

HOUSE No. 04177

The Commonwealth of Massachusetts

HOUSE, [Journal Date]

The committee on Telecommunication, Utilities and Energy, reports, on Senate, Nos. 1649 and 1654 and House, Nos. 876, 884, 886, 1755, 1764, 1769, 2609, 2619, 3057, 3059 and 3380, a Bill relative to utility poles (House, No. 4177) [Representative Adams dissenting].

For the committee,

JOHN D. KEENAN.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to utility poles.

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 25A of Chapter 166 of the General Laws, as appearing in the 2010 Official
2 Edition, is hereby amended by striking the first sentence and inserting in place thereof the
3 following sentence:-

4 The following terms as used Sections 25A and 25B shall have the following meanings:

5 Section 2. Said Section 25A of chapter 166, is hereby amended by inserting after the definition
6 of ‘attachment’ the following definition:-

7 “Double Pole”, means a double utility pole, which exists when a new pole is installed next to an
8 already existing pole in order to support the existing pole, and allow for the transfer of wires and
9 attachments from the existing pole.

10 Section 3. Said Section 25A of chapter 166, is hereby amended by inserting after the definition
11 of ‘utility’ the following definitions:-

12 “Pole Lifecycle Management System”, means a web-based database accessible by the
13 department, municipal officials, licensees, and utilities, containing information about double
14 poles, and where each licensee and utility is notified electronically, in turn, when it is time to
15 transfer an attachment according to a previously established prioritization.

16 “PLM”, means Pole Lifecycle Management

17 Section 4. Chapter 166 of the General Laws, as appearing in the 2012 Official Edition, is hereby
18 amended by inserting after Section 25A, the following section:-

19 Section 25B. (a) Utilities shall be jointly responsible for the establishment, operation and
20 accuracy of a single statewide Pole Lifecycle Management System. Funding requirements for
21 the database shall be allocated to all pole owning utilities subject to joint approval by the
22 department of telecommunications and cable and the department of public utilities.

23 (b) All utilities and licensees with pole attachments shall participate in and have access to the
24 PLM System. Utility pole owners and municipal officials may file a complaint with the
25 department of telecommunications and cable regarding licensees and utility pole owners that fail
26 to use the database, with the department of public utilities retaining the right to intervene.

27 (c) The department of telecommunications and cable and the department of public utilities shall
28 promulgate rules and regulations consistent with this section.

29 Section 5. (a) Notwithstanding any general or special law to the contrary, within 1 year of the
30 effective date of this act, the department of public utilities and the department of
31 telecommunications and cable shall jointly hold a public hearing and promulgate rules and
32 regulations relative to reducing the number of double poles in the commonwealth pursuant to

33 section 34B of chapter 164 and section 25B of chapter 166 of the General Laws. The
34 departments shall consider the recommendations of the double pole remediation advisory council
35 in promulgating rules and regulations.

36 (b) The departments may, in consultation with the double pole remediation advisory council,
37 promulgate rules and regulations that allow for the commonwealth or municipalities to impose
38 fines or other penalties on pole owners or pole attachees for the failure to remove double poles in
39 a reasonable timeframe. Municipalities may enforce, by the enactment of a local ordinance or
40 bylaw, any uniform, statewide fine structure in accordance with such rules and regulations
41 developed by the departments.

42 (c) The department of public utilities and the department of telecommunications and cable shall
43 jointly issue a report relative to double poles within the Commonwealth within 90 days following
44 the passage of this act. The report shall provide an assessment of progress made in reducing the
45 number of double poles in the commonwealth since the issuance of the report previously issued
46 pursuant to Section 110 of Chapter 46 of the Acts of 2003 relative to reducing the number of
47 double utility poles within the commonwealth. Such assessment shall include data, by
48 municipality, on the removal of double poles installed before January 31, 2004, the removal of
49 double poles installed after January 31, 2004, and double poles remaining to be removed. With
50 respect to each double pole remaining to be removed, the data shall include the date of its
51 installation and the pole owner.

52 (d) The Governor shall convene a double pole remediation advisory council which shall consist
53 of 11 members, including 1 person representing each of the following (1) telephone company
54 pole owners, (2) electric distribution company pole owners, (3) municipal light plants, (4) CATV

55 Operator pole attachees, (5), the attorney general, (6) organized telephone pole workers, (7)
56 organized electricity distribution pole workers, (8) the department of public utilities, and (9) the
57 department of telecommunications and cable. 2 persons representing municipalities, chosen
58 from a list compiled by the Massachusetts Municipal Association, shall be members of the
59 council. The chair of the department of public utilities and the commissioner of the department
60 of telecommunications and cable shall serve as co-chairs of the council.

61 (e) The council shall meet within 90 days following the passage of this act.

62 (f) The council shall analyze possible measures to improve and accelerate the removal of double
63 poles in the commonwealth. Such analysis shall include, but not be limited to, the following
64 measures:

65 (1) measures to ensure the comprehensiveness, accuracy, and timeliness of the information
66 contained in the Pole Lifecycle Management (“PLM”) system

67 (2) measures to ensure access to the information contained in the PLM system by all pole users,
68 including municipalities

69 (3) requiring pole owners to provide semi-annual reports to each municipality listing all double
70 poles in their municipality, their location and/or pole number, the date of installation, and the
71 pole user currently identified by the PLM system as “first in line” to remove its wires and other
72 equipment

73 (4) mandating meetings of pole owners and municipalities, to take place in and at the initiative of
74 the municipalities, to discuss the status, scheduling, and prioritization of double pole removals

75 (5) securing an enforceable commitment from pole owners to remove by January 1, 2014 their
76 existing backlog of double poles and to devote adequate personnel and resources to ensure that
77 all new double poles are removed no more than one year after installation

78 (6) authorizing the commonwealth or municipalities to impose fines on pole owners that do not
79 respond within 30 days to a formal demand by a municipality to remove a double pole installed
80 for more than 180 days

81 (7) authorizing the commonwealth or municipalities to impose fines on pole owners that do not
82 respond within 30 days to a formal demand by a municipality to move a pole to meet a
83 construction schedule on a public way

84 (8) authorizing the commonwealth or municipalities to impose escalating fines on poles owners
85 or pole attachees based on the length of delay on removing a double pole

86 (g) The council shall report to the department of telecommunications and cable, the department
87 of public utilities, the Joint Committee on Telecommunications, Utilities and Energy and the
88 Joint Committee on Municipalities and Regional Government their recommendations to reduce
89 the number of double poles in the commonwealth, including proposed legislation to enforce
90 section 34B of Chapter 164 of the General Laws and any other legislation or regulatory
91 measures, by December 31, 2012.

92 (h) The double pole remediation advisory council may utilize the resources and staff of the
93 department of public utilities, the department of telecommunications and cable and other relevant
94 agencies of state government.

95 (i) The council must approve their recommendations with a 2/3 majority vote. If approval is not
96 granted by December 31, 2012, the department of public utilities and department of
97 telecommunications and cable shall promulgate the rules and regulations consistent with this Act
98 without the recommendations of the council.

99 (j) No later than July 1st of each year, beginning July 1, 2013, the department of public utilities
100 and the department of telecommunications and cable shall jointly submit an annual report to the
101 legislature describing the status of double pole remediation.