

Testimony to the Joint Committee on Telecommunications, Utilities and Energy Proponent of S-2596: An Act Allowing Municipalities to Reasonably Regulate Solar Siting

Respectfully submitted by Michael DeChiara on Jan. 11, 2022
56 Pratt Corner Road, Shutesbury, MA, mdechiara@gmail.com, 413-658-4298

Chair Roy, Chair Barrett, and members of the Committee,

My name is Michael DeChiara. I am a resident of Shutesbury, a constituent of Sen. Comerford, and the person that asked her to file this legislation. I am in support of S-2596, because it will allow municipalities to reasonably regulate industrial solar.

I believe we must act boldly to address the climate crisis and solar is a necessary tool. I have been working on and tracking climate change issues since the early 1990's when I worked for Greenpeace. More recently, for the past four years, I have served as an elected Planning Board member for Shutesbury and am the co-author of the town's solar bylaw.

To be very clear, this bill is NOT about the substance of solar and its role in addressing climate change. This bill IS intended to revise an outdated statute and to enable municipalities to appropriately and responsibly regulate solar so that the Commonwealth can effectively address climate change.

The current statute, Ch. 40A, Sec 3 is prohibitive in regards to solar – it prohibits municipalities from unreasonably regulating any form of solar and limits regulation for purposes of public health, safety or welfare. The statute made sense in 1985 when it was passed; solar was a fledging residential technology and large scale industrial solar was not available.

The solar technology we are discussing today is completely different. The industrial solar installations of today are complex; the arrays span acres, require high voltage electric lines, earth moving, and storm water management; they often involve acres of tree cutting, and if they receive SMART subsidies, they must include large lithium-ion batteries that can be a fire hazard. As a result, like all industrial installations they should be sited, installed and operated in an appropriate and responsible manner to avoid problems.

CORE to this bill is the differentiation between residential solar, which should be minimally regulated and aggressively promoted, and industrial scale solar which needs responsible regulation through local zoning

Most of the recent and proposed industrial solar developments are located in communities with lots of land and little infrastructure. This includes not only Central and Western Mass with its forests and agriculture but also Southeastern Mass with its cranberry bogs and the Cape. Importantly, this bill would expand the purposes for reasonable regulation –allowing consideration of forested lands, active agriculture, and wetlands.

Why is this urgent and why was this bill filed late? Current statute is vague and open to interpretation. Corporate solar developers frequently cite the law to intimidate and sometimes sue municipalities with solar bylaws. As a result, in October, the SJC took the unusual step of elevating a Waltham-based solar case, to clarify the law. Based on my conversations with attorneys on both sides, the SJC could likely interpret the law narrowly, further constraining the rights of local zoning. In December, I reviewed all Mass. zoning bylaws available online (333); by my count 206 have specific mention of solar. Of these I estimate 168 or 48% of municipalities could be out of compliance with a strict, narrow interpretation by the SJC, creating a void of local regulation. Oral arguments at the SJC are set for March 7, 2022.

The towns and cities in the state vary in regards to zoning and planning policy, physical attributes, social priorities, etc. Given this, the substance of how to deploy industrial scale solar is best debated at the local level; in Massachusetts this is where most zoning takes place. If we want to expand solar in our state and do it appropriately, we need to ensure that towns and cities have the affirmative right to reasonably regulate large scale solar.

I ask that this committee vote to favorably advance this bill AND to do so in a timely manner so that this bill and its companion House bill can be enacted before the SJC ruling occurs, possibly by April 2022.

I sincerely thank you for your time and attention to this matter.