



States' Biofuels Statutes

STATE OF MASSACHUSETTS

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Massachusetts General Assembly.

§ 1. Definitions

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Board”, the board of directors of the center.

“Bonds”, when used in reference to the center, any bonds, notes, debentures, interim certificates or other financial undertakings for the purpose of raising capital, including, but not limited to, lines of credit, forward purchase agreements, investment agreements and other banking or financial arrangements.

“Center”, the Massachusetts clean energy center established by section 2.

“Clean energy”, advanced and applied technologies that significantly reduce or eliminate the use of energy from non-renewable sources, including, but not limited to: energy efficiency; demand response; energy conservation and those technologies powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, fuel cells any renewable, non-depletable or recyclable fuel and for purposes of this Act, an alternative energy generating source as defined in clauses (1) to (5), inclusive, of subsection (a) of section 11F ½ of chapter 25A.

“Clean energy research”, advanced and applied research in new clean energy technologies including: solar photovoltaic; solar thermal; wind power; geothermal; wave and tidal energy; advanced hydropower; energy storage for automotive applications; energy storage for grid applications; biofuels, including ethanol, biodiesel and advanced biofuels; renewable, biodegradable chemicals; advanced thermal-to-energy conversion; hydrogen; carbon capture and sequestration; energy monitoring; green building materials; energy-efficient lighting; gasification and conversion to liquids fuels; industrial energy efficiency; demand-side management; fuel cells; and other technologies that the board considers to qualify under the definitions herein; provided, however, that “clean energy research” shall not include coal, oil, natural gas except when used in fuel cells or nuclear power.

“Contribution agreement”, an agreement authorized under this chapter in which a private entity or public entity other than the commonwealth agrees to provide to the center contributions for the purpose of promoting clean energy research.

“Director”, the director of the Massachusetts Renewable Energy Trust appointed pursuant to section 2.

“Executive director”, the executive director of the center appointed pursuant to section 2.

“Federal agency”, an office, agency, division, department, board or commission of the United States government.

“Fund”, the Massachusetts Alternative and Clean Energy Investment Trust Fund established in subsection (a) of section 35FF of chapter 10.

“Person”, a natural or corporate person, including bodies politic and corporate, public departments, offices, agencies, authorities and political subdivisions of the commonwealth, corporations, trusts, societies, associations and partnerships and subordinate instrumentalities of any 1 or more political subdivisions of the commonwealth.

“Public body”, the commonwealth and any body politic and corporate of the commonwealth, including any political subdivision or instrumentality thereof, which is empowered to issue bonds secured by a pledge of revenues or other special funds or assets, including any municipality or district for which the issuance of debt is governed or limited by chapter 44.

“Revenues”, any receipts, fees, rentals or other payments or income received or to be received on account of obligations to the center including, without limitation: equity ownership in public or private companies; income on account of the leasing, mortgaging, sale or other disposition of a project or proceeds of a loan made by the center in connection with any project; and amounts in reserves or held in other funds or accounts established in connection with the issuance of bonds and the proceeds of any investments thereof; proceeds of foreclosure; and any other fees, charges or other income received or receivable by the center.

“Trust fund”, the Massachusetts Renewable Energy Trust Fund established pursuant to section 9.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008. Amended by St.2009, c. 158, §§ 2, 3, eff. Nov. 23, 2009.

§ 2. Massachusetts clean energy technology center; establishment; purpose; board of directors; liability of officers and employees; actions by center; documentary material

(a) There is hereby established a body politic and corporate to be known as the Massachusetts clean energy technology center. The center is hereby constituted a public instrumentality and the exercise by the center of the powers conferred by this chapter shall be considered to be the performance of an essential governmental function.

