

SENATE No. 1329

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

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

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

An Act relative to the equitable taxation of solar systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>

SENATE No. 1329

By Mr. Downing, a petition (accompanied by bill, Senate, No. 1329) of Benjamin B. Downing, Patricia D. Jehlen and James B. Eldridge for legislation relative to the equitable taxation of solar and wind powered systems. Revenue.

The Commonwealth of Massachusetts

_____ **In the Year Two Thousand Thirteen** _____

An Act relative to the equitable taxation of solar systems.

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

1 SECTION 1. Section 2B of chapter 59 of the General Laws, as so appearing, is hereby
2 amended by inserting after the word " of, in line 2, the following words:- a governmental entity,
3 including.

4 SECTION 2. Said section 2B of said chapter 59 , as so appearing, is hereby further
5 amended by inserting after the word "public", in line 37, the following words:-, to a use, lease or
6 occupancy for renewable generation facilities, defined as eligible under subsection (c) of section
7 1 IF of chapter 25 A, from which not less than 50 per cent of the energy output is assigned to
8 either the municipality in which the facility is located or to the governmental entity that owns the
9 land on which the facility is located.

10 SECTION 3. Section 5 of said chapter 59, as so appearing, is hereby amended by striking
11 out clause Forty-fifth and inserting in place thereof the following clause:-

12 Forty-fifth, Any solar or wind powered system that is capable of producing not more than
13 125 per cent of the annual energy needs of the property upon which it is located, including
14 contiguous property under the same ownership and is behind the meter serving the energy needs
15 of that property. All other solar and wind powered systems shall also be exempt provided that the
16 owner has made to the city or town where the system is located a payment in lieu of taxes, equal
17 to 6 per cent of the system's gross electricity sales, including receipt of net metering credits as
18 defined in section 138 of chapter 164, in the preceding calendar year. For years 1 and 2, the
19 payments shall be annualized based on gross estimated sales derived from a formula to be
20 determined by the department of revenue, in consultation with the department of energy

21 resources. An exemption under this clause shall be allowed only for a period of 20 years from the
22 date of operation of such system. This clause shall not apply to projects developed under section
23 1A of said chapter 164.

24 Any payment in lieu of taxes due under this clause shall be included in the tax base for
25 purposes of determining the levy ceiling and levy limit under section 21C and in determining
26 minimum residential factor and classification of property under section 1A of chapter 58 and
27 section 56 of chapter 40. The department of revenue may issue guidelines for implementing the
28 provisions of this requirement consistent with preserving the payment in lieu of taxes amount in
29 the local tax base.

30 SECTION 4. Subsection (b) of section 38H of said chapter 59, as so appearing, is hereby
31 amended by inserting after the first sentence the following sentence:- For purposes of this
32 section, a generation facility shall not include a facility powered by sun or wind to generate
33 electricity.

34 SECTION 5. Clause Forty-fifth of section 5 of chapter 59 of the General Laws shall not
35 apply to projects developed under section 139 of chapter 164 of the General Laws which have a
36 signed agreement with the city or town to make a payment in lieu of taxes as of the effective date
37 of this act.

38 SECTION 6. Notwithstanding clause Forty-fifth of section 5 of chapter 59 of the General
39 Laws, any payment in lieu of taxes agreements currently under contract between a municipality
40 and a developer of solar and wind projects that expires prior to 2032 may be negotiated up to the
41 terms in place as of the effective date of this act.

42 SECTION 7. This act shall be repealed on December 31, 2017.