

BILL SUMMARY

BILL NO:

House 3965

TITLE:

The Green Communities Act of 2007

SPONSOR:

Speaker DiMasi, et. al.

COMMITTEE:

Telecommunications, Utilities and Energy

HEARING DATE:

Monday, April 2, 2007

SIMILAR MATTERS:

None

PRIOR HISTORY:

New Bill

CURRENT LAW:

General Law chapters 25, 25A, 40J, 164, 166A, etc., and numerous Special Acts.

SUMMARY:

SECTION 1: This section directs the state to replace state-owned and operated vehicles, with vehicles having above-average fuel efficiency for new vehicles within their size class, as determined by the federal government.

SECTION 2: Directs the Commissioner of the Division of Capital Asset Management to minimize life-cycle costs in new construction.

SECTION 3: Office of the Ratepayer Advocate under the Attorney General.

SECTION 4: Technical change amending Chapter 21A regarding the new Department of Clean Energy.

SECTION 5: Amends Chapter 21A by adding the following new section:

Section 21: Requires the Secretary of the Executive Office of Energy and Environmental Affairs to design and implement a bidding process for competitive procurement of electric generation.

SECTION 6: Give the DPU authority to periodically audit utility companies.

SECTION 7: Adds Section 18A to Chapter 25 that allows assessments to be collected from steam distribution companies under the jurisdictional control of the DPU.

SECTION 8: This section requires the Executive Office to require a mandatory charge per kilowatt-hour for all electricity and gas consumers of the Commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to fund energy efficiency activities.

SECTION 9: Amends Chapter 25 by striking out section 20 and replacing it with the following section:

Section 20: This section requires the Executive Office to require a mandatory per kilowatt-hour for all electricity consumers of the Commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of clean and renewable energy projects.

SECTION 10: Amends Chapter 25 by adding the following new sections:

Section 21: Directs the Department of Public Utilities to ensure that the Commonwealth's electric and natural gas resource needs will first be met through all available energy efficiency and demand resources that are less expensive than supply. The cost of supply will be determined by the Department with consideration of the average cost of generation to all customer classes over the previous 24 months. No later than March 20, 2008 and every three years afterwards, the electric distribution utilities and municipal aggregators with certified efficiency plans will jointly prepare an electric Efficiency Investment Plan and the natural gas distribution utilities will jointly prepare a gas plan.

Section 22: Establishes the Energy Efficiency Advisory Council.

Section 23: Definitions.

Section 24: Prohibits ExParte communication during proceedings.

SECTION 11: This section establishes the Department of Clean Energy within the Executive Office of Energy and Environmental Affairs and vests in the Department all of the duties and authority currently vested with the Division of Energy Resources. Within the Department of Clean Energy there will be three divisions: a Division of Energy Efficiency, a division of Renewable and Alternative Energy Development, and a Division of Green Communities.

SECTION 12: Technical change regarding Chapter 25A reference of Division of Energy Resources to Department of Clean Energy.

SECTION 13: Adds the definition of energy savings.

SECTION 14: Technical change regarding annual report from the Department of Clean Energy.

SECTIONS 15-19: Technical change regarding Chapter 25A reference of Division of Energy Resources the Department of Clean Energy.

SECTION 20: Amends Chapter 25A, Section 11F by striking out paragraphs (a) and (b) and inserting the following paragraphs:

(a) This section amends the existing Renewable Energy Portfolio Standard. It states that the Department of Clean Energy will 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 will determine the actual percentage of kilowatt-hour sales to end-use customers in the Commonwealth that is derived from existing renewable energy generating sources. Every retail supplier will provide a minimum percentage of kilowatt-hour sales to end-use customers in the Commonwealth from new renewable energy generating sources following a schedule.

(b) Defines a renewable energy generating source or a Class I source.

(c) On or before January 1, 2008, a new renewable energy generating source meeting certain requirements will be known as a Class I renewable energy generating source. It is defined as a renewable energy generating source that begins commercial operation after December 31, 1997, or the net increase of incremental new generating capacity after December 31, 1997 at an existing facility.

(d) Commencing on January 1, 2009, every retail supplier providing service under contracts executed or extended on or after January 1, 2009, will also provide a minimum percentage of kilowatt-hour sales to end-use customers in the Commonwealth from Class II renewable energy generating sources. Defines a Class II renewable energy generating source.

(e) On or before June 30, 2008, the Department of Clean Energy will determine the actual percentage of kilowatt-hour sales to end-use customers in the commonwealth which was derived from Class II generating sources in 1998. On or before January 1, 2009, every retail supplier shall annually provide the end-use customers in the Commonwealth, generation attributes from Class II energy facilities in the amount equal *to* the percent of the kilowatt-hour sales from Class II

energy generating sources in 1998, and shall provide at least that percentage *of* Class II generation attributes each year thereafter.

