

By Mr. Costello, a petition (accompanied by bill, Senate, No. 404) of Nicholas J. Costello, Lawrence R. Alexander, Barbara Hildt and Thomas G. Palumbo for legislation relative to small power production facilities. Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT CONCERNING SMALL POWER PRODUCTION FACILITIES.

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. Chapter 164 of the General Laws is hereby
2 amended by inserting after section thirty-five the following
3 section: —
4 Section 35A. Notwithstanding the provisions of section thirty-
5 five of this chapter, any city may construct, purchase or lease and
6 operate a cogeneration facility or a small power production
7 facility as defined in section one of chapter 164 of the General
8 Laws. In a city that does not have a municipal light department,
9 authorization for such a facility shall be by a majority vote of its
10 city council, or of the commissioners if the city government
11 consists of a commission. In a city that has a municipal light
12 department, authorization shall be a majority vote of the
13 municipal light department unless a petition as set out in this
14 section requires additional approval. The city council,
15 commission or municipal light department, as the case may be,
16 shall publish in a newspaper having general circulation in the city
17 notice of such proposed construction, purchase or lease and
18 operation of a cogeneration facility or small power production
19 facility. The notice shall in brief and summary terms (i) identify
20 and describe said cogeneration facility or small power facility; and
21 (ii) state the appropriate total cost in dollars of said construction,
22 purchase or lease and operation.

23 Upon petition of twenty or more registered voters, submitted
24 within two weeks of the date of publication of said newspaper
25 notice, the city council, commission or municipal light department
26 shall conduct a public hearing concerning said construction,
27 purchase or lease and operation.

28 Following publication of said newspaper notice, and any
29 required hearing, the city council or commission or municipal
30 light department, as the case may be, shall vote on whether to
31 construct, purchase, or lease and operate a cogeneration facility
32 or small power production facility.

33 In the case of a city with a municipal light department, if, within
34 thirty days after the department has approved such a facility, a
35 petition signed by registered voters of the city, equal in number
36 to at least five percent of the total number of registered voters,
37 and addressed to the municipal light department, requesting
38 approval of said construction, purchase or lease and operation
39 by the City Council and the Mayor or of the Commissioners if
40 the city government consists of a commission, is filed with the city
41 clerk, then the municipal light department shall not construct,
42 purchase or lease and operate said cogeneration facility or small
43 power production facility unless authorized to do so by a two-
44 thirds vote, as defined in section one of chapter forty-four, of such
45 city.

46 In those cities which do have municipal lighting plants, the
47 operation and management of said facility shall be under the
48 jurisdiction of the municipal light board or municipal light
49 commission. In cities which do not have a municipal utility, the
50 council or commission shall, at the time of the authorizing vote,
51 determine within what department of the city said facility shall
52 be operated and managed. The electricity generated by such
53 cogeneration or small power production facility may be used to
54 provide power to municipal buildings located on or adjacent to
55 the site of the facility or sold to an electric company or municipal
56 light department or both.

1 SECTION 2. Said chapter 164 of the General Laws is hereby
2 further amended by inserting after section 36 the following two
3 sections: —

4 Section 36A. Notwithstanding the provisions of section 36 of
5 this chapter, any town may construct, purchase or lease and
6 operate a cogeneration facility or a small power production
7 facility as defined in section one of chapter 164 of the General
8 Laws. In a town that does not have a municipal department,
9 authorization for such a facility shall be by a majority vote of its
10 town meeting. In a town that has a municipal light department,
11 authorization shall be by a majority vote of the municipal light
12 unless a petition as set out in this section requires additional
13 approval. The board of selectmen (in a town with no municipal
14 light department) or the municipal light department shall publish
15 in a newspaper having general circulation in the town notice of
16 such proposed construction, purchase or lease and operation of
17 a cogeneration facility or small power production facility. The
18 notice shall in brief and summary terms (i) identify and describe
19 said cogeneration facility or small power production facility; and
20 (ii) state the approximate total cost in dollars of said construction,
21 purchase or lease and operation.

22 Upon petition of twenty or more registered voters, submitted
23 within two weeks of the date of publication of said newspaper
24 notice, the board of selectmen or the municipal light department,
25 as the case may be, shall conduct a public hearing concerning said
26 construction, purchase or lease and operation. Following
27 publication of said newspaper notice and any required hearing,
28 the Town Meeting or municipal light department, as the case may
29 be, shall vote on whether to construct, purchase or lease and
30 operate a cogeneration facility or a small power production
31 facility.

32 In the case of a town with a municipal light department, if,
33 within thirty days after the department has approved such a
34 facility, a petition signed by registered voters of the city or town,
35 equal in number to at least five percent of the total number of
36 registered voters, and addressed to the municipal light
37 department, requesting approval of said construction, purchase
38 or lease and operation of Town Meeting, as defined in section one
39 of chapter forty-four, is filed with the town clerk, then the
40 municipal light department shall not construct, purchase or lease
41 and operate said cogeneration facility or small power production

42 facility unless authorized to do so by a two-thirds vote, as defined
43 in section one of chapter forty-four, of such town.

44 In towns which do have municipal lighting plants, the operation
45 and management of said facility shall be under the jurisdiction
46 of the municipal light board or municipal light commission. In
47 towns which do not have a municipal utility, the selectmen shall
48 determine within what department of the town said facility shall
49 be operated and managed. The electricity generated by such
50 cogeneration or small power production facility may be used to
51 provide power to municipal buildings located on or adjacent to
52 the site of the facility or sold to an electric company or municipal
53 light department or both.

54 Section 36B. A facility referred to in section thirty-five A or
55 thirty-six A shall be deemed to be incidental to the functions of
56 the department of the city or town which operates and manages
57 such facility. The laws of the commonwealth, including chapter
58 forty, shall be construed to authorize the acquisition, construc-
59 tion, operation, maintenance, and repair of such facilities, and
60 appropriations therefore by said city or town and department.