

HOUSE No. 3532

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

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 creating a green bank to promote clean energy in Massachusetts.

PETITION OF:

NAME:

Paul W. Mark

DISTRICT/ADDRESS:

2nd Berkshire

HOUSE No. 3532

By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 3532) of Paul W. Mark for legislation to promote clean energy. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act creating a green bank to promote clean energy in Massachusetts.

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

1 The General Laws are hereby amended by inserting after chapter 21A the following
2 chapter:-

3 CHAPTER 21A½.

4 THE MASSACHUSETTS GREEN ENERGY DEVELOPMENT BANK.

5 Section 1. As used in this chapter the following words shall have the following meanings
6 unless the context clearly requires otherwise:-

7 “Bank”, the Massachusetts Green Energy Development Bank established pursuant to
8 section 2.

9 “Board”, the Massachusetts Green Energy Finance Board established pursuant to section
10 3.

11 “Bonds” or “notes”, such bonds and notes as are issued by the bank pursuant to this
12 chapter.

13 “Energy improvements”, any renovation or retrofitting of commercial real property to
14 reduce energy consumption or installation of a renewable energy system to service commercial
15 real property.

16 “Energy technologies”, all methods used to produce, distribute, conserve and store energy
17 or otherwise improve the efficiency of energy utilization, which emphasize renewable energy
18 sources, including, but not limited to, solar, wind, bioconversion and solid waste, and which aim
19 to preserve and protect the environment and public health and safety.

20 Section 2. (a) There is hereby created a body politic and corporate to be known as the
21 Massachusetts Green Energy Development Bank. The bank is hereby constituted a public
22 instrumentality and the exercise by the bank of the powers conferred by this chapter shall be
23 considered to be the performance of an essential governmental function.

24 The bank is hereby placed in the executive office of the governor but shall not be subject
25 to the supervision or control of said office, or of any board, bureau, department or other center of
26 the commonwealth, except as specifically provided in this chapter.

27 (b) The bank shall be governed by the board and shall continue as long as it shall have
28 bonds or notes or guarantee commitments outstanding and until its existence is terminated by
29 law. Upon the termination of the existence of the bank, all right, title and interest in and to all of
30 its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and
31 be possessed, performed and assumed by the commonwealth.

32 (c) It shall be the duty and purpose of the bank to: (1) evaluate and coordinate financing
33 for energy improvements and energy technologies throughout the commonwealth; (2) provide
34 loans, loan guarantees, debt securitization, insurance, portfolio insurance, and other forms of
35 financing support or risk management to qualified energy improvements and energy
36 technologies; (3) facilitate the financing of long-term energy improvement and energy
37 technology purchasing by governmental and non-governmental not-for-profit entities; (4) foster
38 the development and consistent application of transparent underwriting standards, standard
39 contractual terms, and measurement and verification protocols for qualified energy
40 improvements and energy technologies; (5) promote and facilitate the financing of energy
41 improvements and energy technologies in the commonwealth that will abate climate change by
42 increasing zero or low carbon electricity generation and transportation capabilities; (6) ease the
43 economic effects of transitioning from a carbon-based economy to a clean energy economy; (7)
44 facilitate job creation through the construction and operation of energy improvement and energy
45 technology; and (8) work to eliminate the use of fossil fuels throughout the commonwealth.

46 Section 3. (b) The bank shall be governed and its corporate powers exercised by a board
47 of directors known as the Massachusetts Green Energy Finance Board. The board shall consist of
48 7 members appointed by the governor for a term of 4 years, 1 of whom shall be the
49 commissioner of banks, who shall serve ex officio, 1 of whom shall be the secretary of energy
50 and environmental affairs, who shall serve ex officio, 1 of whom shall be the executive director
51 of the Massachusetts clean energy technology center, 2 of whom shall be experienced in the field
52 of public or private finance and management, and 2 of whom shall be engineers with at least 10
53 years' experience in the field of renewable energy or energy efficiency. The members shall
54 annually elect a chairperson and vice-chairperson of the board. Each director shall serve without

55 compensation but may be reimbursed for actual and necessary expenses reasonably incurred in
56 the performance of their duties, including reimbursement for reasonable travel; provided,
57 however, that such reimbursement shall not exceed \$3000 annually. Any person appointed to fill
58 a vacancy in the office of a member of the board shall be appointed in a like manner and shall
59 serve for only the unexpired term of such former member. Any director shall be eligible for
60 reappointment. Any director may be removed from his appointment by the governor for cause.

61 (c) A majority of directors shall constitute a quorum and the affirmative vote of a
62 majority of directors present at a duly called meeting, if a quorum is present, shall be necessary
63 for any action to be taken by the board. Any action required or permitted to be taken at a meeting
64 of the directors may be taken without a meeting if all of the directors consent in writing to such
65 action and such written consent is filed with the records of the minutes of the meetings of the
66 board. Such consent shall be treated for all purposes as a vote at a meeting. Each director shall
67 make full disclosure, under subsection (d), of his financial interest, if any, in matters before the
68 board by notifying the state ethics commission, in writing, and shall abstain from voting on any
69 matter before the board in which he has a financial interest, unless otherwise permissible under
70 chapter 268A.

