

HOUSE No. 4443

By Representative Eldridge of Acton and Senator Resor, joint petition of James B. Eldridge and Pamela P. Resor for legislation to provide certain tax credits for construction of a renewable energy manufacturing facility within the Devens Regional Enterprise Zone. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO PROMOTE THE DEVELOPMENT OF A RENEWABLE ENERGY FACILITY AT DEVENS.

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

1 It is hereby found that the stimulation and strengthening of the
2 Commonwealth's economy by the encouragement of increased
3 opportunities for gainful employment is an important governmental
4 function.

5 It is hereby further found that there exists a need for the location
6 and expansion of renewable energy facilities in the Commonwealth
7 which will result in job creation.

8 It is hereby further found that the Devens Regional Enterprise
9 Zone is a uniquely important presence in the Commonwealth and
10 reflects the Commonwealth's commitment to the creation and pro-
11 motion of economic development and job creation, through a
12 streamlined permitting process and a reuse plan that encourages
13 industrial, commercial and manufacturing uses.

14 It is hereby further found that a parcel of land within the Devens
15 Regional Enterprise Zone, known as Lot 2, Barnum Road, has been
16 designated for the location and construction of a renewable energy
17 manufacturing facility to provide gainful employment opportunities
18 and other economic benefits to the Devens Regional Enterprise Zone
19 and the Commonwealth.

20 It is hereby further found that certain infrastructure improvements
21 are necessary to enable the construction and operation of such
22 renewable energy manufacturing facility at the Devens Regional
23 Enterprise Zone.

24 It is hereby further found that Massachusetts Development
25 Finance Agency, as the owner and developer of the land designated
26 for the renewable energy manufacturing facility, is uniquely quali-
27 fied and situated to effectuate or further such infrastructure improve-
28 ments.

1 SECTION 1. As used in the act, the following terms shall, unless
2 otherwise required, have the following meanings:—

3 “Chapter 23G” shall mean Chapter 23G of the General Laws, as
4 amended and in effect from time to time.

5 “Devens”, the Devens Regional Enterprise Zone, as established
6 by Chapter 498 of the Acts of 1993, as amended and in effect from
7 time to time.

8 “Project”, the design, planning, permitting, site preparation, con-
9 struction, development, and operation of infrastructure and other
10 improvements at Devens and upgrades to the existing electric and
11 gas utility systems serving Devens, to support the operation of a
12 renewable energy manufacturing facility to be located at Lot 2,
13 Barnum Road, Devens, or reasonably required to facilitate complete
14 development, construction, and operation of such a facility.

15 “MassDevelopment”, the Massachusetts Development Finance
16 Agency, created and existing under chapter 23G of the General
17 Laws.

1 SECTION 3. Section 38N of Chapter 63 is amended by adding
2 the following definition:—

3 “Renewable Energy Project Taxpayer”, the taxpayer who pays for
4 the design, planning, permitting, site preparation, construction,
5 development, and operation of infrastructure and other improve-
6 ments at Devens and upgrades to the existing electric and gas utility
7 systems serving Devens, to support the operation of a renewable
8 energy manufacturing facility to be located at Lot 2, Barnum Road,
9 Devens, or reasonably required to facilitate complete development,
10 construction, and operation of such a facility.

1 SECTION 4. Section 38N of Chapter 63 is amended by adding
2 the following sentence:—

3 Notwithstanding subsections (b) to (d), inclusive, of this section,
4 in the event that a credit allowed under this section exceeds the tax

5 otherwise due under said Chapter 63, the balance of that credit shall
6 be refundable to the renewable energy project taxpayer in the taxable
7 year in which qualified property giving rise to that credit is placed in
8 service, provided however:—

9 (a) this section shall apply only to credits generated by the pro-
10 ject;

11 (b) over a period not to exceed five years after the date of occu-
12 pancy of the completed project, the taxpayer shall commit in writing
13 to the cumulative investment of not less than \$150 million in the
14 project, and the creation, cumulatively, of not fewer than 350 new
15 jobs involving permanent full-time employees, both direct and con-
16 tracted, and these jobs shall be located at the project site;

17 (c) if the commissioner of the department of revenue determines
18 at any point within three years after the expiration of the period
19 specified in paragraph (b) that the taxpayer has not fulfilled the new
20 job commitments specified in this section, the commissioner shall, at
21 the time of this determination and without regard to limitations on
22 the period of assessment otherwise applicable under Section 26 of
23 Chapter 62C of the General Laws, assess the taxpayer an amount of
24 tax equal to:—

25 (i) if the taxpayer has not created at least 245 new jobs in the 5-
26 year period in connection with the project, the cumulative credits
27 refunded to the taxpayer under Section 38N of Chapter 63 of the
28 General Laws in connection with the project; or

29 (ii) if the taxpayer has created at least 245 new jobs in the 5-year
30 period in connection with the project but fewer than 350 new jobs,
31 the cumulative credits refunded to the taxpayer under said Section
32 38N of said Chapter 63 multiplied by a ratio, the numerator of which
33 is the number by which the new jobs created is less than 350 and the
34 denominator of which is 350;

35 (d) in the event that the taxpayer is assessed a tax under paragraph
36 (c), the taxpayer shall be allowed to offset the tax using any credits
37 to which the taxpayer would have otherwise been entitled, before the
38 commissioner's determination, in the absence of this section, and
39 shall be entitled to carry over any additional credits to which the tax-
40 payer would have otherwise been entitled as provided in subsections
41 (b) and (d) of said Section 38N of said Chapter 63;

42 (e) The total value of credits refunded under provision of this act
43 may not exceed \$2,500,000.

44 (5) at any point during the period specified in paragraph (c), the
45 taxpayer shall promptly make available to the commissioner, upon
46 his or her request, records that the commissioner may require to con-
47 firm compliance with the commitments and other provisions of this
48 section; and

49 (6) nothing in this section shall limit the potential recapture of
50 credits taken by a taxpayer, as provided in subsection (a) and in sub-
51 section (e) of Section 31A of said Chapter 63.

1 SECTION 4. This act shall take effect upon its passage.