SECTION 21: Establishes an alternative energy portfolio standard for all retail electricity suppliers selling electricity the end-use customers in the commonwealth.

SECTION 22: Repeals Chapter 25A, Section 11 G.

SECTION 23: Technical change regarding Chapter 25A references of the Division of Energy Resources to the Department of Clean Energy.

SECTION 24: Renewable energy generation outside of ISO New England.

SECTION 25: Technical changes regarding the committee structure in the Legislature.

SECTION 26: Amends Chapter 25A by adding the following new sections:

Section I4(a): Defines terms pertaining to energy management services.

Section I4(b): Authorizes a public agency to contract for energy management services for a term often years.

Section 14(c): The provisions of this subsection will be applicable to a government body.

Section 14(d): A public agency may cancel a request for proposals when it determines that the cancellation or rejection may serve the best interests of the public agency.

Section 14(e): Authorizes the Secretary of the Executive Office of Energy and Environmental Affairs with power enforcement program.

Section 15(a): Defines terms pertaining to energy management services.

Section I5(b): Establishes an alternative to a public agency to the procurement process by establishing a request for qualifications process.

Section I5(c): A public agency may cancel a request for qualifications when it determines that the cancellation or rejection may serve the best interests of the public agency.

Section 15(d): The public agency will negotiate a contract with the most qualified person at compensation which the public agency determines is fair, competitive, and reasonable.

Section 15(e): Mandates that agency decisions regarding selection of providers are final.

Section 15(f): The public agency will provide public notice of the meeting at which it proposes to award the guaranteed energy savings contract, or the parties to the proposed contract, and of the purpose of the contract. This will be made at least ten days before the meeting.

Section 15(g): Proscribes what guaranteed energy savings contracts will include. The guaranteed energy savings contract will include a written guarantee of the qualified provider that either the amount of energy savings guaranteed will be achieved or the qualified provider will reimburse the public agency for the shortfall amount.

Section 15(h): Payments under a contract for energy management services may be based in whole or in part on any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to the contractor's services that are aimed at energy and water savings.

Section 15(i): Mandates all requirements under contract are in writing.

Section 15(j): Mandates qualified providers to be bonded.

Section 15(k): Guaranteed energy savings contracts may extend beyond the fiscal year in which they become effective.

Section 16: This section establishes a Green Communities Division within the Department of Clean Energy.

Section 16(a): Establishes factors that communities must meet in order to establish a green community certification.

Section 16(b): Defines the purpose of the green communities program to provide financial assistance, finance costs, and award grants to provide technical assistance to municipalities and other governmental bodies that qualify as green communities.

Section 16(c): Specifies how communities will qualify for participation in the green communities program. In order to qualify as a green community a municipality must:

1. file an application with the Division; and
2. accept a designation as a qualifying clean energy community by the clean energy facility site screening committee established pursuant to section 20 and permit the construction of a minimum of 1 clean energy generating facility within the community on municipally or privately owned real property identified by the secretary as real property which could potentially be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy manufacturing facilities pursuant to section 20; or
3. adopt an expedited application and permitting process pursuant to which clean energy generating facilities or clean energy research and development or manufacturing facilities may be sited within the municipality; provided, however, that said process shall not exceed 1 year from the date of initial application to the date of final approval; provided, further, that in lieu of adopting such an expedited application and permitting process a municipality may agree to transfer the right, without recourse to the municipality, to site clean energy generating facilities

within the municipality to the energy facilities siting board established pursuant to section 64H of chapter 164; or

4. agree to enter into a contract wherein the municipality shall purchase a fixed percentage of electricity consumed by municipally owned buildings, street and traffic lights from clean energy generating sources; provided, however, that the maximum percentage of clean energy generation required to satisfy the provisions of this subsection shall not exceed 20 per cent of a municipality's total electric load as determined by the Division.

Section 16(d): Establishes funding priorities for the green communities program. Consideration will be given to whether municipalities have undertaken any other initiatives to reduce energy consumption, promote energy conservation, or promote the development of clean energy generating facilities.

Section 16(e): Authorizes the Division to establish guidelines regarding energy conservation measures and projects.

Section 16(f): The total amount of funding available for the green communities program in a fiscal year will not exceed 50 percent of the revenues generated annually by the Massachusetts Renewable Energy Trust Fund and up to 100 percent of the revenues generated by the alternative compliance payment funds, and equal or no less than \$20 million from the Massachusetts Alternative and Clean Energy Investment Trust.

