

SENATE . . . . . No. 1763

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 relative to clarifying property tax exemptions for solar and wind systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Michael J. Rodrigues	First Bristol and Plymouth	
Anne M. Gobi	Worcester, Hampden, Hampshire and Middlesex	
Bruce E. Tarr	First Essex and Middlesex	1/30/2019
Paul A. Schmid, III	8th Bristol	1/23/2019
Patrick M. O'Connor	Plymouth and Norfolk	1/30/2019
Donald F. Humason, Jr.	Second Hampden and Hampshire	2/1/2019
Mark C. Montigny	Second Bristol and Plymouth	1/30/2019
Michael O. Moore	Second Worcester	2/1/2019
Eric P. Lesser	First Hampden and Hampshire	2/1/2019
Thomas M. Stanley	9th Middlesex	2/1/2019

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By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1763) of Michael J. Rodrigues, Anne M. Gobi, Bruce E. Tarr, Paul A. Schmid, III and other members of the General Court for legislation relative to clarifying property tax exemptions for solar and wind systems. Revenue.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 2364 OF 2017-2018.]

**The Commonwealth of Massachusetts**

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

An Act relative to clarifying property tax exemptions for solar and wind 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 5 of chapter 59 of the General Laws, as appearing in the 2016  
2   Official Edition, is hereby amended by striking out clause Forty-fifth and inserting in place  
3   thereof the following clause:-

4           Forty-fifth, A solar or wind powered system that is capable of producing not more than  
5   125 per cent of the annual electricity needs of the real property upon which it is located;  
6   provided, however, that the real property shall include contiguous or non-contiguous real  
7   property within the same municipality that is owned or leased by the owner of the real property.

8           Any other solar or wind powered system capable of producing more than 125 per cent of  
9   the annual electricity needs of the real property upon which it is located shall be taxable unless

10 the owner of a solar or wind powered system has executed an agreement for payment in lieu of  
11 taxes with the municipality where such system is located or made a payment to said municipality  
12 where such system is located in accordance with an agreement for payment in lieu of taxes. A  
13 municipality, acting through the board or officer authorized by its legislative body, may execute  
14 an agreement for the payment in lieu of taxes with the owner of a solar or wind powered system  
15 in the municipality where the solar or wind powered system is located; provided, however, that,  
16 unless otherwise provided by the agreement, a notice of the payment in lieu of tax owed for each  
17 fiscal year shall be mailed to the owner and due on the dates by which a tax assessed under this  
18 chapter would be payable without interest.

19 An exemption under this clause shall be allowed only for a period of 20 years from the  
20 date of installation of the system; provided, however, that upon a written agreement between the  
21 owner of the solar or wind powered system and the municipality where the system is located, an  
22 exemption with a period greater than 20 years may be allowed; provided further, that an  
23 exemption shall not be allowed for any year within that period where the solar or wind powered  
24 system is not capable of producing energy as required by this clause.

25 This clause shall not apply to: (i) projects developed under section 1A of chapter 164; or  
26 (ii) solar and wind powered systems, including projects developed under section 139 said of  
27 chapter 164, for which the owner has executed an agreement with the municipality to make a  
28 payment in lieu of taxes under subsection (b) of section 38H of chapter 59 before July 1, 2020.

29 SECTION 2. Section 38H of said chapter 59, as so appearing, is hereby amended by  
30 inserting after the word “thereof”, in line 91, the following words:- ; provided, however, that for

31 the purposes of this subsection, a “generation facility” shall not include a facility that generates  
32 electricity through solar or wind power.

33 SECTION 3. (a) The department of revenue, in consultation with the department of  
34 energy resources, shall solicit input from the public and issue guidance on the method for the  
35 valuation and assessment of taxes on solar and wind facilities capable of producing more than  
36 125 per cent of the annual energy needs of the real property on which they are located. The  
37 guidance may include, but shall not be limited to: (i) standardized formulas for the calculation of  
38 property taxes; (ii) recommendations from state and regional stakeholders on the appropriate  
39 terms and schedule for payment in lieu of tax agreements; and (iii) guidelines for a standardized  
40 payment in lieu of taxes agreement, which may be based on a specified payment rate per kilowatt  
41 alternating current of installed rated capacity of the solar or wind powered system or such  
42 system's annual gross electricity revenues, including any receipt of net metering credits as  
43 defined in section 138 of chapter 164 or Massachusetts RPS-eligible renewable energy  
44 certificates received by the owner of a solar or wind powered system.

45 (b) A municipality may consider the guidance issued pursuant to this section in  
46 determining whether to enter into or execute an agreement for payment in lieu of taxes with the  
47 owner of a solar or wind powered system in the municipality in which the system is located;  
48 provided, however, this section shall not require a municipality to adopt such guidance. The  
49 department of revenue, in consultation with the department of energy resources, shall  
50 periodically review and update the guidance.

51 SECTION 4. Notwithstanding clause Forty-fifth of section 5 of chapter 59 of the General  
52 Laws, the owner of a solar or wind powered system and the municipality in which the system is

53 located shall not be required to amend, modify or renegotiate an existing payment in lieu of tax  
54 agreement that was entered into or executed before the effect date of this act.

55 SECTION 5. The guidance required by section 3 shall be issued not more than 9 months  
56 after the effective date of this act.

57 SECTION 6. This act shall take effect on July 1, 2020.