HB4377 - House Ways and Means - An Act to Promote Energy Diversity

Amendment #1 to H.4377

Anaerobic digestion net metering facilities

Ms. DiZoglio of Methuen move that the bill be amended by adding the following section:

“SECTION XX. Section 139 of chapter 164 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 76, the words “load.” and inserting in place thereof the following words:-

“load; provided, however, that an anaerobic digestion net metering facility, which is also a publicly owned treatment works, as defined in section 12B chapter 132A and is included on a priority list created by the department of environmental protection pursuant to section 27A of chapter 21, shall be exempt from and shall not count towards the aggregate net metering capacity.””

Amendment #2 to H.4377

RPS Annual Growth Increase

Representatives Khan of Newton and Decker of Cambridge move that the bill be amended by inserting after SECTION 1 the following;

SECTION X. Section 11F of chapter 25A, as appearing in the 2014 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following:-

Section 11F. (a) The department shall establish a renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. By December 31, 1999, the department shall determine the actual percentage of kilowatt-hours sales to end-use customers in the commonwealth which is derived from existing renewable energy generating sources. Every retail supplier shall provide a minimum percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable energy generating sources, according to the following schedule: (1) an additional 1 per cent of sales by December 31, 2003 , or 1 calendar year from the final day of the first month in which the average cost of any renewable technology is found to be within 10 per cent of the overall average spot-market price per kilowatt-hour for electricity in the commonwealth, whichever is sooner; (2) an additional one-half of 1 per cent of sales each year thereafter until December 31, 2009; (3) an additional 1 per cent of sales every year until December 31, 2016; and (4) an additional 2 per cent of sales every year thereafter. For the purpose of this subsection, a new renewable energy generating source is one that begins commercial operation after December 31, 1997, or that represents an increase in generating capacity after December 31, 1997, at an existing facility. Commencing on January 1, 2009, such minimum percentage requirement shall be known as the “Class I” renewable energy generating source requirement.

Amendment #3 to H.4377

Installation of Submeters

Mr. Puppolo of Springfield move that the bill be amended by inserting the following new section:

SECTION . (A) Subsection (a) of section 22 of Chapter 186 of the General Laws is hereby amended by striking the definition, 'water company', and replacing it with the following new definition:-

'water company', a company, as defined in section 1 of chapter 165 or a municipal utility or any other waterworks system owned, leased, maintained, operated, managed or controlled by any unit of local government under any general or special law, which company, utility or system supplies water to a landlord through metered measurement. Water company shall also include companies that lease, operate, maintain, treat, monitor and/or test private septic systems or private water wells. Any landlord imposing charges on tenants or otherwise engaging in any activity permitted under this section shall not be deemed thereby to be functioning as a water company as defined herein or to be subject to any laws or regulations regulating any such company.

(B) Subsection (c) of said section 22 of Chapter 186 is hereby amended by inserting at the end thereof the following:-

If a landlord who is not the original owner when submetering began cannot locate the original certificate after a good faith effort he may verify such certification by filing a new form prior to January 1, 2017 and such certification shall apply as though it was obtained prior to the installation of the submeters. Any landlord that purchases a building shall have one year after the date of purchase to obtain verification of such certification (which, if an original certificate cannot be located after a good faith effort, may be done by filing a new form) and such

certification shall apply as though it was obtained prior to the installation of the submeters.

(C) Subsection (g) of said section 22 of Chapter 186 is hereby amended by striking said section and replacing it with the following:-

(g) A landlord shall determine a calculated cost per unit of water consumption by dividing the total amount of any bill or invoice provided to the landlord from the water company for water usage, the customer service charge and taxes, but not including any interest for the late payment, penalty fees or other discretionary assessments or charges, for all water provided to the premises through the water company meter in that billing period, by the total amount of water consumption for the entire premises. The total amount charged separately to each submetered dwelling unit for water usage for any billing period shall not exceed such calculated cost per unit of water multiplied by the number of units of water delivered exclusively to the particular dwelling unit for the same billing period, provided that the landlord has verified that the total costs of water usage billed to all dwelling units does not exceed the total costs of water usage charged by the water company to the landlord for the same period. In the event that a submeter read is not available, the landlord may estimate the dwelling unit consumption for no more than three consecutive months and at a consumption level no higher than 70% of the lesser of (1) the current resident's average historical consumption; or (2) the average historical consumption of all dwelling units during the prior twelve months.

Amendment #4 to H.4377

Commission to Decommission

Ms. Peake of Provincetown move that the bill be amended by inserting the following new section:

SECTION XX. (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 post-closure 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.

Amendment #5 to H.4377

Prompt Decommissioning

Ms. Peake of Provincetown move that the bill be amended by inserting the following new sections:

SECTION XX. Chapter 10 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after section 75 the following new section:-

Section 76. Funding to Provide Moneys for Postclosure Activities at Nuclear Power Stations

(a) Definitions. For the purposes of this section the following words shall have the following meanings:-

“Affiliate”, shall mean any business which directly or indirectly controls or is controlled by or is under direct or indirect common control with another business, including, but without limitation, any business with whom a business is merged or consolidated, or which purchases all or substantially all of the assets of a business.

“Decommissioning”, shall mean closing and decontaminating a nuclear power station and nuclear power site, including dismantling the facility, removing all nuclear fuel, coolant and nuclear waste from the site, releasing the site for unrestricted use, and terminating the license.

Safestor is not decommissioning for the purposes of this section.

“Nuclear power station”, shall mean any commercial facility that uses or used nuclear fuel to generate electric power.

“Postclosure”, shall mean the period beginning when a nuclear power station has ceased generating electric power and ending when the nuclear power station and station site have been completely decommissioned.

“Postclosure activities”, mean all activities at or in connection with a nuclear power station and station site during postclosure, including, but not limited to, moving spent nuclear fuel into dry casks, job training, site and environmental cleanup, off-site emergency planning, safestor, and decommissioning.

(b) There is hereby established an annual postclosure funding fee of $25,000,000 on each nuclear power station in the commonwealth.

1. No fee will be assessed provided that said nuclear power station is fully decommissioned within five years of the time the power station ceases generating electric power. The fee shall be assessed on the owner(s) or affiliate(s) of each nuclear power station on March 1 of each year and shall be paid to the state treasurer. The first fee shall include payment of the annual fee from the first five years, plus the sixth year.

2. Assessment of the fee shall cease if, after notice and an opportunity to be heard, the executive office of energy and environmental affairs issues an order finding that all postclosure activities have been completed.

(c) There shall be established and set up on the books of the commonwealth a postclosure trust fund for each nuclear power station.

1. All revenues received by the state treasurer under this section from an owner or affiliate of a nuclear power station shall be deposited into the station's trust fund.

2. Each trust fund shall be administered by the state treasurer. All balances in the fund at the end of the fiscal year shall be carried forward. Interest earned shall remain in the fund.

(d) Moneys from a trust fund created under this section shall be disbursed only in accordance with this subsection.

1. The disbursement will pay for one or more postclosure activities completed at a nuclear power station site. If the disbursement is for a postclosure activity at the station that is part of decommissioning, all moneys otherwise set aside to pay for the activity, including moneys contained in a decommissioning trust fund established under federal law, must be exhausted before any disbursement from the trust fund.

2. On issuance of authorization from the executive office of energy and environmental affairs stating the amount to be disbursed and the completed postclosure activities to which the amount applies, the state treasurer shall disburse such amount to the entity or person named in said authorization.

(e) The executive office of energy and environmental affairs shall not issue authorization under subsection

(f) except on receipt of (i) an affidavit or declaration, executed by an entity or person responsible for completing the relevant postclosure activity at a nuclear power station under the pains and penalties of perjury, identifying any completed postclosure activity with respect to which any disbursement is requested and setting forth facts establishing that each such activity has been completed and all costs incurred by the nuclear power station owner with respect to each such activity and (ii) verification of the facts in the affidavit or declaration by the executive office of energy and environmental affairs or another appropriate state agency.

1. The secretary of energy and environmental affairs shall determine the appropriate form, content, and supporting information necessary for such affidavit or declaration.

2. Any moneys disbursed under this subsection in reliance on a false certification to the secretary of energy and environmental affairs may be recovered from the entity or person receiving the disbursement, with interest, through an action by the attorney general. Any such false certification is a false statement or claim under section 5B of chapter 12 of the General Laws.

(g) The balance of a nuclear power station's trust fund under this section, including the interest that may have accumulated within the fund, shall be returned to the owner(s) or affiliate(s) of the nuclear power station on issuance by the executive office of energy and environmental affairs, after notice and opportunity for hearing, of an order finding that all postclosure activities at the station have been completed.

SECTION XX. Section XX shall take effect on January 1, 2017.

Amendment #6 to H.4377

Amendment Relative to the Timely Determination of Rate Applications

Mr. Vega of Holyoke move that the bill be amended by inserting the following new section at the end thereof:-

"SECTION __. Section 6B of Chapter 159B of the general laws, as appearing in the 2014 Official Edition, is hereby amended, by inserting, after the first sentence in the first paragraph, the following new sentence:- "The department shall issue a decision on any written request for adjustment of the maximum charges within 12 months.""

Amendment #7 to H.4377

Green Bank to Promote Clean Energy

Mr. Mark of Peru move that the bill be amended by adding the following new section:

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

“Bank”, the Massachusetts Green Energy Development Bank established pursuant to section 2.

“Board”, the Massachusetts Green Energy Finance Board established pursuant to section 3.

“Bonds” or “notes”, such bonds and notes as are issues by the bank pursuant to this chapter.

“Energy improvements”, and renovation or retrofitting of commercial real property to reduce energy consumption or installation of a renewable energy system to service commercial real property.

“Energy technologies” all methods used to produce, distribute, conserve and store energy or otherwise improve the efficiency of energy utilization, which emphasize renewable energy sources, including, but not limited to, solar, wind, bioconversion and solid waste, and which aim to preserve and protect the environment and public health and safety.

Section 2. (a) There is hereby created a body politic and corporate to be known as the Massachusetts Green Energy Development Bank. The bank is hereby constituted a public instrumentality and the exercise by the bank of the powers conferred by this chapter shall be considered to be the performance of an essential governmental function.

The bank is hereby place in the executive office of the governor but shall not be the subject to the supervision or control of said office, or of any board, bureau, department or other center of the commonwealth, except as specifically provided in this chapter.

