HOUSE DOCKET, NO. 776 FILED ON: 1/14/2013

HOUSE . . . . . No. 2501

The Commonwealth of Massachusetts

PRESENTED BY:

Ruth B. Balser

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 adoption of the accompanying bill:

An Act relative to municipal infrastructure improvement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ruth B. Balser	*12th Middlesex*
Thomas Sheff	
Michael O. Moore	*Second Worcester*
Aaron Vega	*5th Hampden*
Kay Khan	*11th Middlesex*
Cynthia S. Creem	*First Middlesex and Norfolk*

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HOUSE . . . . . No. 2501

By Ms. Balser of Newton, a petition (accompanied by bill, House, No. 2501) of Ruth B. Balser and others relative to raising revenues for local infrastructure improvements. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to municipal infrastructure improvement.

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

The General Laws are hereby amended by inserting after chapter 44B the following chapter:-

CHAPTER 44C

THE INFRASTRUCTURE IMPROVEMENT ACT

Section 1. This chapter shall be known and may be cited as the Massachusetts Infrastructure Improvement Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:—

"Acquire", obtain by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. "Acquire" shall not include a taking by eminent domain, except as provided in this chapter.

"Annual income", a family's or person's gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the department of housing and community development, determines.

"Infrastructure", the stock of fixed capital equipment in a municipality, including but not limited to schools, public buildings, roads, and sidewalks.

"Infrastructure Improvement Fund", the municipal fund established under Section 5.

19 “Legislative body”, the agency of municipal government which is empowered to enact
20 ordinances or by-laws, adopt an annual budget and other spending authorizations, loan order,
21 bond authorizations and other financial matters and whether styled as a city council, board of
22 aldermen, town council, town meeting or by any other title.

23 “Property”, all city-owned buildings, streets and sidewalks.

24 “Real property”, land, buildings, appurtenant structures and fixtures attached to buildings
25 or land, including, where applicable, real property interests.

26 “Real property interest”, a present or future legal or equitable interest in or to real
27 property, including easements and restrictions, and any beneficial interest therein, including the
28 interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but
29 shall not include an interest which is limited to the following: an estate at will or at sufferance
30 and any estate for years having a term of less than 30 years; the reversionary right, condition or
31 right of entry for condition broken; the interest of a mortgagee or other secured party in a
32 mortgage or security agreement.

33 Section 3. (a) Sections 3 to 5, inclusive, shall take effect in any city or town upon the
34 approval by the legislative body and their acceptance by the voters of a ballot question as set
35 forth in this section.

36 (b) Notwithstanding chapter 59 or any other general or special law to the contrary, the
37 legislative body may vote to accept sections 3 to 5, inclusive, by approving a surcharge on real
38 property of not more than 3 per cent of the real estate tax levy against real property, as
39 determined annually by the board of assessors. The amount of the surcharge shall not be included
40 in a calculation of total taxes assessed for purposes of section 21C of said chapter 59. The
41 proceeds of such surcharge shall be available for expenditure from a capital improvement fund
42 provided for in Section 5, below.

43 (c) All exemptions and abatements of real property authorized by said chapter 59 or any
44 other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. A
45 taxpayer receiving an exemption of real property authorized by said chapter 59 or any other law
46 shall be exempt from any surcharge on real property established under this section. The
47 surcharge to be paid by a taxpayer receiving an abatement of real property authorized by said
48 chapter 59 or any other law shall be reduced in proportion to the amount of such abatement.

49 (d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per
50 annum provided in section 57 of said chapter 59.

51 (e) The legislative body may also vote to accept one or more of the following
52 exemptions:

53 (1) for real property owned and occupied as a domicile by a person who would qualify
54 for low income housing or low or moderate income senior housing in the city or town;

55 (2) for class three, commercial, and class four, industrial, properties as defined in section
56 2A of said chapter 59, in cities or towns with classified tax rates; or

57 (3) for $100,000 of the value of each taxable parcel of residential real property.

58 (f) Upon approval by the legislative body, the actions of the body shall be submitted for
59 acceptance to the voters of a city or town at the next regular municipal or state election. The city
60 or town clerk or the state secretary shall place it on the ballot in the form of the following
61 question: "Shall this (city or town) accept sections 3 to 5, inclusive of chapter 44C of the General
62 Laws, as approved by its legislative body, a summary of which appears below"

63 (Set forth here a fair, concise summary and purpose of the law to be acted upon, as
64 determined by the city solicitor or town counsel, including in said summary the percentage of the
65 surcharge to be imposed.)

