

SENATE No. 2147

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 relative to green jobs.

PETITION OF:

NAME:

Paul W. Mark

DISTRICT/ADDRESS:

*Berkshire, Hampden, Franklin and
Hampshire*

SENATE No. 2147

By Mr. Mark, a petition (accompanied by bill, Senate, No. 2147) of Paul W. Mark for legislation to establish an energy efficiency authority, and a green jobs program and loan fund. Telecommunications, Utilities and Energy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3341 OF 2021-2022.]

The Commonwealth of Massachusetts

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

An Act relative to green jobs.

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 25C the following
2 chapter:-

3 Chapter 25D

4 The Massachusetts Energy Efficiency Authority

5 Section 1. There is hereby created a body politic and corporate to be known as the
6 Massachusetts Energy Efficiency Authority, hereinafter in this chapter referred to as the
7 authority. The authority is hereby constituted a public instrumentality and the exercise by the
8 authority of the powers conferred by this chapter shall be considered to be the performance of an
9 essential government function.

10 The authority is hereby placed in the executive office of energy and environmental
11 affairs, but shall not be subject to the supervision or control of said office or of any board,
12 bureau, department or other center of the commonwealth, except as specifically provided in this
13 chapter.

14 Section 2. The authority shall establish and administer the Green Jobs Massachusetts
15 program, hereinafter in this chapter referred to as the program, established herein, to provide for
16 the billing and collection of on-bill recovery charges for payment of obligations of its customers
17 to the Massachusetts Green Jobs Loan Fund, established pursuant to section 3. The program shall
18 provide financial assistance in the form of loans to eligible recipients for the performance of
19 qualified energy efficiency services for eligible projects, subject to repayment in the form of on-
20 bill recovery charges on the recipient's utility bill. To the maximum extent practicable, funding
21 available from the authority shall be utilized to defray any costs associated with electronic data
22 interchange improvements or other costs of initiating and implementing this program. Billing
23 and collection services shall commence as soon as practicable after establishment of the
24 program.

25 The authority may suspend its offering of the on-bill recovery charge provided that the
26 authority makes a finding that there is a significant increase in arrears or utility service
27 disconnections that the authority determines is directly related to such charge, or a finding of
28 other good cause.

29 Section 3. (a) There is hereby established a fund to be known as the Massachusetts Green
30 Jobs Loan Fund, hereinafter the fund. The fund shall consist of:

31 (i) all moneys made available for the purpose of the fund pursuant to this section;

32 (ii) payments of principal and interest, including any late payment charges, made
33 pursuant to loan or financing agreements entered into with the authority or its designee pursuant
34 to this section; and

35 (iii) any interest earned by the investment of moneys in the fund;

36 (b) The fund shall consist of 2 accounts:

37 (i) one account which shall be maintained for monies to be made available to provide
38 loans to finance the cost of approved qualified energy efficiency services for residential
39 structures and multi-family structures; and

40 (ii) one account which shall be maintained for monies made available to provide loans to
41 finance the cost of approved qualified energy efficiency services for non-residential structures.

42 (c) The initial balance of the residential account established in clause (i) shall represent at
43 least 50 per cent of the total balance of the 2 accounts. The authority shall not commingle the
44 monies of the fund with any other monies of the authority or held by the authority, nor shall the
45 authority commingle the monies between accounts. Payments of principal, interest and fees shall
46 be deposited into the account created and maintained for the appropriate type of eligible project.

