

**SENATE . . . . . No. 1659**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Benjamin B. Downing***

*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 class I and class II renewable energy portfolio standards for hydropower facilities.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Benjamin B. Downing*

*Berkshire, Hampshire, and Franklin*

*Stephen L. DiNatale*

*3rd Worcester*

**SENATE . . . . . No. 1659**

By Mr. Downing, a petition (accompanied by bill, Senate, No. 1659) of Benjamin B. Downing and Stephen L. DiNatale for legislation encouraging renewable energy generation. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1485 OF 2009-2010.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

An Act relative to class I and class II renewable energy portfolio standards for hydropower facilities.

*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. Subclause (i) of clause (6) of subsection (6) of section 11Fof Chapter 25A  
2 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting,  
3 in line 62, after the words “having oversight and jurisdiction over hydropower facilities;”, the  
4 following words:- (“Environmental Standards”) and in any case in which pursuant to action  
5 initiated with or by the Federal Energy Regulatory Commission (FERC) after January 1, 1992  
6 the FERC either reviewed and approved the new facility or increased capacity or efficiency at an  
7 existing facility, or issued an order with respect to increased capacity or efficiency improvements  
8 to revise the authorized installed capacity at an existing facility, where the operation of such  
9 increased capacity or efficiency does not exceed the maximum discharge of the original turbine  
10 or turbines, then such new facility or increased capacity or efficiency at each such existing

11 facility shall be deemed to have satisfied the Environmental Standards, defined above, and  
12 except as limited by subclause (ii), shall be certified as a Class I renewable energy generating  
13 source, without further review;

14 SECTION 2. Clause (6) of subsection (d) of section 11F of said Chapter 25A, as so  
15 appearing, is hereby amended by striking clause (6) and inserting in place thereof the following  
16 clause:-

17 (6) energy generated by existing hydroelectric facilities, provided that, (i) each such  
18 existing facility shall meet appropriate and site-specific standards that address adequate and  
19 healthy river flows, water quality standards, fish passage and protection measures and mitigation  
20 and enhancement opportunities in the impacted watershed as determined by the department in  
21 consultation with relevant state and federal agencies having oversight and jurisdiction over  
22 hydropower facilities (“Environmental Standards”), provided that: (a) in any case in which an  
23 existing facility operates under Federal Energy Regulatory Commission (FERC) jurisdiction  
24 pursuant to action initiated with or by the FERC after January 1, 1992, such existing facility shall  
25 be deemed to have satisfied the Environmental Standards, defined above, and except as limited  
26 by the subclause (iii), shall be certified as a Class II renewable energy generating source without  
27 further review; or (b) in any case in which an existing facility, with FERC nameplate capacity  
28 greater than 1 MW, operating under FERC jurisdiction, pursuant to action initiated with or by  
29 and approved by the FERC prior to January 1, 1992, the department may, by appropriate means,  
30 determine that such existing facility meets the Environmental Standards; (ii) existing, FERC  
31 regulated facilities, with FERC nameplate capacity of 1 MW or less shall be certified as Class II  
32 renewable energy generating sources, without further review of Environmental Standards, as  
33 defined above; and (iii) provided further, that only energy from existing facilities up to 5

34 megawatts shall be considered renewable energy and no such facility shall involve pumped  
35 storage of water;