JOURNAL OF THE HOUSE.

Wednesday, June 8, 2016.

Met according to adjournment at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor.

East Longmeadow,— election.

A message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to the 2016 special town election in the town of East Longmeadow (House, No. 4382), was filed in the office of the Clerk on Tuesday, June 7.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Election Laws. Sent to the Senate for concurrence.

Distinguished Guests of the House.

Consul General for New England from Japan, Tsutomu Himeno and his wife Tomako.

During the session, the Speaker took the Chair, declared a brief recess, and introduced the Consul General for New England from Japan, Tsutomu Himeno and his wife Tomako. Mr. Himeno has served as Consul General for New England since August, 2014. He will be returning to Japan next week. The Speaker stated, that he will be missed. Mrs. Orrall of Lakeville then read and presented to the Consul General Citations of the House, thanking him for his service. The Consul General and his wife were accompanied by their assistant. They were the guests of Representatives Orrall, Chan of Quincy, Kaufman of Lexington, Mom of Lowell, Schmid of Westport and Wong of Saugus.

Guests of the House.

Warren,— school students.

At the beginning of the session, the Chair (Mr. Donato of Medford), declared a brief recess and introduced the students from the Holland Elementary School in Warren. At the invitation of the Chair, the students participated in the pledge of allegiance to the flag. They were the guests of Mr. Smola of Warren.

Lawrence Public School musical ensemble.

During the session, The Chair (Mr. Donato of Medford), declared a brief recess, and introduced the Lawrence Public School musical ensemble. They were accompanied by Secretary of Veterans' Affairs, Francisco Urena. The string ensemble performed "We Will Rock You". They were the guests of Representatives DiZoglio of Methuen, Devers of Lawrence and Moran of Lawrence.

H. Olive Day School.

During the session, the Speaker declared a brief recess and introduced students from the second grade class of Norfolk's H. Olive Day School, including the son of Representative Dooley of Norfolk, William Dooley. The students and teachers were touring the State House and also performed a concert on the Grand Staircase. Their teacher, Bonnie O'Connell, is retiring this year after 36 years of teaching the children of Walpole and Norfolk. They were the guests of Mr. Dooley of Norfolk.

Petitions.

Petitions severally were presented and referred as follows:

Marblehead,— historic commission.

By Ms. Ehrlich of Marblehead, a petition (accompanied by bill, House, No. 4380) of Lori A. Ehrlich (by vote of the town) that the town of Marblehead be authorized to establish a historic district commission.

Middleton,— reserve fund.

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 4378) of Bradley H. Jones, Jr., Bruce E. Tarr and Theodore C. Speliotis (by vote of the town) that the town of Middleton be authorized to establish a reserve fund.

South Hadley,— land.

By Mr. Scibak of South Hadley, a petition (accompanied by bill, House, No. 4379) of John W. Scibak (by vote of the town) that the town of South Hadley be authorized to convey a certain parcel of land for other than park purposes.

Severally to the committee on Municipalities and Regional Government.

Severally sent to the Senate for concurrence.

Medical assistance.

Mr. Chan of Quincy presented a petition (subject to Joint Rule 12) of Tackey Chan and others that the Division of Medical Assistance be authorized to include dentures, restorative, endodontic and periodontal treatment within its covered services for certain persons ages 65 and older; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

Warren,— Dennis Desrosiers.

A petition (accompanied by bill, Senate, No. 2319) of Anne M. Gobi and Todd M. Smola (by vote of the town) for legislation to authorize the town of Warren to continue the employment of Dennis Desrosiers, was referred, in concurrence, to the committee on Public Service.

Edward Connors,— sick leave.

A petition of Sal N. DiDomenico and Joseph W. McGonagle, Jr., for legislation to establish a sick leave bank for Edward Connors, an employee of the Department of Transitional Assistance, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2324) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

Energy diversity.

Mr. Galvin of Canton, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C) an Order relative to special procedures for consideration of the House Bill to promote energy diversity [House, No. 4336] (for order, see House, No. 4381). The order then was adopted.

By Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Tax liabilities.

Petition (accompanied by bill) of Garrett J. Bradley relative to relief from joint and several liabilities on joint tax returns. To the committee on Revenue.

Weymouth,— land.

Petition (accompanied by bill) of Ronald Mariano and James M. Murphy that the Massachusetts Department of Transportation be authorized to acquire certain parcels of land in the town of Weymouth; and

Grafton,— land.

Petition (accompanied by bill) of David K. Muradian, Jr., and Michael O. Moore that the commissioner of Capital Asset Management and Maintenance be authorized to grant certain easements in the town of Grafton to the New England Power Company;

Severally to the committee on State Administration and Regulatory Oversight.

Under suspension of the rules, on motion of Mr. Scaccia of Boston, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Galvin of Canton, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

John DiPaolo,— sick leave.

Petition (accompanied by bill) of John DiPaolo for legislation to establish a sick leave bank for John DiPaolo, an employee of the Middlesex County Sheriff's Office. To the committee on Public Service.

Northampton,— land.

Petition (accompanied by bill) of Peter V. Kocot that the commissioner of Capital Asset Management and Maintenance be authorized to convey certain parcels of land in the city of Northampton to said city for affordable housing purposes. To the committee on State Administration and Regulatory Oversight.

Under suspension of the rules, on motion of Mr. Speliotis of Danvers, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Energy diversity.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill to promote energy diversity (House, No. 4336), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4377). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Nangle of Lowell, for said committee, then reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Golden of Lowell, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill was ordered to a third reading.

Subsequently under suspension of the rules, on motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, it title having been changed by said committee to read: "An Act promoting energy diversity.".

Energy diversity.

After debate on the question on passing the bill to be engrossed (the Speaker being in the Chair), Ms. Peake of Provincetown moved to amend it by adding the following section:

"SECTION 2. (a) There shall be a Pilgrim Nuclear Power Station decommissioning advisory panel. The advisory panel shall ensure best practices, engage citizens and advise state and local officials and residents on matters related to the decommissioning and postclosure activities of the Pilgrim Nuclear Power Station. The advisory panel shall be convened not later than July 1, 2017 or the date a written certificate of permanent cessation of operations at Pilgrim Nuclear Power Station is submitted to the Nuclear Regulatory Commission, whichever is earlier.

The advisory panel shall consist of the following members: the attorney general or a designee, who shall serve as chair; 1 member of the senate; 1 member of the house of representatives; the commissioner of public health or a designee; the commissioner of environmental protection or a designee; the chair of the department of public utilities or a designee; the director of the Massachusetts emergency management agency or a designee; the executive director of the Old Colony Planning Council or a designee; the executive director of the Cape Cod commission or a designee; 1 person appointed by the board of selectmen in the town of Plymouth; 1 person appointed by Entergy Nuclear Generation Company; the president of the Utility Workers Union-America local 369 or a designee; 2 persons who shall be members of the public, 1 to be appointed by the president of the senate and 1 to be appointed by the minority leader of the senate, 1 of whom shall reside within the emergency planning zone surrounding Pilgrim Nuclear Power Station, but not in the town of Plymouth; 2 persons who shall be members of the public, 1 to be appointed by the speaker of the house of representatives and 1 to be appointed by the minority leader of the house of representatives, 1 of whom shall reside within the emergency planning zone surrounding Pilgrim Nuclear Power Station, but not in the town of Plymouth; 2 members of the public to be appointed by the governor, at least 1 of whom shall reside in Barnstable county; and 1 person with expertise in decommissioning and postclosure activities appointed by the attorney general. The advisory panel shall invite the Nuclear Regulatory Commission to appoint a designee, who may serve ex officio. Vacancies on the advisory panel shall be filled by the appointing authority.

(b) The advisory panel shall: (i) hold annual public meetings to discuss issues relating to post closure activities; (ii) advise the governor, the general court, executive agencies and the public on issues related to postclosure activities; (iii) serve as a conduit for public information and education and encouraging community involvement in matters related to postclosure activities; (iv) receive reports on the Decommissioning Trust Fund as defined by the Nuclear Regulatory Commission and other funds associated with post closure activities, including fund balances, expenditures made and reimbursements received; (v) receive reports regarding postclosure activities, including site assessments and postclosure decommissioning reports, providing a forum for receiving public comment on assessments and reports and providing comment on these assessments and reports as the advisory panel deems appropriate to state agencies, interested stakeholders and the owner of the Pilgrim Nuclear Power Station; (vi) post all documents related to decommissioning and postclosure activities promptly on a publicly accessible website; and (v) file a report annually with the clerks of the senate and house of representatives who shall forward the report to the governor and to the chairs of the joint committee on telecommunication, utilities and energy.