Section 16(g): Exempts municipalities served by municipal lighting plants from participation in the green communities program.

Section 16(h): Authorizes the Division to establish rules and guidelines for the administration of the program.

Section 17: The Division will design and implement a competitive procedure for the procurement of electric generation from clean energy generating facilities on behalf of municipalities seeking assistance with the procurement. Any competitive bids received will include payment options with rates that remain uniform for a minimum of 5 years. In place of designing and implementing a competitive bidding process, the Director may become a member of one or more programs organized and administered by the Massachusetts Health and Educational Facilities Authority or its subsidiary organization for the purpose of competitive group purchasing of electricity.

Section 18: Establishes a clean energy site screening committee consisting of 7 members. The committee will develop a state wide list of public and private real property which could be utilized to site clean energy generating facilities, clean energy research and development facilities, and clean energy manufacturing facilities and submit an annual list of such facilities to the Secretary of Energy and Environmental Affairs. The committee will also annually submit a written report of its activities to the House and Senate Chairs of Ways and Means, the Chairs of the Joint Committee on Telecommunications, Utilities, and Energy, and the House and Senate Clerks.

SECTION 27: Amends Chapter 40J by striking out section 4E and replaces it with the following:

Section 4E: (a) This section establishes the Massachusetts Renewable Energy Trust Fund, the purpose of which shall be to provide financial assistance in the forms of grants and loans to finance the costs of renewable energy activities. The fund, which is currently under the control of the Massachusetts Technology Park Corporation, is moved and placed under the supervision and control of the Undersecretary for Alternative and Renewable Energy Development.

(b) This section also requires that 50 percent of the fund shall be used for to fund the green communities program, 20 percent of the fund shall be used to fund residential installation of renewable energy technologies: 10 percent in the form of grants to residential customers and 10 percent in the form of low interest loans to residential customers, and 10 percent of the fund shall be used to establish a green buildings program.

(c) The Department will develop a list of qualified, registered home improvement contractors that are qualified to construct, install, and complete renewable energy projects.

(d) Defines renewable and alternative energy technologies eligible for assistance.

(e) Makes available no more than \$3 million annually of the Massachusetts Renewable Energy Trust Fund money for grants, loans, or other support for upgrades to increase the efficiency and/or capacity and to reduce the environmental impacts of hydroelectric facilities located in the Commonwealth. This pertains to hydroelectric facilities constructed prior to January 1, 1998, that could be improved through upgrades that benefit the environment and the Commonwealth's economy.

SECTION 28: This section adds the definitions of "alternative fuel vehicle" and "hybrid vehicle" to Chapter 62 of the General Laws relative to the taxation of personal income.

SECTION 29: This section amends the chapter relative to the taxation of personal income by adding an income tax deduction of \$2,000 for an individual who purchases a hybrid or alternative fuel vehicle.

SECTION 30: This section amends the corporate tax law by creating a credit for the installation of solar water heating systems. A credit of the lesser of \$300 or 15 percent could be claimed *for* the cost of retail purchase and installation of such systems, subject to rules and regulations to be promulgated by the Department of Revenue.

SECTION 31: Mandates home energy scoring.

SECTION 32: This section is a technical change requiring the State Board of Building Regulations and Standards to revise and amend the energy conservation code every five years.

SECTION 33: This section requires amendment of the energy conservation code every three years.

SECTION 34: Adds the definition of "basic service".

SECTION 35: Deletes the definition of "default service".

SECTION 36: Adds "steam distribution company" to the list of Chapter 164 definitions.

SECTION 37: Amends Chapter 164 definitions.

SECTION 38: Each distribution, transmission, and gas company will file a report with the Department by March 1 of each year comparing its performance during the previous calendar year to the Department's service quality standards and any applicable national

standards adopted by the Department. The Department will levy a penalty against any company that fails to meet the service quality standards in an amount up to and including the equivalent of 5 percent of the company's transmission and distribution service *for* the previous calendar year.

SECTION 39: This section is a technical change in Chapter 164 striking references to the Division of Energy Resources and replacing it with the Department of Clean Energy.

SECTIONS 40-42: Technical change striking reference to default service and standard *offer*.

SECTION 43: Technical changes regarding the committee structure in the Legislature.

SECTION 43A: Long term contract language.

SECTION 44: This section amends the Energy Facilities Siting Board statute to include a definition *for* "clean energy generating unit".

SECTION 45: This section is a technical change amending the definition of a "generating facility".

SECTION 46: Technical change regarding Chapter 164 reference of Division of Energy Resources to Department of Clean Energy.

