

Energy and Clean Technology Alert: Governor Deval L. Patrick Signs Major Energy Reform Bill

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Governor Deval L. Patrick today signed into law "An Act Relative to Green Communities," a comprehensive energy reform bill that will increase energy efficiency, develop renewable fuel supplies, and boost new energy technologies. Both the Senate and House unanimously approved the bill last week, marking the end of a five-month conference committee and the beginning of what will surely be an intensive implementation process involving the development of many new regulations and incentive programs.

"Today, Massachusetts has taken a giant step forward toward a clean energy future," said Governor Deval Patrick, who signed the bill at a ceremony at the Museum of Science. "This legislation will reduce electric bills, promote the development of renewable energy, and stimulate the clean energy industry that is taking root here in the Commonwealth."

The new law establishes several key energy goals for Massachusetts to achieve by the year 2020. These include:

- meeting at least 25% of the state's electricity demand through energy efficiency and demand response;
- meeting at least 20% of the state's electricity demand through renewable and alternative energy generation;
- reducing the use of fossil fuels in buildings by at least 10%; and
- reducing the state's total energy consumption by at least 10% by 2017.

House Speaker Salvatore F. DiMasi (D-Boston), who first filed the legislation in 2007, said, "This law will spark a significant increase in the use of renewable energy that will significantly curtail our use of fossil fuels, improve our environment and save us all money in the long run. Working together, we in the House, Senate, and Patrick administration have much to be proud of." Senate President Therese Murray added, "With the cost of energy skyrocketing, this legislation comes at a critical time and puts Massachusetts at the forefront of clean energy policies and the development of alternative fuel sources."

Other aspects of the bill include:

- a requirement that electric utilities use "cost-effective" energy efficiency to meet electricity demand before investing in new supplies of electricity;
- adding hydroelectric power to the fuels eligible for Renewable Portfolio Standard (RPS) credits;
- creating a new Alternative Portfolio Standard (APS) to encourage coal gasification, flywheel energy storage, and combined heat and power systems;
- encouraging electric utilities to own and operate solar generation facilities; and
- a requirement that state and municipal agencies minimize the life-cycle cost of new or renovated buildings by utilizing energy efficiency, water conservation, or renewable energy technologies.

Governor Patrick and his energy agencies face daunting challenges to implement the legislation. Several key determinations were not made by the legislature, leaving difficult decisions to the discretion of regulatory agencies. For example, the legislation does not specify the amount of additional energy efficiency and renewable energy use that will be required over the next few years. More ambitious requirements will stimulate rapid innovation and intensify market penetration by these new technologies but will presumably increase the current cost of energy at a time when such costs are already at unprecedented levels. Alternatively, if the agencies set modest requirements that impose few costs on consumers, they will be criticized for failing to stimulate innovation or market penetration by new technologies. Since investments in efficiency and renewable energy are likely to reduce supply costs in future years, but increase total spending in the near term, the agencies will have to strike a balance to increase short-term consumer spending on new technologies and achieve long-term savings.

The Green Communities Act's passage is one in a series of several other major legislative initiatives on energy. In recent months, Governor Patrick signed a first-in-the-nation law that regulates offshore energy developments like wind farms and liquefied natural gas terminals. In addition, Speaker DiMasi recently filed a Green Jobs Act that proposes to allocate \$50 million over five years to stimulate the clean energy economy through seed grants, fellowships for green entrepreneurs, and workforce training programs. The passage of the Green Communities Act, however, truly marks the beginning of a new energy era in Massachusetts. Its consequences will not be known for many months—perhaps years—and the debate over the details of emerging new regulatory requirements will undoubtedly be protracted and intense.

For More Information

[Summary of the Green Communities Act](#)

[Full report on the Green Communities Act](#)

If you wish to discuss the contents of this alert, or for assistance with issues raised by the legal or regulatory developments that are the subject of this alert, please contact any of the Mintz Levin service professionals listed below.

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