The advisory panel shall cease operations when the site is released to the public for unrestricted use or upon a majority vote of the members of the advisory panel that the advisory panel has served its purpose and its continued existence is no longer necessary.".

Mr. Donato of Medford being in the Chair,— The amendment was rejected.

Mr. Madden of Nantucket and other members of the House then moved to amend the bill by adding the following two sections:

"SECTION 2. This act shall be known as an Act for Community Empowerment, and shall be construed in a manner to achieve its public purposes, which are to empower municipal governments, or groups of municipal governments, to aggregate electricity customers within their communities for the purpose of entering into long-term, creditworthy contracts with developers of renewable energy projects, so as to facilitate the financing of new renewable energy projects of the municipalities' choice, and in so doing to realize benefits including stabilizing prices for electricity customers; enhancing local energy security and reliability; fostering economic development; and reducing electric system carbon emissions.

SECTION 3. Chapter 164 of the General Laws is hereby amended by inserting after section 134(b) the following subsection:

Section 134 (c):

a) As used in this section the following words shall, unless the context otherwise requires, have the following meanings:

'Alternative Compliance Payment,' or 'ACP,' an amount established by the department of energy resources that retail electricity suppliers may pay in order to discharge their Renewable Portfolio Standard obligation, as required under General Laws Chapter 25A, section 11F.

'Community Empowerment Contract' or 'Contract,' an agreement between a municipality and the developer, owner, or operator of a renewable energy project, and as further defined in this section.

'Customer,' an electricity end-use customer of an electric utility distribution company, regardless of how that customer receives energy supply services.

'Department,' the department of public utilities.

'Large Commercial Customer,' a large commercial, industrial, or institutional customer, and as further defined by the department of energy resources utilizing existing usage-based tariff structures.

'Municipality,' a city or town or a group of cities or towns.

'Participant.' a customer within a municipality that has entered into a community empowerment contract, so long as that customer did not opt out of, or is prevented from participating in, the community empowerment contract as described in subsection (d) of this section.

'REC,' a renewable energy certificate, representing the environmental attributes of one megawatt hour of electricity generated by

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a renewable energy project, and the creation, use, and retirement of which are administered by ISO New England.

'Renewable Energy Project,' or 'Project,' a facility that generates electricity using a resource deemed a Class 1 renewable energy resource and qualified by the department of energy resources as eligible to participate in the Renewable Portfolio Standard or RPS program, under General Laws chapter 25A, section 11F, and to sell RECs under the program.

'Renewable Portfolio Standard,' or 'RPS,' as described in General Laws chapter 25A, section 11F.

'Residential Customer,' a utility distribution customer that is a private residence or group of residences, and as further defined by the department of energy resources utilizing existing usage-based tariff structures.

'Small Commercial Customers,' small or medium commercial, industrial, or institutional customers, and as further defined by the department of energy resources utilizing existing usage-based tariff structures. **b) A municipality may, on behalf of the electricity customers within the municipality, enter into community empowerment contracts with companies that propose to construct renewable energy projects, or that will continue to own or to operate a project that was previously subject to a contract with the same municipality. A municipality may enter into more than one community empowerment contract, and may enter into new contracts at any time.

A community empowerment contract shall have the following provisions or terms:

1) A community empowerment contract shall consist of two counterparties, the first being a company that is proposing to construct or operate a renewable energy project located within the ISO New England electric system, or a project that will physically deliver energy into the ISO New England system. The second counterparty shall be a municipality, which by this section is authorized to act on behalf of the customers located within its jurisdiction. Municipalities are not authorized by this section to utilize their collateral, credit, or assets as collateral or credit support to the counterparty of a community empowerment contract, beyond such authorization that may exist in other law.

2) The renewable energy project specified in a community empowerment contract shall not have begun construction prior to the contract having been entered into by the municipality, except that a municipality may enter into a contract with an operational project only if the municipality had previously entered into a community empowerment contract with the same project prior to commencement of its construction.

3) A community empowerment contract shall be structured as a contract for differences, so as to stabilize electricity prices for participants, as described herein. The contract shall specify a fixed price for the energy and/or RECs generated by the project, this being the price the project is entitled to receive from the participants. The contract will also specify a means by which the contracted amount of the project's energy and/or RECs are sold to a third party, at a price established by the wholesale market or an index, as agreed by the parties to the contract, and the the proceeds from such sale are credited to the amount owed from the participants to the project. In instances where the amount earned in such a sale exceeds the agreed fixed price, the participants shall be credited from the project for the difference between the sale price and the contracted fixed price. A community empowerment contract shall not be an agreement to physically deliver electric energy to the participants; however, a contract may require delivery of RECs, as described in the next paragraph.

4) A community empowerment contract shall specify whether or not RECs from the renewable energy project are to be provided and, if so provided, shall specify how the RECs are to be transmitted and disposed or retired, as specified in the following sentence. RECs purchased by way of a community empowerment contract may either be a) assigned to the load of each participant or subset of participants, as stipulated in the contract, so as to increase the amount of renewable energy attributed to use by the participants in aggregate; or b) sold in a transparent, competitive process, and the proceeds from such sale applied to the contract for differences mechanism referenced in the proceeding subsection. A REC purchased by way of a community empowerment contract may not be used by a basic service supply provider or competitive supply provider to meet its requirements under the renewable portfolio standard, unless the REC is first sold to the supplier in a competitive, transparent process as described in the previous sentence.

5) A community empowerment contract shall have a term of no less than ten (10) years from the time the specified renewable energy project commences operation.

6) A community empowerment contract shall describe the means by which charges or credits to participants and to the renewable energy project are calculated, based on the contract for differences mechanism described in subsection (b)(3). These calculations shall contain provisions to ensure full payment or credit to the renewable energy project, even in the event that some participants do not make full payment of their distribution utility bill. In the event of non-payment of all or a portion of a distribution utility bill by any participants, an increase in charges to all the contract participants may be used to ensure sufficient revenue to meet obligations to the project. The contract shall specify a contract administrator, who shall perform the calculations described in this subsection, and determine, for implementation by the distribution utility, charges and credits due to the project, participants, distribution utility, and others as may be required by the contract.

7) Community empowerment contracts may provide that residents within a municipality who are receiving a low-income electric rate may be subject to different provisions under the contract for differences mechanism from those participants not on such low-income rate.

c) A town may enter into community empowerment contracts upon authorization by a majority vote of town meeting, town council, or similarly empowered body. A city may authorize community empowerment contracts by a majority vote of the city council or similarly empowered body, with the approval of the mayor, or the city manager in a Plan D or Plan E city. Two or more municipalities may initiate a process jointly to authorize community empowerment contracting by a majority vote of each such municipality as herein required. Prior to any such authorizing votes, a public hearing shall be held at which the

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community empowerment contract is explained. This hearing shall specify the project or projects with respect to which the contract is being proposed and the length of the contract. An entity that is not a party to the contract shall estimate the rate impacts of the contract under reasonable scenarios for future energy prices, and such estimates shall be presented. The procedure for customers to opt out of the proposed contract, as described in the following subsection, shall also be explained.

d) All electricity customers within the municipality shall be required to participate in any community empowerment contract, except that customers may opt not to participate in a contract if they provide notice to an administrator designated by the municipality within 60 days of a vote authorizing a community empowerment contract, or at any time in the case of a residential user receiving a low-income electric rate. Furthermore, no customer may be a participant in a community empowerment contract if that customer uses more than five (5) percent of the total annual electricity usage of all electricity customers located within a single municipality that is a party to the contract or, in the case of a contract with a group of municipalities, five (5) percent of the total annual electricity usage of all electricity customers located in the group of municipalities that are parties to the contract. Residential and small commercial customers that establish service within a municipality after the municipality enters into a community empowerment contract shall be required to participate in any community empowerment contracts in effect for the municipality at the time the new service is established. Large commercial customers within a municipality have the right, but not the obligation, to become participants unless otherwise prohibited as provided in this section, and upon electing to become participants must remain so for the remainder of the community empowerment contract, so long as they continue to be located within the municipality.

e) Within six (6) months of this legislation taking effect, the department by regulation, guidelines or order, shall:

1) Establish the manner in which a municipality may request from a distribution utility, and the distribution utility shall provide in a timely manner, summary historic load and payment information of electricity customers located within the municipality, such as is necessary for a municipality to request and analyze proposals for community empowerment contracts. The distribution utility may charge the municipality for verifiable, reasonable, and direct costs associated with providing such information, as approved by the department generically or on a case-by-case basis.