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

The center shall promote and advance the commonwealth's public interests by: (i) acting as the commonwealth's lead agency, in collaboration with the Massachusetts Renewable Energy Trust Fund established in section 4E of chapter 40J, in the promotion and development of jobs in the clean energy sector; (ii) promoting research and workforce training in clean energy technology at the commonwealth's public institutions of higher education, as defined in section 5 of chapter 15A, and vocational technical schools, as established in sections 14 and 15, chapter 74 or any vocational technical school that meets the programmatic requirements established by the department of elementary and secondary education; (iii) stimulating the creation and development of new clean energy ventures that will form the foundation of a strong clean energy industry sector or cluster in the commonwealth; (iv) providing support to existing clean energy companies to expand their operations within the commonwealth; (v) attracting new capital and research facilities from institutions outside the commonwealth; (vi) fostering collaboration between industry, state government, research universities and the financial sector to advance clean energy technology commercialization and venture development; (vii) conducting market research to identify barriers to creating and expanding a clean technology industry, including job training needs; (viii) supporting demonstration projects that are evaluated by independent, third-party peer research institutions; (ix) serving as the clearinghouse for information related to the clean energy industry in the commonwealth; (x) promoting programs and investments that lead to pathways towards economic self sufficiency for low and moderate-income individuals and communities in the clean energy industry; and (xi) performing any other actions necessary to effectuate the state's public interests.

(b) The center shall be governed and its corporate powers exercised by a board of directors consisting of 12 directors: 1 of whom shall be the secretary of energy and environmental affairs or his designee, who shall serve as a chair; 1 of whom shall be the secretary of housing and economic development or his designee; 1 of whom shall be the secretary of administration and finance or his designee; 1 of whom shall be the secretary of labor and workforce development or his designee; 1 of whom shall be the president of the University of Massachusetts or his designee; 1 of whom shall be the executive director of the Massachusetts Workforce Alliance; 1 of whom shall be the commissioner of the department of energy resources; and 5 of whom shall be appointed by the governor, 1 of whom shall be a venture capitalist or a chief executive officer of a Massachusetts-based clean energy corporation with expertise in clean energy technologies in the commonwealth, 1 of whom shall be the president of a Massachusetts community college or his designee, 1 of whom shall have knowledge of electricity distribution, generation, supply or power marketing, 1 of whom shall be the president of a private college or university or his designee, and 1 of whom shall be a union representative. Each of the 5 directors appointed by the governor shall serve for a term of 5 years. A director shall be eligible for reappointment. A director may be removed from his appointment by the governor for cause. A person appointed to fill a vacancy in the office of an appointed director of the board shall be appointed in a like matter and shall serve for only the unexpired term of the director.

(c) Six directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly-called meeting where a quorum is present shall be necessary for any action to be taken by the

board. An action required or permitted to be taken at a meeting of the directors may be taken without a meeting if all of the directors consent in writing to such action and such written consents are filed with the records of the minutes of the meeting of the board. Such consents shall be treated for all purposes as a vote at a meeting.

The directors of the board shall serve without compensation, but each director shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

(d) Chapter 268A shall apply to all directors.

(e) The board may appoint and employ an executive director, and fix his compensation and conditions of employment. The executive director shall have a full range of previous experience in the clean energy industry, including previous executive experience within the clean energy industry. The executive director shall be the chief executive, administrative and operational officer of the center and shall direct and supervise the administrative affairs and the general management of the center. The executive director may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel and advisors, and shall attend meetings of the board.

The board shall appoint and employ a director for the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the trust fund, and shall fix his compensation and conditions of employment. The director of the trust fund shall report to the executive director. The director of the trust fund shall have a full range of previous experience in the clean energy industry.

(f) The board shall elect a secretary and a treasurer. The secretary shall keep a record of the proceedings of the board and shall be the custodian of all books, documents and papers filed by the board and of its minute book and seal. The secretary shall cause copies to be made of all minutes and other records and documents of the center and shall certify that such copies are true copies, and all persons dealing with the center may rely upon such certification. The treasurer shall be the chief financial and accounting officer of the center and shall be in charge of its funds, books of account and accounting records. The books and records of the center shall be subject to a biennial audit by the auditor of the commonwealth.

(g) All officers and employees of the center having access to its cash or negotiable securities shall give bond to the center, at its expense, in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h) The directors and officers of the board who are not compensated employees of the center shall not be liable to the commonwealth, to the center or to any other person as a result of their activities, whether ministerial or discretionary, as such directors or officers except for willful dishonesty or intentional violations of law. Neither members of the center nor any person executing bonds or policies of insurance shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The board of directors may purchase liability insurance for board members, officers and employees and may indemnify said persons against claims by others.

