

SENATE No. 1412

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 to Promote the development of a renewable energy facility at Devens.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	Middlesex and Worcester
Jennifer Benson	37th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROMOTE THE DEVELOPMENT OF A RENEWABLE ENERGY FACILITY AT DEVENS.

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

1 It is hereby found that the stimulation and strengthening of the commonwealth's economy by the
2 encouragement of increased opportunities for gainful employment is an important governmental function.

3 It is hereby further found that there exists a need for the location and expansion of renewable
4 energy facilities in the commonwealth which will result in job creation.

5 It is hereby further found that the Devens Regional Enterprise Zone is a uniquely important
6 presence in the commonwealth and reflects the commonwealth's commitment to the creation and
7 promotion of economic development and job creation, through a streamlined permitting process and a
8 reuse plan that encourages industrial, commercial and manufacturing uses.

9 It is hereby further found that a parcel of land within the Devens Regional Enterprise Zone, known
10 as Lot 2, Barnum Road, has been designated for the location and construction of a renewable energy
11 manufacturing facility to provide gainful employment opportunities and other economic benefits to the
12 Devens Regional Enterprise Zone and the commonwealth.

13 It is hereby further found that certain infrastructure improvements are necessary to enable the
14 construction and operation of such renewable energy manufacturing facility at the Devens Regional
15 Enterprise Zone.

16 It is hereby further found that Massachusetts Development Finance Agency, as the owner and
17 developer of the land designated for the renewable energy manufacturing facility, is uniquely qualified
18 and situated to effectuate or further such infrastructure improvements.

19 SECTION 1. As used in the act, the following terms shall, unless otherwise required, have
20 the following meanings:

21 “Chapter 23G” shall mean chapter 23G of the General Laws, as amended and in effect from time to
22 time.

23 “Devens”, the Devens Regional Enterprise Zone, as established by chapter 498 of the Acts of
24 1993, as amended and in effect from time to time.

25 “Project”, the design, planning, permitting, site preparation, construction, development, and
26 operation of infrastructure and other improvements at Devens and upgrades to the existing electric and
27 gas utility systems serving Devens, to support the operation of a renewable energy manufacturing facility
28 to be located at Lot 2, Barnum Road, Devens, or reasonably required to facilitate complete development,
29 construction, and operation of such a facility.

30 “MassDevelopment”, the Massachusetts Development Finance Agency, created and existing under
31 chapter 23G of the General Laws.

32 SECTION 3 –Section 38N of Chapter 63 is amended by adding the following definition:

33 “Renewable Energy Project Taxpayer”, the taxpayer who pays for the design, planning, permitting,
34 site preparation, construction, development, and operation of infrastructure and other improvements at
35 Devens and upgrades to the existing electric and gas utility systems serving Devens, to support the
36 operation of a renewable energy manufacturing facility to be located at Lot 2, Barnum Road, Devens, or
37 reasonably required to facilitate complete development, construction, and operation of such a facility.

38 SECTION 4. Section 38N of Chapter 63 is amended by adding the following sentence:

39 Notwithstanding subsections (b) to (d), inclusive, of this section, in the event that a credit allowed under
40 this section exceeds the tax otherwise due under said chapter 63, the balance of that credit shall be
41 refundable to the renewable energy project taxpayer in the taxable year in which qualified property giving
42 rise to that credit is placed in service, provided however:

43 (a) this section shall apply only to credits generated by the project;

44 (b) over a period not to exceed five years after the date of occupancy of the completed project,
45 the taxpayer shall commit in writing to the cumulative investment of not less than \$150 million in the
46 project, and the creation, cumulatively, of not fewer than 350 new jobs involving permanent full-time
47 employees, both direct and contracted, and these jobs shall be located at the project site;

48 (c) if the commissioner of the department of revenue determines at any point within three years
49 after the expiration of the period specified in paragraph (b) that the taxpayer has not fulfilled the new job
50 commitments specified in this section, the commissioner shall, at the time of this determination and
51 without regard to limitations on the period of assessment otherwise applicable under [section 26 of chapter](#)
52 [62C](#) of the General Laws, assess the taxpayer an amount of tax equal to:

53 (i) if the taxpayer has not created at least 245 new jobs in the 5-year period in connection with
54 the project, the cumulative credits refunded to the taxpayer under section 38N of chapter 63 of the
55 General Laws in connection with the project; or

56 (ii) if the taxpayer has created at least 245 new jobs in the 5-year period in connection with the
57 project but fewer than 350 new jobs, the cumulative credits refunded to the taxpayer under said
58 section 38N of said chapter 63 multiplied by a ratio, the numerator of which is the number by
59 which the new jobs created is less than 350 and the denominator of which is 350;

60 (d) in the event that the taxpayer is assessed a tax under paragraph (c), the taxpayer shall be
61 allowed to offset the tax using any credits to which the taxpayer would have otherwise been entitled,
62 before the commissioner's determination, in the absence of this section, and shall be entitled to carry over
63 any additional credits to which the taxpayer would have otherwise been entitled as provided in
64 subsections (b) and (d) of said section 38N of said chapter 63;

65 (e) The total value of credits refunded under provision of this act may not exceed \$2,500,000.

66 (5) at any point during the period specified in paragraph (c), the taxpayer shall promptly make available
67 to the commissioner, upon his or her request, records that the commissioner may require to confirm
68 compliance with the commitments and other provisions of this section; and

69 (6) nothing in this section shall limit the potential recapture of credits taken by a taxpayer, as provided in
70 subsection (a) and in subsection (e) of section 31A of said chapter 63.

71 SECTION 4. This act shall take effect upon its passage.