

HOUSE No. 3197

The Commonwealth of Massachusetts

PRESENTED BY:

Frank A. Moran

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 providing for natural gas workforce safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/20/2023</i>
<i>Estela A. Reyes</i>	<i>4th Essex</i>	<i>2/8/2023</i>

HOUSE No. 3197

By Representative Moran of Lawrence, a petition (accompanied by bill, House, No. 3197) of Frank A. Moran and Estela A. Reyes relative to natural gas workforce safety. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act providing for natural gas workforce safety.

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 1E of Chapter 164 of the General Laws shall hereby be amended by
2 striking out said section and replacing it with the following section:

3 “Section 1E (a) The department is hereby authorized to promulgate rules and regulations
4 to establish and require performance based rates for each distribution, transmission, and gas
5 company organized and doing business in the commonwealth pursuant to the provisions of this
6 chapter. In promulgating such performance based rate schemes, the department shall establish
7 service quality standards each distribution, transmission, and gas company, including, but not
8 limited to, standards for customer satisfaction service outages, distribution facility upgrades,
9 repairs and maintenance, telephone service, billing service, public safety, occupational safety,
10 training and certifications for both in-house and contractor employees, map and record accuracy,
11 and in-house staffing benchmarks sufficient to ensure pipeline safety through the period of
12 transition to net zero emissions. provided, however, that such service quality standards shall

13 include benchmarks for employee staff levels and employee training programs for each such
14 distribution, transmission, and gas company.

15 In addition, the department shall require each gas company, as part of performance based
16 ratemaking, require each gas company to submit a just transition plan, which must be approved
17 by the department, to address workforce development, maintenance and attrition over the course
18 of the transition to net zero emissions generally, and the PBR period specifically, and provide for
19 the following:

20 1. A detailed proposed chronology for transition to net zero emissions energy supply and
21 distribution to be set through performance based ratemaking;

22 2. Sufficient in-house staffing levels, in each relevant classification, to ensure the safety
23 and reliability of the gas company's pipeline through the projected transition period;

24 3. Training and workforce development plans providing for gas company workforce
25 needs on residual natural gas and electric as well as alternative energy sources, generation and
26 distribution infrastructure utilized by the gas company to replace and/or complement natural gas;

27 4. Any and all mitigation measures to address the impacts of transition—e.g., attrition,
28 retrenchment—on the gas company's workforce over the course of the PBR—including, but not
29 limited to—cross-training and hiring preferences at dual-fuel companies and joint ventures with
30 renewable energy generators/distributors, early retirement incentives;

31 5. In the event of the gas company's anticipated substantial partial or complete cessation
32 of gas operations in Massachusetts during the period in which PBR is effective:

33 a. Means by which the gas company, and/or its parent corporation intends to avoid
34 burdening the Commonwealth, its ratepayers, and taxpayers with the social welfare costs
35 resulting from such cessation;

36 b. Measures to ensure the solvency of the LDC pension system during and after
37 transition;

38 c. Measures to stem the displacement of LDC employees attrited as a result of transition
39 from the Massachusetts energy sector.

40 Nothing in this section shall prohibit or supplant the LDC's collective bargaining
41 obligations relative to the National Labor Relations Act.

42 (b) In complying with the service quality standards and employee benchmarks
43 established pursuant to this section, a distribution, transmission, or gas company that makes a
44 performance based rating filing after the effective date of this act shall not be allowed to engage
45 in labor displacement or reductions below staffing levels in existence on January 1, 2022, unless
46 such are fully compliant with any law supporting a just transition to net zero emissions and part
47 of a collective bargaining agreement or agreements between such company and the applicable
48 organization or organizations representing such workers, or with the approval of the department
49 following an evidentiary hearing at which the burden shall be upon the company to demonstrate
50 that such staffing reductions shall not adversely disrupt service quality standards or public
51 safety and shall maintain reliable service through the transition to net zero emissions as
52 established by the department herein. Nothing in this paragraph shall prevent reduction of forces
53 below the January 1, 2022 level through early retirement and severances negotiated with labor
54 organizations before said date.