SECTIONS 47-48: Adds steam distribution company to Section 76D of Chapter 164.

SECTION 49: Establish inspection and maintenance standards for utilities.

SECTION 50: Authorizes the Department of Public Utilities oversight over "holding companies" in sales/mergers.

SECTION 51: Requires that each meter for measuring gas or electricity provided to a consumer by a gas company, an electric company, or a municipal lighting plant will be replaced every seven years. Failure to comply with this section will result in a fine of

\$50.

SECTION 52: Any gas company found to have not repaired streets after excavation will be subject to a \$1,000 fine.

SECTION 53: This section is a technical change in Chapter 164 striking references to the Division of Energy Resources and replacing it with the Department of Clean Energy.

SECTION 54: Technical change replacing standard offer with basic service.

SECTION 55: Amends Chapter 164 by adding the following new sections:

Sections 138-140: These sections establish net metering.

Sections 141-142: Promotes on-site generation through financial incentives. The Department will continue to remove any impediments to the development of efficient, low-emissions distributed generation taking into account the need to appropriately allocate any associated costs in a fair and equitable manner.

SECTION 56: Adds Chapter 164B to Chapter 164 that allows DPU oversight of steam distribution companies.

SECTION 57: No member or employee of the Department of Public Utilities or the Department of Clean Energy, within one year after his service has ceased or terminated, will be employed by or lobby the office on behalf of any company or regulated industry over which that office had jurisdiction during the tenure of such member of the office.

SECTION 58: This section establishes an energy facilities siting commission, the purpose of which shall be to study the development of a procedure for coordinating and consolidating applications for construction of generating facilities in the Commonwealth.

SECTION 59: This section requires each electric and gas company operating in the Commonwealth to provide the Secretary of the Executive Office of Energy and Environmental Affairs with a progress report, no later than September 1, 2007, detailing the status of their respective arrearage management programs, aimed at assisting low income customers with overdue payments and helping prevent shut offs, required pursuant to Chapter 140 of the Acts of 2005. This section directs the Secretary to annually review these progress reports, and order the electric and gas utilities to make revisions or modifications to their arrearage management programs as deemed appropriate.

SECTION 60: This section directs the Secretary of the Executive Office of Energy and Environmental Affairs to implement a Pay-As-You-Save pilot program. The program allows buildings owners and tenants to purchase and install renewable energy products with no up-front payment or debt commitment. A charge is added to the residential, commercial or industrial electric utility customer's bills for as long as the owner or tenant occupies the building. This section directs the Department to open a proceeding to establish a PAYS tariff for each electric distribution company. The Department is directed to implement a payment structure that accounts for and offsets the cost purchase and installation by the annual cost of energy savings

over the course of a year. The Secretary is directed to fund the program from a percentage of the energy efficiency systems-benefit-charge. The pilot program shall be implemented no later than July 1, 2007 and shall expire on July 1, 2008.

SECTION 61: This section directs the Secretary of the Executive Office of Energy and Environmental Affairs to implement a state-wide Demand Response two year pilot program to test the impact of automated controls equipment to measure customer peak demand, the impact of information and feedback on household peak demand, and customer acceptance and preference for demand response options. This section directs the Secretary to submit a report to the legislature no later than February 1,2010, detailing the operation and results of the program, including information concerning changes in customers' energy use patterns, an assessment of the value of the program to both participants and non-participants, and recommendations concerning modification of the program.

SECTION 62: Requires the Secretary of Energy and Environmental Affairs to make recommendations regarding what supplemental funds, if any, will be expended for the Low Income Home Energy Assistance Program. The recommendations will include recommended funding levels and funding sources. The Secretary will submit the plan to the Joint Committee on Telecommunication, Utilities, and Energy before October 1, 2008.

SECTION 63: Provides retail access to competitive suppliers of renewable energy.

SECTION 64: Establishes a special commission to study the use of construction and demolition (C&D) material in the renewable portfolio standard.

SECTION 65: Establishes a home energy scoring program.

SECTION 66: Directs the Department of Clean Energy to institute rulemaking to investigate the use of non-sustainable harvested virgin wood as biomass in the renewable portfolio standard.

SECTION 67: This section requires the Department of Public Utilities to re-establish the HEAT Loan program, to assist consumers with the purchase of energy efficient items for residential home modifications through low-interest loans.

SECTION 68: Establishes the Massachusetts Clean Energy Plan and Energy Advisory Board.

SECTION 69: Requires the Department of Public Utilities to file a report with the Department of Clean Energy on the effectiveness of energy efficiency programs.

SECTION 70: March 31,2009 will be the effective date of the \$300 solar water heater tax credit.