2) Establish a procedure by which municipalities shall have community empowerment contracts approved by the department; community empowerment contracts shall not come into effect until so approved. The department shall be obligated to and shall approve any community empowerment contract that meets the requirements of this section. In establishing the approval procedures, the department shall adopt means to minimize the administrative and legal costs to municipalities to the maximum extent possible.

3) Establish guidelines or standards by which the contract administrator, as referenced in subsection (b)(6), shall provide to the distribution utility adjustments to charges or credits to participants via a line item on the distribution utility bill, and provide necessary information to the distribution utility to enable it to make or receive payments to or from the project and to others as necessary. Each community empowerment contract shall be indicated on a participant's distribution utility bill by a line-item specific to the community empowerment contract. Except as specified in the following sentence, distribution utilities may recover from the contract parties or participants verifiable and reasonable costs for implementing this subsection. Should implementation of this subsection require changes to the distribution utility company's billing system that would not otherwise be incurred, the cost of implementing such changes shall, upon approval by the department as being verifiable, reasonable, and necessary to implement this subsection, be paid for by ACP funds or, if available ACP funds are insufficient, by the Massachusetts Renewable Energy Trust Fund, as established by General Laws chapter 23J, section 9. Any changes to a distribution utility company's billing system funded pursuant to this subsection shall be made in such a way as to also accommodate retail access to competitive sellers of renewable energy generation attributes, whether or not bundled with electricity, as required by section 86 of An Act Relative To Green Communities of 2008.

4) Establish guidelines or standards by which all distribution company customers may receive or access accurate energy source disclosure information, taking into account all RECs that may be ascribed to each customer's electricity usage, regardless of whether the RECs were supplied pursuant to the Renewable Portfolio Standard, one or more community empowerment contracts, purchase of RECs from a competitive seller (whether or not bundled with electricity), or any other source. Should implementation of this subsection require changes to the distribution utility company's billing or other information systems that would not otherwise be incurred, the cost of implementing such changes shall, upon approval by the department as being verifiable, reasonable, and necessary to implement this subsection, be paid for by ACP funds or, if available ACP funds are insufficient, by the Massachusetts Renewable Energy Trust Fund, as established by General Laws chapter 23J, section 9.

f) Within six (6) months of this legislation taking effect, the department of energy resources shall by regulation or guidelines:

1) Establish the manner in which, in the case of a community empowerment contract in which the RECs are to be assigned to participants, the RECs may be transmitted and retired appropriately, and energy source disclosure information accurately provided to participants.

2) Establish recommended practices to ensure transparency and accountability on the part of municipalities in entering into and managing community empowerment contracts. Such standards shall include means by which an executed community empowerment contract agreement is available for public inspection, and shall include recommendations for a municipality to follow in order to ensure compliance with the requirements for entering into a community requirement contract. When requested, the department of energy resources shall also provide

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technical assistance to municipalities regarding community empowerment contracts.

g) Community empowerment contracts shall be additional to, and aside from, any electricity supply contract that a customer may have at the time of the contract or later seek to establish. A municipality that enters into a community empowerment contract pursuant to this section shall not be considered a wholesale or retail electricity supplier. A community empowerment contract shall not require participants to change their choice of electricity supplier, regardless of whether the supplier is a competitive supplier or a basic service supplier.".

The amendment was rejected.

Mr. Madden and other members of the House then moved to amend the bill by adding the following two sections:

"SECTION 2. This act shall be known as an Act for a Community Empowerment Pilot Program, and shall be construed in a manner to achieve its public purposes, which are to pilot a program empowering municipal governments in Barnstable, Dukes and Nantucket County, or groups of municipal governments in Barnstable, Dukes and Nantucket County, to aggregate electricity customers within their communities for the purpose of entering into long-term, creditworthy contracts with developers of renewable energy projects, so as to facilitate the financing of new renewable energy projects of the municipalities' choice, and in so doing to realize benefits including stabilizing prices for electricity customers; enhancing local energy security and reliability; fostering economic development; and reducing electric system carbon emissions.

SECTION 3. Chapter 164 of the General Laws is hereby amended by inserting after section 134(b) the following subsection:

Section 134 (c):

a) As used in this section the following words shall, unless the context otherwise requires, have the following meanings:

'Alternative Compliance Payment,' or 'ACP,' an amount established by the department of energy resources that retail electricity suppliers may pay in order to discharge their Renewable Portfolio Standard obligation, as required under General Laws Chapter 25A, section 11F.

'Community Empowerment Contract' or 'Contract,' an agreement between a municipality and the developer, owner, or operator of a renewable energy project, and as further defined in this section.

'Customer,' an electricity end-use customer of an electric utility distribution company, regardless of how that customer receives energy supply services.

'Department,' the department of public utilities.

'Large Commercial Customer,' a large commercial, industrial, or institutional customer, and as further defined by the department of energy resources utilizing existing usage-based tariff structures.

'Municipality,' a city or town or a group of cities or towns, which meet the eligibility criteria described in section h.

'Participant,' a customer within a municipality that has entered into a community empowerment contract, so long as that customer did not opt out of, or is prevented from participating in, the community empowerment contract as described in subsection (d) of this section.

'REC,' a renewable energy certificate, representing the environmental attributes of one megawatt hour of electricity generated by a renewable energy project, and the creation, use, and retirement of which are administered by ISO New England.

'Renewable Energy Project,' or 'Project,' a facility that generates electricity using a resource deemed a Class 1 renewable energy resource and qualified by the department of energy resources as eligible to participate in the Renewable Portfolio Standard or RPS program, under General Laws chapter 25A, section 11F, and to sell RECs under the program.

'Renewable Portfolio Standard,' or 'RPS,' as described in General Laws chapter 25A, section 11F.

'Residential Customer,' a utility distribution customer that is a private residence or group of residences, and as further defined by the department of energy resources utilizing existing usage-based tariff structures.

'Small Commercial Customers,' small or medium commercial, industrial, or institutional utility distribution customers, and as further defined by the department of energy resources utilizing existing usage-based tariff structures.

b) No later than December 31, 2021, a municipality may, on behalf of the electricity customers within the municipality, enter into community empowerment contracts with companies that propose to construct renewable energy projects, or that will continue to own or to operate a project that was previously subject to a contract with the same municipality. A municipality may enter into more than one community empowerment contract, and may enter into new contracts at any time prior to December 31, 2021.

A community empowerment contract shall have the following provisions or terms:

1) A community empowerment contract shall consist of two counterparties, the first being a company that is proposing to construct or operate a renewable energy project located within the ISO New England electric system, or a project that will physically deliver energy into the ISO New England system. The second counterparty shall be a municipality, which by this section is authorized to act on behalf of the customers located within its jurisdiction. Municipalities are not authorized by this section to utilize their collateral, credit, or assets as collateral or credit support to the counterparty of a community empowerment contract, beyond such authorization that may exist in other law.

2) The renewable energy project specified in a community empowerment contract shall not have begun construction prior to the contract having been entered into by the municipality, except that a municipality may enter into a contract with an operational project only if the municipality had previously entered into a community empowerment contract with the same project prior to commencement of its construction.

3) A community empowerment contract shall be structured as a contract for differences, so as to stabilize electricity prices for participants, as described herein. The contract shall specify a fixed price for the energy and/or RECs generated by the project, this being the price the project is entitled to receive from the participants. The contract will

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also specify a means by which the contracted amount of the project's energy and/or RECs are sold to a third party, at a price established by the wholesale market or an index, as agreed by the parties to the contract, and the proceeds from such sale are to be credited to the amount owed from the participants to the project. In instances where the amount earned in such a sale exceeds the agreed fixed price, the participants shall be credited from the project for the difference between the sale price and the contracted fixed price. A community empowerment contract shall not be an agreement to physically deliver electric energy to the participants; however, a contract may require delivery of RECs, as described in the next paragraph.