55 (c) The department shall promulgate regulations relative to an alternative dispute
56 resolution process for the handling of damage claims by customers in an amount under \$100.
57 The department shall establish a 60 day timeline for the resolution of all mediation claims. The
58 department shall issue a biannual report to the joint committee on telecommunications, utilities
59 and energy which shall include, but not be limited to, the following information: the nature of
60 consumer claims, the number of consumer claims and the resolutions of consumer claims
61 reviewed by the department during the previous 6 months. Said report shall be available for
62 public review at the department.”

63 Section 2. Section 145 of Chapter 164 is hereby amended by striking out said section and
64 replacing it with a new section:

65 “Section 145. (a) For the purposes of this section, the following words shall, unless the
66 context clearly requires otherwise, have the following meanings:--

67 “Customer”, a retail natural gas customer.

68 ““Eligible infrastructure replacement”, a replacement or an improvement of existing
69 infrastructure of a gas company that: (i) is made on or after January 1, 2015; (ii) is designed to
70 improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas
71 company by connecting an improvement for a principal purpose of serving new customers; (iv)
72 reduces, or has the potential to reduce, lost and unaccounted for natural gas through a reduction
73 in natural gas system leaks; (v) is not included in the current rate base of the gas company as
74 determined in the gas company’s most recent rate proceeding; (vi) may include use of advanced
75 leak repair technology approved by the department to repair an existing leak-prone gas pipe to
76 extend the useful life of the such gas pipe by no less than 10 years; and (vii) may include

77 replacing gas infrastructure with utility-scale non-emitting renewable thermal energy
78 infrastructure.

79 “Plan”, a targeted infrastructure replacement program construction plan that a gas
80 company files pursuant to subsection (b).

81 “Project”, an eligible infrastructure replacement project proposed by a gas company in a
82 plan filed under this section.

83 (b) A gas company shall file with the department a plan to address aging or leaking
84 natural gas infrastructure within the commonwealth and the leak rate on the gas company’s
85 natural gas infrastructure in the interest of public safety and reducing lost and unaccounted for
86 natural gas through a reduction in natural gas system leaks. This plan shall include, but not be
87 limited to, provisions to ensure the gas company trains a sufficient, highly skilled, stable
88 workforce to repair and maintain the safety and reliability of its pipeline for the duration of its
89 useful life, until and including its retirement or re-purposing for alternative use. Each
90 company’s gas infrastructure plan shall include interim targets for the department’s review. The
91 department shall review these interim targets to ensure each gas company is meeting the
92 appropriate pace to reduce the leak rate on and to replace the gas company’s natural gas
93 infrastructure in a safe and timely manner. The interim targets shall be for periods of not more
94 than 6 years or at the conclusion of 2 complete 3-year walking survey cycles conducted by the
95 gas company. The gas companies shall incorporate these interim targets into timelines for
96 removing all leak-prone infrastructure filed pursuant to subsection (c) and may update them
97 based on overall progress. The department may levy a penalty against any gas company that fails

98 to meet its interim target in an amount up to and including the equivalent of 2.5 per cent of such
99 gas company's transmission and distribution service revenues for the previous calendar year.

100 (c) Any plan filed with the department shall include, but not be limited to: (i) eligible
101 infrastructure replacement of mains, services, meter sets and other ancillary facilities composed
102 of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the
103 federal gas distribution pipeline integrity management plan annually submitted to the department
104 and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the
105 completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v)
106 a description of customer costs and benefits under the plan; (vi) the relocations, where practical,
107 of a meter located inside of a structure to the outside of said structure for the purpose of
108 improving public safety; (vii) how the gas company intends to utilize its in-house workforce and
109 outside contractor crews, respectively, to perform construction; (viii) all oversight and quality
110 assurance measures implemented by the gas company on construction during the course of the
111 plan; (ix) all funds to be expended on training for its in-house on the construction and
112 maintenance of its pipeline; (x) any plans for the utilization of pipeline to satisfy the
113 Commonwealth's net zero emissions goals and aggregated data reflecting the projected impact of
114 the plans on the Commonwealth's net zero emissions goals; and (xi) any other information the
115 department considers necessary to evaluate the plan.

