energy efficiency
158 measures financed by such loan will achieve a payback period of 15 years or less, but in no event
159 shall any such loan exceed \$25,000 dollars per applicant for residential structures and
160 \$50,000 per applicant for non-residential structures; and for multi-family structures loans

161 shall be in amounts determined by the authority, provided, however, that the authority shall
162 assure that a significant number of residential structures are included in the program;

163 (iii) no fees or penalties shall be charged or collected for prepayment of any such loan;
164 and

165 (iv) loans shall be at interest rates determined by the authority to be no higher than
166 necessary to make the provision of the qualified energy efficiency services feasible.

167 In determining whether to make a loan, and the amount of any loan that is made, the
168 authority is authorized to consider whether the applicant or borrower has received, or is eligible
169 to receive, financial assistance and other incentives from any other source for the qualified
170 energy efficiency services which would be the subject of the loan. In determining whether a loan
171 will achieve a payback period of 15 years or less pursuant to clause (ii), the authority may
172 consider the amount of the loan to be reduced by the amount of any rebates for qualified
173 energy efficiency services received by the applicant or by the authority on behalf of an applicant.

174 (c) Applications for financial assistance pursuant to this section shall be reviewed and
175 evaluated by the authority or its designee pursuant to eligibility and qualification requirements
176 and criteria established by the authority. The authority shall establish standards for (i) qualified
177 energy efficiency services, and (ii) measurement and verification of energy savings.

178 (d) The amount of a fee paid for an energy audit may be added to the amount of a
179 loan that is made under this section to finance the cost of an eligible project conducted in
180 response to such energy audit. In such a case, the amount of the fee may be reimbursed from the
181 fund to the borrower.

182 (e) In establishing an on-bill recovery mechanism:

183 (i) the cost-effectiveness of an eligible project shall be evaluated solely on the basis of
184 the costs and projected savings to the applying customer, using standard engineering assessments
185 and prior billing data and usage patterns; provided however that based upon the most recent
186 customer data available, on an annualized basis, the monthly on-bill repayment amount for a
187 package of measures shall not exceed one-twelfth of the savings projected to result from the
188 installation of the measures provided further that nothing herein shall be construed to prohibit
189 or prevent customers whose primary heating energy source is from deliverable fuels from
190 participating in the program;

191 (ii) the authority shall establish a process for receipt and resolution of customer
192 complaints concerning on-bill recovery charges and for addressing delays and defaults in
193 customer payments; and

194 (iii) the authority may limit the availability of lighting measures or household appliances
195 that are not permanently affixed to real property.

196 (f) Prior to or at the closing of each loan made pursuant to this section, the authority
197 shall cause a notice to be provided to each customer receiving such loan stating, in clear and
198 conspicuous terms:

199 (i) the financial and legal obligations and risks of accepting such loan responsibilities,
200 including the obligation to provide or consent to the customer's utility providing the authority
201 information on the sources and quantities of energy used in the customer's premises and any
202 improvements or modifications to the premises, use of the premises or energy consuming
203 appliances or equipment of any type that may significantly affect energy usage;

204 (ii) that the on-bill recovery charge will be billed by such customer utility company and
205 that failure to pay such on-bill recovery charge may result in the customer having his or her
206 electricity or gas terminated for non-payment, provided that such utility company follows the
207 requirements of the relevant law and regulations with respect to residential customers;

208 (iii) that incurring such loan to undertake energy-efficiency projects may not result in
209 lower monthly energy costs over time, based on additional factors that contribute to monthly
210 energy costs;

211 (iv) that the program is operated by the authority and it is the sole responsibility of the
212 authority to handle consumer inquiries and complaints related to the operation and lending
213 associated with the program, provided further that the authority shall provide a mechanism to
214 receive such consumer inquiries and complaints.

215 (g) Any person entering into a loan agreement pursuant to this section shall have the right
216 to cancel any such loan agreement until midnight of the fifth business day following the day on
217 which such person signs such agreement provided the loan proceeds have not yet been disbursed.

218 Section 8. (a)The authority shall evaluate the cost-effectiveness of the on-bill recovery
219 mechanism on an on-going basis. In conducting such evaluation, the authority shall request each
220 customer to provide:

221 (i) information on energy usage and permission to collect information on energy usage
222 from utilities and other retail vendors, including but not limited to information required to be
223 furnished to consumers under article seventeen of the energy law;

224 (ii) information on other sources of energy used in the customer's premises; and

225 (iii) information on any improvements or modifications to the premises that may
226 significantly affect energy usage.