66 If a majority of the voters voting on said question vote in the affirmative, then its
67 provisions shall take effect in the city or town, but not otherwise.

68 (g) The final date for notifying or filing a petition with the city or town clerk or the state
69 secretary to place such a question on the ballot shall be 35 days before the city or town election
70 or 60 days before the state election.

71 (h) If the legislative body does not vote to accept sections 3 to 5, inclusive, at least 90
72 days before a regular city or town election or 120 days before a state election, then a question
73 seeking said acceptance through approval of a particular surcharge rate with exemption or
74 exemptions, may be so placed on the ballot when a petition signed by at least 5 per cent of the
75 registered voters of the city or town requesting such action is filed with the registrars, who shall
76 have seven days after receipt of such petition to certify its signatures. Upon certification of the
77 signatures, the city or town clerk or the state secretary shall cause the question to be placed on
78 the ballot at the next regular city or town election held more than 35 days after such certification
79 or at the next regular state election held more than 60 days after such certification.

80 (i) With respect to real property owned by a cooperative corporation, as defined in
81 section 4 of chapter 157B, that portion which is occupied by a member under a proprietary lease
82 as the member's domicile shall be considered real property owned by that member for the
83 purposes of exemptions provided under this section. The member's portion of the real estate
84 shall be represented by the member's share or shares of stock in the cooperative corporation, and
85 the percentage of that portion to the whole shall be determined by the percentage of the
86 member's shares to the total outstanding stock of the corporation, including shares owned by the
87 corporation. This portion of the real property shall be eligible for any exemption provided in this

88 section if the member meets all requirements for the exemption. Any exemption so provided
89 shall reduce the taxable valuation of the real property owned by the cooperative corporation, and
90 the reduction in taxes realized by this exemption shall be credited by the cooperative corporation
91 against the amount of the taxes otherwise payable by or chargeable to the member. Nothing in
92 this subsection shall be construed to affect the tax status of any manufactured home or mobile
93 home under this chapter, but this subsection shall apply to the land on which the manufactured
94 home or mobile home is located if all other requirements of this paragraph are met. This
95 subsection shall take effect in a city or town upon its acceptance by the city or town.

96 Section 4. (a) Upon acceptance of sections 3 to 5, inclusive, and upon the assessors'
97 warrant to the tax collector, the accepted surcharge shall be imposed.

98 (b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount
99 and according to the computation specified in the warrant and shall pay the amounts so collected,
100 quarterly or semi-annually, according to the schedule for collection of property taxes for the tax
101 on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books
102 and accounts to be kept with respect to such surcharge, which shall be subject to public
103 examination upon reasonable request from time to time.

104 (c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall
105 apply to the surcharge on real property pursuant to this chapter.

106 Section 5. Notwithstanding the provisions of section 53 of chapter 44 or any other
107 general or special law to the contrary, a city or town that accepts sections 3 to 5, inclusive, shall
108 establish a separate account to be known as the Infrastructure Improvement Fund of which the
109 municipal treasurer shall be the custodian. The authority to approve expenditures from the fund
110 shall be limited to the legislative body and the municipal treasurer shall pay such expenses in
111 accordance with chapter 41.

112 The following monies shall be deposited in the fund: (a) all funds collected from the real
113 property surcharge or bond proceeds in anticipation of revenue pursuant to section 4; and (b) all
114 funds received from the commonwealth or any other source for such purposes. The treasurer may
115 deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under
116 the laws of the commonwealth, banking companies incorporated under the laws of the
117 commonwealth which are members of the Federal Deposit Insurance Corporation or national
118 banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or
119 in shares of savings and loan associations or in shares of federal savings and loan associations
120 doing business in the commonwealth or in the manner authorized by section 54 of chapter 44,
121 and any income therefrom shall be credited to the fund. The expenditure of revenues from the
122 fund shall be limited to infrastructure improvement only, and shall not replace existing operating
123 or capital improvement funds, only augment them.