(b) The bank shall be governed by the board and shall continue as long as it shall have bonds or notes or guarantee commitments outstanding until its existence is terminated by law. Upon the termination of the existence of the bank, all right, title and interest in and to all of its assets and all of its obligations, duties, covenants, agreements, and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(c) It shall be the duty and purpose of the bank to: (1) evaluate and coordinate financing for energy improvements and energy technologies throughout the commonwealth; (2) provide loans, loan guarantees, debt securitization, insurance, portfolio insurance, and other forms of financing support or risk management to qualified energy improvements and energy technologies; (3) facilitate the financing of long term energy improvements and energy technology purchasing by governmental and non-governmental not-for-profit entities; (4) foster the development and consistent application of transparent underwriting standards, standard contractual terms, and measurement and verification protocols for qualified energy improvements and energy technologies; (5) promote and facilitate the financing of energy improvements and energy technologies in the commonwealth that will abate climate change by increasing zero or low carbon electricity generation and transportation capabilities; (6) ease the economic effects of transitioning from a carbon-based economy to a clean energy economy; (7) facilitate job creation through the construction and operation of energy improvement and energy technology; and (8) work to eliminate the use of fossil fuels throughout the commonwealth.

Section 3. (b) The bank shall be governed and its corporate powers exercised by a board of directors known as the Massachusetts Green Energy Finance Board. The board shall consist of 7 members appointed by the governor for a term of 4 years, 1 of whom shall be the commissioner of banks, who shall serve ex officio, 1 of whom shall be the secretary of energy and environmental affairs, who shall serve ex officio, 1 of whom shall be the executive director of the Massachusetts clean energy technology center. 2 of whom shall be experienced in the field of public or private financial management, and 2 of whom shall be engineers with at least 10 years' experience in the field of renewable energy or energy efficiency. The members shall annually elect a chairperson and vice-chairperson of the board. Each director shall serve without compensation but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties, including reimbursement for reasonable travel; provided, however, that such reimbursement shall not exceed $3000 annually. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner and shall serve for only the unexpired term of such former member. Any director shall be eligible for reappointment. Ant director may be removed from his appointment by the governor for cause.

(c) A majority of directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly called meeting, if quorum is present, shall be necessary for any action to be taken by the board. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if all of the directors consent in writing to such action and such written consent is filed with records of the minutes of the meetings of the board. Such consent shall be treated for all purposes as a vote at a meeting. Each director shall make full disclosure, under subsection (d), of his financial interest, if any, in matters before the board by notifying the state ethics commission, in writing, and shall abstain from voting on any matter before the board in which he has financial interest, unless otherwise permissible under chapter 268A.

(d) Chapters 268A and 268B shall apply to all ex-officio directors and employees of the bank. Said chapters 268A and 268B shall apply to all other directors, except that the bank may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any director of the bank is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the members of the board and recorded in the minutes of the board; and provided, further, that no director having such an interest or involvement may participate in any decision of the board relating to such person. Employment by the commonwealth or service in any agency thereof shall not be deemed to be such an interest or involvement.

(e) The board shall have the power to appoint and employ an executive director who shall be the chief executive, administrative and operational officer of the bank and shall direct and supervise the administrative affairs and the general management of the bank. The executive director shall appoint and employ a chief financial and accounting officer and may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel and advisors, and shall attend meetings of the board. No funds shall be loaned, transferred or otherwise dispersed by the bank without the approval of the board and the signatures of the chief financial and accounting officer of the bank.

(f) The board shall bi-annually elect 1 of its members as treasurer and 1 of its members as secretary. The secretary of the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed by the board and of its minute book and seal. The secretary of the board shall cause copies to be made of all minutes and other records and documents of the bank and shall certify that such copies are true copies, and all persons dealing with the bank may rely upon such certification.

(g) All officers and employees of the bank having access to its cash or negotiable securities shall give bond to the bank as its expense in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h)Board members and officers who are not compensated employees of the bank shall not be liable to the commonwealth, to the bank or to any other person as a result of their activities, whether ministerial or discretionary, as such board members or officers except for willful dishonesty or intentional violations of law.

Neither members of the board nor any person executing bonds or policies of insurance shall be liable personally thereon or be subject to any personal liability or accountability or accountability by reason of the issuance thereof. The board may purchase liability insurance for board members, officers and employees of the bank and may indemnify such persons against claims of others.

(k) The board shall adopt a written policy providing for the delegation in writing of any of its powers and duties.

Section 4. The bank shall have all powers necessary or convenient to carry out and effectuate its purposes including, without limiting the generality of the foregoing, the power to:

(1) Adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business for the administration and enforcement of this chapter; provided, however, that regulations adopted by the bank shall be adopted pursuant to chapter 30A;

(2) Exercise any powers necessary for the commonwealth to be in compliance federal law

(3) Maintain offices at places within the commonwealth as it may determine and to conduct meetings of the bank in accordance with its by-laws;

(4) Promote economy and efficiency and to leverage federal funding and private sector investment;

(5) Develop and administer a long-term energy improvement and energy technology plan for the commonwealth;

(6) Establish a criteria and establish procedures for project selection for use in selecting qualifying energy improvements and energy technologies to receive funds pursuant to section5;

(7) Enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations, and other entities on behalf of the bank;

(8) Institute and administer separate accounts and funds for the purpose of making allocations, grants or loans to qualifying energy improvements and energy technologies to receive funds pursuant to section 5;

(9) Sue and be sued in its own name, plead and be impleaded; and

(10) Issue bonds, notes and other evidences of indebtedness as provided in this chapter.

Section 5. (a) The bank may set up and maintain such separate funds and accounts as are necessary to provide and direct funding to qualifying energy improvements or energy technologies. Such funds or accounts shall be credited with any appropriations authorized by the general court, bond or note proceeds, grants, gifts, donations, bequests or other monies received in accordance with the law. The bank may make loans from such funds or accounts, in accordance with the terms of subsection (c).

(b) The bank may issue and sell bonds or notes of the bank for the purpose of providing funds to finance qualifying energy improvements or energy technologies. Any bond or note issues under this section: (1) shall constitute the corporate obligation of the bank; (2) shall not constitute a debt of the commonwealth within the meaning or application of the constitution of the commonwealth; and (3) shall be payable solely as to both principal and interest from (i) the proceeds of bonds or notes, if any; (ii) investment earnings on the proceeds of bonds or notes; or (iii) other funds available to the bank for such purpose.

(c)The board shall develop a comprehensive application process by which persons may submit plans for energy improvements or energy technologies for review and approval by the bank. An approved energy improvement or energy technology pan shall be considered a qualifying plan. The bank shall enter into funding agreements with the proponents of such qualifying plans which shall detail the terms of a disbursement of funds from the bank for the plan and specific terms for the repayment or recoupment of funds.

Section 6. The board may issue rules and regulations to implement this chapter.

Amendment #8 to H.4377

An Amendment clarifying property tax exemptions for solar and wind systems

Ms. Cariddi of North Adams move that the bill be amended by adding the following new sections:

SECTION 1. Section 5 of chapter 59 of the General Laws, as amended by sections 10, 11, and 12 of the acts of 2014, is hereby amended by striking out clause Forty-fifth and inserting in place thereof the following clause:-

Forty-fifth, Any solar or wind powered system that is capable of producing not more than 125 per cent of the annual energy needs of the real property upon which it is located, which shall include contiguous or non-contiguous real property owned or leased by the owner, or in which the owner otherwise holds an interest. Any other solar or wind powered system capable of producing energy shall be exempt provided that the owner has made to the city or town where the system is located a payment in lieu of taxes. A city or town, acting through the board or officer authorized by its legislative body, may execute an agreement for the payment in lieu of taxes with the owner of a solar or wind powered system in the municipality where the solar or wind powered system is located. Unless other provided by such agreement, (1) a notice of the payment in lieu of tax owed for each fiscal year shall be mailed to the owner and due on the dates by which a tax assessed under this chapter would be payable without interest; (2) all provisions of law regarding billing and collecting a tax assessed under this chapter shall apply to the payment in lieu of taxes, including the payment of interest; and (3) upon issuance of the notice, the owner shall have the remedies provided by section 59 and section 64 and all other applicable provisions of law for the abatement and appeal of taxes upon real estate. An exemption under this clause shall be allowed only for a period of 20 years from the date of installation of the system; provided, however, that no exemption shall be allowed for any year within that period where the solar or wind powered system is not capable of producing energy as required by this clause. Each owner shall annually, on or before March 1, make a declaration under oath to the assessors regarding the system and power generated for the previous calendar year. This clause shall not apply to projects developed under section 1A of chapter 164.

SECTION 2. Subsection (b) of section 38H of said chapter 59, as appearing in the 2014 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- For purposes of this section, a generation facility shall not include a facility powered by sun or wind to generate electricity.

SECTION 3. Clause Forty-fifth of section 5 of chapter 59 of the General Laws shall not apply to solar and wind powered systems for which the owner has a signed agreement with the city or town to make a payment in lieu of taxes under section 38H (b) of chapter 59 as of the effective date of this act.

SECTION 4. Sections 1 and 2 shall apply to taxes assessed for fiscal years beginning on or after July 1, 2016.

Amendment #9 to H.4377

anaerobic digestion net metering facilities

Representatives Day of Stoneham, Peake of Provincetown, Poirier of North Attleborough, Provost of Somerville, Puppolo of Springfield, Schmid of Westport, Scibak of South Hadley and Walsh of Framingham move that the bill be amended by adding the following new section:

SECTION 2. Section 139 of chapter 164 of the General Laws, as most recently amended by chapter 75 of the acts of 2016, is hereby further amended by inserting after subsection (b ½) the following subsection:-

(b ¾) Upon a determination by the department that the aggregate nameplate capacity of anaerobic digestion net metering facilities, is equal to or greater than 50 megawatts direct current, the department shall certify the date that said capacity has been reached and provide a date of notification after which all Class I, Class II, and Class III anaerobic digestion net metering facilities that apply to the system of assurance for net metering under subsection (g) after said date of notification shall generate market net metering credits only. A distribution company customer that uses electricity generated by anaerobic digestion net metering facility that generates market net metering credits may elect net metering as follows:

(1) If the electricity generated by the net metering facility under this subsection during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess market net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A net metering facility may designate customers of the same distribution company to which the said net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed by the net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to those customers shall be in such a form as the distribution company shall reasonably require.

(2) If the customer's kilowatt-hour usage exceeds the electricity generated by the net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company's applicable rate.

SECTION __. Subsection (f) of said section 139 of said chapter 164, as so amended, is hereby further amended by inserting after the second sentence the following sentence:

Notwithstanding the total aggregate capacity of net metering facilities in this subsection, there shall also be 50 megawatts of capacity across all distribution companies' service territories for anaerobic digestion net metering

facilities.

Section __. The department of energy resources shall adopt a regulation under its authority in subsection (g) of section 11F of chapter 25A of the General Laws that shall require that a portion of the minimum percentage required to be supplied under subsection (a) of said section 11F come from anaerobic digestion facilities. Said regulation shall be adopted not later than 180 days after the effective date of this act.

Amendment #10 to H.4377

Enabling Fuel Cells to earn APS credit

Mr. Cusack of Braintree move that the bill be amended by adding at the end thereof the following sections:

SECTION XX. 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 XX. 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".

