

SENATE No. 1783

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 bonding authority for the Massachusetts Clean Energy Center.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>

SENATE No. 1783

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 1783) of Marc R. Pacheco, Frank I. Smizik, Jason M. Lewis, Barbara L'Italien and other members of the General Court for legislation relative to bonding authority for the Massachusetts Clean Energy Center. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to bonding authority for the Massachusetts Clean Energy Center.

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.

2 Subsection (a) of section 3 of chapter 23J of the general laws, as appearing in the 2012
3 Official Edition, is hereby amended by inserting after subparagraph (31), the following two
4 subparagraphs:

5 (32) in accordance with section 13 of this chapter, to borrow and repay money by issuing
6 bonds or notes, to apply the proceeds of such bonds or notes to the furtherance of the center's
7 purpose under this chapter and to pledge or assign or create security interests in any revenues,
8 receipts or other assets or funds of the center to secure bonds or notes, including without
9 limitation amounts received or held in the Massachusetts Renewable Energy Trust Fund
10 established pursuant to section 9; provided, that bonds and notes issued under this provision shall
11 not be deemed to constitute a debt of the commonwealth or any such political subdivision and

12 that such bonds and notes shall be payable solely from the amounts received or held in such
13 Massachusetts Renewable Energy Trust Fund; provided further, that the proceeds of the bonds or
14 notes issued by the center under the authority granted by this section shall not be used to pay the
15 operating expenses of the center; provided further, that at no time may the center invest more
16 than ten per cent of the aggregate proceeds of its outstanding bonds and notes in any one entity
17 or in any group of entities under common control.

18 SECTION 2.

19 Said chapter 23J, as so appearing, is hereby amended by inserting after section 12 the
20 following section:-

21 Section 13. Borrowing Committee & Debt Issuance

22 (a) The center, in accordance with this section, is hereby authorized at any time and from
23 time to time to issue its debt obligations in one or more series and in such principal amounts as in
24 the opinion of the center shall be necessary for achieving its corporate purposes, provided that no
25 new debt obligations may be issued by the center if the principal and interest to be paid under
26 such debt obligations exceeds five hundred per cent of the average annual amount collected by
27 the trust fund pursuant to section 20 of chapter 25 over the previous five years, as determined by
28 state treasurer or his designee. The bonds or notes issued pursuant to the security provided by
29 this provision shall not be deemed to constitute a debt of the commonwealth or any political
30 subdivision thereof or a pledge of the credit of the commonwealth or any such political
31 subdivision and that such bonds and notes shall be payable solely from the amounts received or
32 held in the Massachusetts Renewable Energy Trust Fund.

33 The power to determine any of the details of the debt obligations of the center, including
34 but not limited to their date of issue, their maturity, their interest rate or rates, the date or dates of
35 payment of interest, their denominations, their form, their execution, their terms of redemption,
36 and the power to award such debt obligations to a purchaser or purchasers shall be determined by
37 a borrowing committee composed of 3 members: 2 of whom shall be appointed and employed by
38 the state treasurer and 1 of whom shall be the executive director of the center or his designee.
39 The borrowing committee shall make such determinations at the request of the board.

40 In the discretion of the borrowing committee, debt obligations issued under the
41 provisions of this section may be secured by one or more trust agreements. Any such trust
42 agreement may pledge, grant a security interest in or otherwise assign as security for debt
43 obligations which secures it all or any part of the revenues, funds or assets of the center;
44 provided, that bonds and notes issued under this provision shall be payable solely from the
45 amounts received or held in the Massachusetts Renewable Energy Trust Fund. The borrowing
46 committee may create and establish one or more reserve funds to be known as debt service
47 reserve funds and may pay into such reserve funds (i) any money appropriated or made available
48 by the commonwealth for such funds; (ii) any proceeds of sale of debt obligations to the extent
49 provided in the resolution of the center authorizing the issuance thereof or a trust agreement
50 securing the same; and (iii) any other money which may be available to the center for such
51 purposes. The money held in or credited to any debt service reserve fund established under this
52 act shall be used solely for the payment of the principal of debt obligations of the center secured
53 by such reserve fund as the same mature, the purchase of such debt obligations of the center, the
54 payment of interest on such debt obligations of the center or the payment of any redemption
55 premiums required to be paid when such debt obligations are redeemed prior to maturity; but

56 money in any such fund shall not be withdrawn therefrom at any time in such amounts as would
57 reduce the amount of such fund to less than the minimum fund balance with respect thereto as
58 designated in a resolution adopted by the borrowing committee or as set forth in a trust
59 agreement which secures such debt obligations, with any such designation to be subject to
60 amendment only as to the extent provided in such resolution or instrument.

61 Any debt obligation issued by the center shall contain on its face a statement to the effect
62 that neither the faith and credit, nor the general taxing power of the commonwealth or any of its
63 political subdivisions, is pledged to the payment of the principal of or premium, if any, or
64 interest on such debt obligation.

65 All bond or notes of the center executed under this chapter shall have all of the qualities
66 and incidents of negotiable instruments under the Uniform Commercial Code. Debt obligations
67 issued by the center under the provisions of this chapter are hereby made securities in which all
68 public officers and public bodies of the commonwealth and its political subdivisions, all
69 insurance companies, trust companies, savings banks, co-operative banks, banking associations,
70 investments companies, executors, trustees and other fiduciaries, and all other persons
71 whatsoever who are now or may hereafter be authorized to invest in bonds may properly and
72 legally invest, including capital in their control or belonging to them. Such debt obligations are
73 hereby made securities which may properly and legally be deposited with and received by any
74 state or municipal officer or any agency or political subdivision of the Commonwealth and for
75 any purpose for which the deposit of bonds or other obligations of the commonwealth now or
76 may hereafter be authorized by law.