71 (d) Chapters 268A and 268B shall apply to all ex-officio directors and employees of the
72 bank. Said chapters 268A and 268B shall apply to all other directors, except that the bank may
73 purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in
74 which any director of the bank is in any way interested or involved; provided, however, that such
75 interest or involvement is disclosed in advance to the members of the board and recorded in the
76 minutes of the board; and provided, further, that no director having such an interest or
77 involvement may participate in any decision of the board relating to such person. Employment

78 by the commonwealth or service in any agency thereof shall not be deemed to be such an interest
79 or involvement.

80 (e) The board shall have the power to appoint and employ an executive director who shall
81 be the chief executive, administrative and operational officer of the bank and shall direct and
82 supervise the administrative affairs and the general management of the bank. The executive
83 director shall appoint and employ a chief financial and accounting officer and may, subject to the
84 general supervision of the board, employ other employees, consultants, agents, including legal
85 counsel and advisors, and shall attend meetings of the board. No funds shall be loaned,
86 transferred or otherwise dispersed by the bank without the approval of the board and the
87 signatures of the chief financial and accounting officer of the bank.

88 (f) The board shall bi-annually elect 1 of its members as treasurer and 1 of its members as
89 secretary. The secretary of the board shall keep a record of the proceedings of the board and shall
90 be custodian of all books, documents, and papers filed by the board and of its minute book and
91 seal. The secretary of the board shall cause copies to be made of all minutes and other records
92 and documents of the bank and shall certify that such copies are true copies, and all persons
93 dealing with the bank may rely upon such certification.

94 (g) All officers and employees of the bank having access to its cash or negotiable
95 securities shall give bond to the bank at its expense in such amounts and with such surety as the
96 board may prescribe. The persons required to give bond may be included in 1 or more blanket or
97 scheduled bonds.

98 (h) Board members and officers who are not compensated employees of the bank shall
99 not be liable to the commonwealth, to the bank or to any other person as a result of their

100 activities, whether ministerial or discretionary, as such board members or officers except for
101 willful dishonesty or intentional violations of law. Neither members of the board nor any person
102 executing bonds or policies of insurance shall be liable personally thereon or be subject to any
103 personal liability or accountability by reason of the issuance thereof. The board may purchase
104 liability insurance for board members, officers and employees of the bank and may indemnify
105 such persons against claims of others.

106 (k) The board shall adopt a written policy providing for the delegation in writing of any
107 of its powers and duties.

108 Section 4. The bank shall have all powers necessary or convenient to carry out and
109 effectuate its purposes including, without limiting the generality of the foregoing, the power to:

110 (1) adopt and amend by-laws, regulations and procedures for the governance of its affairs
111 and the conduct of its business for the administration and enforcement of this chapter; provided,
112 however, that regulations adopted by the bank shall be adopted pursuant to chapter 30A;

113 (2) exercise any powers necessary for the commonwealth to be in compliance federal
114 law;

115 (3) maintain offices at places within the commonwealth as it may determine and to
116 conduct meetings of the bank in accordance with its by-laws;

117 (4) promote economy and efficiency and to leverage federal funding and private sector
118 investment;

119 (5) develop and administer a long-term energy improvement and energy technology plan
120 for the commonwealth;

121 (6) establish criteria and establish procedures for project selection for use in selecting
122 qualifying energy improvements and energy technologies to receive funds pursuant to section 5;

123 (7) enter into agreements and transactions with federal, state and municipal agencies and
124 other public institutions and private individuals, partnerships, firms, corporations, associations
125 and other entities on behalf of the bank;

126 (8) institute and administer separate accounts and funds for the purposes of making
127 allocations, grants or loans to qualifying energy improvements and energy technologies to
128 receive funds pursuant to section 5;

129 (9) sue and be sued in its own name, plead and be impleaded; and

130 (10) issue bonds, notes and other evidences of indebtedness as provided in this chapter.

131 Section 5. (a) The bank may set up and maintain such separate funds and accounts as are
132 necessary to provide and direct funding to qualifying energy improvements or energy
133 technologies. Such funds or accounts shall be credited with any appropriations authorized by the
134 general court, bond or note proceeds, grants, gifts, donations, bequests or other monies received
135 in accordance with the law. The bank may make loans from such funds or accounts, in
136 accordance with the terms of subsection (c).

137 (b) The bank may issue and sell bonds or notes of the bank for the purpose of providing
138 funds to finance qualifying energy improvements or energy technologies. Any bond or note
139 issued under this section: (1) shall constitute the corporate obligation of the bank; (2) shall not
140 constitute a debt of the commonwealth within the meaning or application of the constitution of
141 the commonwealth; and (3) shall be payable solely as to both principal and interest from (i) the

142 proceeds of bonds or notes, if any; (ii) investment earnings on the proceeds of bonds or notes; or
143 (iii) other funds available to the bank for such purpose.

144 (c) The board shall develop a comprehensive application process by which persons may
145 submit plans for energy improvements or energy technologies for review and approval by the
146 bank. An approved energy improvement or energy technology plan shall be considered a
147 qualifying plan. The bank shall enter into funding agreements with the proponents of such
148 qualifying plans which shall detail the terms of a disbursement of funds from the bank for the
149 plan and specific terms for the repayment or recoupment of funds.

150 Section 6. The board may issue rules and regulations as necessary to implement this
151 chapter.