47 Section 4. In administering the program, the authority shall:

48 (a) use monies made available for the fund to achieve the purposes of this chapter
49 including but not limited to making loans available for eligible projects;

50 (b) enter into contracts with 1 or more program implementers to perform such functions
51 as the authority deems appropriate;

52 (c) establish an on-bill recovery mechanism for repayment of loans for the performance
53 of qualified energy efficiency services for eligible projects provided that such on-bill recovery
54 mechanism shall provide for the utilization of any on-bill recovery programs established
55 pursuant to this chapter;

56 (d) establish standards for customer participation in such on-bill recovery mechanism,
57 including standards for reliable utility bill payment, current good standing on any mortgage
58 obligations, and such additional standards as the authority deems necessary; provided that in
59 order to provide broad access to on-bill recovery, the authority shall, to the fullest extent
60 practicable, consider alternative measures of creditworthiness that are prudent in order to include
61 participation by customers who are less likely to have access to traditional sources of financing;

62 (e) to the extent feasible, make available on a pro-rata basis, based on the number of
63 electric customers within the utility service territory, to combination electric and gas
64 corporations that offer on-bill recovery, up to \$500,000 to defray costs directly associated with
65 changing or upgrading billing systems to accommodate on-bill recovery charges;

66 (f) within 30 days of closing of a loan to a customer, pay a fee of \$100 per loan to the
67 combination electric and gas corporation in whose service territory such customer is located to
68 help defray the costs that are directly associated with implementing the program;

69 (g) within 30 days of closing of a loan to a customer, pay a servicing fee of 1 percent of
70 the loan amount to the combination electric and gas corporation in whose service territory such
71 customer is located to help defray the costs that are directly associated with the program; and

72 (h) exercise such other powers as are necessary for the proper administration of the
73 program, including at the discretion of the authority, entering into agreements with applicants

74 and with such state or federal agencies as necessary to directly receive rebates and grants
75 available for eligible projects and apply such funds to repayment of applicant loan obligations.

76 Section 5. (a) The authority shall, within 45 days of the effective date of this section,
77 commence a proceeding to investigate the implementation by each combination electric and gas
78 corporation having annual revenues in excess of \$200,000,000 dollars of a billing and collection
79 service for on-bill recovery charges in payment of obligations of its customers to the fund
80 established pursuant to section 3 and, within 150 days of the effective date of this section, the
81 authority shall make a determination establishing the billing and collection procedures for such
82 on-bill recovery charges. The authority shall require such electric and gas corporations to offer
83 billing and collection services for green jobs on-bill recovery charges for eligible customers
84 within 300 days of the effective date of this section. To the extent practicable, such electric and
85 gas corporations shall utilize existing electronic data interchange infrastructure or other existing
86 billing infrastructure to implement their billing and collection responsibilities under this section,
87 and shall utilize funding available from the authority to defray any costs associated with
88 electronic data interchange improvements or other costs of initiating and implementing this
89 program.

90 (b) To ensure proper program design and implementation, each electric and gas
91 corporation shall initially limit the number of customers who pay an on-bill recovery charge at
92 any given time to no more than one-half of 1 percent of its total customers, on a first-come, first
93 served basis. Prior to reaching such limit, the authority shall review said limit, and shall increase
94 said limit provided that the authority finds that the program has not caused significant harm to
95 the electric or gas company or its ratepayers.

96 (c) The authority may suspend such an electric and gas corporation's offering of the on-
97 bill recovery charge provided that the authority, after conducting a hearing, makes a finding that
98 there is a significant increase in arrears or utility service disconnections that the authority
99 determines is directly related to the on-bill recovery charge, or a finding of other good cause.

100 (d) The on-bill recovery charge shall be collected on the bill from the customer's electric
101 corporation unless the qualified energy efficiency services at that customer's premises result in
102 more projected energy savings on the customer's gas bill than the electric bill, in which case such
103 charge shall be collected on the customer's gas corporation bill.

104 (e) The authority shall determine an appropriate percentage, up to 15 per cent, of the
105 energy savings from qualified energy efficiency services, financed with a loan pursuant to
106 section seven that is subject to an on-bill recovery charge, to be credited to the combination
107 electric and gas corporation that is issuing the bill for such charge, for purposes of meeting such
108 corporation's targets under energy efficiency programs established by the authority.

