HOUSE DOCKET, NO. 296 FILED ON: 1/9/2013

HOUSE . . . . . No. 3119

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake and Stanley C. Rosenberg

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to establish regional transit authority enterprise fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Sarah K. Peake	*4th Barnstable*
Stanley C. Rosenberg	*Hampshire, Franklin and Worcester*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
John W. Scibak	*2nd Hampshire*
Michael J. Rodrigues	*First Bristol and Plymouth*
Louis L. Kafka	*8th Norfolk*
Michael Barrett	*Third Middlesex*
Cleon H. Turner	*1st Barnstable*
Stephen L. DiNatale	*3rd Worcester*
Harriette L. Chandler	*First Worcester*
Paul A. Schmid, III	*8th Bristol*
Denise Provost	*27th Middlesex*
Gailanne M. Cariddi	*1st Berkshire*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Peter V. Kocot	*1st Hampshire*
Michael O. Moore	*Second Worcester*
Randy Hunt	*5th Barnstable*

Tricia Farley-Bouvier	*3rd Berkshire*
Tom Sannicandro	*7th Middlesex*
Cory Atkins	*14th Middlesex*
Sean Garballey	*23rd Middlesex*
Denise Andrews	*2nd Franklin*
Colleen M. Garry	*36th Middlesex*
Kimberly N. Ferguson	*1st Worcester*
Daniel A. Wolf	*Cape and Islands*
Karen E. Spilka	*Second Middlesex and Norfolk*
James B. Eldridge	*Middlesex and Worcester*
Patricia D. Jehlen	*Second Middlesex*
David Paul Linsky	*5th Middlesex*
Jennifer E. Benson	*37th Middlesex*
Kate Hogan	*3rd Middlesex*
Antonio F. D. Cabral	*13th Bristol*
Bruce E. Tarr	*First Essex and Middlesex*
Kay Khan	*11th Middlesex*
David T. Vieira	*3rd Barnstable*

HOUSE DOCKET, NO. 296 FILED ON: 1/9/2013

HOUSE . . . . . No. 3119

By Representative Peake of Provincetown and Senator Rosenberg, a joint petition (accompanied by bill, House, No. 3119) of Sarah K. Peake, Stanley Rosenberg and others for legislation to authorize regional transit authorities to establish enterprise funds. Transportation.

The Commonwealth of Massachusetts

An Act to establish regional transit authority enterprise fund.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. For the purpose of establishing a pilot regional transit authority enterprise fund, the regional transit authorities are hereby authorized to create, Regional Transit Authority Enterprise Funds, provided however, the authorities shall receive approval from the secretary of the department of transportation for any projects to be constructed or operated as an enterprise fund project. All revenues and receipts generated by the authority in association with the operation of said approved enterprise fund projects shall be credited to said fund and used in accordance with this section. Expenditures from said fund shall be made for the following purposes: (i) for the payment of the principal, including sinking fund payments of and premium, if any, and interest on special obligation bonds of the authority, as hereinafter described, issued for payment of the cost of construction of said project, (ii) for the maintenance of, or provision for, any reserves, additional security, insurance or other form of credit enhancement required or provided for in any trust agreement entered into pursuant to this section to secure such bonds; (iii) for the operation and maintenance expenses of said project; and (iv) for the study, design, construction and reconstruction of roads, exit and entrance ramps and highways in order to implement a traffic mitigation plan to address the increased traffic flow which may be associated with the operation of any project, provided, that said plan shall be completed in conjunction with the construction of any said project garage, when necessary.

SECTION 2. Notwithstanding any provisions of chapter 161B of the General Laws to the contrary, neither the income nor the expenses allocable to said fund shall be included in the calculation of the authority's net cost of service, nor shall subsection (c) of section 8 of said chapter 161B apply to expenses made from said fund; provided, however, that said subsection (c) shall apply to expenses to be funded by excess revenues, if any, transferred to the authority for purposes not related to said fund.

24 SECTION 3. Notwithstanding the provisions of any general or special law to the
25 contrary, including without limitation section 60A of chapter 29 of the General Laws, any

26 bonds issued by the authority to finance the construction of said projects shall be special
27 obligations of the authority payable from special receipts to the extent available, and in any case
28 payable from monies credited to said fund together with other pledged revenues, which
29 additional revenue shall not be considered revenue of the fund, provided, that revenues related to
30 projects other that the approved project being financed may not be pledged without the prior
31 approval of the secretary of the department of transportation. Such bonds shall not be general
32 obligations of the commonwealth. Bonds may be issued in such manner and on such terms and
33 conditions as the authority may determine in accordance with the provisions of this paragraph,
34 and, to the extent not inconsistent with the provisions hereof, provisions of general law for the
35 issuance of bonds of the authority. Bonds may be secured by a trust agreement entered into by
36 the authority, which trust agreement may pledge or assign all or any part of monies credited to
37 said fund and rights to receive the same, whether existing or coming into existence and whether
38 held or thereafter acquired, and the proceeds thereof together with any other revenues as the
39 authority may determine to be necessary or desirable to enhance the credit of said bonds as
40 security in order to prevent default.

41 The authority is also authorized to enter into additional security, insurance or other forms
42 of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A
43 pledge in any such trust agreement or credit enhancement agreement shall be valid and binding
44 from the time such pledge shall be made without any physical delivery or further act, and the lien
45 of such pledge shall be valid and binding as against all parties having claims of any kind in tort,
46 contract or otherwise, irrespective of whether such parties have notice thereof. Any such pledge
47 shall be perfected by filing of the trust agreement or credit enhancement agreement in the records
48 of the authority, and no filing need be made under chapter 106 of the General Laws. Any such
49 trust agreement or credit enhancement agreement may establish provisions defining defaults and
50 establishing remedies and other matters relating to the rights and security of the holders of the
51 bonds or other secured parties as determined by the authority, including provisions relating to the
52 establishment of reserves, the issuance of additional or refunding bonds, whether or not secured
53 on a parity basis, the application of receipts, monies or funds pledged pursuant to such
54 agreement, hereinafter referred to as "pledged funds," and other matters deemed necessary or
55 desirable by the authority for the security of such bonds, and may also regulate the custody,
56 investment and application of monies. Any such bonds shall be deemed to be investment
57 securities under said chapter 106, shall be securities in which any public officer, fiduciary,
58 insurance company, financial institution or investment company may properly invest funds and
59 shall be securities which may be deposited with any public custodian for any purpose for which
60 the deposit of bonds is authorized by law. Any such bonds, their transfer and the income
61 therefrom, including profit on the sale thereof; shall at all times be exempt from taxation by and
62 within the commonwealth. Within three months of the first issuance of special obligation bonds

63 under this section, the authority shall report the results of the sale, including the cost of issuance,
64 the interest rate for which the bonds sold, and the rating assigned by the bond rating agencies, as
65 well as an analysis of how these compare to the authorities most recent bond issuance. Said
66 report shall be submitted to the authorities advisory board, the joint committee on transportation
67 and the secretary of the department of transportation.

68 SECTION 4. The authority shall incorporate in its annual budget request a report which
69 details the revenues retained by any enterprise fund project, the expenditures made from said
70 fund, and the remaining fund balance or deficit from the prior fiscal year.