Amendment #11 to H.4377

small hydropower renewable tariff

Representatives Kulik of Worthington, Benson of Lunenburg and Finn of West Springfield move that the bill be amended by adding the following new section:

Section X. Notwithstanding any general or special law, rule, regulation or procedure to the contrary, there is hereby created a small hydro tariff program for small hydropower facilities. A “small hydropower facility” is a facility in Massachusetts with a FERC-rated capacity of 2 megawatts or less, using water to generate electricity that is connected to a distribution company. The “small hydro tariff” is the default service kilowatt-hour rate of the local distribution company that receives electricity from a small hydropower facility. An electric distribution company shall pay a small hydropower facility monthly for electricity it received from such a facility based on the kilowatt hours of electricity the distribution company received from the small hydropower facility multiplied by the small hydro tariff. A participating small hydropower facility shall notify a distribution company that it intends to deliver electricity pursuant to the small hydro tariff program and shall comply with the distribution

company's applicable reporting and interconnection requirements. No more than 60 megawatts of small hydropower aggregate capacity state wide shall be permitted to participate in the small hydro tariff.

Amendment #12 to H.4377

Transmission Solicitation

Representatives Calter of Kingston, Muratore of Plymouth and Hunt of Sandwich move that the bill be amended in section 1 by striking out, in line 3, the words "and 83D" and inserting in place thereof the following words:- "to 83E, inclusive"; and

in section 1 by adding the following section:-

"Section 83E. The secretary of energy and environmental affairs may work with the New England states to upgrade or expand the New England electrical grid to: (1) support the integration of new clean energy resources to meet public policy requirements, as that term is used by the federal energy regulatory commission; and (2) interconnect load centers in the ISO New England Control Area with regions or areas where clean energy generation resources may be available. An interconnection of load centers may be achieved through a transmission proposal that is offered in response to a solicitation issued pursuant to section 83C or section 83D. The transmission proposal may provide for procurement separate from a long-term contract pursuant to said section 83C or a long-term contract or delivery commitment agreement pursuant to said section 83D. If procurement is provided for separately in a transmission proposal, the department of energy resources shall have the authority to determine whether any resulting transmission shall be pursued: (1) through an elective transmission upgrade; (2) pursuant to the rules applicable to transmission advanced to meet public policy requirements, as the term is used by the federal energy regulatory commission; or (3) through other means available under federal law."

Amendment #13 to H.4377

Planting Pollinator Forage in Clean Energy Installations

Ms. Dykema of Holliston move that the bill be amended by adding the following section:

"SECTION XX. The Department of Energy Resources, in consultation with the Department of Transportation, shall identify opportunities in the state for the installation of diverse native plant communities that include flowers, wildflowers, vegetables, weeds, herbs, ornamental plants, cover crops, and legume species that attract honey bees and other pollinators in clean energy installations including, but not limited to, solar installations. In instances where an alternative is the planting of nonnative, cool-season turf grasses, proposals for clean energy installations shall, wherever possible, prioritize pollinator-friendly plantings. In identifying such opportunities, the departments may consider, but shall not be limited to, the availability of partnerships with private entities to assist in the funding of such additional costs that pollinator-friendly plantings may incur. "

Amendment #14 to H.4377

Energy Efficiency Improvements

Mrs. Haddad of Somerset move that the bill be amended by adding the following Section:-

SECTION XXX. Sections 19(a) and Section 20(a) of Chapter 25 and Sections 11F and 11F1/2 of Chapter 25A of the General Laws shall not apply to end use customers once their monthly use of electricity reaches 100,000 kWhs, provided such customers execute a memorandum of understanding with their utility that such charges above 100,000 kWh will be used for energy reduction and energy infrastructure improvement. For purposes of this section customers may combine similarly owned facilities as long as said facilities are within the same utility territory.

Amendment #15 to H.4377

fueling job creation through energy efficiency

Representatives Kulik of Worthington, Hogan of Stow, Benson of Lunenburg, Smizik of Brookline, Cusack of Braintree, Garballey of Arlington and Chan of Quincy move that the bill be amended by adding the following new sections:

SECTION 1: 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 of a renewable energy system 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; (3) renewable energy system feasibility studies; and (4) 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.

“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, installation, and implementation of a renewable energy system, 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, installation of a renewable energy system to serve 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 and the residential sustainable energy program, together, 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. Any energy use reduction accomplished through the commercial sustainable energy program and residential sustainable energy program shall count toward the municipality’s 20 per cent baseline reduction required by section 10 of chapter 25A in order to qualify as a green community.

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;

(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 efficiency 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. 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.

Section 5. 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 a program administrator, 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: (i) by working in conjunction with the agency, develop program guidelines governing the terms and conditions under which financing for residential PACE projects may be made available to the residential sustainable energy program; (ii) originate, execute, and finance contracts for residential energy improvements with property owners on behalf of the agency; (iii) develop eligibility and underwriting guidelines and consumer protection features for the residential sustainable energy program, subject to the approval of the agency; (iv) develop procedures for working with contractors and installers of residential energy improvements for the purposes of facilitating residential energy improvements; (v) work with the agency to enable efficient and cost-effective financing mechanisms for the residential sustainable energy program; (vi) provide information as requested by the agency regarding the expected financing costs for residential PACE projects; and (vii) in consultation with the department, develop program guidelines regarding residential energy improvements. 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 financial underwriting guidelines established for the residential sustainable energy program;

(ii) evaluate the project for compliance with the program guidelines established for residential energy improvements;

(iii) 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

(iv) 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 and the agency 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, 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) At the time the betterment assessment is levied, the program administrator shall set the term and amortization schedule, the rate of interest for the repayment of the betterment assessment amount and any required closing fees and costs, and disclose this information to the participating property owner. The term of each financing shall not exceed the lesser of (i) twenty five (25 years) or (ii) the weighted average of the estimated useful life of the residential energy improvements comprising the residential PACE projects financed by the betterment assessment. 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.

(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 exercise of the powers granted pursuant to this section shall constitute the performance of essential government functions and neither the agency nor the participating municipality shall be required to pay any taxes or assessments upon the property acquired or used by the agency or the participating municipality or upon the income derived from the property acquired or used by the agency or the participating municipality under this section. The PACE bonds issued under this section, their transfer and the income derived from their transfer, including any profit made on the sale of the PACE bonds, shall not be subject to taxation in the commonwealth.

(l) The activities of the residential sustainable energy program shall be reviewed on an annual basis by the agency.

(m) The agency may establish rules and guidelines to implement the program, including procedures describing the application process and criteria to evaluate the applications for PACE bonds under this section.

(n) The agency shall establish rules and guidelines with respect to consumer protection, including but not limited to contractor participation and standards, underwriting, disclosures and marketing practices, and product eligibility. The agency 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.

Amendment #16 to H.4377

Aggregated Gas Power

Mr. Nangle of Lowell move that the bill be amended by adding the following sections:

SECTION x. Subsection (a) of section 134 of chapter 164 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the first 3 paragraphs and inserting in place thereof the following 3 paragraphs:-

Any municipality or any group of municipalities acting together within the commonwealth may aggregate the electrical load of interested electricity consumers or heat energy, in therms or British Thermal Units, of interested gas consumers within its boundaries; provided, however, that such municipality or group of municipalities shall not aggregate electrical load or heat energy if such are served by an existing municipal lighting plant or an existing municipal gas plant. Such municipality or group of municipalities may group retail electricity customers to solicit bids, broker, and contract for electric power and energy services for such customers and may group retail gas customers to solicit bids, broker and contract for the supply of gas for such customers. Such municipality or group of municipalities may enter into agreements for services to facilitate the sale and purchase of electric energy and other related services and agreements for services to facilitate the sale and purchase of gas. Such service agreements may be entered into by a single city, town, county, or by a group of cities, towns, or counties.

A municipality or group of municipalities which aggregates its electrical load or heat energy and operates pursuant to the provisions of this section shall not be considered a utility engaging in the wholesale purchase and resale of electric power or gas. Providing electric power or energy services or gas to aggregated customers within a municipality or group of municipalities shall not be considered a wholesale utility transaction. The provision of aggregated electric power and energy services as authorized by this section shall be regulated by any applicable laws or regulations which govern aggregated electric power and energy services in competitive markets. The provision of aggregated gas as authorized by this section shall be regulated by any applicable laws or regulations that govern aggregated gas in competitive markets.

A town may initiate a process to aggregate electrical load or heat energy upon authorization by a majority vote of town meeting or town council. A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor, or the city manager in a Plan D or Plan E city. Two or more municipalities may as a group initiate a process jointly to authorize aggregation by a majority vote of each particular municipality as herein required.

SECTION xx. The fifth paragraph of said subsection (a) of said section 134 of said chapter 164, as so appearing, is hereby amended by adding the following sentence:- Nothing in this section shall be construed as authorizing

any city or town or any municipal retail gas aggregator to restrict the ability of retail gas customers to obtain or receive service from any authorized provider thereof.

Amendment #17 to H.4377

Establishing a comprehensive adaptation management plan for the commonwealth

Representatives Smizik of Brookline, Cantwell of Marshfield, Livingstone of Boston, Ehrlich of Marblehead, Decker of Cambridge, Khan of Newton, Heroux of Attleboro, Rogers of Cambridge, Vega of Holyoke, Stanley of Waltham, Balser of Newton, Kocot of Northampton, Gentile of Sudbury, Walsh of Framingham, Provost of Somerville, Cariddi of North Adams, Atkins of Concord, DuBois of Brockton, Gordon of Bedford, Schmid of Westport, Garlick of Needham and Malia of Boston move that the bill be amended by inserting after SECTION 1, the following 9 sections:-

SECTION X. The General Laws are hereby amended by inserting after chapter 21O the following chapter:-

CHAPTER 21P.

COMPREHENSIVE ADAPTATION MANAGEMENT ACTION PLANNING IN RESPONSE TO CLIMATE CHANGE

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

“Adaptation”, a response and process of adjustment to actual or expected climate change and its effects that seeks to increase the resiliency and reduce the vulnerability of the commonwealth’s built and natural environments and seeks to moderate or avoid harm or exploit beneficial opportunities to reduce the safety and health risks that vulnerable human populations and resources may encounter due to climate change.

“Executive office”, the executive office of energy and environmental affairs.

“Hazard mitigation”, an effort using nonstructural measures to reduce loss of life and property by lessening the impacts of major storms.

“Plan”, the comprehensive adaptation management action plan.

“Public utility”, as defined in clause (7) of paragraph (j) of section 5 of chapter 21E.

“Resilience”, the ability to respond and adapt to changing conditions and withstand and rapidly recover with minimal damage from disruption due to climate-related events and impacts which may include, but shall not be limited to, shoreline improvement, seawall maintenance and expansion, infrastructure improvement or innovative building design and construction.

“State agency”, a legal entity of state government established by the legislature as an agency, board, bureau, department, office or division of the commonwealth with a specific mission that may either report to an executive office or secretariat or be independent division or department.