4) A community empowerment contract shall specify whether or not RECs from the renewable energy project are to be provided and, if so provided, shall specify how the RECs are to be transmitted and disposed or retired, as specified in the following sentence. RECs purchased by way of a community empowerment contract may either be a) assigned to the load of each participant or subset of participants, as stipulated in the contract, so as to increase the amount of renewable energy attributed to use by the participants in aggregate; or b) sold in a transparent, competitive process, and the proceeds from such sale applied to the contract for differences mechanism referenced in the proceeding subsection. A REC purchased by way of a community empowerment contract may not be used by a basic service supply provider or competitive supply provider to meet its requirements under the renewable portfolio standard, unless the REC is first sold to the supplier in a competitive, transparent process as described in the previous sentence.

5) A community empowerment contract shall have a term of no less than ten (10) years from the time the specified renewable energy project commences operation.

6) A community empowerment contract shall describe the means by which charges or credits to participants and to the renewable energy project are calculated, based on the contract for differences mechanism described in subsection (b)(3). These calculations shall contain provisions to ensure full payment or credit to the renewable energy project, even in the event that some participants do not make full payment of their distribution utility bill. In the event of non-payment of all or a portion of a distribution utility bill by any participants, an increase in charges to all the contract participants may be used to ensure sufficient revenue to meet obligations to the project. The contract shall specify a contract administrator, who shall perform the calculations described in this subsection, and determine, for implementation by the distribution utility, charges and credits due to the project, participants, distribution utility, and others as may be required by the contract.

7) Community empowerment contracts may provide that residents within a municipality who are receiving a low-income electric rate may be subject to different provisions under the contract for differences mechanism from those participants not on such low-income rate.

c) A town may enter into community empowerment contracts upon authorization by a majority vote of town meeting, town council, or similarly empowered body. A city may authorize community empowerment contracts by a majority vote of the city council or similarly empowered body, with the approval of the mayor, or the city manager in a Plan D or Plan E city. Two or more municipalities may initiate a process jointly to authorize community empowerment contracting by a majority vote of each such municipality as herein required. Prior to any such authorizing votes, a public hearing shall be held at which the community empowerment contract is explained. This hearing shall specify the project or projects with respect to which the contract is being proposed and the length of the contract. An entity that is not a party to the contract shall estimate the rate impacts of the contract under reasonable scenarios for future energy prices, and such estimates shall be presented. The procedure for customers to opt out of the proposed contract, as described in the following subsection, shall also be explained.

d) All electricity customers within the municipality shall be required to participate in any community empowerment contract, except that customers may opt not to participate in a contract if they provide notice to an administrator designated by the municipality within 60 days of a vote authorizing a community empowerment contract, or at any time in the case of a residential user receiving a low-income electric rate. Furthermore, no customer may be a participant in a community empowerment contract if that customer uses more than five (5) percent of the total annual electricity usage of all electricity customers located within a single municipality that is a party to the contract or, in the case of a contract with a group of municipalities, five (5) percent of the total annual electricity usage of all electricity customers located in the group of municipalities that are parties to the contract. Residential and small commercial customers that establish service within a municipality after the municipality enters into a community empowerment contract shall be required to participate in any community empowerment contracts in effect for the municipality at the time the new service is established. Large commercial customers within a municipality have the right, but not the obligation, to become participants unless otherwise prohibited as provided in this section, and upon electing to become participants must remain so for the remainder of the community empowerment contract, so long as they continue to be located within the municipality.

e) Within six (6) months of this legislation taking effect, the department by regulation, guidelines or order, shall:

1) Establish the manner in which a municipality may request from a distribution utility, and the distribution utility shall provide in a timely manner, summary historic load and payment information of electricity customers located within the municipality, such as is necessary for a municipality to request and analyze proposals for community empowerment contracts. The distribution utility may charge the municipality for verifiable, reasonable, and direct costs associated with providing such information, as approved by the department generically or on a case-by-case basis.

2) Establish a procedure by which municipalities shall have community empowerment contracts approved by the department; community empowerment contracts shall not come into effect until so approved. The department shall be obligated to and shall approve any community empowerment contract that meets the requirements of this

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section. In establishing the approval procedures, the department shall adopt means to minimize the administrative and legal costs to municipalities to the maximum extent possible.

3) Establish guidelines or standards by which the contract administrator, as referenced in subsection (b)(6), shall provide to the distribution utility adjustments to charges or credits to participants via a line item on the distribution utility bill, and provide necessary information to the distribution utility to enable it to make or receive payments to or from the project and to others as necessary. Each community empowerment contract shall be indicated on a participant's distribution utility bill by a line-item specific to the community empowerment contract. Except as specified in the following sentence, distribution utilities may recover from the contract parties or participants verifiable and reasonable costs for implementing this subsection. Should implementation of this subsection require changes to the distribution utility company's billing system that would not otherwise be incurred, the cost of implementing such changes shall, upon approval by the department as being verifiable, reasonable, and necessary to implement this subsection, be paid for by ACP funds or, if available ACP funds are insufficient, by the Massachusetts Renewable Energy Trust Fund, as established by General Laws chapter 23J, section 9. Any changes to a distribution utility company's billing system funded pursuant to this subsection shall be made in such a way as to also accommodate retail access to competitive sellers of renewable energy generation attributes, whether or not bundled with electricity, as required by section 86 of An Act Relative To Green Communities of 2008.

4) Establish guidelines or standards by which all distribution company customers may receive or access accurate energy source disclosure information, taking into account all RECs that may be ascribed to each customer's electricity usage, regardless of whether the RECs were supplied pursuant to the Renewable Portfolio Standard, one or more community empowerment contracts, purchase of RECs from a competitive seller (whether or not bundled with electricity), or any other source. Should implementation of this subsection require changes to the distribution utility company's billing or other information systems that would not otherwise be incurred, the cost of implementing such changes shall, upon approval by the department as being verifiable, reasonable, and necessary to implement this subsection, be paid for by ACP funds or, if available ACP funds are insufficient, by the Massachusetts Renewable Energy Trust Fund, as established by General Laws chapter 23J, section 9.

f) Within six (6) months of this legislation taking effect, the department of energy resources shall by regulation or guidelines:

1) Establish the manner in which, in the case of a community empowerment contract in which the RECs are to be assigned to participants, the RECs may be transmitted and retired appropriately, and energy source disclosure information accurately provided to participants.

2) Establish recommended practices to ensure transparency and accountability on the part of municipalities in entering into and managing community empowerment contracts. Such standards shall include means by which an executed community empowerment contract agreement is available for public inspection, and shall include recommendations for a municipality to follow in order to ensure compliance with the requirements for entering into a community requirement contract. When requested, the department of energy resources shall also provide technical assistance to municipalities regarding community empowerment contracts.

g) Community empowerment contracts shall be additional to, and aside from, any electricity supply contract that a customer may have at the time of the contract or later seek to establish. A municipality that enters into a community empowerment contract pursuant to this section shall not be considered a wholesale or retail electricity supplier. A community empowerment contract shall not require participants to change their choice of electricity supplier, regardless of whether the supplier is a competitive supplier or a basic service supplier.

h) In order to participate in the community empowerment pilot program, a municipality, or group of municipalities, must either 1) be located in Barnstable, Dukes or Nantucket County, or 2) receive approval from the department to participate in the community empowerment pilot program. The department shall grant such approval if it determines that such municipality or group of municipalities will comply with applicable regulations, guidelines, and standards. The department shall grant or deny approval within 90 days of the municipality or group of municipalities submitting a plan to the department describing their plan for carrying out the community empowerment program described herein..

i) Not later than one year after a municipality enters into the first community empowerment contract through the pilot program, and annually thereafter for five years, the secretary of energy and environmental affairs shall submit a report to the joint committee on telecommunications, utilities and energy detailing the results of the pilot program, including information on the renewable energy projects funded pursuant to the pilot program, and the effects of the pilot program on stabilizing prices for electricity customers; enhancing local energy security and reliability; fostering economic development; and reducing electric system carbon emissions.".

