

HOUSE No. 5117

Section 75 and 76 contained in the engrossed Bill making appropriations for the fiscal year 2023 (see House, No. 5050), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment L of House, No. 5132). July 28, 2022.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the review of municipal aggregation plans.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to review of municipal aggregation plans, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. The fourth paragraph of subsection (a) of said section 134 of said chapter
2 164, as so appearing, is hereby amended by striking out the last sentence.

3 SECTION 2. Said subsection (a) of said section 134 of said chapter 164, as so appearing,
4 is hereby further amended by inserting after the fourth paragraph the following 4 paragraphs:-

5 The department shall approve any plan submitted that complies with and is consistent
6 with this subsection. Prior to the department’s decision, the department shall conduct a public
7 hearing. Failure to make a decision on a plan submitted under this section within 180 days of its
8 submission date shall constitute approval of the plan. Such constructive approval shall not
9 exempt the municipality or group of municipalities from complying with all laws and rules

10 governing municipal aggregations and the provision of competitive energy supply services
11 regardless of the language contained in the plan.

12 If after review, the department chooses to reject a plan, the department shall send to the
13 municipality or group of municipalities a denial order containing the reason for the rejection. The
14 municipality or group of municipalities may revise the plan to address such reasons and, if such
15 revised plan is submitted not more than 30 days after the department's denial order is issued, the
16 department shall waive the requirement that the municipality or group of municipalities consult
17 with the department of energy resources regarding the revised plan and shall submit the revised
18 plan for public review. The department shall review and approve, subject to modification, or
19 reject any such revised plan not more than 30 days after receipt of the revised plan.

20 The department shall not direct or otherwise require revisions to an approved plan
21 without first providing the municipality or group of municipalities with notice and opportunity
22 for a full and fair hearing. The municipality or group of municipalities shall submit to the
23 department for approval any revision to an approved plan; provided, however, that the
24 department shall review and approve any such revisions to the approved plan not more than 30
25 days after the receipt of the proposed revision. The competitive supplier providing generation
26 service to retail customers of an aggregation may request an exemption from the quarterly
27 information disclosure requirements set forth in 220 CMR 11.06(4)(c) or any successor
28 regulation. The department may grant such exemption if the competitive supplier demonstrates
29 that it will, through sufficient alternative means, provide retail customers participating in the
30 aggregation with the same information regarding the fuel mix, emissions and labor
31 characteristics of the competitive supplier's energy supply.

32 After obtaining approval of its plan, the aggregated entity shall mail information and
33 educational materials regarding its plan to each ratepayer within the municipality; provided,
34 however, that the department may revoke the aggregated entity’s plan if the marketing materials
35 are inconsistent with any law or regulation governing the marketing of energy supply. To enable
36 such mailing, the electric distribution company shall provide to such municipality a current list
37 of the names, mailing addresses and service addresses of all electric customers taking
38 distribution service within the municipality; provided, however, that any customer may request
39 that their name, mailing address and account number not be shared with the municipality.

40 SECTION 3. This act shall take effect on July 1, 2022.