“State authority”, a body politic and corporate constituted as a public instrumentality of the commonwealth and established by an act of the legislature to serve an essential governmental function; provided, however, that “state authority” shall include energy generation and transmission, solid waste, drinking water, wastewater and stormwater and telecommunication utilities serving areas identified by the executive office as subject to material risk of flooding; provided further, that unless designated as such by the secretary of energy and environmental affairs, “state authority” shall not include: (i) a state agency; (ii) a city or town; (iii) a body controlled by a city or town; or (iv) a separate body politic for which the governing body is elected, in whole or in part, by the general public or by representatives of member cities or towns.

Section 2. (a) The secretary of energy and environmental affairs and the secretary of public safety and security, in consultation with appropriate secretariats as determined by the governor, shall develop, draft, adopt and revise at least once every 10 years, a comprehensive adaptation management action plan. The plan shall encourage and provide guidance to state agencies, state authorities and regional planning agencies to proactively address the consequences of climate change. The plan shall also provide a process for local and regional climate vulnerability assessment and adaptation strategy development and implementation and may encourage and provide guidance to cities and towns to proactively address the consequences of climate change. The plan and any updates shall be filed with clerks of the house of representatives and senate. The plan shall be developed with guidance from the comprehensive adaptation management action plan advisory commission established in section 3.

Upon the adoption of the plan, all certificates, licenses, permits, authorizations, grants, financial obligations, projects, actions and approvals for any proposed projects, uses or activities in and by a state agency or state authority shall be consistent, to the maximum extent practicable, with the plan.

(b) The plan shall include, but not be limited to: (i) a statement setting forth the commonwealth’s goals, priorities and principles for ensuring effective prioritization for the resiliency, preservation, protection, restoration and enhancement of the commonwealth’s built and natural infrastructure; (ii) a commitment to sound management practices which shall take into account the existing natural, built and economic characteristics of the commonwealth’s most vulnerable areas and human populations; (iii) data on existing and projected climate trends, according to the best and latest data, forecasting and models including, but not limited to, changes for temperature, precipitation, drought, sea level, and inland and coastal flooding; (iv) a statement on the preparedness and vulnerabilities in the commonwealth’s emergency response and infrastructure resiliency including, but not limited to, energy, transportation, communications, health and other systems; (v) an assessment of economic vulnerability, including but not limited to, local businesses in high-risk communities; and (vi) an assessment of natural resources and ecosystems, identifying vulnerabilities and strategies to preserve, protect, restore and enhance.

Section 3. (a) There shall be a comprehensive adaptation management action plan advisory commission to assist the secretary of energy and environmental affairs and the secretary of public safety and security in developing the comprehensive adaptation management plan. The commission shall consist of: the secretary of the energy and environmental affairs or a designee; the secretary of public safety and security or a designee; 1 person from the University of Massachusetts with expertise in climate science chosen by the university; and 18 persons to be appointed by the secretary of energy and environmental affairs and the secretary of public safety and security, 1 of whom shall have expertise in transportation and built infrastructure, 1 of whom shall have expertise in commercial, industrial and manufacturing activities, 1 of whom shall have expertise in commercial and residential property management and real estate, 1 of whom shall have expertise in energy generation and distribution, 1 of whom shall have expertise in wildlife and land conservation, 1 of whom shall have expertise in water supply and conservation, 1 of whom shall have expertise in the outdoor recreation economy, 1 of whom shall have expertise in economic and environmental justice, 1 of whom shall have expertise in ecosystem dynamics, 1 of whom shall have expertise in coastal zones and oceans, 1 of whom shall have expertise in rivers and wetlands, 1 of whom shall be a professional engineer, 1 of whom shall be from a statewide nonprofit land and water conservation organization;1 of whom shall have expertise in historic and cultural resources, 1 of whom shall be a property owner in a coastal community, 1 of whom shall have expertise in small business

administration, 1 of whom shall be a certified floodplain manager and 1 of whom shall have expertise in local government. The secretary of energy and environmental affairs and the secretary of public safety and security shall jointly designate an appointee to serve as chair.

(b) The advisory commission shall prepare a report:

(1) identifying: (i) how the secretary of energy and environmental affairs can support existing adaptation, resilience and hazard mitigation efforts of state agencies, such as the StormSmart Coasts program at the office of coastal zone management, the coastal erosion commission report, BioMap2 at the department of fish and game and vulnerability studies being conducted by the department of public health and the Massachusetts Department of Transportation; (ii) recommendations of new actions that may be implemented immediately using existing state agency legal authority, state resources and funding based upon the recommendations included in the climate change adaptation report prepared pursuant to section 9 of chapter 298 of the acts of 2008 and existing climate change action plans prepared by regional planning agencies and municipalities; (iii) unilateral actions that can be taken by the executive branch to increase climate adaptation, resilience and hazard mitigation including, but not limited to, executive orders and policy directives issued by the governor or policies, regulations and guidance by the secretary of energy and environmental affairs; (iv) recommendations of new climate resilience and adaptation actions that require legislative authority, state resources or funding, including identification of funds to leverage opportunities through public-private partnerships; and (v) the cost of climate adaptation within the 10-year term of the plan, based upon the adaptation actions recommended in this report, existing climate action plans, including those prepared by regional planning councils, municipalities and state agency cost assessments outlined in section 4; and

(2) providing information relative to the risks associated with climate change, both means and extremes, including, but not limited to, the risks associated with changes in temperature, drought, increased precipitation and coastal and inland flooding identified by the advisory committee on flood risks created by climate change established in section 39 of chapter 52 of the acts of 2014.

Section 4. Each state agency, state authority and public utility, as designated by the secretary of environmental affairs and the secretary of public safety and security, shall, in consultation with the executive office, develop and update at least once every 10 years a vulnerability and adaptation assessment for their portfolio of assets based on the relevant scientific data and information collected by the comprehensive adaptation management action plan advisory commission pursuant to section 3. The vulnerability assessments shall classify the economic losses over time associated with each major asset for the relevant climate risks including, but not limited to, coastal and inland flooding and extreme heat, as unacceptable, noncritical or immaterial. For assets exposed to material risk of unacceptable losses, the vulnerability assessment shall include order-of-magnitude cost-estimates for: (i) measures to protect the assets; (ii) measures to make the assets resilient; and (iii) removal and relocation of the assets from exposed areas. Estimates shall also be prepared for the economic, social and environmental damages if no adaptation actions are taken. Qualitative cost-benefit discussions of projected social impacts of flood prevention versus flood resilience shall also be included in the vulnerability assessment.

Section 5. The secretary of energy and environmental affairs and the secretary of public safety and security shall, at least 6 months before establishing a comprehensive plan pursuant to this chapter, provide for public access to the draft plan in electronic and printed copy form and shall provide for a public comment period, which shall include at least 5 public hearings across the commonwealth. The secretary of energy and environmental affairs and the secretary of public safety and security shall publish notice of any public hearing in the Environmental Monitor at least 30 days but not more than 35 days before the date of a hearing. A notice of a public hearing shall also be placed, at least once each week for the 4 consecutive weeks preceding the hearing in newspapers with sufficient circulation to notify the residents of the municipality in which the hearings shall be held. The public comment period shall remain open for at least 60 days from the date of the final public hearing. After the close of the public comment period, the secretary of energy and environmental affairs and the secretary of public safety and security shall issue a final plan and shall file the plan, together with legislation necessary to implement the plan, if any, by filing the same with the clerks of the house of representatives and senate.

Section 6. The plan shall be consistent with this chapter and all other general and special laws. Nothing in the plan shall be construed to supersede existing general or special laws or to confer any rights, or adversely impact existing rights, or remedies in addition to those conferred by general or special laws existing on the effective date of this chapter.

SECTION X. The secretary of energy and environmental affairs shall develop and support a regional comprehensive climate change adaptation management action plan grant program which shall consist of financial assistance to regional planning agencies to develop and implement comprehensive cost-effective adaptation management action plans at the regional level of government. Funds shall be expended from item 2000-7070 of section 2A of chapter 286 of the acts of 2014 for the grant program and the department of energy resources may make available monies from amounts collected by the Department of Energy Resources Credit Trust Fund established in section 13 of chapter 25A of the General Laws for the grant program. Regional comprehensive adaptation management action plans shall include, but not be limited to: (i) technical planning guidance for adaptive municipalities through a step-by-step process for regional climate vulnerability assessment and adaptation strategy development; (ii) development of a definition of regional impacts by supporting municipalities conducting climate vulnerability assessments; (iii) a demonstrated understanding of regional characteristics, including regional environmental and socioeconomic characteristics; and (iv) prioritization of protecting identified inland and coastal vulnerable locations not yet built upon. The grants shall advance statewide, regional and local efforts to adapt land use, zoning, infrastructure, policies and programs to reduce the vulnerability of the built and natural environment to changing environmental conditions as a result of climate change and for the development and implementation of an outreach and education program in low income and urban areas about climate change and the effects of climate change.

SECTION X. The executive office of energy and environmental affairs, in consultation with the division of capital asset management and maintenance, may acquire by purchase from willing sellers land abutting or adjacent to areas subject to the ebb and flow of the tide or on barrier beaches or in velocity zones of flood plain areas, on which structures have been substantially and repeatedly damaged by severe weather, for conservation and recreation purposes, including those rejected by the Pre-Disaster Mitigation Grant Program and the Hazard Mitigation Grant Program administered by the Federal Emergency Management Agency.

Prior to the acquisition of any land under this section, the executive office shall develop a conservation and recreation management plan and coastal erosion mitigation and management plan for any such land after consultation with the municipality in which the land is located. The plan shall set forth the priority, description and location of lands to be acquired and any land management agreement reached between the agency and municipality that provides for local responsibility to carry out the development and management of the property. Land acquired pursuant to this section shall contain a deed restriction stating that the land shall be used for conservation and recreation purposes only.

No land shall be acquired under this section until after a public hearing has been held by the executive office in the municipality in which the land is located to consider the management plan. The executive office shall notify the mayor and city council in a city or the board of selectmen, planning board and conservation commission, if any, of a town not later than 10 days prior to any such hearing.

If the executive office deems it necessary to make appraisals, surveys, soundings, borings, test pits or other related examinations to obtain information to carry out this section, the executive office or its authorized agents or employees may, after due notice by registered mail, enter upon lands, water and premises, not including buildings, to make such appraisals, surveys, soundings, borings, test pits or other related examinations and such entry shall not be a trespass. The executive office shall provide reimbursement for any injury or actual damages resulting to the lands, waters and premises caused by any act of the executive office or its authorized agents or employees and shall, so far as possible, restore the lands to the same condition as prior to making such appraisals, surveys, soundings, borings, test pits or other related examinations.