The amendment was rejected.

Mr. Madden of Nantucket then moved to amend the bill by the adding the following section:

"SECTION 2. The market net metering credit rate shall take effect upon the fulfillment of a respective utilities territories' net metering cap, which is based upon historical peak loads according to St. 2010, c. 359, s. 25-20; St. 2012, c. 209, ss. 23-30; St. 2014, c. 251; St. 2016, c. 75.".

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in lines 42, 145 and 157 by inserting after the words "equal to", in each instance, the word "approximately"; and the amendment was adopted.

The same members then moved to amend the bill in section 1, in line 62, by inserting after the word "proposals." the following sentence: "The department of energy resources may require additional solicitations to fulfill the requirements of this section.". The amendment was adopted.

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Mr. Cusack of Braintree then moved to amend the bill by adding the following two sections:

"SECTION 2. Subsection (a) of section 11F1/2 of Chapter 25A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking the following words, 'practices; or (v)' and inserting in place thereof the following words:— 'practices; (v) fuel cells; or (vi)'.

SECTION 3. Subsection (e) of said section 11F1/2 of Chapter 25A is hereby amended by inserting after the words 'may provide that for' the following words:— 'fuel cells and' and after the words 'new on-site' striking the words 'renewable thermal'.".

The amendment was adopted.

Mr. Rogers of Norwood and other members of the House then moved to amend the bill by adding the following section:

"SECTION 4. Section 94A of chapter 164 of the General Laws is hereby amended by striking out, in lines 1 and 2, the words 'No gas or electric company shall hereafter enter into a contract for the purchase of gas or electricity' and inserting in place thereof, the following words:— No gas company shall hereafter enter into a contract for the purchase of gas, and no electric company shall hereafter enter into a contract for the purchase of electricity".

Point of order.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from Norwood was improperly before the House for the reason that it was beyond the scope of the pending bill.

In answer to the point of Order, The Chair (Mr. Donato of Medford) stated that an attempt to amended laws dealing with natural gas or natural gas pipelines goes beyond the scope of the pending bill and its basis, since there is no reference to said subject in any of those documents. Therefore the Chair ruled that the point of order was well taken, and the amendment was laid aside accordingly.

Mr. Lyons of Andover then moved to amend the bill by adding the following section:

"SECTION 4. Notwithstanding any general or special law to the contrary, any company wishing to construct a natural gas pipeline in the Commonwealth of Massachusetts shall be prohibited from charging the costs associated with said construction on to electrical rate payers.".

Point of order.

Mr. Bradley of Hingham thereupon raised a point of order that the amendment offered by the gentleman from Andover was improperly before the House for the reason that it was beyond the scope of the pending bill since it attempts to amended laws dealing with natural gas or natural gas pipelines.

The Chair (Mr. Donato of Medford) state that, for the same reasons outlined in the previous ruling, the point of order was well taken; and the amendment was laid aside accordingly.

Appeal from decision of Chair.

Mr. Lyons thereupon appealed from the decision of the Chair; and the appeal was seconded by Mr. Diehl of Whitman.

The question then was put "Shall the decision of the Chair stand as the judgment of the House?". After remarks, the decision of the Chair then was sustained.

After debate on the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading and other members of the house moved to amend it in section 1, in line 48, by inserting after the word "solicitation", the words "and; provided, however that following the first procurement period, the levelized cost of the energy, transmission and; procured pursuant to any long-term contract shall decrease with each additional solicitation and resulting procurement". The amendment was adopted.

Mr. Kulik of Worthington and other members of the House then moved to amend the bill by adding the following two sections:

"SECTION 4: The General Laws are hereby amended by adding the following Chapter 23M:

Section 1. As used in this chapter, the following words shall have the following meanings, unless the context clearly requires otherwise:

'Agency', the Massachusetts Development Finance Agency as established in chapter 23G or a special purpose entity created or duly authorized by the agency.

'Betterment Assessment', an assessment of a betterment on qualified commercial or industrial property or residential property in relation to commercial energy improvements established under the commercial sustainable energy program, or in relation to residential energy improvements established under the residential sustainable energy program, that has been duly assessed in accordance with chapter 80.

'Benefitted property owner', an owner of qualifying commercial or industrial property or residential property who desires to install commercial or residential energy improvements and who provides free and willing consent to the betterment assessment against the qualifying commercial or industrial property or residential property.

'Commercial Energy Improvements', (1) any renovation or retrofitting of qualifying commercial or industrial real property to reduce energy consumption or installation to serve qualifying commercial or industrial property, provided such renovation, retrofit or installation is permanently fixed to such qualifying commercial or industrial property, or (2) the construction of an extension of an existing natural gas distribution company line to qualifying commercial or industrial property to enable the qualifying commercial or industrial property to obtain natural gas distribution service to displace utilization of fuel oil, electricity or other conventional energy sources.

'Commercial or industrial property', any real property other than a residential dwelling containing fewer than five dwelling units.

'Commercial PACE project', with respect to a parcel of qualifying commercial or industrial property, (1) design, procurement, construction, installation and implementation of commercial energy improvements; (2) related energy audits; and (3) measurement and verification reports of the installation and effectiveness of such energy improvements.

'Commercial sustainable energy program', a program that facilitates commercial PACE projects and utilizes the betterment assessments authorized by section 3 as the source of both the repayment of and collateral for the financing of commercial PACE projects.

'Department', the Department of Energy Resources as established in chapter 25A.

'Municipality' a city, town, county, the Devens Regional Enterprise Zone created by Chapter 498 of Acts of 1993 or the Southfield Redevelopment Authority created by Chapter 291 of the Acts of 2014.

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'PACE bonds', bonds, notes or other evidence of indebtedness, in the form of revenue bonds and not general obligation bonds of the commonwealth or the agency, issued by the agency related to the commercial and residential sustainable energy program established by this chapter.

'Participating municipality', a municipality that has determined to participate in a commercial sustainable energy program and a residential sustainable energy program.

'Program administrator', the agency or another entity assigned responsibility by the agency, which program administrator may be the agency, or one or more private, public or quasi-public third-party administrators, to administer, provide support, and provide financing for the residential sustainable energy program.

'Qualifying commercial or industrial property', any commercial or industrial property owned by any person or entity other than a municipality or other governmental entity, that meets the qualifications established for the commercial sustainable energy program in accordance with the program guidelines as established in subsection (c) of section 2 and in subsection (13) of section 6 of chapter 25A.

'Residential PACE project', with respect to a residential property, (i) the design, procurement, construction, installation and implementation of energy efficiency or conservation improvements; including the installation of electric vehicle charging stations permanently affixed to the property; (ii) the design, procurement, construction, installation and implementation of water efficiency or conservation improvements and (iii) the design, procurement, construction, and installation including any required feasibility studies.

'Residential property', any real property other than a commercial or industrial property with fewer than five dwelling units, provided that the property is owned by any person or entity other than a municipality or other governmental entity.

'Residential Energy improvements', any renovation, retrofitting or installation of energy efficiency measures to reduce energy consumption and/or water conservations and savings on a residential property, or installation of electric vehicle charging infrastructure; provided, however, that any such renovation, retrofit or installation shall be permanently fixed to the residential property.

'Residential sustainable energy program', a program that facilitates residential PACE projects and utilizes the betterment assessments authorized by section 4 as the source of both the repayment of and collateral for the financing of residential PACE projects.

'Special purpose entity', a partnership, limited partnership, association, corporation, limited liability company or other entity established and authorized by the agency to issue PACE bonds, subject to approval by the agency as provided by the agency in its resolution authorizing the special purpose entity to issue PACE bonds.

Section 2. Municipal Opt In. Each municipality in the commonwealth shall have the option to participate in the commercial sustainable energy program or the residential sustainable energy program, or both, as a participating municipality by a majority vote of the city or town council, by a majority vote of the board of selectmen or by resolution of its legislative body, as may be appropriate, pursuant to which the municipality shall assess, collect, remit and assign betterment assessments, in return for commercial energy improvements or residential energy improvements for a benefitted property owner located within such municipality and for costs reasonably incurred in performing such acts.