116 As part of each plan filed under this section, a gas company shall include a timeline for
117 removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement
118 pace and program end date with a target end date of: (i) not more than 20 years from the filing of
119 a gas company's initial plan; or (ii) a reasonable target end date considering the allowable
120 recovery cap established pursuant to subsection (f). The department shall not approve a timeline

121 as part of a plan unless the allowable recovery cap established pursuant to subsection (f) provides
122 the gas company with a reasonable opportunity to recover the costs associated with removing all
123 leak-prone infrastructure on the accelerated basis set forth under the timeline utilizing the cost
124 recovery mechanism established pursuant to this section. After filing the initial plan, a gas
125 company shall, at 5-year intervals, provide the department with a summary of its replacement
126 progress to date, a summary of work to be completed during the next 5 years and any similar
127 information the department may require. The department may require a gas company to file an
128 updated long-term timeline as part of a plan if it alters the cap established pursuant to subsection
129 (f).

130 Section 3. Chapter 164 of the General Laws shall hereby be amended by inserting at the
131 end thereof the following new sections:

132 “Section 149. In this chapter, unless the context otherwise requires, the following words
133 shall have the following meanings:

134 As used in this legislation, the term “Company” is interchangeable with the term
135 employer and refers to any local distribution company regulated under M.G.L. c. 164 § 3 and
136 distributing natural gas to ratepayers.

137 As used in this legislation, the term “Dual Fuel Company” refers to Companies who
138 distribute natural gas and one or more other form of energy to commercial, governmental, and/or
139 residential ratepayers.

140 As used in this legislation, the term “Alternative Energy Company” refers to Companies
141 who generate or distribute forms of energy who production and use results in the production of
142 lower carbon emissions conventional natural gas or electric energy.

143 As used in this legislation, “Commonwealth” refers to Commonwealth and/or its
144 departments, offices, agencies, political sub-divisions, and quasi-public agencies, including but
145 not limited to quasi-public agencies subject to said chapter 150A by chapter 760 of the acts of
146 1962 and any quasi-public independent entity and any authority or body politic and corporate
147 established by the general court to serve a public purpose.”

148 “Section 150: Every Company shall develop, and periodically amend a comprehensive
149 plan, as set forth in Section 149 to be filed with the Department of Public Utilities, for the hire,
150 retention, and training of a sufficient operations and maintenance workforce through 2050
151 addressing its plans to meet the Commonwealth’s net zero emissions goals and its plans to fulfill
152 this Chapter’s requirements to provide safe and reliable service as well as all other state and
153 Federal regulatory requirements. Such plan shall be amended bi-annually, beginning July 1,
154 2024. Each Company plan shall also provide projections for any attrition among its in-house
155 workforce and the utilization of outside contractors over both the biannual period and over the
156 course of the transition to net zero emissions.

157 Dual Fuel Companies must additionally provide, as part of their biannual plan, all
158 provisions, opportunities and initiatives to provide training and employment opportunities to
159 workers who may be displaced by the Company’s compliance with the Commonwealth’s net
160 zero emissions goals.

161 The Department shall, when initiated sua sponte or by motion of the Attorney General,
162 initiate an investigation to determine to determine the sufficiency of the Company’s plan with
163 regard to meeting the Commonwealth’s net zero emission requirements and Chapter 164’s
164 reliability, safety and staffing requirements. Such plans, and all back-up data upon which the

165 plans are based, shall be subject to disclosure to all intervening stakeholders during the
166 investigation.

167 “Section 151. The Executive Office of Energy and Environmental Affairs and the
168 Executive Office of Labor and Workforce Development shall, joint and in collaboration,
169 administer programs, provide technical assistance, and develop regulations for a training fund to
170 support the establishment of apprenticeship programs to train Company employees on alternative
171 energy generation and distribution and raise the next generation of energy industry workers in
172 the Commonwealth.

173 Grants from the fund may be provided to Gas and Dual Fuel Companies for the
174 development and execution of training of their workforces on a competitive basis, based upon a
175 number of factors, including, but not limited to, the Company’s demonstrated commitments to
176 (1) retaining and repurposing its highly skilled in-house gas workforce on a dual fuel or
177 alternative energy businesses, (2) maintaining high quality, longterm in-house employment
178 opportunities in energy distribution. Labor organizations representing Gas Company workers
179 and Dual Fuel Company workers may also apply for funding.