(i) The center shall continue as long as it shall have bonds or insurance or guarantee commitments outstanding and until its existence is terminated by law. Upon the termination of the existence of the center, all rights, title and interest in and to its assets and its obligations, duties, covenants, agreements

and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(j) An action of the center may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the board shall be subject to section 11A ½ of chapter 30A; but said section 11A ½ shall not apply to any meeting of members of the center serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matters relating to the official business of the center are discussed and decided at the meeting. The center shall be subject to all other provisions of said chapter 30A, and records pertaining to the administration of the center shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the center shall be considered to be public funds for purposes of chapter 12A. The operations of the center shall be subject to chapters 268A and 268B and all other operational or administrative standards or requirements to the same extent as the office of state treasurer.

(k) Any documentary materials or data whatsoever made or received by a member or employee of the center and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the center is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the center and shall not be subject to section 10 of chapter 66. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the board in executive sessions closed to the public, notwithstanding section 11A ½ of chapter 30A, but the purpose of any such executive session shall be set forth in the official minutes of the center and no business which is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008. Amended by St.2009, c. 158, §§ 4, 5, eff. Nov. 23, 2009.

§ 3. Powers of center

(a) The center shall have all powers necessary or convenient to carry out and effectuate its purposes, including, without limiting the generality of the foregoing, the powers:

(1) to adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business, notwithstanding chapter 30A;

(2) to establish standards requiring that any grant, loan or other appropriation of funds pursuant to this chapter be subject to an intellectual property agreement between the center and the recipient person; provided, however, that said intellectual property agreements shall balance the opportunity for the commonwealth to benefit from the patents, royalties and equity ownership in public and private companies and licenses with the need to ensure that essential clean energy research shall not be unreasonably hindered by the intellectual property agreements; and provided further, that all revenues or financial interests of any kind received by the center as a result of said intellectual property agreements shall be placed, in their entirety, in the fund.

(3) to adopt an official seal;

(4) to maintain offices within the commonwealth as it may determine and to conduct meetings of the center in accordance with the by-laws of the center and the second paragraph of section 59 of chapter 156B;

(5) to sue and be sued, to prosecute and defend actions relating to its properties and affairs and to be liable in tort in the same manner as a private person; provided, however, that the center is not authorized to become a debtor under the United States Bankruptcy Code;

(6) to appoint officers and employees and to engage consultants, agents and advisors;

(7) to enter into contracts and agreements and execute all instruments necessary or convenient thereto for accomplishing the purposes of this chapter; provided, however, that such contracts and agreements may include, without limiting the foregoing, construction agreements, purchase or acquisition agreements, loan or lease agreements, partnership agreements including limited partnership agreements, joint ventures, participation agreements, service agreements with clean energy entities, environmental, educational or other financial institutions or intermediaries and agreements with 1 or more persons for the servicing of loans made by the center, including the receipt by such servicer of payments made by a user under a financing document and provided further, that any such payments shall constitute trust funds to be held and applied solely as provided in such agreement for the servicing of loans, shall constitute pledged funds of the center and shall be entitled to the same protection when received by a person for the servicing of loans, without the need for filing and recording of the servicing agreement under chapter 106 or otherwise, except in the records of the center, as is afforded to funds received by an issuer and pledged to a trustee under section 14 of chapter 40D;

(8) to acquire real and personal property, or any interest in real or personal property, by gift, purchase, transfer, foreclosure, lease or otherwise including rights or easements; to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage any interest owned by it or under its control, custody or in its possession; to release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; to take assignments of leases and rentals, proceed with foreclosure actions or take any other actions necessary or incidental to the performance of its corporate purposes including, but not limited to, making, or delegating to a lessee or a licensee to make, improvements or alterations to the real property of the center, or any interest thereon or engage in construction on or renovation at such property or interest;

(9) to invest funds held in reserves or sinking funds, or the Massachusetts Alternative and Clean Energy Investment Trust Fund, or funds not required for immediate disbursement, in such investments as may be provided in a financing document relating to the use of such funds, or, if not so provided, as the board may determine;

(10) to review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further the enhancement of clean energy financing, infrastructure, siting, manufacturing and development within the commonwealth;

(11) to appear on its own behalf before boards, commissions, departments or other agencies of

municipal, state or federal government;