Section 3. Commercial Sustainable Energy Program. (a)(1) The agency, in consultation with the department, shall establish a commercial sustainable energy program in the commonwealth, and in furtherance thereof, is authorized to issue PACE bonds, either directly or through a special purpose entity, for the purpose of financing all or a portion of the costs of the activities comprising one or more commercial PACE projects.

(2) Upon the approval of a commercial PACE project by the department, the agency may issue PACE bonds. Such PACE bonds shall be issued in accordance with section 8 of chapter 23G; provided, however, that the agency shall not be required to make the findings set forth in subsections (a) and (b) of said section 8. PACE bonds issued in furtherance of this section shall not be subject to, or otherwise included in, the principal amount of debt obligations issued under section 29 of chapter 23G. Such PACE bonds may be secured as to both principal and interest by a pledge of revenues to be derived from the commercial sustainable energy program, including revenues from betterment assessments on qualifying commercial or industrial property on which the commercial PACE projects being financed by the issuance of such PACE bonds are levied, as well as any reserve funds or other credit enhancements created in connection with the commercial sustainable energy program.

(b) The agency, (1) working in conjunction with the department, shall develop program guidelines governing the terms and conditions under which financing for commercial PACE projects may be made available to the commercial sustainable energy program, which may include standards to encourage property owners to undertake projects where the energy cost savings of the commercial energy improvements over the useful life of the improvements exceeds the costs of the improvements; (2) shall provide information as requested by the department regarding the expected financing costs for commercial PACE projects; (3) may serve as an aggregating entity for the purpose of securing state or private third-party financing for commercial energy improvements pursuant to this section; (4) may establish a loan loss, liquidity reserve or credit enhancement program to support PACE bonds issued under this section; and (5) may use the services of one or more private, public or quasi-public third-party administrators to administer, provide support or obtain financing for commercial PACE projects under the commercial sustainable energy program.

(c) If a benefitted property owner requests financing from the agency for commercial energy improvements under this section, the agency shall:

(1) Refer the project to the department for approval under the guidelines established by subsection (13) of section 6 of chapter 25A;

(2) Upon confirmation of project approval by the department, evaluate the project for compliance with the financial underwriting guidelines established by the agency;

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(3) Impose requirements and conditions on the financing in order to ensure timely repayment, including, but not limited to, procedures for placing a lien on a property as security for the repayment of the betterment assessment;

(4) Require that the property owner provide a copy of a contract duly executed by the contractor performing the commercial energy improvements;

(5) Require that the property owner obtain consent from any existing mortgage holder of the property to the intent to finance such commercial energy improvements pursuant to this section; and

(6) If the agency approves financing, require the participating municipality to levy a betterment assessment in a manner consistent with this section and with chapter 80, insofar as such provisions may be applicable and consistent with this section, on the qualifying commercial or industrial property in a principal amount sufficient to pay the costs of the commercial energy improvements and any associated costs that the agency determines will benefit the qualifying commercial or industrial property, including costs of the agency.

(d)(1) The agency may enter into a financing and assessment agreement with the property owner of qualifying commercial or industrial property. The agency may raise funds to supply the financing under such agreement by issuing PACE bonds. Upon execution of such agreement and immediately prior to making the funds, which may constitute all or a portion of the proceeds from the issuance of such PACE bonds, available to the property owner for the commercial PACE project under the agreement, the agency shall notify the participating municipality and the participating municipality or its designee shall record the betterment assessment and lien on the qualifying commercial or industrial property.

(2) The agency shall disclose to the property owner the costs associated with participating in the commercial sustainable energy program established by this section, including the effective interest rate of the betterment assessment, any fees charged by the agency to administer the program and any fees charged by third parties such as originators or other intermediaries.

(e) At the time the betterment assessment is made, the agency shall set the term and amortization schedule, the fixed or variable rate of interest for the repayment of the betterment assessment amount, and any required closing fees and costs. The amortization schedule shall provide for an amortization period of no longer than the lesser of: (1) the useful life of the longest-lived of the commercial energy improvements comprising the commercial PACE project(s) financed by such betterment assessment; or (2) 20 years. The interest rate, which may be supplemented with state or federal funding, shall be sufficient to pay the principal and interest and shall be calculated to include the agency's fees, financing and administrative costs of the commercial sustainable energy program, including delinquencies.

(f) When the agency has authorized, but not issued, PACE bonds for commercial PACE projects and other costs of the commercial sustainable energy program, including interest costs and other costs related to the issuance of PACE bonds, the agency shall require the participating municipality where the qualifying commercial or industrial property is located, or the program administrator duly approved by the agency, to record the agreement between the agency and the property owner as a betterment pursuant to chapter 80, except that such betterment may apply to a single parcel of qualifying commercial or industrial property, and as a lien against the qualifying commercial or industrial property benefitted.

(g) Betterment assessments levied pursuant to this section and the interest, fees and any penalties thereon shall constitute a lien against the qualifying commercial or industrial real property until they are paid, notwithstanding the provisions of section 12 of chapter 80, and shall continue notwithstanding any alienation or conveyance of the qualifying commercial or industrial real property by one property owner to a new property owner. A new property owner shall take title to the qualifying commercial or industrial property subject to the betterment assessment and related lien. The lien shall be levied and collected in the same manner as the property taxes of the participating municipality on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies and lien priorities. Each lien may be continued, recorded and released upon repayment in full of the betterment assessment in the manner provided for property tax liens. Each lien, subject to the consent of existing mortgage holders, shall take precedence over all other liens or encumbrances, except a lien for taxes of the municipality on real property. To the extent betterment assessments are paid in installments and any such installment is not paid when due, the betterment assessment lien may be foreclosed to the extent of any unpaid installment payments and any penalties, interest and fees related thereto. In the event such betterment assessment lien is foreclosed, such lien shall survive the judgment of foreclosure to the extent of any unpaid installment payments of the betterment assessment secured by such lien that were not the subject of such judgment.

(h) Any participating municipality shall assign to the agency any and all liens filed by the tax collector, as provided in the written agreement between the participating municipality and the agency. The agency may sell or assign, for consideration, any and all liens received from the participating municipality. The agency and the assignee(s) shall negotiate the consideration received by the agency. The assignee(s) shall have and possess the same powers and rights at law or in equity as the agency and the participating municipality and its tax collector would have had with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee(s) shall have the same rights to enforce such liens as any private party holding a lien on real property, including, but not limited to, foreclosure and a suit on the debt. The assignee(s) shall recover costs and reasonable attorneys' fees incurred as a result of any foreclosure action or other legal proceeding brought pursuant to this section and directly related to the proceeding from those having title to the property subject to the proceedings. Such costs and fees may be collected by the assignee(s) at any time after the assignee(s) have made a demand for payment.

(i) The exercise of the powers granted by this section shall be for the benefit of the people of the commonwealth by increasing energy effi-

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ciency in the commonwealth. As the exercise of such powers shall constitute the performance of essential government functions, the agency shall not be required to pay any taxes or assessments upon the property acquired or used by the agency under this section or upon the income derived therefrom. The PACE bonds issued under this section, their transfer and the income derived therefrom, including any profit made on the sale thereof, shall at all times be free of taxation within the commonwealth.

(j) The activities of the commercial sustainable energy program shall be reviewed in the 3-year planning process and annual reviews undertaken pursuant to section 21 of chapter 25.

(k) The agency may establish rules and guidelines as are necessary to implement the purposes of the program, including procedures describing the application process and criteria to be used in evaluating application for PACE bonds under this section.

Section 4. Residential Sustainable Energy Program. (a) The agency, by resolution of its board of directors, and in consultation with the department, shall establish a residential sustainable energy program pursuant to this section.

(b) The agency shall have the power and authority to issue PACE bonds to finance all or a portion of the costs of the activities comprising one or more residential PACE projects. Such PACE bonds shall be authorized by a resolution of the board of directors of the agency; provided, however, that the agency shall not be required to make the findings required by subsections (a) and (b) of section 8 of chapter 23G. PACE bonds issued pursuant to this section shall not be subject to or otherwise included in the calculation of any limitation on the incurrence of indebtedness by the agency set forth in any general or special laws. PACE bonds may be secured as to both principal and interest by a pledge of revenues derived from the residential sustainable energy program, including revenues from betterment assessments on residential property on which the residential PACE projects being financed by the issuance of the PACE bonds are located and any reserve funds or other credit enhancements created under the residential sustainable energy program. PACE bonds of each issue may be dated, may bear interest at such rate or rates, may mature or otherwise be payable at such time or times, may be redeemable before maturity, and may be subject to such other terms and conditions as may be provided for by the agency.