109 Section 6. Schedules for the collection and billing of on-bill recovery charges shall
110 provide:

111 (a) that billing and collection services shall be available to all customers who have met
112 the standards established by the authority for participation in the on-bill recovery mechanism
113 under the program and have executed an agreement for the performance of qualified energy
114 efficiency services under such program; provided, however, that for residential properties any
115 such customer must hold primary ownership or represent the primary owner or owners of the
116 premises and hold primary meter account responsibility or represent the primary holder or

117 holders of meter account responsibility for all meters to which such on-bill recovery charges will
118 apply;

119 (b) that the responsibilities of such electric and gas corporation are limited to providing
120 billing and collection services for on-bill recovery charges as directed by the authority;

121 (c) that the rights and responsibilities of residential customers paying on-bill recovery
122 charges shall be governed by the provisions of section 11;

123 (d) unless fully satisfied prior to sale or transfer, that (i) the on-bill recovery charges for
124 any services provided at the customer's premises shall survive changes in ownership, tenancy or
125 meter account responsibility, and (ii) that arrears in on-bill recovery charges at the time of
126 account closure or meter transfer shall remain the responsibility of the incurring customer, unless
127 expressly assumed by a subsequent purchaser of the property subject to such charges;

128 (e) not less than 45 days after closure of an account that is subject to an on-bill recovery
129 charge, and provided that the customer does not re-establish service with such electric and gas
130 corporation, it shall be the responsibility of the authority and not the electric and gas corporation
131 to collect any arrears that are due and owing;

132 (f) a customer remitting less than the total amount due for electric or gas services and on-
133 bill recovery charges shall have such partial payment first applied as payment for electric or gas
134 services and any remaining amount will be applied to the on-bill recovery charge;

135 (g) billing and collection services shall be available without regard to whether the energy
136 or fuel delivered by the utility is the customer's primary energy source;

137 (h) unless otherwise precluded by law, participation in the program shall not affect a
138 customer's eligibility for any rebate or incentive offered by a utility; and

139 (i) any other provisions necessary to provide for the billing and collection of on-bill
140 recovery charges.

141 The authority shall not approve any application for the conversion to submetering of any
142 master meter which is subject to any on-bill recovery charges.

143 Section 7. (a) The authority shall provide financial assistance in the form of loans for the
144 performance of qualified energy efficiency services for eligible projects on terms and conditions
145 established by the authority.

146 (b) Loans made by the authority pursuant to this section shall be subject to the following
147 limitations:

148 (i) eligible projects shall meet cost-effectiveness standards developed by the authority;

149 (ii) loans shall not exceed \$13,000 per applicant for approved qualified energy efficiency
150 services for residential structures, and \$26,000 per applicant for approved qualified energy
151 efficiency services for non-residential structures, provided, however, that the authority may
152 permit a loan in excess of such amounts if the total cost of energy efficiency measures financed
153 by such loan will achieve a payback period of 15 years or less, but in no event shall any such
154 loan exceed \$25,000 dollars per applicant for residential structures and \$50,000 per applicant for
155 non-residential structures; and for multi-family structures loans shall be in amounts determined
156 by the authority, provided, however, that the authority shall assure that a significant number of
157 residential structures are included in the program;

158 (iii) no fees or penalties shall be charged or collected for prepayment of any such loan;
159 and

160 (iv) loans shall be at interest rates determined by the authority to be no higher than
161 necessary to make the provision of the qualified energy efficiency services feasible.

162 In determining whether to make a loan, and the amount of any loan that is made, the
163 authority is authorized to consider whether the applicant or borrower has received, or is eligible
164 to receive, financial assistance and other incentives from any other source for the qualified
165 energy efficiency services which would be the subject of the loan. In determining whether a loan
166 will achieve a payback period of 15 years or less pursuant to clause (ii), the authority may
167 consider the amount of the loan to be reduced by the amount of any rebates for qualified energy
168 efficiency services received by the applicant or by the authority on behalf of an applicant.

169 (c) Applications for financial assistance pursuant to this section shall be reviewed and
170 evaluated by the authority or its designee pursuant to eligibility and qualification requirements
171 and criteria established by the authority. The authority shall establish standards for (i) qualified
172 energy efficiency services, and (ii) measurement and verification of energy savings.