(12) to obtain insurance;

(13) to apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes; provided, however, that the center shall not accept funding from any source, including any federal agency, if the receipt of said funding would limit the center's ability to promote its public purposes; and provided further, that all such funds shall be placed, in their entirety, in the fund;

(14) to enter into agreements with public and private entities that deal primarily with clean energy technologies, in order to distribute and provide leveraging of monies or services for the purposes of furthering research and development, aiding in the promotion of environmental protection, creating jobs in clean energy and promoting overall economic growth by fostering collaboration and investments in clean energy in the commonwealth;

(15) to provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;

(16) to establish and collect such fees and charges as the center without further appropriation shall determine to be reasonable, and to receive and apply revenues from fees and charges to the purposes of the center or allotment by the commonwealth or any political subdivision thereof; provided, however, that all said revenues shall be placed, in their entirety, in the fund;

(17) to make loans to any person for the acquisition, construction, alteration or any combination thereof, or other financing of a project including, but not limited to, loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used by such lending institutions for the making of loans to users for qualified projects;

(18) to disburse, appropriate, grant, loan or allocate funds for the purposes of investing in clean energy as directed in this chapter;

(19) to provide assistance to local entities and authorities, public bodies and private corporations for the purposes of maximizing opportunities for expanding clean energy technologies, attracting new clean energy entities and advanced technology investments, fostering new innovative research and creating new manufacturing and development initiatives in the commonwealth;

(20) to prepare, publish and distribute, with or without charge, as the center may determine, such studies, reports and bulletins and other material as the center deems appropriate;

(21) to exercise any other powers of a corporation organized under chapter 156B;

(22) to engage accountants, architects, attorneys, engineers, planners, real estate experts and other consultants as may be necessary in its judgment to carry out the purposes of this act and to fix their compensation;

(23) to take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by this chapter;

(24) to enter into agreements or other transactions with any person, including without limitation any public entity or other governmental instrumentality or agency in connection with its powers and duties under this chapter;

(25) to make qualified investments to ensure the success of clean energy industry clusters;

(26) to institute and administer the Massachusetts Alternative and Clean Energy Investment Trust Fund for the purposes of making appropriations, allocations, grants or loans to leverage development and investments in clean energy research, workforce training and job creation; provided, however, that the center shall implement an application and grant process for these purposes;

(27) to promote programs and investments that lead to pathways towards economic self-sufficiency for low and moderate-income individuals and communities in the clean energy industry;

(28) to research and establish, if the center so chooses, the Massachusetts Hydrogen and Fuel Cell Institute, to be housed at the Worcester Polytechnic Institute, and to serve as a joint venture among institutes of higher education in the commonwealth providing a focal point for research, education and commercialization activities in the hydrogen fuel cell sector; provided, however, that said institute responsibilities may include, but not be limited to: (i) working with the University of Massachusetts and private higher education institutions in the commonwealth to coordinate and strengthen hydrogen and fuel cell research activities in the commonwealth; (ii) strengthening collaborative research and development between universities and companies located within the commonwealth; (iii) addressing critical technological barriers facing the hydrogen and fuel cell companies; (iv) strengthening existing educational programs and introducing new curriculum in Massachusetts universities to produce graduates who are conversant in hydrogen and fuel cell technologies; and (5) promoting partnerships between Massachusetts universities and companies to jointly demonstrate hydrogen and fuel cell technologies and attract greater amounts of federal funding to the commonwealth;

(29) to allocate, if the center so chooses, up to \$2 million annually for 5 years for the Massachusetts Hydrogen and Fuel Cell Institute; provided, however, that said funding shall begin in the fiscal year that said institute shall be established and shall end in the fifth fiscal year following the establishment of said institute;

(30) to establish, if the center so chooses, a program to be known as the entrepreneurial fellowship program, which shall award grants to entrepreneurs from business sectors other than clean energy sectors to enroll in programs to foster knowledge and expertise of clean energy technology; provided, however, that the clean energy technology programs shall be based upon intensive technology, market and policy curriculum and; provided, further, that the center shall establish public-private partnerships and enter into contribution agreements with commonwealth-based companies and venture capitalists to support programs designed to mentor and train entrepreneurs from other business sectors in the areas of clean energy technology and development to increase investment in the commonwealth's clean energy sector; and

(31) to administer the trust fund in accordance with section 9.

