

**SENATE . . . . . No. 1973**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Adam G. Hinds*

*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 providing oversight to leverage economic security in rural Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>

**SENATE . . . . . No. 1973**

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By Mr. Hinds, a petition (accompanied by bill, Senate, No. 1973) of Adam G. Hinds and Mindy Domb for legislation to provide oversight to leverage economic security in rural Massachusetts. 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)**  
\_\_\_\_\_

An Act providing oversight to leverage economic security in rural Massachusetts.

*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. Chapter 166 of the General Laws, as appearing in the 2016 Official Edition,  
2 is hereby amended by adding the following new sections after section 25A:-

3           Section 25B. Definitions

4           As used in this section and in Sections 25C to 25E, inclusive, the following words shall  
5 have the following meanings:

6           “Attachment”, means any wire or cable for transmission of intelligence by telegraph,  
7 wireless communication, telephone or television, including cable television, or for the  
8 transmission of electricity for light, heat, or power and any related device, apparatus, appliance  
9 or equipment installed on any pole or in any telegraph or telephone duct or conduit owned or  
10 controlled, in whole or in part, by one or more utilities.

11           “Complaints”, shall include any disputes or claims that arise after a licensee is granted  
12 their request for access to a utility’s attachments.

13           “Department”, means the department of telecommunications and energy.

14           “Joint Owner,” means any person, corporation or other legal entity having an ownership  
15 interest in a pole.

16           “Licensee”, means any person, firm or corporation other than a utility, which is  
17 authorized to construct lines or cables upon, along, under and across the public ways. For the  
18 purposes of this section, the term shall also include a municipal lighting plant or cooperative that  
19 operates a telecommunications system outside the limits of its service territory pursuant to  
20 section 47E of chapter 164, but only for those attachments that are outside its service territory.

21           “Make ready estimate,” means the cost estimate agreed upon by the licensee and the  
22 utility upon completion of the make ready survey, reflecting the projected cost of the work  
23 necessary to allow the licensee to add its attachment to all of the poles included within the  
24 request for access.

25           “Make ready work,” means all work, including, but not limited to, installation of  
26 attachments, rearrangement or transfer of existing facilities, replacement of a pole or any other  
27 changes required to accommodate the attachment of licensee’s facilities to a pole.

28           “Municipality”, means any city or town.

29           “Persons”, shall include individuals, firms, corporations, partnerships, and their agents  
30 and employees.

31           “Utility”, means any person, firm, corporation or municipal lighting plant that owns or  
32 controls or shares ownership or control of poles, ducts, conduits or rights of way used or useful,  
33 in whole or in part, for supporting or enclosing wires or cables for the transmission of  
34 intelligence by telegraph, telephone or television or for the transmission of electricity for light,  
35 heat or power.

36           Section 25C: Duty to provide timely access to install attachments

37           Requests for access to utility poles, ducts, conduits, rights-of-way, used or useful, in  
38 whole or in part, owned or controlled by it for the purpose of installing attachments, as described  
39 in section 25A, shall be in writing directed to an appropriate named recipient designated by the  
40 utility.

41           If access is not granted within 30 days of a licensee’s request for access, the utility must  
42 confirm the denial in writing by the 30th day. The utility's denial of access shall be specific,  
43 shall include all relevant information supporting its denial, and shall explain how such  
44 information relates to a denial of access for reasons of lack of capacity, safety, reliability or  
45 engineering standards.

46           Section 25D: Duty to timely complete make read ready work

47           A utility that grants access to a licensee to install attachments, for purposes described in  
48 section 25C, shall be responsible for ensuring that all licensees, including third party licensees,  
49 complete all necessary make ready work within 60 days from the date that the utility receives the  
50 make ready estimate from a licensee. Make ready work, as defined in section 25B, shall include,  
51 but is not limited to, replacing poles, constructing additional poles, modifying existing

52 attachments, and directing third party licensees to modify their attachments. A utility that does  
53 not complete all make ready work by the 60th day shall be in violation of this section.

54 The Department shall have the authority to assess fines to any utility found in violation of  
55 section 25D on the 61st day that all make ready work remains incomplete in an amount of  
56 \$10,000. For each week thereafter that the make ready work remains incomplete, the department  
57 shall direct the utility to pay to the licensee an additional \$10,000. The department shall direct  
58 the utility in violation to make payments for said fines to the licensee requesting grant access, for  
59 purposes described in section 25A.

60 Section 25E: Make Ready Ombudsman

61 The director of the department shall appoint an ombudsman for the purpose of receiving,  
62 investigating and resolving complaints, as defined in section 25B, received by licensees, utilities,  
63 municipalities or other persons. The ombudsman's responsibilities shall include, but shall not be  
64 limited to, the following:

65 (a) be a person qualified by training and experience to perform the duties of the office;

66 (b) serve as a liaison and mediator between licensees, municipalities, utilities, the  
67 department, and other affected parties to a complaint;

68 (c) develop policies and procedures to assist all affected parties to a complaint, for  
69 purposes of ensuring a licensee, utility or municipality completes all make ready work on utility  
70 attachments within 60 days of the licensee submitting the make ready estimated payment,  
71 pursuant to section 25D;

72 (d) develop policies and procedures to facilitate compliance with provisions of this  
73 section, for filing, investigating, and resolving complaints;

74 (e) maintain complete records of complaints received, actions taken, findings, outcomes  
75 and recommendations in response to complaints and other actions;

76 (f) annually provide a report to the director that includes, but not limited to, an analysis of  
77 said records and identifies and makes recommendations for improving policies, procedures, laws  
78 or regulations; and

79 (h) monitor the development and implementation of federal and state statutes, regulations  
80 and policies regarding modifications to utility attachments.

81 SECTION 2. Notwithstanding any general or special law to the contrary, the department  
82 shall promulgate necessary rules and regulations for purposes of implementing Section 1.