180 Alternative energy companies, including both generating or distributing companies, may
181 also apply for training grants from this fund to defray the cost of hiring and training workers
182 displaced by the Commonwealth’s efforts to meet its net zero emissions goals. To qualify,
183 alternative energy companies must demonstrate that (1) they are developing and executing plans
184 for hiring, training and retention that include a demonstrated commitment to training and hiring
185 gas company employees and other workers displaced by the Commonwealth’s transition to net
186 zero emissions, (2) they have or are in the process of developing robust in-house training

187 programs in the Commonwealth on alternative energy, and (3) their commitment to the creation
188 and maintenance of high quality, sustainable employment opportunities for displaced workers.”

189 “Section 152. Per Capita Tax Credits for Dual Fuel and Alternative Energy Companies
190 Providing Suitable Employment to adversely affected workers.

191 Dual and alternative energy companies providing suitable employment in a comparable
192 occupation to adversely affected workers shall be eligible for tax credits on a per capita basis
193 based on employment census over the course of the tax year. Such credits shall be established,
194 after rulemaking, by the Executive Office of Labor and Workforce Development and the
195 Department of Revenue no later than January 1, 2025.”

196 Section 4. Chapter 149 as appearing in the 2016 Official Edition of the General Laws is
197 hereby amended by inserting a new section:

198 “Section 27J. All construction, reconstruction, installation, alteration or repair on natural
199 gas utilities distribution infrastructure, including, but not limited to, pipelines, mains, services:
200 (1) requiring the excavation, construction, reconstruction of public lands, rights of way, public
201 works, or buildings and (2) not performed by Gas Company employees, shall be performed and
202 procured under this section of chapter 149.

203 No public authority, including, but not limited to, the Commonwealth, its subdivisions, a
204 county, or a municipality, shall agree to pipeline construction, reconstruction, installation,
205 alteration or repair work by a gas distribution company requiring the excavation, alternation,
206 reconstruction, or repair of public lands, works, or buildings unless said agreement contains a
207 stipulation requiring prescribed rates of wages, as determined by the commissioner, to be paid to
208 individuals performing pipeline construction who are not gas company employees.

209 Any such approval which does not contain said stipulation shall be invalid, and no
210 construction may commence thereunder. Said rates of wages shall be requested of said
211 commissioner by said public official or public body together with the gas local distribution
212 company on whose service territory the public infrastructure lies, and shall be furnished by the
213 commissioner in a schedule containing the classifications of jobs, and the rate of wages to be
214 paid for each job. Said rates of wages shall include payments to health and welfare plans, or, if
215 no such plan is in effect between employers and employees, the amount of such payments shall
216 be paid directly to said employees. Such requests for rates shall be made every six (6) months.

217 Whoever pays less than said rates of wages, including payments to health and welfare
218 funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the
219 use of any other person, as a rebate, gratuity or in any other guise, any part or portion of said
220 wages or health and welfare funds, shall have violated this section and shall be punished or shall
221 be subject to a civil citation or order as provided in section 27C.

222 An employee claiming to be aggrieved by a violation of this section may, 90 days after
223 the filing of a complaint with the attorney general, or sooner if the attorney general assents in
224 writing, and within 3 years after the violation, institute and prosecute in his own name and on his
225 own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for
226 any damages incurred, and for any lost wages and other benefits pursuant to G.L. c. 149, s. 150.

227 An employee so aggrieved who prevails in such an action shall be awarded treble damages, as
228 liquidated damages, for any lost wages and other benefits and shall also be awarded the costs of
229 the litigation and reasonable attorneys' fees.”

230 Section 5. Section 151A Chapter 149 as appearing in the 2016 Official Edition of the
231 General Laws is hereby amended by inserting a new Section at the end thereof:

232 Section 75. For the purposes of this section, the following words shall, unless the context
233 clearly requires otherwise, have the following meanings:--

234 “Adversely affected employment,” employment with an employer providing labor,
235 goods, and/or services facilitating the generation, distribution, or transmission of energy from
236 fossil fuels, including but not limited to the distribution of natural gas, which may be or are
237 adversely affected by the Commonwealth’s efforts to realize its net zero emissions goals.

