

HOUSE No. 7896

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, December 18, 1973.

The committee on Government Regulations, to whom was referred so much of the message from His Excellency the Governor recommending legislation relative to granting to the Executive Branch certain administrative powers during the energy crisis (House, No. 7893) as relates to the creation of an emergency office for energy in the office of the Governor (App. B), report recommending that the same ought to pass in the form of a new draft herewith submitted (House, No. 7896).

For the committee,

ROBERT B. AMBLER.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT TO CREATE AN EMERGENCY OFFICE FOR ENERGY IN THE OFFICE OF THE GOVERNOR.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to unify the sovereign powers of the
3 Commonwealth for the purpose of meeting the public need and
4 requirements, therefore it is hereby declared to be an emergency
5 law, necessary for the immediate preservation of the public
6 health, safety and 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. It is hereby declared that there exists in the
2 commonwealth an energy crisis in that there is a shortage of
3 energy, particularly due to a shortage of petroleum products,
4 which threatens the well-being of the people of the common-
5 wealth, including their health, safety and welfare. It is the
6 purpose of this act to aid the unification of the sovereign powers
7 of the commonwealth in order to avert and minimize the loss,
8 hardship, unemployment, injuries and damage resulting from the
9 energy crisis.

1 SECTION 2. There shall be within the office of the governor
2 an emergency office for energy, in this act called the office,
3 consisting of the secretary of consumer affairs, who shall be the
4 chairman of the office, and the secretaries of administration,
5 environmental affairs, manpower affairs, public safety and
6 transportation and construction. The office shall make policy
7 and program recommendations to the governor relating to the
8 exercise of his powers and duties provided by law to meet the
9 energy crisis and shall be the central agency of the common-
10 wealth for the coordination and implementation of policies and
11 programs intended to meet that crisis.

1 SECTION 3. The Governor shall designate a person presently
2 within the employ of the Commonwealth to be director of the
3 office, and all employees shall, except as provided in section 4,
4 be chosen from persons presently in the employ of the
5 Commonwealth. The director shall be the executive and admin-
6 istrative head of the office and shall devote his full time during
7 business hours to the duties of his position.

1 SECTION 4. The governor may order the transfer of the
2 services of any officer or employee of the commonwealth
3 possessing knowledge, skill or experience necessary to the
4 functioning of the office from the agency in which he is then
5 serving to the office; provided, however, that any such officer or
6 employee whose services are so transferred shall for all purposes
7 be deemed to be continuing as an officer or employee of such
8 agency while serving in the office. The position from which any
9 such officer or employee shall have been transferred shall not be
10 filled on a provisional, temporary or permanent basis during the
11 period of transfer.

12 The Governor may also appoint such experts and other
13 personnel in the office or engage such technical consultants for
14 the office as he shall deem necessary for the functioning thereof;
15 provided, however, that such appointments shall be funded from
16 such amounts as have been appropriated already for expenditure
17 during the current fiscal year. If an employee serving in a
18 position which is classified under said chapter thirty-one or in
19 which he has tenure by reason of said section nine A shall be
20 appointed to a position within the office, he shall upon
21 termination of his service in the office be restored to the position
22 which he held immediately prior to such appointment; provided,
23 however, that if his service in the office shall have been
24 terminated for cause, his right to be so restored shall be
25 determined by the civil service commission in accordance with
26 standards applied by said commission in administering said
27 chapter thirty-one. Such restoration shall be made without
28 impairment of his civil service status or tenure under said section
29 nine A and without loss of seniority, retirement, or other rights
30 to which uninterrupted service in such prior position would have

31 entitled him. During the period of such appointment, each
32 person so appointed from a position in the classified civil service
33 shall be eligible to take any competitive examination to which he
34 otherwise would have been eligible.

1 SECTION 5. When reasonably necessary to achieve the
2 purposes of this act the office may compel the attendance of
3 witnesses and the production of documents and may examine the
4 books and papers of individuals, firms, associations and corpora-
5 tions involved directly or indirectly in the production, distribu-
6 tion, sale, use or consumption of commodities or services related
7 to the energy crisis. The office also may compel the cooperation
8 of any officer or agency of the commonwealth or any political
9 subdivision thereof having information related to the purposes of
10 this act.

1 SECTION 6. The office may, subject to the provisions of
2 chapter thirty A of the General Laws, adopt rules and regulations
3 or orders to exercise any power or discharge any duty assigned to
4 it by law or any function delegated to it by the governor.
5 Whoever violates any provision of any such rule, regulation or
6 order, for the violation of which no other penalty is provided by
7 law, shall be punished by imprisonment for not more than one
8 year, or by a fine of not more than five hundred dollars, or both;
9 provided, however, that a separate and distinct offense shall be
10 deemed to have been committed on every day during which any
11 such violation continues to exist. In addition, the supreme
12 judicial and superior courts shall have jurisdiction to grant
13 injunctive relief in appropriate proceedings to prevent any such
14 violation.

15 The office may, by such rule or regulation, delegate to any
16 other agency of the commonwealth or to any political subdivi-
17 sion thereof the implementation of any power or duty assigned
18 to it by law or any function delegated to it by the governor and
19 may revoke or modify any such delegation.

1 SECTION 7. The provisions of this act are severable; and if
2 any shall be held to be unconstitutional by any court of
3 competent jurisdiction, the decision of such court shall not affect
4 or impair any of the remaining provisions.

1 SECTION 8. This act shall expire 120 days from the date on
2 which it takes effect.