SECTION X. (a) The executive office of energy and environmental affairs, acting for and on behalf of the commonwealth, may lease to a municipality or nonprofit organization, on a form approved by the attorney

general, for not more than 25 years, certain property acquired by the commonwealth pursuant to section 9 or by the Federal Emergency Management Agency under 42 U.S.C. § 4001, as amended, for use as conservation and recreation areas. Leases shall be in such form and contain such provisions as the secretary of energy and environmental affairs, in consultation with the division of capital asset management and maintenance, shall determine, including such terms and conditions as necessary to comply with laws relative to the protection of barrier beaches. Lands shall be leased upon the express conditions that the land shall be used for conservation and recreation purposes only, that no permanent structures shall be erected and a reversionary clause that requires the lease to be terminated if the leased land is used in violation of any law relative to barrier beaches or condition of the lease.

(b) In consideration for the granting of a lease authorized in subsection (a), the lessee municipality or nonprofit organization shall agree to maintain the acquired land as a clean, safe and orderly conservation or recreation area.

SECTION X. Pursuant to its authority under section 40 of chapter 131 of the General Laws, the commissioner of environmental protection shall promulgate rules regulating the dredging, filling or altering of land subject to coastal storm flowage.

SECTION X. The executive office of energy and environmental affairs and the executive office of public safety and security may expend such sums as may be available from any account, appropriation or fund available to the respective executive offices or to any agency within those executive offices to carry out chapter 21P of the General Laws, including expenses in connection with the department's responsibilities under said chapter 21P and the cost of planning and for the development, redevelopment or improvement of land under said chapter 21P.

SECTION X. The regulations required pursuant to section 13 shall be promulgated not later than 180 days after the effective date of this act.

SECTION X. The comprehensive adaptation management action plan advisory commission shall complete the first report required by subsection (b) of section 3 of chapter 21P of the General Laws not later than January 1, 2017 and shall complete a revised report at least once every 10 years thereafter.

SECTION X. The first comprehensive adaptation management action plan required by section 2 of chapter 21P of the General Laws shall be completed not later than January 1, 2018.

Amendment #18 to H.4377

Striking remuneration language

Mr. Chan of Quincy move that the bill be amended in section 1, in lines 71 to 74, by striking out the following: "(3) provide for an annual remuneration for the contracting distribution company up to 2.75 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by the department of public utilities at the time of contract approval;"

Moves to further amend the bill, in section 1, from lines 201 to 204 by striking out the words:- "(3) provide for an annual remuneration for the contracting distribution company up to 2.75 per cent of the annual payments

under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by the department of public utilities at the time of contract approval;"

Amendment #19 to H.4377

Energy Storage

Ms. Benson of Lunenburg move that the bill be amended by adding the following section:

SECTION XXX. Chapter 164 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by adding the following 3 sections:-

Section 146. (a) For purposes of the following two sections, "energy storage system" shall mean commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter dispatching the energy. An energy storage system shall be cost-effective and either reduce emissions of greenhouse gases, reduce demand for peak electrical generation, defer or substitute for an investment in generation, transmission, or distribution assets, or improve the reliable operation of the electrical transmission or distribution grid.

(b) An energy storage system shall do one or more of the following: (1) use mechanical, chemical, or thermal processes to store energy that was generated at one time for use at a later time; (2) store thermal energy for direct use for heating or cooling at a later time in a manner that avoids the need to use electricity at that later time; (3) use mechanical, chemical, or thermal processes to store energy generated from renewable resources for use at a later time; or (4) use mechanical, chemical, or thermal processes to store energy generated from mechanical processes that would otherwise be wasted for delivery at a later time.

Section 147. (a) On or before December 31, 2016, the department of energy resources shall open a proceeding to determine appropriate targets, if any, for electric companies to procure viable and cost-effective energy storage systems to be achieved by January 1, 2020. As part of this proceeding, the department may consider a variety of possible policies to encourage the cost-effective deployment of energy storage systems, including refinement of existing procurement methods to properly value energy storage systems and using alternative compliance payments to develop pilot programs.

(b) The department shall adopt the procurement targets, if determined to be appropriate pursuant to paragraph (a), by July 1, 2017. The department shall reevaluate the procurement targets not less than once every three years.

Section 148. (a) By January 1, 2020, each electric company entity shall submit a report to the department demonstrating that it has complied with the energy storage system procurement targets and policies adopted by the department pursuant to section 147.

(b) Each electric company shall prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers.

Amendment #20 to H.4377

Procurement Schedule

Representatives Haddad of Somerset, Peake of Provincetown and Markey of Dartmouth move that the bill be amended in line 39 by striking out the following: "may conduct 1 or more" and inserting in place thereof the following: "shall conduct 3"; and in line 44 by striking out the words "for no less than" and inserting in place thereof the words "equal to".

Amendment #21 to H.4377

Tidal Turbine Research Fund

Mr. Kocot of Northampton move that the bill be amended by adding the following section:-

"SECTION XXX. The Oceanographic Research and Tidal Power Development Loan Act.

SECTION 1. Chapter 29 of the General Laws is hereby amended by adding after Section 2RRRR the following new section:- "Section 2SSSS. Oceanographic Research and Tidal Power Development Fund."

SECTION 2. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Oceanographic Research and Tidal Power Development Fund, the funds of which shall be expended by the division of coastal zone management within the executive office of environmental affairs for the purpose of fostering oceanographic research in the commonwealth, including, but not limited to research of the feasibility of utilizing tidal power turbines or other devices and facilities to generate electrical power from wave action, tidal currents or other ocean-related energy along the Massachusetts coastline and to foster energy independence within the commonwealth. Said division shall establish a grant program to expend said funds for equipment, information technology and vessels and shall give priority to companies, public institutions of higher education and non-profit corporations located within the Commonwealth. The Oceanographic Research and Tidal Power Development Fund shall receive monies from: (1) gifts, grants and donations from public or private sources; (2) federal reimbursements and grants-in-aid; (3) any interest earned from the fund; and (4) the proceeds of bond sales by the commonwealth, denoted as the Oceanographic Research and Tidal Power Development Loan Act of 2016. The state treasurer shall receive, deposit and invest funds held in such a manner as to ensure the highest interest rate available consistent with the safety of the fund. The books and records of the fund shall be subject to an annual audit by the state auditor. The division of coastal zone management may expend such funds, in addition to appropriation, and no expenditure from the fund shall cause it to be in deficiency at the close of a fiscal year. The director of coastal zone management shall report annually to the house and senate committees on ways and means and the joint committee on the environment, natural resources and agriculture on income received into the fund and the sources of that income, any expenditures from the fund, research findings, the status of tidal power projects and fund balances. "

SECTION 3. To meet a portion of the expenditures necessary in carrying out the provisions of section 2SSSS of chapter 29 of the General Laws, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate the sum of $5,000,000 to be in addition to those bonds previously authorized and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Commonwealth of Massachusetts and the Executive Office of Environmental Affairs Oceanographic Research and Tidal Power Development Loan Act of 2016, and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2036. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

Amendment #22 to H.4377

Regarding an Energy Efficiency Task Force

Mr. Mom of Lowell move that the bill be amended by adding the following section:

“SECTION XX. There shall be an energy efficiency task force to develop recommendations and proposed statutory changes for the creation of a successor energy efficiency program to be implemented starting in 2018 at the conclusion of the current three-year, statewide energy efficiency plan approved pursuant to section 21 of chapter 25 of the general laws. In making its recommendations, the task force shall: consider the successes and challenges of the current program design; the role of the program administrators; the designation or creation of a single entity, other than a gas or electric company, to run the program; alternative funding mechanisms for energy efficiency, including a the creation of a “green bank”; identify targets for energy efficiency customer participation and system load reduction; and consider alternative program design and best practices implemented in other states and countries. The task force shall consider, but not be constrained, by the current cost-effective test for program measures.".

The task force shall consist of 13 members or their designees: 1 of whom shall be the commissioner of the department of energy resources, who shall serve as chair; 1 of whom shall be the attorney general; 1 of whom shall be appointed by the senate president; 1 of whom shall be appointed by the senate minority leader; 1 of whom shall be appointed by the house speaker; 1 of whom shall be appointed by the house minority leader; 1 of whom shall be from the low-income weatherization and fuel assistance program network; 1 of whom shall be from the northeast energy efficiency partnership; and, 5 of whom who shall be appointed by the governor, including: 1 representative for businesses, including large C&I end-users; 1 representative of an energy efficiency business; 1 representative of an electric and natural gas distribution company; 1 representative of a municipal aggregator; and, 1 representative of an energy services company.

The task force shall convene its first meeting by October 1, 2016. The task force may retain the assistance of experts to conduct research or facilitate the task force process. The task force shall report on its

recommendations, which may include drafts of legislation, to the Joint Committee on telecommunications, utilities and energy by June 1, 2017."

Chapter 25A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after Section 15, the following section:- Section 16. (a) 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."

Amendment #23 to H.4377

Prohibition on carcinogenic biomass fuel being used for electricity production

Mr. Kocot of Northampton move that the bill be amended by adding the following section:

"SECTION XXX.

SECTION 1. Section 159 of chapter 111 of the General Laws is hereby amended by adding at the end thereof the following: -"The department shall prohibit the transport to and combustion of contaminated construction debris or any other combustible materials treated with or containing compounds including, but not limited to, arsenic, lead, cadmium, asbestos or any other substance determined to be a carcinogen by the Environmental Protection Agency,for use as fuel in biomass facilities that produce electricity for sale to the regional power grid."

SECTION 2. The department of public health shall conduct a public health impact analysis of each proposed biomass-fueled electricity generating facility in the Commonwealth, rated to consume more than one ton of combustible material per hour, including, but not limited to, an analysis of the impact of said facility on cancer and asthma rates within a twenty mile distance from each proposed facility. Said impact reports shall be completed and copies provided to the House and Senate clerks 120 days prior to the final action of the MEPA unit of the Executive Office of Energy and Environmental Affairs on the Environmental Impact Report related to the application of any proposed biomass combustion facility rated to consume more than one ton of combustible material per hour.

SECTION 3. The MEPA unit of the Executive Office of Environmental Affairs shall require that the proponents or applicants for state approval of operation for each proposed biomass-fueled electricity producing facility rated to consume more than one ton of combustible material per hour, complete a full Environmental Impact Report, pursuant to the laws and regulations of said agency, and satisfy the conditions determined by said agency prior to approval of any permits for operation of said facility.

Amendment #24 to H.4377

Small farm energy production

Mr. Kocot of Northampton move that the bill be amended by adding the following section:

"SECTION XXX.

Section1. Section 2EEEE of chapter 29 of the General Laws is hereby amended by inserting at the end thereof the following:- "provided, that not less than twenty-five percent of the funds deposited annually shall be transferred to the department of agricultural resources for a grant program in support of small farms under 300 acres in size to develop farm-based renewable energy capabilities, including wind power, energy conserving refrigerated food storage pilot projects, methane capture and green combustion, and solar and photovoltaic energy projects to reduce energy costs for small farmers."