<[There is no subsection (b).]>

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008. Amended by St.2009, c. 158, §§ 6 to 8, eff. Nov. 23, 2009.

§ 4. Operations of center as essential governmental functions; exemption from taxes and assessments; public property

(a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the commonwealth and for the improvement of their health and living conditions. The operation of the center shall constitute the performance of essential governmental functions and the center shall not be required to pay any taxes or assessments, except as otherwise provided by this chapter and the notes or bonds issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof shall be free from taxation by and within the commonwealth.

(b) The lands and tangible personal property of the center shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008.

§ 5. Annual reports

The center shall annually submit a report setting forth, relative to its operations, its receipts and expenditures during such fiscal year and its assets and liabilities during the fiscal year to the governor, the secretary of administration and finance, the comptroller and the clerks of the house of representatives and senate, who shall forward the same to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on telecommunications, utilities and energy and the joint committee on environment, natural resources and agriculture annually on or before August 15.

The center shall annually, not later than August 15, submit to the governor, the joint committee on telecommunications, utilities and energy, the joint committee on economic development and emerging technologies and the senate and house committees on ways and means a report detailing the expenditure and investment of monies from the fund and the trust fund over the previous fiscal year, the ability of the fund to meet the requirements in section 35FF of chapter 10 and the ability of the trust fund to meet the requirements in section 9, and any recommendations for improving the ability of the board, the center and the fund and trust fund to meet such requirements.

The center shall annually, no later than August 15, submit to the governor, the joint committee on telecommunications, utilities and energy, the joint committee on economic development and emerging technologies and the senate and house committees on ways and means a report detailing the

commonwealth's clean energy sector. The report shall include, but shall not be limited to, an examination of the growth rate of the commonwealth's clean energy sector, including the number of in-state jobs and businesses.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008. Amended by St.2009, c. 158, § 9, eff. Nov. 23, 2009.

§ 6. Statewide plan for installation of renewable energy generating facilities

Based on recommendations included in the clean energy study, the center shall, within 100 days of said study's completion, develop a statewide plan for the installation and operation of renewable energy generating facilities on real property owned by the commonwealth. Any renewable energy generating facility sited on state land shall be made available for state and local workforce development and training initiatives.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008.

§ 7. Clean energy seed grant program

There is hereby established and placed within the center a program to be known as the clean energy seed grant program. Said program shall award grants to clean energy researchers, companies, nonprofit organizations, community-based organizations and institutions. The center shall establish public-private partnerships with commonwealth-based investors, entrepreneurs and institutions that are involved in the clean energy industry for the purposes of facilitating matching grants for recipients of funding from the center.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008.

§ 8. Green jobs initiative

There is hereby established and placed within the center an initiative to be known as the green jobs initiative. Said initiative shall award grants to the commonwealth's public institutions of higher education as defined in section 5 of chapter 15A, and vocational technical schools, as established in sections 14 and 15 of chapter 74 or any vocational-technical school that meets the programmatic requirements established by the department of elementary and secondary education, to facilitate workforce development efforts and train and retain students in clean energy industries. The grants shall include matching grants to said public institutions of higher education and said vocational technical schools for the development of small-scale renewable energy generating sources, including, but not limited to: photovoltaic installations; wind energy; ocean thermal, wave or tidal energy; fuel cells; landfill gas; natural flowing water and hydroelectric; low-emission advanced biomass power conversion technologies using such biomass fuels as wood, agricultural or food wastes; biogas, biodiesel or organic

refuse-derived fuel; and geothermal energy. The center shall assist said public institutions of higher education as defined in this section and the commonwealth's vocational technical schools as defined in this section in developing a curriculum for clean energy and energy efficiency, and shall assist students seeking employment in the clean energy sector.

Credits: Added by St.2008, c. 307, § 2, eff. Aug. 8, 2008.