(c) The agency shall designate one or more program administrators, which may be the agency or one or more other public, private or quasi-public third-parties to administer, provide support and provide financing for the residential sustainable energy program. The program administrator may originate, execute, and finance contracts for residential energy improvements with property owners on behalf of the agency. The program administrator shall, in accordance with guidelines in sections (m) and (n): (i) develop consumer protection features for the residential sustainable energy program; (ii) develop procedures for working with contractors and installers of residential energy improvements for the purposes of facilitating residential energy improvements; (iii) work with the agency to enable efficient and cost-effective financing mechanisms for the residential sustainable energy program; (iv) provide information as requested by the agency regarding the expected financing costs for residential PACE projects; and (v) provide ongoing data and reporting to the agency and the department. The agency may: (A) serve as an aggregating entity to secure state or private third-party financing for residential energy improvements pursuant to this chapter; and (B) use the services of one or more private, public or quasi-public third-party administrators to administer, provide support or obtain financing for residential PACE projects under the residential sustainable energy program.

(d) If the owner of a benefitted property requests financing from the agency for residential energy improvements for a residential PACE project under this section, the agency or its designated program administrator shall:

(i) evaluate the project for compliance with the technical and financial underwriting guidelines established for the residential sustainable energy program in sections (m) and (n);

(ii) impose requirements and conditions on the financing to ensure timely repayment including, but not limited to, procedures for placing a lien on the benefitted property as security for the payment of the betterment assessment; and (iii) upon approval of financing, require the participating municipality to levy a betterment assessment in a manner consistent with this section and with chapter 80, as such provisions may be applicable and consistent with this section, on the benefitted property in a principal amount sufficient to pay the costs of the residential energy improvements and any associated costs, including the costs and fees of the program administrator, the agency, the department and the costs of the participating municipality.

(e)(1) The agency shall enter into a financing and assessment agreement with the owner of a benefitted property. The agency may raise funds to supply the financing under the agreement by issuing PACE bonds or from other financing sources, including by encouraging third-party capital providers to participate directly or indirectly in the program. Upon execution of the agreement and immediately prior to making the funds, which may constitute all or a portion of the proceeds from the issuance of the PACE bonds or other source of financing, available to the property owner for the residential PACE project under the agreement, the agency or its designated program administrator shall notify the participating municipality and the participating municipality or its designee shall record the betterment assessment and lien on the benefitted property.

(2) The agency or its designated program administrator shall disclose, in written format, to the property owner the costs associated with participating in the residential sustainable energy program established by this section, in accordance with the guidelines established in sections (m) and (n), including the effective interest rate of the betterment assessment, any fees charged by the agency or the program administrator to administer the program and any fees charged by third parties such as originators or other intermediaries, and the estimated payment schedule. The property owner shall acknowledge receipt of the disclosure.

(f) Prior to the betterment assessment being levied, the program administrator shall set the term and amortization schedule, the rate of interest for the repayment of the betterment assessment amount and

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any required closing fees and costs, and disclose this information to the participating property owner in written format. The term of each financing shall conform with the guidelines established in sections (m) and (n). The assessment contract shall specify that the interest rate shall be fixed, and that payments of principal and interest shall be in roughly equal installments and principal payments shall be fully amortized over the term of the financing. The property owner shall acknowledge receipt of the disclosure.

(g) At the time that the residential energy improvement is completed, the participating municipality where the benefitted property is located or the program administrator duly approved by the participating municipality or the agency shall notice and record the agreement between the agency and the property owner as a betterment pursuant to chapter 80 and place a lien on the property according to the terms of the agreement between the property owner and the agency, as security for the PACE bonds or other financing from the agency or other third-party capital providers; provided, however, that the betterment may apply to a single parcel of benefitted property and as a lien against the residential property benefitted.

(h) Notwithstanding section 12 of chapter 80, betterment assessments levied pursuant to this section and the interest, fees and any penalties on the betterment assessments shall constitute an assessment and a lien against the benefitted property until they are paid and shall continue notwithstanding any alienation or conveyance of the benefitted property by one property owner to a new property owner, including by foreclosure of the right of redemption by a mortgagee, by a municipality for unpaid taxes or otherwise. A new property owner shall take title to the benefitted property subject to the betterment assessment and lien. Only those past due balances of any betterment assessment under this Section shall be considered delinquent and subject to foreclosure. All payments on the betterment assessment that become due after the date of transfer by foreclosure or otherwise shall continue to be secured by a lien on the benefitted property and shall be the responsibility of the transferee. Betterment assessments payable pursuant to this Section shall constitute a covenant that runs with the premises, and that portion of the betterment assessment that is not yet due shall not be accelerated or eliminated by foreclosure of any lien, including a property tax lien. The assessment and lien shall be treated, levied and collected in the same manner as the property taxes of the participating municipality on real property including, in the event of default or delinquency, the manner in which the participating municipality collects any penalties and fees and exercises remedies. Each lien may be continued, recorded and released upon repayment in full of the betterment assessment in the manner provided for property tax liens.

(i) Notwithstanding the provisions of section 12 of chapter 80, a lien on a benefitted property established pursuant to this section shall be: (i) subordinate to any existing lien against the benefitted property in existence and properly recorded on the date on which the betterment assessment is recorded; (ii) subordinate to any subsequent purchase money mortgage or first deed of trust recorded after the date on which the betterment assessment is recorded, provided, that the purchase money mortgage or first deed of trust was executed with or obtained from a mortgage lender licensed to do business in the Commonwealth; and (iii) except as otherwise agreed by the parties to the assessment agreement, superior to any other subsequent lien against the property recorded after the date on which the betterment assessment is recorded. The agency or participating municipality may choose to implement clauses (i) or (ii) above, through contract if convenient and/or necessary; however, at no time shall a betterment lien established pursuant to this chapter be deemed by any court or agency of the Commonwealth to not be subordinate in accordance with the above. This subsection shall not affect the status or priority of any other municipal or statutory lien.

(j) The agency may sell or assign any betterment assessment receivables and any and all liens filed by the tax collector as provided in an assessment contract executed pursuant to this chapter. Notwithstanding any general or special law to the contrary, the provisions of Sections 2A and 2C of chapter 60 and any regulations promulgated pursuant thereto shall not apply to the assignment or sale of betterment assessment receivables or liens securing such receivables pursuant hereto. The agency and the assignee shall negotiate the consideration received for such assignment. The assignee shall have the same powers and rights at law or in equity as the agency, the participating municipality, and the participating municipality's tax collector would have had with regard to the precedence and priority of the lien, the accrual of interest, and the fees and expenses of collection. The assignee shall have the same rights to enforce the liens as any private party holding a lien on real property including, but not limited to, foreclosure. The assignee shall recover costs and reasonable attorney's fees incurred as a result of any foreclosure action or other legal proceeding brought pursuant to this section and directly related to the proceeding from those having title to the property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after the assignee has made a demand for payment.

(k) The program administrator shall report to the agency and the department on the activities of the residential sustainable energy program in accordance with the guidelines established in (m) and (n). Activities of the residential sustainable energy program shall be reviewed on a periodic basis by the agency and the department as determined by the guidelines developed in sections (m) and (n).

(l) The agency shall establish rules and guidelines for the residential sustainable energy program governing eligibility and underwriting guidelines, consumer protection features including but not limited to contractor participation and standards, underwriting, disclosures and marketing practices, and criteria to evaluate the applications for PACE bonds under this section.

(m) The agency shall conduct periodic reviews of compliance with these rules and guidelines.

(n) The department shall develop rules and guidelines for the residential sustainable energy program governing project technical requirements and product eligibility, PACE project components, consumer protection features including but not limited to contractor participation and standards, and reporting requirements including the coordination with other clean energy programs in the Commonwealth.

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The department shall conduct periodic reviews of compliance with these rules and guidelines.