Amendment #25 to H.4377

clean energy generation through RPS eligible resources

Ms. Story of Amherst move that the bill be amended in section 1, in line 6, by striking the word "or", and in line 7, by adding after the word "generation" the following:- "; or (3) new Class I RPS eligible resources".

Amendment #26 to H.4377

Utility Data Transparency and Access

Mr. McMurtry of Dedham move that the bill be amended by adding the following section:

SECTION 1: The General Laws as they appear in the official 2012 version are hereby amended by adding the following section to Chapter 25:-

Section 23 – Municipal access to energy consumption data

Section 23 (a.) Upon written request to the department from a municipal official, the utilities regulated by the department shall make available the following data:

(1.) Aggregate annual energy consumption data by municipality for each of the residential, commercial, industrial, and municipal sectors in that municipality for up to 5 prior years;

(2.) Anonymized annual energy consumption data by household at the zip code level for up to 5 prior years;

(3.) Anonymized annual energy consumption data by household at the census tract level for up to 5 prior years;

(4.) Daily 15-minute peak demand data for commercial and municipal buildings for up to one prior year; and

(5.) Aggregate daily 15-minute peak demand data for the residential sector for up to one prior year.

(b.) The utility shall acknowledge the written request for data within 5 working days, and respond with the requested data within 21 working days. The department shall define special measures for expedited data delivery to municipalities as well as avenues for recourse if the data is not delivered within the parameters established herein.

(c.) The department may promulgate rules and regulations, as necessary, for the implementation of this section.

Amendment #27 to H.4377

Prohibition of Electric Customer Support for Gas Pipeline Expansion

Ms. Provost of Somerville move that the bill be amended by adding the following section:-

"Section XX. 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.”

Said section 94A of said chapter 164 is further amended by inserting, in line 15, after the sentence ending “null

and void." the following sentence: "No gas company may contract for electricity pursuant to this section; and no electric company may contract for gas pursuant to this section."

Amendment #28 to H.4377

Increasing competition in offshore wind procurements

Representatives Smizik of Brookline, Rogers of Cambridge and Balser of Newton move that the bill be amended in Section 1 by striking, in line 21-22, the following "and for which no turbine is located within 10 miles of any inhabited area", and placing therein the following "within an area leased by the U.S. Department of the Interior for renewable energy development", and further amend the bill in Section 1 by striking, in line 26-28, the following "operate in a designated wind energy area for which an initial federal lease was issued on a competitive basis after January 1, 2012", and place therein, the following "operate on the Outer Continental Shelf within an area leased by the U.S. Department of the Interior for renewable energy development"

Amendment #29 to H.4377

Recording and repair of the most wasteful natural gas leaks

Representatives Provost of Somerville, Atkins of Concord, Balser of Newton, Cariddi of North Adams, Devers of Lawrence, Garballey of Arlington, Garlick of Needham, Gentile of Sudbury, Gonzalez of Springfield, Heroux of Attleboro, Keefe of Worcester, Khan of Newton, Kocot of Northampton, Livingstone of Boston, Rogers of Cambridge and Sannicandro of Ashland move that the bill be amended by adding the following two sections:-

"Section XX. Section 144(e) of chapter 164 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following:

(e) As part of the annual service quality standards report required by section 1I, each gas company shall

(1) report to the department the location of each Grade 1, Grade 2 and Grade 3 leak existing as of the date of the report, the date each Grade 1, Grade 2 and Grade 3 leak was classified and the dates of repairs performed on each Grade 1, Grade 2 and Grade 3 leak. A gas company shall specify any reclassification of previously identified leaks in its annual report.

(2) report to the department each reported leak ranked by size and specify the age, material and size of the

pipeline or infrastructure for each reported leak. A gas company shall estimate the size and rank of a leak using the best information, methodology, and measurement devices available to it, including but not limited to area of ground saturation and its experience with and history of the leak. A gas company shall schedule and complete within twelve months of reporting the repair or elimination of the top ten percent of the leaks ranked by size, starting with the largest size leaks, giving priority to any Grade 1 leaks in the top ten percent. The ranking shall be updated every six months, and the updated ranking shall be reported to the department.

(3) report to the department the age, material and size of each pipeline in its service area by street location and city or town and range of operating pressure by geographic area as part of the gas leak information.

Gas leak information shall be made available to any municipal or state public safety official upon written request to the department.

(f) The difference between the actual quantity in cubic feet of natural gas delivered to or acquired by a gas company and the actual quantity of natural gas sold, interchanged or consumed by a gas company for its own use shall be reported every six months on a calendar half year basis to the department. Any adjustments to the difference due to measuring or monitoring inaccuracies, variations of temperatures or pressures and any other variants shall be disclosed in the report. The report shall identify the leakage by service area, division and by city and town. A gas company shall maintain and be able to make available all records of acquisition by purchase or otherwise, sales and internal usage which reflect information as to such difference, including but not limited to all records of acquisition by purchase or otherwise, sales and internal usage. The foregoing gas leak information shall be made available to any municipal or state public safety official upon written request to the department. The volume of leaked natural gas shall be included in and reported by a gas company to the city or town as the volume in cubic feet of all natural gas transported into a city or town for delivery to users in that city or town minus the volume of total natural gas sold through meters in the city or town.

Section XX. Section 145(i)of chapter 164 of the General Laws, as so appearing, is hereby amended by inserting at the end thereof the following:

A gas company shall report to the DPW, Fire Department, Chief Law Enforcement Officer, and the Department of Health for the city or town and the chemical components of the natural gas and the concentrations of those components, including but not limited to (i) any substance listed as a volatile organic compound or hazardous air pollutant according to the EPA or the Massachusetts Department of Environmental Protection such as but not limited to methane, benzene, formaldehyde, acrolein, (ii) naturally occurring radioactive materials or their decay products such as but not limited to polonium, lead, radium, radon, and (iii) any other components of natural gas that may be toxic to humans and animals in any amount or concentration, which information shall be made available to the public. Determination of natural gas composition must be from within the prior year. Natural gas composition must be measured using samples taken from pipeline laterals or more local natural gas distribution pipelines. Natural gas composition determined from natural gas wellhead, collection pipeline system, or interstate transmission pipeline samples shall not be acceptable for reporting natural gas composition.

A gas company shall report to the DPW, Fire Department, Chief Law Enforcement Officer, and the City

Department of Health any incidents of illness requiring work stoppage or medical observation or medical treatment of persons working in or with pipelines or infrastructure where natural gas is emitted."

Amendment #30 to H.4377

environmental impacts

Mr. Hecht of Watertown move that the bill be amended in Section 1, lines 84 and 214, by inserting after the word “costs” the following words:- “and environmental impacts” and in lines 86 and 219, by inserting after the word “ratepayers” the following words:- “and avoid or minimize environmental impacts”

Amendment #31 to H.4377

An amendment relative to natural gas leaks

Representatives Ehrlich of Marblehead, Decker of Cambridge, Garballey of Arlington, Farley-Bouvier of Pittsfield, Livingstone of Boston, Smizik of Brookline, Ultrino of Malden, Walsh of Framingham, Provost of Somerville, Rogers of Cambridge, Kaufman of Lexington, Rushing of Boston, Gentile of Sudbury, Balser of Newton, Cariddi of North Adams, Hecht of Watertown, Fiola of Fall River, Kafka of Stoughton, Keefe of Worcester, Toomey of Cambridge, McMurtry of Dedham, Malia of Boston, Barber of Somerville, Atkins of Concord, Gordon of Bedford, Schmid of Westport, Cantwell of Marshfield, Dykema of Holliston, Story of Amherst, Khan of Newton, Cutler of Duxbury, Campbell of Methuen, Kocot of Northampton, Tucker of Salem, Heroux of Attleboro, Vincent of Revere, Gonzalez of Springfield, Howitt of Seekonk, Donahue of Worcester, Madaro of Boston, Peisch of Wellesley, Tosado of Springfield, Rogers of Norwood, Madden of Nantucket, Linsky of Natick, Sannicandro of Ashland, Day of Stoneham, Mirra of West Newbury, Stanley of Waltham, Walsh of Peabody, Jones of North Reading, Vega of Holyoke and Timilty of Milton move that the bill be amended by inserting, after section 1, the following new sections:-

SECTION 2. Section 144 of chapter 164 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out section (c) and inserting, in place thereof, the following:

(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 shall submit written notification of the project to a gas company. The gas company shall survey the project area for the presence of gas leaks, and all Grade 2 or Grade 3 gas leaks shall be repaired by the gas company concurrently with the timing of the project so as to enable the municipality to close the road, and repair the road surface at the responsible entity’s expense. 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. Where the discovery, survey and subsequent repairs of a gas leak do not coincide with a significant project that exposes confirmed natural gas infrastructure, the gas company shall be required to survey and repair all Grade 2 and Grade 3 leaks within 12 months of the date the leak was classified, subject to the approval of all relevant municipal authorities and upon meeting all permitting requirements thereof, and a suitable road pavement patch, acceptable to the municipality pursuant to its permitting requirements and procedures, shall be installed by the gas company at its own expense. This section (c) shall not apply to all Grade 1 leaks, which shall continue to be required to be repaired immediately, per Section 2 (b)(1). The repair and replacement schedule of gas leaks shall be provided to the municipality or the commonwealth or other entity. Notwithstanding the foregoing, gas companies shall coordinate with municipalities to determine which leaks shall be addressed by full replacement of lines and mains. A gas utility 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 3. Chapter 164 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by adding the following section:

Section 147. (a) As used in this Section, the following words shall have the following meanings:

“Gas” - natural gas and any of its products, components or derivatives and methane, whether produced by, or gathered from or collected as a result of exploration and production by well, mining or otherwise, hydraulic fracturing, biomass gasification reactors, biogas reactors, anaerobic digestion, methane emissions from landfills and liquid natural gas and whether mixed with propane air or not or with synthetic natural gas or not.

“Hydraulic fracturing”- the process of pumping a fluid into or under the surface of the ground in order to create or develop or enhance the flow through fractures in rock for the purpose of the production or recovery of oil or gas.

"Liquefied natural gas" - a natural gas that has been changed into a liquid by cooling the temperature at atmospheric pressure to approximately 260°F.

“Local Distribution Company” - includes a municipal distribution company, and is referred to as an LDC.

“Local retail outlets” - Distributors of gas at retail to retail customers for individual household use.

"Natural gas" - a type of gas which originates in the ground and is predominantly methane.

"Propane air" - a type of gas produced by those facilities which add commercial grade propane to air for mixture with natural gas .

“Provider” - anyone that purchases, acquires, transmits, barters, forfeits, exchanges, transports, stores, processes, compresses or decompresses, distributes, sells or conveys gas for resale or reuse and any Public Utility. A Provider may use one or more system types.