§ 9. Massachusetts Renewable Energy Trust Fund

(a) There is hereby established and placed within the center a separate fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the trust fund. The center shall hold the trust fund in an account or accounts separate from other funds. There shall be credited to the trust fund all amounts collected under section 20 of chapter 25 and any income derived from the investment of amounts credited to the trust fund. All amounts credited to the trust fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the trust fund as set forth in subsection (b), including the ordinary and necessary expenses of administration and operation associated with the trust fund. Unless otherwise specified, all monies of the center, from whatever source derived, shall be paid to the treasurer of the center. Such monies shall be deposited, in the first instance, by the treasurer in national banks, in trust companies, savings banks and cooperative banks chartered under the laws of the commonwealth, or in other banking companies in compliance with section 34 of chapter 29. Funds in these accounts shall be paid out on the warrant or other order of the treasurer of the center and the director of the trust fund or other person that the board may authorize to execute warrants.

(b) The center may make expenditures from the trust fund for the public purpose of generating the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploit the advantages of renewable energy in a more competitive energy marketplace by: (i) promoting the increased availability, use and affordability of renewable energy; (ii) by making operational improvements to existing renewable energy projects and facilities which, in the determination of the center, would yield more significant results in the development of renewable energy if such funds were made available for the creation of new renewable energy facilities; and (iii) by fostering the formation, growth, expansion and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions and projects which serve the citizens of the commonwealth consistent with a strategic plan or annual operational plan.

(c) Public interests to be advanced through the center's actions shall include, but shall not be limited to, the following: (i) the development and increased use and affordability of renewable energy resources in the commonwealth and the New England region; (ii) the protection of the environment and the health of the citizens of the commonwealth through the prevention, mitigation and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) the maximization of benefits to consumers of the commonwealth resulting from increased fuel and supply diversity; (iv) the creation of additional employment opportunities in the commonwealth through the development of renewable technologies including, but not limited to, promoting programs and investments that lead to pathways toward economic self-sufficiency for low- and moderate-income individuals and communities

in the clean energy industry; (v) the stimulation of increased public and private sector investment in, and competitive advantage for, renewable energy and related enterprises, institutions and projects in the commonwealth and the New England region; and (vi) the stimulation of entrepreneurial activities in these and related enterprises, institutions and projects.

(d) In furtherance of any strategic and operational plans, and other public purposes and interests, the center may expend monies from the trust fund to: make grants, contracts, loans, equity investments, energy production credits, bill credits or rebates to customers; provide financial or debt service obligation assistance; or take any other action, in such forms, under such terms and conditions and under such selection procedures as the center deems appropriate and otherwise in a manner consistent with good business practices; provided, however, that the center shall generally employ a preference for competitive procurements; provided further, that the center shall endeavor to leverage the full range of the resources, expertise and participation of other state and federal agencies and instrumentalities in the design and implementation of programs conducted pursuant to this section; and provided further, that the board determines and incorporates into the minutes of its proceedings a finding that such actions are calculated to advance the public purpose and public interests set forth in this section including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy including, but not limited to, promoting programs and investments that lead to pathways toward economic self-sufficiency for low- and moderate-income individuals and communities in the clean energy industry; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing renewable energy projects and facilities as defined herein which were in operation as of December 31, 1997; and (viii) matters related to the conservation of scarce energy resources.

(e) Subject to the approval of the board and not inconsistent with any strategic or annual operational plans, investment activity of monies from the trust fund may consist of the following: (i) an equity fund to provide risk capital to renewable energy enterprises, institutions and projects; (ii) a debt fund to provide loans to energy enterprises, institutions, projects, intermediaries and end-users; and (iii) a market growth assistance fund to be used to attract private capital to the equity and debt funds. To implement these investment activities, the center may retain, through a bid process, public or private sector investment fund managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described in this section and to seek other trust fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital shall be appropriately segregated. Subject to the approval of the board, the managers may retain necessary services and consultants to carry out the purposes of the trust fund. The managers shall develop a business plan to guide investment decisions which shall be approved by the board before any expenditure from the trust fund and which shall be consistent with the plan for the trust fund as adopted by the board.