(o) Betterment assessments established pursuant hereto shall not be subject to Sections 20A or 21C of Chapter 59 of the General Laws.

(p) Notwithstanding any general or special law to the contrary, the provisions of any other general or special law, regulation, ordinance or bylaw providing for the advertising, bidding awarding of contracts or consultation for the design, construction or improvement of property shall not apply to the procurement of residential PACE projects financed pursuant hereto.

SECTION 5. Section 6 of chapter 25A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking subsection 12 and inserting in place thereof the following subsections:

(12) intervene and advocate on behalf of small commercial and industrial users before the department of public utilities in any dispute between such businesses and generation or distribution companies, as defined pursuant to section 1 of chapter 164; and

(13) plan, develop, oversee and operate the commercial sustainable energy program, with the Massachusetts Development Finance Agency, in accordance with the provisions of chapter 23M. In accordance with this section, the Department shall approve each commercial PACE project prior to the issuance of a PACE bond under chapter 23M and in so doing shall consider whether the energy cost savings of the commercial energy improvements over the useful life of such improvements exceed the costs of such improvements.".

The amendment was adopted.

Mr. Kulik of Worthington and other members of the House then moved to amend the bill by adding the following section:

"SECTION 6. Notwithstanding any general or special law, rule, regulation or procedure to the contrary, there is hereby created a small hydro and anaerobic digestion tariff program for small hydropower facilities and anaerobic digestion net metering facilities in the commonwealth. For the purposes of this section the following terms shall mean 'Small hydropower facility' shall mean a facility in the commonwealth with a Federal Energy Regulatory Comission-rated capacity of 2 megawatts or less, using water to generate electricity that is connected to a distribution company and an 'anaerobic digestion net metering facility' shall mean a Class I, Class II, and Class III anaerobic digestion net metering facility that has begun commercial operation on and after January 1, 2015. The 'small hydro and anaerobic digestion tariff' shall mean the default service kilowatt-hour rate of the local distribution company as defined in section 1 of chapter 164 of the General Laws that receives electricity from a small hydropower facility or an anaerobic digestion net metering facility. An electric distribution company shall pay a small hydropower facility or an anaerobic digestion net metering facility monthly for electricity it received from such a facility based on the kilowatt hours of electricity the distribution company received from the facility multiplied by the small hydro and anaerobic digestion tariff. A participating small hydropower facility and anaerobic digestion shall notify a distribution company that it intends to deliver electricity pursuant to the small hydro and anaerobic digestion tariff program and shall comply with the distribution company's applicable reporting and interconnection requirements; provided, however that no more than 50 megawatts of small hydropower and anaerobic digestion aggregate capacity state wide shall be permitted to participate in the small hydro and anaerobic digestion tariff.

The amendment was adopted.

Mr. Dempsey of Haverhill moves to amend the bill by inserting before section 1 the following two sections:

"SECTION 1. Section 144 of chapter 164 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:

(c) Upon the undertaking of a significant project that exposes confirmed natural gas infrastructure, including the repair or paving of a public way, the installation, replacement or repair of an underground water or sewer line or underground electrical or other cable, a municipality or the commonwealth or other entity responsible for the aforesaid undertaking may submit written notification of the project to a gas company at least 6 months in advance of such project. Upon commencement of the project, the gas company shall survey the project area for the presence of gas leaks, and all gas leaks shall be repaired by the gas company to the extent such repairs are feasible within the timeframe of the construction project. The gas company shall ensure that any shut off valve in the significant project area has a gate box installed upon it or a reasonable alternative that would otherwise ensure continued public safety and that any critical valve that has not been inspected and tested within the past 12 months is verified to be operational and accessible. If a gas leak cannot be repaired within the timeframe allowed for the construction project, the gas company shall provide the repair and replacement schedule of any gas leaks detected during the survey performed during the project to the municipality or the commonwealth. Gas companies shall coordinate with municipalities to determine which leaks shall be addressed by full replacement of lines and mains. A gas company that has previously submitted plans to the municipality or the commonwealth to replace existing gas lines or mains shall continue to adhere to those plans and the replacement projects therein in addition to any repairs of individual leaks as required by this section.

SECTION 1A. Subsection (e) of said section 144 of chapter 164 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following sentence:— Gas companies shall also report to the department the total volume of statewide lost or unaccounted for gas attributed to Grade 1, Grade 2, or Grade 3 leaks located within the commonwealth.";

In line 1 by striking out the following: "SECTION 1" and inserting in place there of the following: "SECTION 1B.";

In lines 62, 63 and 64 by striking out the sentence contained in those lines and inserting in place thereof the following sentence: "The distribution companies shall coordinate with the department of energy resources, and consult with the office of the attorney general, regarding the choice of solicitation methods."; In line 86 by striking out the following: "and (vii)" and inserting in place thereof the following: "(vii) where possible, mitigate any environmental impacts; and (viii)";

Energy diversity.

In lines 248 and 249 by striking out the words ", in consultation with the department of public utilities,"; and

By adding the following two sections:

"SECTION 7. The department of public utilities shall open an investigation to establish specific criteria for identifying the environmental impact of gas leaks which have been classified as Grade 3 pursuant to section 144 of chapter 164 of the General Laws, and to establish a 5-year plan to repair such leaks. The department shall promulgate rules regarding the timeline and acceptable methods for remediation and repair of any Grade 3 leak which is determined to have significant environmental impact.

SECTION 8. Notwithstanding any general or special law to the contrary, the department of energy resources may establish a carbon reduction research center. The carbon reduction research center shall be established to advance the Commonwealth's carbon reduction goals. The carbon reduction research center may include, but not be limited to, any of the following research initiatives: fuel cells; energy storage technology; residential property assessed clean energy programming; commercial property assessed clean energy programming; increased efficiency of existing small domestic energy production; and increased efficiency of and cleaner use of traditional fossil based fuels. The carbon reduction research center shall be located upon a campus within the University of Massachusetts, as defined by section 1, of chapter 75 of the general laws, that meets the following criteria: (1) located within a gateway city; (2) located near the Emerging Technologies and Innovation Center; and (3) has access to academic resources necessary for civil, environmental, and nuclear engineering.".

The amendments were adopted.

Bill passed to be engrossed,—yea and nay No. 277.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Golden of Lowell; and on the roll call 154 members voted in the affirmative and 1 in the negative.

[See Yea and Nay No. 277 in Supplement.]

Therefore the bill (House, No. 4385 published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Nangle of Lowell, for the committee Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Middleborough,—liquor licenses.

The Senate Bill authorizing the town of Middleborough to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises (Senate, No. 2091) [Local Approval Received]; and

House bills

Springfield,—elections.

Filling vacancies in ward seats of the city council and school committee by special election in the city of Springfield (House, No. 615) [Local Approval Received];

Ellen Atkinson.

Establishing a sick leave bank for Ellen Atkinson, an employee of the Massachusetts Rehabilitation Commission (House, No. 4100); and

Foxborough,—child protection.

To authorize the town of Foxborough to establish additional mandated reporters in the town of Foxborough for the purposes of the protection and care of children (House, No. 4192) [Local Approval Received];

Under suspension of Rule 7A, in each instance, on motion of Mr. Nangle, the bills severally were read a second time forthwith; and they were ordered to a third reading.

Municipal finance and government.

By Mr. Sánchez of Boston, for the committee on Health Care Financing, on a message from His Excellency the Governor, a Bill to modernize municipal finance and government (House, No. 4207). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Mr. Galvin of Canton, for said committees, then reported recommending that the bill ought to pass. Referred, under Joint Rule 1E, to the committee on Ways and Means.

Emergency Measure.

Harwich,—bridge.

The engrossed Bill designating a certain bridge in the town of Harwich as the United States Navy Lieutenant Junior Grade Ralph Wallace Burns Memorial Bridge (see House, No. 3801, changed and amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 17 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Bill enacted.

The engrossed Bill establishing a sick leave bank for Laurie Godwin, an employee of the Department of Youth Services (see House, No. 4189) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Id.

The engrossed Bill relative to the membership of the South Essex Sewerage District Board (see House, No. 4007) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next sitting.

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Accordingly, without proceeding to the matters in the Orders of the Day, at seven minutes after six o'clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.