“Public Utility” - a gas or electric company as defined in section one of chapter one hundred and sixty four, or any municipal corporation which owns or may acquire municipal lighting plants as referred to in section two of said chapter one hundred and sixty four or any person, firm, association, or private corporation which owns or operates works or a distribution plant for the manufacture and sale or distribution and sale of gas for heating and illuminating purposes, or of electricity, within the Commonwealth as referred to in section two of said chapter one hundred and sixty four or any domestic electric utility or foreign electric utility as defined in section one of chapter one hundred and sixty four A.

"Synthetic natural gas" - a type of gas which is made by a facility which produces a gaseous fuel from the manufacture, conversion or reforming of liquid or solid hydrocarbons.

“System type” - any one of a gas distribution system, gas transmission or transportation system, gas storage facility whether in liquefied or other state, gas production, gathering or handling system. and a Public Utility.

Unaccounted-for-gas (UFG) - The difference between the total gas available from all sources that is acquired by a system type and the total gas accounted for as sales, net interchange and company use. This difference includes leakage or loss by other means, discrepancies due to measuring or monitoring inaccuracies, variations of temperatures or pressures, or both, and other variants .

(b). Calculation of UFG.

(1) When possible, UFG must be measured, computed and reported by system type.

(2) UFG for a system type equals Gas Received less Gas Delivered less Adjustments.

(3) Percent of UFG equals UFG divided by Gas Received times 100

(4) Gas received, gas delivered, and adjustments must represent actual gas quantities. Measuring and monitoring equipment that meets current industry standards applicable in Massachusetts must be installed. Estimates shall be treated as UFG unless clearly identified, have supporting justification, assumptions and calculations and can be determined to be at least as accurate as measured results. All records of acquisition by purchase or otherwise, sales and internal usage must be made available and have been kept in the usual course of business.

(5) All lost and unaccounted for gas shall be presumed to be lost gas unless the portion represented by unaccounted for gas, including but not limited to

losses to company used gas, liquids extraction, and meter errors due to inaccurate calibration or temperature and pressure fluctuations, is proven by a preponderance of the evidence in a given ratemaking proceeding.

(6) A Provider shall be responsible for the UFG of each other Provider that is a source of gas within the state that is not subject to ratemaking and the gas received for measuring UFG shall be the gas received within the state by that Provider that it not subject to rate making.

(c). The cost of UFG in excess of the maximum allowable and all expenses for decreasing UFG down to the maximum allowable shall be disallowed for ratemaking purposes.

(1) The maximum allowable loss is as shown in the following table.

Maximum Allowable Loss as a Percent of UFG per System Type

Year/ Distribution/ Transmission/ Storage/ Public utility/ Other

1/ 1.00%/ 0.50%/ 0.25%/ 0.25%/ 0.25%

2/ 0.750%/ 0.25%/ 0.10%/ 0.10%/ 0.10%

3/ 0.50%/ 0.10%/ 0.05%/ 0.05%/ 0.05%

4/ 0.25%/ 0.05%/ to/ to/ to

5/ 0.10%/ to

6/ 0.00%/ 0.00%/ 0.00%/ 0.00%/ 0.00%

(2) The calculation of the percentage of lost and unaccounted for gas shall be based on an annual period. Notwithstanding the choice of test year for other aspects of ratemaking, and unless a more appropriate period can be demonstrated by a preponderance of the evidence in a given ratemaking proceeding, the annual period ends June 30, and is the most recent such period for which data are available.

(3) Local retail outlets shall use best available technology and practices for preventing leakage.

(d). The provisions herein shall take effect on January 1. 2017.

Amendment #32 to H.4377

Protection of Ratepayers Against Unnecessary Taxes Relating to Gas Pipeline Expansion

Representatives Rogers of Norwood, Kafka of Stoughton and McMurtry of Dedham move that the bill be amended by adding the following new section:

"Section XX. 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.”

Said section 94A of said chapter 164 is further amended by inserting, in line 15, after the sentence ending “null and void.” the following sentence: “No gas company may contract for electricity pursuant to this section; and no electric company may contract for gas pursuant to this section.”

Amendment #33 to H.4377

Ensuring Timely Contracting for Offshore Wind & Clean Energy Resources

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, in lines 48 and 158, by striking the words “of public utilities” and inserting in place thereof the following words:- “of energy resources”;

and further amend said Section 1 by inserting after the words, in lines 49 and 159, “the department” the following words:- “of energy resources”;

and further amends said Section 1, by striking the words, in lines 248 and 249, the following words:- “in consultation with the department of public utilities”;

and further amend said Section 1 by inserting after the words, in lines 35 and 150, “for solicitation” the following words:- “and execution”;

and further amends said Section 1, by inserting after the words, in lines 111 and 246, “the department of” the following word:- “public”;

and further amend said Section 1 by inserting after the words, in line 126, “the department” the following words:- “of energy resources”;

and further amend said Section 1, by inserting after the words, in lines 79 and 209, “the department” the following words:- “of public utilities”.

Amendment #34 to H.4377

The Department of Energy Resources Role in Joint Solicitations

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by inserting after the words, in lines 30 and 143, “in the commonwealth shall” the following words:- “together with the department of energy resources”; and further amend said Section 1 by inserting after the words, in lines 31 and 145, “provided that” the following words:- “the department of energy resources determines”.

Amendment #35 to H.4377

The Department of Energy Resources & Additional Solicitations for Wind

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by inserting after the words, in line 62, “declining said proposals.” the following new sentence:- “The department of energy resources may require additional solicitations to fulfill the requirements of this section.”.

Amendment #36 to H.4377

Preserving the ability to Effectively Procure Offshore Wind and Clean Energy Generation

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by inserting after the words “equal to” each time they appear in lines 42, 145 and 158, the following word: - “approximately”.

Amendment #37 to H.4377

Hydro Commercial Operation Amendment

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by striking the definition of “firm service hydroelectric generation”, in line 10, and inserting in place thereof the following:-

“ ‘Firm service hydroelectric generation’, hydroelectric generation that is: (i) in full commercial operation by December 31, 2020; (ii) provided without interruption for a period designated in a long-term contract, including but not limited to multiple hydroelectric run-of-the-river generation units managed in a portfolio that creates firm service though the diversity of multiple units.”;

and further in said section 1, by striking the date “December 31, 2022”, in line 158, and inserting in place thereof the following date:- “July 1, 2018”.

Amendment #38 to H.4377

Ensuring the Most Cost Effective Contracts for MA Ratepayers

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by striking the following words, as they appear in lines 71 through 74:-

“provide an annual remuneration for the contracting distribution company of up to 2.75 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by the department of public utilities at the time of contract approval;” ;

and further amend the bill in said section, by striking the following words, as they appear in lines 201 through 205:-

“provide an annual remuneration for the contracting distribution company of up to 2.75 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by the department of public utilities at the time of contract approval;”.

Amendment #39 to H.4377

Renewable Energy Certificates (RECs)

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by striking lines 119 through 127, inclusive, and inserting in place thereof the following words:-

“ (h) A distribution company shall sell any energy and capacity purchased under a long-term contract in the wholesale market through a competitive bid process in order to minimize the costs to ratepayers under the contract. A distribution company may elect to retain renewable energy certificates to meet the applicable annual renewable portfolio standard requirements under said section 11F of said chapter 25A. If renewable energy certificates are not so used, such companies shall sell such purchased renewable energy certificates through a competitive bid process to minimize the costs to ratepayers under the contract. Notwithstanding the previous sentence, the department of energy resources shall conduct periodic reviews to determine the impact on the energy and REC markets of the disposition of energy and RECs under this section. The department may issue reports recommending legislative changes if it determines that said disposition adversely affects the energy and REC markets.” ;

and further amend H.4377 in section 1, by striking lines 255 through 263, inclusive, and inserting in place thereof the following words: -

“ (i) A distribution company shall sell any energy and capacity purchased under long-term contracts or delivery commitments in the wholesale market through a competitive bid process in order to minimize the costs to ratepayers under the contract. A distribution company may elect to retain renewable energy certificates to meet the applicable annual RPS requirements under said section 11F of said chapter 25A. If the renewable energy certificates are not so used, such companies shall sell such purchased renewable energy certificates attributed to new class I RPS eligible resources through a competitive bid process to minimize the costs to ratepayers under the contract. Notwithstanding the previous sentence, the department of energy resources shall conduct periodic reviews to determine the impact on the energy and REC markets of the disposition of energy and RECs under this

section and may issue reports recommending legislative changes if it determines that actions are being taken that will adversely affect the energy and REC markets.”.

Amendment #40 to H.4377

Gas Leak Repair and Public Safety

Representatives Toomey of Cambridge and Chan of Quincy move that the bill be amended by inserting the following new section:-

SECTION XX. Section 144 of Chapter 164 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c)(1) Upon the undertaking of a significant project involving 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 exposing confirmed natural gas infrastructure, a municipality or the commonwealth or other entity responsible for the installation, replacement or repair shall submit written notification of the project to a gas company. The gas company shall survey the project area for the presence of gas leaks, and all leaks shall be repaired within 12 months of the date the leak was classified, with the exception of Grade 1 leaks, which shall be repaired immediately, per Section 2 (b)(1). The repair and replacement schedule of gas leaks shall be provided to the municipality or the commonwealth or other entity. 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. The gas company shall provide the repair and replacement schedule of gas leaks to the municipality or the commonwealth.

(2) Upon the undertaking of any planned project involving excavation for purposes of performing maintenance on or construction involving any gas mains or services by gas company employees, or any blasting work, the gas company shall ensure that its employees first locate and identify and mark all gas gates and valves, and verify that all are cleared, operational and accessible in clear sight at ground level in advance of any excavation; and that said gas gates and valves are left cleared, and operational following any such project.

(3) The gas company shall ensure that any shut off valve in the significant project area has a gate box installed upon it by its employees to ensure continued public safety.

(4) The gas company shall provide the municipality or the commonwealth with written confirmation that the gas gates and valves have been cleared, inspected and tested by its employees and found to be capable of accepting a gate key; and, shall provide the municipality or commonwealth with undated, correct information if the location of gates or valves is determined to have been previously improperly located.

(5) Failure to undertake verification that gas gates and valves have been cleared, and are both operational and accessible prior to the start of and following an excavation, or blasting work, shall be subject to a fine of up to $10,000. Failure to submit written confirmation of such verification shall be subject to a fine of $200 per day.

Amendment #41 to H.4377

Ensuring Timely Delivery of Clean Energy Generation Resources

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by striking, in line 146, the word:- “either”;

and further in said section 1, by striking lines 178 through 195, inclusive;

and further in said section 1, in lines 198, 199, 224, and 233, by striking the following words in each instance the words appear: - “or delivery commitment agreements”;

and further in said section 1, in lines 226 and 251, by striking the following words in each instance the words appear: - “or delivery commitment agreement”;

and further in said section 1, in line 256, by striking the words:- “or delivery commitment”;

and further in said section 1, in line 266, by striking the words: - “ or delivery commitments” .