238 “Adversely affected worker,” an individual who, because of lack of work in adversely
239 affected employment, has been totally or partially separated from such employment, or has been
240 threatened to be totally or partially separated from such employment.

241 “Adjustment assistance,” any compensation, credit, benefit, funding, training, or service
242 provided under this Section.

243 “Suitable employment,” at a wage that is not less than 90 percent of the wage the worker
244 received on the day before any partial or total separation.

245 “Applicable employer,” an employer engaged in the generation, distribution/transmission
246 of energy from fossil fuels (fossil fuel employer”)

247 an employer engaged in the generation, distribution, or transmission of fossil fuel energy
248 that also, either as a secondary component of its business or by corporate affiliation, generates,
249 distributes, or transmits another form of energy (“dual fuel employer”); distribute natural gas and
250 one or more other form of energy to commercial, governmental, and/or residential ratepayers or,

251 an employer providing labor, goods, and/or services in or to the renewable energy
252 industry (“alternative energy employer”).

253 “Partial separation,” with respect to an individual who has not been totally separated, that
254 such individual has experienced—

255 (A) a reduction in hours of work to 80 percent or less of the individual's average weekly
256 hours in adversely affected employment; and

257 (B) a reduction in wages to 80 percent or less of the individual's average weekly wage in
258 such adversely affected employment.

259 “Threatened,” an individual who is aware of imminent total or partial separation from
260 employment with an applicable firm or with a company with which the applicable firm is
261 contracted to provide goods or services.

262 “Total separation,” the layoff or severance of an adversely affected worker.”

263 Section 6. Section 151A Chapter 149 as appearing in the 2016 Official Edition of the
264 General Laws is hereby amended by inserting the following new sections at the end thereof:

265 Section 76. In general DUA shall make payments of temporary additional unemployment
266 compensation for up to 104 additional weeks to adversely affected workers who have been
267 totally separated: have exhausted all rights to regular unemployment compensation under the
268 State law or under Federal law with respect to a benefit year;

269 have no rights to regular compensation with respect to a week under such law or any
270 other State unemployment compensation law or to compensation under any other Federal law;

271 and are able to work, available to work, and actively seeking work.

272 Exhaustion of benefits

273 For purposes of paragraph (1), an adversely affected individual shall be deemed to have
274 exhausted such individual's rights to regular compensation under a State law when—

275 (A) no payments of regular compensation can be made under such law because such
276 individual has received all regular compensation available to such individual based on
277 employment or wages during such individual's base period; or

278 (B) such individual's rights to such compensation have been terminated by reason of the
279 expiration of the benefit year with respect to which such rights existed.

280 (3) Weekly benefit amount.

281 In general, subject to paragraph, for purposes of any agreement under this section—

282 the amount of temporary additional unemployment compensation that shall be payable to
283 any applicable individual for any week of total unemployment shall be equal to the amount of the
284 regular compensation (including dependents' allowances) payable to such individual during such
285 individual's benefit year under the State law for a week of total unemployment;

286 the terms and conditions of the State law which apply to claims for regular compensation
287 and to the payment thereof (including terms and conditions relating to availability for work,
288 active search for work, and refusal to accept work) shall apply to claims for temporary additional
289 unemployment compensation and the payment thereof; and

290 the maximum amount of temporary additional unemployment compensation payable to
291 any applicable individual is 156 weeks.

292 Section 77. Each applicable employer, as defined in Section 75 shall make contributions
293 as established by the Department of Unemployment Assistance, pursuant to its enabling
294 authority under Chapter 151A, into a newly established Clean Energy Just Transition
295 Unemployment Trust Fund to cover the cost of these benefits. The Department shall establishing
296 contribution rates and schedules as well as all relevant regulations for the Just Transition Trust
297 Fund to ensure that it is fully funded and may be utilized by all adversely affected employees
298 who are terminated no later than January 1, 2025. The Department may also use funding from
299 the Trust Fund to establish programs and benefits for adversely affected workers to assist them in
300 obtaining training and replacement employment opportunities and to cover health insurance.