173 (d) The amount of a fee paid for an energy audit may be added to the amount of a loan
174 that is made under this section to finance the cost of an eligible project conducted in response to
175 such energy audit. In such a case, the amount of the fee may be reimbursed from the fund to the
176 borrower.

177 (e) In establishing an on-bill recovery mechanism:

178 (i) the cost-effectiveness of an eligible project shall be evaluated solely on the basis of the
179 costs and projected savings to the applying customer, using standard engineering assessments
180 and prior billing data and usage patterns; provided however that based upon the most recent
181 customer data available, on an annualized basis, the monthly on-bill repayment amount for a
182 package of measures shall not exceed one-twelfth of the savings projected to result from the
183 installation of the measures provided further that nothing herein shall be construed to prohibit or
184 prevent customers whose primary heating energy source is from deliverable fuels from
185 participating in the program;

186 (ii) the authority shall establish a process for receipt and resolution of customer
187 complaints concerning on-bill recovery charges and for addressing delays and defaults in
188 customer payments; and

189 (iii) the authority may limit the availability of lighting measures or household appliances
190 that are not permanently affixed to real property.

191 (f) Prior to or at the closing of each loan made pursuant to this section, the authority shall
192 cause a notice to be provided to each customer receiving such loan stating, in clear and
193 conspicuous terms:

194 (i) the financial and legal obligations and risks of accepting such loan responsibilities,
195 including the obligation to provide or consent to the customer's utility providing the authority
196 information on the sources and quantities of energy used in the customer's premises and any
197 improvements or modifications to the premises, use of the premises or energy consuming
198 appliances or equipment of any type that may significantly affect energy usage;

199 (ii) that the on-bill recovery charge will be billed by such customer utility company and
200 that failure to pay such on-bill recovery charge may result in the customer having his or her
201 electricity or gas terminated for non-payment, provided that such utility company follows the
202 requirements of the relevant law and regulations with respect to residential customers;

203 (iii) that incurring such loan to undertake energy-efficiency projects may not result in
204 lower monthly energy costs over time, based on additional factors that contribute to monthly
205 energy costs;

206 (iv) that the program is operated by the authority and it is the sole responsibility of the
207 authority to handle consumer inquiries and complaints related to the operation and lending
208 associated with the program, provided further that the authority shall provide a mechanism to
209 receive such consumer inquiries and complaints.

210 (g) Any person entering into a loan agreement pursuant to this section shall have the right
211 to cancel any such loan agreement until midnight of the fifth business day following the day on
212 which such person signs such agreement provided the loan proceeds have not yet been disbursed.

213 Section 8. (a)The authority shall evaluate the cost-effectiveness of the on-bill recovery
214 mechanism on an on-going basis. In conducting such evaluation, the authority shall request each
215 customer to provide:

216 (i) information on energy usage and permission to collect information on energy usage
217 from utilities and other retail vendors, including but not limited to information required to be
218 furnished to consumers under article seventeen of the energy law;

219 (ii) information on other sources of energy used in the customer's premises; and

220 (iii) information on any improvements or modifications to the premises that may
221 significantly affect energy usage.

222 (b) At a minimum the authority shall collect and maintain information for dates prior to
223 the performance of qualified energy efficiency services, to establish a baseline, and for dates
224 covering a subsequent time period to measure the effectiveness of such measures. Such data shall
225 be correlated with information from the energy audit and any other relevant information,
226 including information on local weather conditions, and shall be used to evaluate the on-bill
227 recovery program and to improve the accuracy of projections of cost-effectiveness on an on-
228 going basis. An analysis of such data shall be included in the annual report prepared pursuant to
229 section 10.

230 (c) All information collected by the authority shall be confidential and shall be used
231 exclusively for the purposes of this section.

232 Section 9. (a) The authority shall secure every loan issued for such services that are to be
233 repaid through an on-bill recovery mechanism with a mortgage upon the real property that is
234 improved by such services. Such mortgage shall be recorded.