Amendment #42 to H.4377

Ensuring Affiliated Companies don't exercise undue influence over contracts

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, by inserting in line 5, before the words "clean energy generation", the following definition:-

" 'Affiliated Company', an affiliated company as defined in section 85 of Chapter 164 of the General Laws.";

and further in said section 1, by inserting after the word "process" in lines 98 and 234, each time the word appears, the following words:- " that is not unduly influenced by an affiliated company".

Amendment #43 to H.4377

Ensuring Uniform Regulatory Requirements for Hydro & Wind

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Frost of Auburn and Smola of Warren move that the bill be amended in section 1, line 81, by striking clauses (i) through (vii), inclusive, and inserting in place thereof the following clauses: -

"(i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to reducing electricity price spikes; (iii) be cost effective to Massachusetts electric ratepayers over the term of the contract; (iv) avoid line loss and mitigate transmission costs to the extent possible; (v) allow the long-term contract price to be indexed to the wholesale market prices, as determined by the department of public utilities; (vi) guarantee energy delivery in winter months; (vii) adequately demonstrate project viability in a commercially reasonable timeframe; (viii) provide reliability, price, economic and environmental benefits to Massachusetts ratepayers, to the extent that they are quantifiable, that outweigh any costs to Massachusetts ratepayers; and (ix) where feasible, create additional employment and economic development in the commonwealth." ;

and further in said section 1, in line 211 by striking clauses (i) through (x), inclusive, and inserting in place thereof the following clauses: -

""(i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to reducing electricity price spikes; (iii) be cost effective to Massachusetts electric ratepayers over the term of the contract or delivery commitment agreement; (iv) avoid line loss and mitigate transmission costs to the extent possible; (v) allow the long-term contract price to be indexed to the wholesale market prices, as determined by the department of public utilities; (vi) guarantee energy delivery in winter months; (vii) adequately demonstrate project viability in a commercially reasonable timeframe; (viii) provide reliability, price, economic and environmental benefits to Massachusetts ratepayers, to the extent that they are quantifiable, that outweigh any costs to Massachusetts ratepayers; and (ix) where feasible, create additional employment and economic development in the commonwealth.".

Amendment #44 to H.4377

Cost-Effective Definitions

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in section 1, line 85, by striking clause (vi) and inserting in place thereof the following clause: - "(vi) provide reliability, price, and economic and environmental benefits to Massachusetts ratepayers, to the extent that they are quantifiable, that outweigh any costs to Massachusetts ratepayers;";

and further , in line 92, by inserting after the word "contracts" the following words: - "to Massachusetts ratepayers to the extent that they are quantifiable";

and further, in line 218, by striking clause (viii) and inserting in place thereof the following clause: -

"(viii) provide reliability, price, and economic and environmental benefits to Massachusetts ratepayers, to the extent that they are quantifiable, that outweigh any costs to Massachusetts ratepayers;" ;

and further, in line 226, by inserting after the words "contracts" the following words: - to Massachusetts ratepayers to the extent that they are quantifiable".

Amendment #45 to H.4377

Equitable contract requirements for Wind & Hydro

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move

that the bill be amended in Section 1, in line 84, by adding after clause (iv) the following new clause:-

“ (v) allow the long-term contract price to be indexed to the wholesale market prices, as determined by the department of public utilities;”

and further in said section 1, in line 216, by striking the following words:- “and decrease in periods of low wholesale prices”.

Amendment #46 to H.4377

Preference for Projects with more than 1 Resource

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, in line 219, by striking the following words :- “(ix) give preference for proposals that combine more than 1 renewable energy generating source”.

Amendment #47 to H.4377

Ensuring DOER doesn’t create duplicative regulations

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, in lines 66 and 196, by striking out the following words:- “and the department of energy resources each”;

and further amend said Section 1 by inserting after the words, in line 141, “purposes of this section” the following new subsection:- “(l) The department of energy resources may promulgate rules and regulations consistent with this section.”;

and further amend said Section 1 by inserting after the words, in line 277, “purposes of this section” the following new subsection:- “(m) The department of energy resources may promulgate rules and regulations consistent with this section.”.

Amendment #48 to H.4377

Ensuring the most Cost-effective Off-Shore Wind Contract for MA Ratepayers

Representatives Jones of North Reading, Hill of Ipswich, Poirier of North Attleborough, Gifford of Wareham, Frost of Auburn and Smola of Warren move that the bill be amended in Section 1, in line 48, by inserting after the words “previous solicitation”, the following words: -

“; provided, however that following the first procurement period, the levelized cost of the energy, transmission, renewable energy certificates and capacity procured pursuant to any long-term contract shall decrease with each additional solicitation and resulting procurement”.

Amendment #49 to H.4377

Clean Energy Contract Approval

Mr. Cusack of Braintree move that the bill be amended in SECTION 1 by striking out, in line 158, "2022" and inserting in place thereof the following: "2018".

Amendment #50 to H.4377

Clean Energy Solicitation Date

Mr. Cusack of Braintree move that the bill be amended in SECTION 1 by inserting, in line 143, after the word "on" the following: "or before".

Amendment #51 to H.4377

Long Term Contract Term

Mr. Cusack of Braintree move that the bill be amended in SECTION 1 by inserting after the word "years." in line 14, the following:-

"A contract may have term longer than 20 years if the department of public utilities finds that it would be more cost-effective for ratepayers when compared to other, shorter-term contracts."

Amendment #52 to H.4377

Wholesale Market Indexing

Mr. Cusack of Braintree move that the bill be amended in SECTION 1 by striking out in lines 214 through 216, the following:-

(v): allow the long-term contract price to be indexed to the wholesale market prices, as determined by the department of public utilities and decrease in periods of wholesale prices;

Amendment #53 to H.4377

Ensuring Compliance with the GWSA through Clean Energy Generation

Mr. Cusack of Braintree move that the bill be amended in SECTION 1, in line 144, by striking the following words:- "to deliver an annual amount of electricity equal to 9,450,000 megawatt-hours,";

and further in said SECTION 1, in line 157, by striking the words "equal to" and inserting in place thereof the following "at least";

and further in said SECTION 1, in line 158, after the figure 2022, by inserting the following words:-

";provided, however that the department of energy resources may determine and require subsequent solicitations and procurements beyond 9,450,000 megawatt-hours to ensure compliance with Chapter 298 of the Acts of 2008.".

Amendment #54 to H.4377

Community Empowerment

Representatives Madden of Nantucket, Haddad of Somerset and Peake of Provincetown move that the bill be amended by adding the following new sections:

SECTION 1. 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 2. 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 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 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 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.

Amendment #55 to H.4377

Community Empowerment- Barnstable, Dukes and Nantucket

Representatives Madden of Nantucket, Haddad of Somerset and Peake of Provincetown move that the bill be amended by adding the following new sections:

SECTION 1. 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 2. 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 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 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.

Amendment #56 to H.4377

Encourage reduction in carbon emissions

Mrs. Haddad of Somerset move that the bill be amended by adding the following section:-

SECTION XX. Section 22 of chapter 21A of the General Laws, as so appearing in the 2012 Official Edition, is hereby amended by inserting at the end of subsection (b) the following:-

Parcels of land on which electric generating plants previously were operated shall be designated as preferred sites for reuse as electric generation sites for all technologies. With such designation, the owner of the new generation facility, one which receives a Capacity Supply Obligation in the ISO-NE's Forward Capacity Market No. 10 or later, shall receive on January 1 of each of the first five years that the new facility has achieved commercial operation, from the Commonwealth at no cost to the owner, emission allowances to be used under the Regional Greenhouse Gas Initiative, or successor program, during such first five years of commercial operation, if said new electric generation facility is able to demonstrate documented reduction in the emissions rate of 33 1/3 percent using as a baseline the average emission rate of the electric generating plant previously operated on such site during its last 24 months of operation. The total number of the emission allowances that may be granted by the commonwealth in any calendar year under this section shall be limited to one-third of the total number of allowances allocated to the commonwealth, with no new facility receiving more than 1,000,000 allowances in any such calendar year.

Amendment #57 to H.4377

Encourage the development of cleaner energy facilities

Mrs. Haddad of Somerset move that the bill be amended by adding the following section:-

SECTION XX. Section 69H of Chapter 164 of the General Laws, as so appearing in the 2014 Official Edition, is hereby amended by inserting at the end of the first paragraph the following:-

; provided, however, repowered facilities demonstrating at least a 33 1/3 percent reduction in CO2 emissions compared to the previous 10 year average of said facility shall not be subject to sections 69H to 69Q, inclusively.

Amendment #58 to H.4377

Performance Standards for Transportation Energy Diversity

Representatives Bradley of Hingham, Walsh of Framingham, Holmes of Boston, Rushing of Boston, Jones of North Reading, Cutler of Duxbury, Kafka of Stoughton, Timilty of Milton and Howitt of Seekonk move that the bill be amended by inserting at the end the following:-

Chapter 21A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by adding the following new section:-

SECTION 27. (a) Non-exclusive access to rights-of-way in the Commonwealth of Massachusetts may be granted to mobility network providers meeting the following criteria:

(1) Privately funded construction;

(2) Privately operated without government subsidies;

(3) Exceed 120 passenger-miles per gallon, or equivalent energy efficiency;

(4) Exceed safety performance of transportation modes already approved for use, and

(5) Gather more than 2 megawatt-hours of renewable energy per network-mile per typical day.

(b) The Executive Office of Energy and Environmental Affairs shall promulgate rules or regulations for alternative mobility networks based on the following criteria:

(1) System design, fabrication, installation, safety, insurance, inspection practices consistent with the ASTM (American Society for Testing and Materials) International Committee F24 on Amusement Rides and Devices;

(2) Environmental approvals will be granted based on a ratio of energy consumed per passenger-mile of the innovation versus transport modes approved to operate in the rights-of-way; and

(3) All taxes and fees assessed on the transport systems providers, passengers and cargo shall be limited to 5% of gross revenues and paid to the aggregate rights-of-way holders by Personal Rapid Transit (PRT) providers.

Amendment #59 to H.4377

Protecting Ratepayers from Subsidizing Gas Pipelines

Mr. Toomey of Cambridge move that the bill be amended by adding the following section:-

"Section XX. 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.”

Said section 94A of said chapter 164 is further amended by inserting, in line 15, after the sentence ending “null and void.” the following sentence: “No gas company may contract for electricity pursuant to this section; and no electric company may contract for gas pursuant to this section.”

Amendment #60 to H.4377

Rate Payer Protection From Pipeline Costs

Mr. Lyons of Andover move that the bill be amended by adding the following new section:-

“Section XXXX. 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."

Amendment #61 to H.4377

Maintaining available net metering capacity of Nantucket Electric

Mr. Madden of Nantucket move that the bill be amended by adding the following new section:

SECTION XXXX: 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.