227 (b) At a minimum the authority shall collect and maintain information for dates prior to
228 the performance of qualified energy efficiency services, to establish a baseline, and for dates
229 covering a subsequent time period to measure the effectiveness of such measures. Such data
230 shall be correlated with information from the energy audit and any other relevant information,
231 including information on local weather conditions, and shall be used to evaluate the on-bill
232 recovery program and to improve the accuracy of projections of cost-effectiveness on an on-
233 going basis. An analysis of such data shall be included in the annual report prepared pursuant to
234 section 10.

235 (c) All information collected by the authority shall be confidential and shall be used
236 exclusively for the purposes of this section.

237 Section 9. (a) The authority shall secure every loan issued for such services that are to be
238 repaid through an on-bill recovery mechanism with a mortgage upon the real property that is
239 improved by such services. Such mortgage shall be recorded.

240 (b) All terms and provisions of a green-jobs mortgage pursuant to this section shall be
241 subject and subordinate to the lien of any mortgage or mortgages on such property. When a
242 subsequent purchaser of the property is granted a mortgage, the green-jobs mortgage shall be
243 subordinate to the terms of that mortgage.

244 (c) The mortgagee shall not retain any right to enforce payment or foreclose upon the
245 property.

246 Section 10. The rights and responsibilities of residential customers participating in the
247 program pursuant to this chapter shall be substantially comparable to those of electric and gas
248 customers not participating in on-bill recovery, and charges for on-bill recovery shall be treated
249 as charges for utility service for the purpose of this article, provided that:

250 (a) all determinations and safeguards related to the termination and reconnection of
251 service shall apply to on-bill recovery charges billed by a utility pursuant to such section;

252 (b) in the event that the responsibility for making utility payments has been assumed by
253 occupants of a multi-family dwelling or by occupants of a two-family dwelling, such
254 occupants shall not be billed for any arrears of on-bill recovery charges or any prospective
255 on-bill recovery charges, which shall remain the responsibility of the incurring customer;

256 (c) deferred payment agreements shall be available to customers participating in on-bill
257 recovery on the same terms as other customers, and the utility shall retain the same
258 discretion to defer termination of service as for any other delinquent customer;

259 (d) where a customer has a budget billing plan or levelized payment plan, the utility
260 shall recalculate the payments under such plan to reflect the projected effects of installing
261 energy efficiency measures as soon as practicable after receipt of information on the energy
262 audit and qualified energy efficiency services selected;

263 (e) late payment charges on unpaid on-bill recovery charges shall be determined as
264 provided in this section, or as otherwise consented to by the customer in the agreement for
265 green job on-bill recovery and any such charges shall be remitted to the authority;

266 (f) when a complaint is related solely to work performed under the green jobs program
267 or to the appropriate amount of on-bill recovery charges, the utility shall only be required to
268 inform the customer of the complaint handling procedures of the authority, which shall retain
269 responsibility for handling such complaints, and such complaints shall not be deemed to be
270 complaints about utility service in any other authority action or proceeding; and

271 (g) billing information required to be provided by the utility company to the consumer
272 shall include information on on-bill recovery charges, including the basis for such charges, and
273 any information or inserts provided by the authority to the utility company related thereto. In
274 addition, at least annually the authority shall provide the utility with information for inclusion
275 or insertion in the customer's bill that sets forth the amount and duration of remaining on-bill
276 recovery charges and the authority's contact information and procedures for resolving
277 customer complaints with such charges.

278 Section 11. The authority shall annually submit to the commissioner of energy and
279 environmental affairs a report on the status of the authority's activities and outcomes related to
280 this chapter, which shall include, but not be limited to:

281 (a) the number of persons who have applied for and received financial assistance through
282 the fund;

283 (b) the fund account balances;

284 (c) the number of loans in default;

285 (d) the authority's activities and outcomes related to establishing an on-bill recovery
286 mechanism, including the number of persons who have applied for and who have received

287 financial assistance that utilizes on-bill recovery and the results of the evaluation of cost
288 effectiveness pursuant to section 8;

289 (e) the amount expended by the authority in support of the program and the purposes
290 for which such funds have been expended;

291 (f) the number of customers participating in the program, separately stating the number
292 of residential and non-residential customers and the amounts financed;

293 (g) the number of program participants who are in arrears in their utility accounts for
294 electric and/or gas service;

295 (h) the number of program participants who are in arrears in their on-bill recovery charge
296 payments;

297 (i) the number of program participants whose utility service has been terminated for non-
298 payment;

299 (j) a description of the geographic distribution of loans made;

300 (k) an estimate of the energy savings resulting from this program;

301 (l) an estimate of the average project cost; and

302 (m) in consultation with the commissioner of labor and workforce development, an
303 estimate of the number of jobs created under the program.