

# HOUSE . . . . . No. 2889

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Paul W. Mark***

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*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.

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PETITION OF:

| NAME:                         | DISTRICT/ADDRESS:    | DATE ADDED:      |
|-------------------------------|----------------------|------------------|
| <i>Paul W. Mark</i>           | <i>2nd Berkshire</i> | <i>1/15/2019</i> |
| <i>Natalie M. Blais</i>       | <i>1st Franklin</i>  | <i>1/31/2019</i> |
| <i>Mindy Domb</i>             | <i>3rd Hampshire</i> | <i>1/31/2019</i> |
| <i>Patrick Joseph Kearney</i> | <i>4th Plymouth</i>  | <i>2/1/2019</i>  |
| <i>Lindsay N. Sabadosa</i>    | <i>1st Hampshire</i> | <i>1/24/2019</i> |
| <i>José F. Tosado</i>         | <i>9th Hampden</i>   | <i>1/31/2019</i> |
| <i>Susannah M. Whipps</i>     | <i>2nd Franklin</i>  | <i>1/29/2019</i> |

# HOUSE . . . . . No. 2889

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By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 2889) of Paul W. Mark and others for legislation to establish an energy efficiency authority, and a green jobs program and loan fund. Telecommunications, Utilities and Energy.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-First General Court  
(2019-2020)  
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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  
11 environmental affairs, but shall not be subject to the supervision or control of said office or of

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

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

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

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

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

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

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

(b) The fund shall consist of 2 accounts:

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

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

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

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

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

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

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

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

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

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

(g) within 30 days of closing of a loan to a customer, pay a servicing fee of 1 per cent of the loan amount to the combination electric and gas corporation in whose service

territory such customer is located to help defray the costs that are directly associated with the program; and

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

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

(b) To ensure proper program design and implementation, each electric and gas corporation shall initially limit the number of customers who pay an on-bill recovery charge at any given time to no more than one half of 1 percent of its total customers, on a first come, first served basis. Prior to reaching such limit, the authority shall review said limit, and shall increase said limit provided that the authority finds that the program has not caused significant harm to the electric or gas company or its ratepayers.

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

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

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

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

119                   (a) that billing and collection services shall be available to all customers who  
120 have met the standards established by the authority for participation in the on-bill recovery  
121 mechanism under the program and have executed an agreement for the performance of qualified  
122 energy efficiency services under such program; provided, however, that for residential  
123 properties any such customer must hold primary ownership or represent the primary owner or  
124 owners of the premises and hold primary meter account responsibility or represent the primary  
125 holder or holders of meter account responsibility for all meters to which such on-bill recovery  
126 charges will apply;

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

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

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



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

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

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

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

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

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

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

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

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

161 (ii) loans shall not exceed \$13,000 per applicant for approved qualified energy  
162 efficiency services for residential structures, and \$26,000 per applicant for approved qualified  
163 energy efficiency services for non-residential structures, provided, however, that the  
164 authority may permit a loan in excess of such amounts if the total cost of energy efficiency  
165 measures financed by such loan will achieve a payback period of 15 years or less, but in no event  
166 shall any such loan exceed \$25,000 dollars per applicant for residential structures and  
167 \$50,000 per applicant for non-residential structures; and for multi-family structures loans  
168 shall be in amounts determined by the authority, provided, however, that the authority shall  
169 assure that a significant number of residential structures are included in the program;

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

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

174 In determining whether to make a loan, and the amount of any loan that is made,  
175 the authority is authorized to consider whether the applicant or borrower has received, or is  
176 eligible to receive, financial assistance and other incentives from any other source for the  
177 qualified energy efficiency services which would be the subject of the loan. In determining  
178 whether a loan will achieve a payback period of 15 years or less pursuant to clause (ii), the  
179 authority may consider the amount of the loan to be reduced by the amount of any rebates for

qualified energy efficiency services received by the applicant or by the authority on behalf of an applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) At a minimum the authority shall collect and maintain information for dates prior to the performance of qualified energy efficiency services, to establish a baseline, and for dates covering a subsequent time period to measure the effectiveness of such measures. Such data shall be correlated with information from the energy audit and any other relevant

information, including information on local weather conditions, and shall be used to evaluate the on-bill recovery program and to improve the accuracy of projections of cost-effectiveness on an on-going basis. An analysis of such data shall be included in the annual report prepared pursuant to section 10.

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

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

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

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

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

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

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

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

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

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

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

(g) billing information required to be provided by the utility company to the consumer shall include information on on-bill recovery charges, including the basis for such

charges, and any information or inserts provided by the authority to the utility company related thereto. In addition, at least annually the authority shall provide the utility with information for inclusion or insertion in the customer's bill that sets forth the amount and duration of remaining on-bill recovery charges and the authority's contact information and procedures for resolving customer complaints with such charges.

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

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

(b) the fund account balances;

(c) the number of loans in default;

(d) the authority's activities and outcomes related to establishing an on-bill recovery mechanism, including the number of persons who have applied for and who have received financial assistance that utilizes on-bill recovery and the results of the evaluation of cost effectiveness pursuant to section 8;

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

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



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

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

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

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

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

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

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