

HOUSE No. 2894

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act creating a green bank to promote clean energy in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>

HOUSE No. 2894

By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 2894) of Paul W. Mark and others relative to creating a green bank to evaluate and coordinate financing for energy improvements and energy technologies throughout the Commonwealth. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act creating a green bank to promote clean energy in Massachusetts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter 21A the following
2 chapter:-

3 CHAPTER 21B.

4 THE MASSACHUSETTS GREEN ENERGY DEVELOPMENT BANK.

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

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

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

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

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

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

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

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

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

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

47 Section 3. (b) The bank shall be governed and its corporate powers exercised by a
48 board of directors known as the Massachusetts Green Energy Finance Board. The board shall
49 consist of 7 members appointed by the governor for a term of 4 years, 1 of whom shall be the
50 commissioner of banks, who shall serve ex officio, 1 of whom shall be the secretary of energy
51 and environmental affairs, who shall serve ex officio, 1 of whom shall be the executive director
52 of the Massachusetts clean energy technology center, 2 of whom shall be experienced in the field
53 of public or private finance and management, and 2 of whom shall be engineers with at least 10
54 years' experience in the field of renewable energy or energy efficiency. The members shall

55 annually elect a chairperson and vice-chairperson of the board. Each director shall serve without
56 compensation but may be reimbursed for actual and necessary expenses reasonably incurred in
57 the performance of their duties, including reimbursement for reasonable travel; provided,
58 however, that such reimbursement shall not exceed \$3000 annually. Any person appointed to fill
59 a vacancy in the office of a member of the board shall be appointed in a like manner and shall
60 serve for only the unexpired term of such former member. Any director shall be eligible for
61 reappointment. Any director may be removed from his appointment by the governor for cause.

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

72 (d) Chapters 268A and 268B shall apply to all ex-officio directors and employees
73 of the bank. Said chapters 268A and 268B shall apply to all other directors, except that the bank
74 may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person
75 in which any director of the bank is in any way interested or involved; provided, however, that
76 such interest or involvement is disclosed in advance to the members of the board and recorded in
77 the minutes of the board; and provided, further, that no director having such an interest or

78 involvement may participate in any decision of the board relating to such person. Employment
79 by the commonwealth or service in any agency thereof shall not be deemed to be such an interest
80 or involvement.

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

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

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

99 (h) Board members and officers who are not compensated employees of the bank
100 shall not be liable to the commonwealth, to the bank or to any other person as a result of their
101 activities, whether ministerial or discretionary, as such board members or officers except for
102 willful dishonesty or intentional violations of law. Neither members of the board nor any person
103 executing bonds or policies of insurance shall be liable personally thereon or be subject to any
104 personal liability or accountability by reason of the issuance thereof. The board may purchase
105 liability insurance for board members, officers and employees of the bank and may indemnify
106 such persons against claims of others.

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

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

112 (1) adopt and amend by-laws, regulations and procedures for the governance of its
113 affairs and the conduct of its business for the administration and enforcement of this chapter;
114 provided, however, that regulations adopted by the bank shall be adopted pursuant to chapter
115 30A;

116 (2) exercise any powers necessary for the commonwealth to be in compliance
117 federal law;

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

120 (4) promote economy and efficiency and to leverage federal funding and private
121 sector investment;

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

124 (6) establish criteria and establish procedures for project selection for use in
125 selecting qualifying energy improvements and energy technologies to receive funds pursuant to
126 section 5;

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

130 (8) institute and administer separate accounts and funds for the purposes of
131 making allocations, grants or loans to qualifying energy improvements and energy technologies
132 to receive funds pursuant to section 5;

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

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

136 Section 5. (a) The bank may set up and maintain such separate funds and accounts
137 as are necessary to provide and direct funding to qualifying energy improvements or energy
138 technologies. Such funds or accounts shall be credited with any appropriations authorized by the
139 general court, bond or note proceeds, grants, gifts, donations, bequests or other monies received

140 in accordance with the law. The bank may make loans from such funds or accounts, in
141 accordance with the terms of subsection (c).

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

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

155 Section 6. The board may issue rules and regulations as necessary to implement
156 this chapter.