124 Section 6. (a) There shall be established and set up on the books of the commonwealth a
125 separate fund, to be known as the Massachusetts Infrastructure Improvement Trust Fund, for the
126 benefit of cities and towns that have accepted sections 3 to 5, inclusive, and pursuant to said
127 sections 3 to 5, inclusive, have imposed a surcharge on their real property tax levy, subject to any
128 exemptions adopted by a municipality. The fund shall consist of all monies credited to or
129 transferred to from any other fund or source pursuant to law.

130 (b) The state treasurer shall deposit the fund in accordance with the provisions of section
131 7 in such manner as will secure the highest interest rate available consistent with the safety of the
132 fund and with the requirement that all amounts on deposit be available for withdrawal without
133 penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into
134 the fund. The fund shall be expended solely for the administration and implementation of this
135 chapter. Any unexpended balances shall be redeposited for future use consistent with the
136 provisions of this chapter.

137 (c) The state treasurer shall make all disbursements and expenditures from the fund
138 without further appropriation, as directed by the commissioner of revenue in accordance with
139 said section 7. The department of revenue shall report by source all amounts credited to said fund
140 and all expenditures from said fund. The commissioner of revenue shall assign personnel of the
141 department as it may need to administer and manage the fund disbursements and any expense
142 incurred by the department shall be deemed an operating and administrative expense of the
143 program. The operating and administrative expenses shall not exceed 5 per cent of the annual
144 total revenue received under the provisions of said section 7.

145 Section 7. (a) The commissioner of revenue shall annually on October 15 disburse
146 monies from the fund established in section 6 to cities and towns that have accepted sections 3 to
147 5, inclusive, and notified the commissioner of their acceptance. The community shall notify the
148 commissioner of the date and terms on which the voters accepted said sections 3 to 5, inclusive.
149 The municipal tax collecting authority shall certify to the commissioner the amount the
150 municipality has raised through June 30 by imposing a surcharge on its real property levy and
151 shall certify the percentage of the surcharge applied. The commissioner shall distribute to each
152 city and town that has accepted sections 3 to 5 inclusive a sum equal to 30 percent of the monies
153 raised by the city or town through the surcharge on its real property levy. After distributing the
154 trust fund in accordance with this section, the commissioner may keep any remaining funds in
155 the trust for distribution in the following year.

156 Section 8. A city or town that accepts sections 3 to 5, inclusive, may issue, from time to
157 time, general obligation bonds or notes in anticipation of revenues to be raised pursuant to
158 section 3, the proceeds of which shall be deposited in the Infrastructure Improvement Fund.
159 Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid
160 as soon after such revenues are collected as is expedient. Cities or towns that choose to issue
161 bonds pursuant to this section shall make every effort to limit the administrative costs of issuing

162 such bonds by cooperating among each other using methods including, but not limited to,
163 common issuance of bonds or common retention of bond counsel. Except as otherwise provided
164 in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable
165 provisions of chapter 44. The maturities of each issue of bonds or notes issued under this chapter
166 may be arranged so that for each issue the amounts payable in the several years for principal and
167 interest combined shall be as nearly equal as practicable in the opinion of the officers authorized
168 to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more
169 rapid amortization of principal.

170 Section 9. Notwithstanding the provisions of any general or special law to the contrary,
171 every city and town may accept sections 3 to 5, inclusive, and may thereupon receive state grants
172 under section 7. A city or town that accepts said sections 3 to 5, inclusive, shall not be precluded
173 from participating in state grant programs.

174 State grant programs may include local adoption of this chapter among the criteria for
175 selection of grant recipients. Funds in the Infrastructure Improvement Fund may be made
176 available and used by the city or town as the local share for state or federal grants upon approval
177 of the legislative body.

178 Section 10. (a) At any time after imposition of the surcharge, the legislative body may
179 approve and the voters may accept an amendment to the amount and computation of the
180 surcharge, or to the amount of exemption or exemptions, in the same manner and within the
181 limitations set forth in this chapter.

182 (b) At any time after the expiration of five years after the date on which sections 3 to 7,
183 inclusive, have been accepted in a city or town, said sections may be revoked in the same manner
184 as they were accepted by such city or town, but the surcharge imposed under section 3 shall
185 remain in effect in any such city or town, with respect to unpaid taxes on past transactions and
186 with respect to taxes due on future transactions, until all contractual obligations incurred by the
187 city or town prior to such termination shall have been fully discharged.

188 Section 11. The commissioner of revenue shall have the authority to promulgate rules and
189 regulations to effect the purposes of this chapter.