235 (b) All terms and provisions of a green-jobs mortgage pursuant to this section shall be
236 subject and subordinate to the lien of any mortgage or mortgages on such property. When a
237 subsequent purchaser of the property is granted a mortgage, the green-jobs mortgage shall be
238 subordinate to the terms of that mortgage.

239 (c) The mortgagee shall not retain any right to enforce payment or foreclose upon the
240 property.

241 Section 10. The rights and responsibilities of residential customers participating in the
242 program pursuant to this chapter shall be substantially comparable to those of electric and gas
243 customers not participating in on-bill recovery, and charges for on-bill recovery shall be treated
244 as charges for utility service for the purpose of this article, provided that:

245 (a) all determinations and safeguards related to the termination and reconnection of
246 service shall apply to on-bill recovery charges billed by a utility pursuant to such section;

247 (b) in the event that the responsibility for making utility payments has been assumed by
248 occupants of a multi-family dwelling or by occupants of a two-family dwelling, such occupants
249 shall not be billed for any arrears of on-bill recovery charges or any prospective on-bill recovery
250 charges, which shall remain the responsibility of the incurring customer;

251 (c) deferred payment agreements shall be available to customers participating in on-bill
252 recovery on the same terms as other customers, and the utility shall retain the same discretion to
253 defer termination of service as for any other delinquent customer;

254 (d) where a customer has a budget billing plan or levelized payment plan, the utility shall
255 recalculate the payments under such plan to reflect the projected effects of installing energy
256 efficiency measures as soon as practicable after receipt of information on the energy audit and
257 qualified energy efficiency services selected;

258 (e) late payment charges on unpaid on-bill recovery charges shall be determined as
259 provided in this section, or as otherwise consented to by the customer in the agreement for green
260 job on-bill recovery and any such charges shall be remitted to the authority;

261 (f) when a complaint is related solely to work performed under the green jobs program or
262 to the appropriate amount of on-bill recovery charges, the utility shall only be required to inform
263 the customer of the complaint handling procedures of the authority, which shall retain
264 responsibility for handling such complaints, and such complaints shall not be deemed to be
265 complaints about utility service in any other authority action or proceeding; and

266 (g) billing information required to be provided by the utility company to the consumer
267 shall include information on on-bill recovery charges, including the basis for such charges, and
268 any information or inserts provided by the authority to the utility company related thereto. In
269 addition, at least annually the authority shall provide the utility with information for inclusion or
270 insertion in the customer's bill that sets forth the amount and duration of remaining on-bill
271 recovery charges and the authority's contact information and procedures for resolving customer
272 complaints with such charges.

273 Section 11. The authority shall annually submit to the commissioner of energy and
274 environmental affairs a report on the status of the authority's activities and outcomes related to
275 this chapter, which shall include, but not be limited to:

276 (a) the number of persons who have applied for and received financial assistance through
277 the fund;

278 (b) the fund account balances;

279 (c) the number of loans in default;

280 (d) the authority's activities and outcomes related to establishing an on-bill recovery
281 mechanism, including the number of persons who have applied for and who have received

282 financial assistance that utilizes on-bill recovery and the results of the evaluation of cost
283 effectiveness pursuant to section 8;

284 (e) the amount expended by the authority in support of the program and the purposes for
285 which such funds have been expended;

286 (f) the number of customers participating in the program, separately stating the number of
287 residential and non-residential customers and the amounts financed;

288 (g) the number of program participants who are in arrears in their utility accounts for
289 electric and/or gas service;

290 (h) the number of program participants who are in arrears in their on-bill recovery charge
291 payments;

292 (i) the number of program participants whose utility service has been terminated for non-
293 payment;

294 (j) a description of the geographic distribution of loans made;

295 (k) an estimate of the energy savings resulting from this program;

296 (l) an estimate of the average project cost; and

297 (m) in consultation with the commissioner of labor and workforce development, an
298 estimate of the number of jobs created under the program.