(f) For the purposes of expenditures from the trust fund, renewable energy technologies eligible for

assistance shall mean technologies eligible as class I or class II renewable energy generating sources under section 11F of chapter 25A, micro-combined heat and power units less than 60 kilowatts, solar hot water, geothermal heating and cooling projects, biomass thermal and storage and conversion technologies connected to qualifying generation projects. The board may make grants from the trust fund, not to exceed a total of \$4,000,000 annually, in support of Massachusetts-based public and private enterprises developing new technologies to significantly increase the efficiency of the internal combustion engine. The center shall make grants, loans or other support from the trust fund, not to exceed \$3,000,000 annually for hydroelectric facilities, other than pumped storage facilities in the commonwealth, constructed before December 31, 1997 for upgrades to increase efficiency or capacity and to reduce environmental impacts. Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewable energy and distributed generation opportunities, if consistent with this section; provided, however that the following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells or micro-combined heat and power and nuclear power.

(g) The use by the center of monies to implement this section shall be deemed to be an essential governmental function. No lease or license executed in furtherance of the public purpose and interests of the trust fund shall exceed 30 years in duration, and the duration and terms shall be developed in a manner consistent with good business practices; and provided further, that the center shall take no action which contravenes the commonwealth's reversionary interest in any of its real property. The center, any purchasing cooperative established thereby and all members of any such purchasing cooperative may participate in any energy-related purchasing, aggregating or similar program established and operated by the Health and Educational Facilities Authority, established by section 4 of chapter 614 of the acts of 1968, and such participation shall be deemed to be in furtherance of an essential governmental function.

Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, as a condition subsequent to the prior transfer of \$17,000,000 from the trust fund to the commonwealth for deposit in the General Fund authorized by section 183 of chapter 26 of the acts of 2003, the commonwealth, acting by and through the department of energy resources or a successor agency, shall enter into an agreement with the center under which the commonwealth, at the direction of the center, shall enter into contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The center shall determine the particular types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the center and the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. The maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5,000,000. The commonwealth shall be indemnified under such contracts by the owners or power marketers on such terms as the center shall deem commercially reasonable. The

amounts collected pursuant to section 20 of chapter 25 shall be impressed with a trust for the benefit of the trust fund. To facilitate the purchase by the center of electricity produced by renewable energy technologies or of certificates produced under the renewable energy portfolio standard regulations of the department of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth shall covenant with the sellers of such electricity or certificates that the amounts collected under said section 20 of said chapter 25 shall not be diverted from the trust fund and that the rates of the mandatory charges under said section 20 of said chapter 25 shall not be reduced during the term of any contract entered into by the center for the purchase of such electricity or certificates below a level which shall enable the center to fulfill the terms of such contracts; provided, however, that the term of any such contract shall not exceed 20 years. In furtherance of the public purposes of the trust fund, income derived from the investment of amounts collected under said section 20 of said chapter 25 shall be expended by the center as provided in subsection (a) and, in the discretion of the center, in furtherance of the public purposes of the center and for such costs of departments and agencies that support or are otherwise consistent with the purposes of the trust fund.

Credits: Added by St.2009, c. 158, § 10, eff. Nov. 23, 2009.

§ 10. Pathways out of poverty initiative

The center shall develop an initiative to be known as the pathways out of poverty initiative. This initiative shall award grants to clean energy companies, regional employment boards, community-based nonprofit organizations, educational institutions or labor organizations to enable said entities to carry out training programs associated with the clean energy industry that lead to economic self-sufficiency. The center shall give funding priority to entities that: (i) serve individuals in families with incomes that either do not exceed 300 per cent of the poverty level, as determined by the United States Census Bureau, or a self-sufficiency standard for the local areas where the training is conducted that specifies the income needs of families, family size, the number and ages of children in the family and geographical considerations; (ii) engage in partnerships with public and private employers and community-based nonprofit agencies; and (iii) establish career pathways for hard and soft skill development and salary advancement. Such grants shall be awarded so as to ensure geographic diversity within the commonwealth.

Credits: Added by St.2009, c. 158, § 10, eff. Nov. 23, 2009.

§ 11. Audit of expenditures and investments of monies from the fund and the trust fund

The books and records of the center and board relative to expenditures and investments of monies from the fund and the trust fund shall be subject to a biennial audit by the auditor of the commonwealth.

Credits: Added by St.2009, c. 158, § 10, eff. Nov. 23, 2009.

§ 12. Application of other laws to center

The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

Credits: Added by St.2010, c. 454, § 14, eff. Jan. 14, 2011.