HOUSE DOCKET, NO. 1862 FILED ON: 1/15/2015

HOUSE . . . . . No. 2698

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh

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 regional transportation ballot initiatives.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Chris Walsh	*6th Middlesex*
Carmine L. Gentile	*13th Middlesex*
Sarah K. Peake	*4th Barnstable*
Benjamin Swan	*11th Hampden*
Denise Provost	*27th Middlesex*
Jose F. Tosado	*9th Hampden*
James B. Eldridge	*Middlesex and Worcester*
Jason M. Lewis	*Fifth Middlesex*
Thomas J. Calter	*12th Plymouth*
Kay Khan	*11th Middlesex*
Carolyn C. Dykema	*8th Middlesex*
Stephen L. DiNatale	*3rd Worcester*
Tom Sannicandro	*7th Middlesex*
James J. O'Day	*14th Worcester*
Kenneth I. Gordon	*21st Middlesex*
Marcos A. Devers	*16th Essex*
Richard J. Ross	*Norfolk, Bristol and Middlesex*
Jonathan Hecht	*29th Middlesex*

Theodore C. Speliotis	*13th Essex*
William Smitty Pignatelli	*4th Berkshire*

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HOUSE . . . . . No. 2698

By Mr. Walsh of Framingham, a petition (accompanied by bill, House, No. 2698) of Chris Walsh and others for legislation to authorize municipalities to assess certain taxes for financing regional transportation needs and investments. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2760* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to regional transportation ballot initiatives.

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. The General Laws are hereby amended by inserting after chapter 64M the following chapter:

Chapter 64N. Regional Transportation Ballot Initiatives

Section 1. Definitions. The following terms shall have the following meanings:

"District agreement", a document specifying the terms and conditions of the powers and dutiesof the two or more municipalities forming a district under section 4 of this chapter, pursuant to the laws governing any such municipality, the provisions of this chapter, and such procedural regulations as the commissioner of revenue may promulgate.

9 “Payroll Tax”, a tax an employer pays on behalf of its employees based on a percentage
10 of the wages of the employees of the employer.

11 “Single subject of taxation”, one of four taxes, payroll, sales, property, or vehicle excise
12 tax, as determined annually by the board of assessors or department of revenue, that the city or
13 town, or district, may subject to the tax surcharge.

14 Section 2. Taxing authority and acceptance of sections 2 through 5.

15 (a) Sections 2 to 5, inclusive, shall take effect in any city or town upon the approval in a
16 city by the city council with the approval of the mayor or in a town by the board of selectmen
17 and their acceptance by the voters of a ballot question as set forth in section 3.

18 (b) Upon passage of this Act, a city or town shall have authority to impose any tax
19 surcharge within its city or town on a single subject of taxation including a payroll, sales,
20 property, or vehicle excise tax. However, no tax surcharge shall be imposed within the city or
21 town unless it has first been approved in a city by the city council with the approval of the mayor
22 or in a town by the board of selectmen and accepted by the voters of a city or town through a
23 ballot question as set forth in section 3, except as provided in section 4.

24 (c) Notwithstanding the provisions of chapters 59, 60A, 64H, 62, or any other general or
25 special law to the contrary, the city by the city council with the approval of the mayor or town by
26 the board of selectmen may vote to accept sections 2 to 5, inclusive, by approving a surcharge on
27 a single subject of taxation, as determined annually by the board of assessors or department of
28 revenue. A city council or board of selectmen that intends to approve sections 2 to 5 shall
29 determine prior to approval which single subject of taxation will be levied and the amount of

30 surcharge. For a property tax surcharge, the amount of the surcharge shall not be included in a
31 calculation of total taxes assessed for purposes of section 21C of chapter 59.

32 (d) All exemptions and abatements of any single subject of taxation for which a taxpayer
33 qualifies as eligible shall not be affected by this chapter. A taxpayer receiving an exemption for
34 any single subject of taxation shall be exempt from any surcharge on any single subject of
35 taxation established under this section. The surcharge to be paid by a taxpayer receiving an
36 abatement of any single subject of taxation shall be reduced in proportion to the amount of such
37 abatement.

38 (e) Any amount of the surcharge not paid by the due date shall bear interest at the rate per
39 annum as authorized by the law for any single subject of taxation, and in the case of a payroll
40 tax, at the rate per annum as authorized by the law for the taxation of corporations.

41 (f) Revenues raised through the tax surcharge shall be used for transportation-related
42 purposes only including for the expenditure by the city or town for maintaining, repairing,
43 planning, design, financing, operating, improving and constructing of public transportation and
44 transit systems, roads, bridges, bikeways, pedestrian pathways, and other transportation-related
45 enhancement projects.

46 Section 3. Municipal or state election on adoption of ballot initiative.

47 (a)Upon approval in a city by the city council with the approval of the mayor or in a town
48 by the board of selectmen, the actions of the body shall be submitted for acceptance to the voters
49 of a city or town at the next regular municipal or state election. The city or town clerk or the state
50 secretary shall place it on the ballot in the form of the following question: “Shall this (city or
51 town) accept sections 2 to 5, inclusive of chapter 64N of the General Laws, as approved by its (in

52 a city by the city council with the approval of the mayor or in a town by the board of selectmen),
53 a summary of which appears below

54 (Set forth here a fair, concise summary and purpose of the law to be acted upon, as
55 determined by the city solicitor or town counsel, including in said summary the specific single
56 subject of taxation to be levied and percentage of the surcharge to be imposed.)"

57 In the ballot question, the city or town may include a list of specific transportation-related
58 projects or activities in accordance with section 6 for which the tax surcharge funds may be used.
59 The city or town may also include a sunset provision in the ballot question, but in no event shall
60 the authorization for the surcharge exceed 30 years.

61 If a majority of the voters voting on said question vote in the affirmative, then its
62 provisions shall take effect in the city or town, or district as set forth under section 4, but not
63 otherwise.

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

67 (c) If the city by the city council with the approval of the mayor or the town by the board
68 of selectmen does not vote to accept sections 2 to 5, inclusive, at least 90 days before a regular
69 city or town election or 120 days before a state election, then a question seeking said acceptance
70 through approval of a particular surcharge rate, may be so placed on the ballot when a petition
71 signed by at least 5 per cent of the registered voters of the city or town requesting such action is
72 filed with the registrars, who shall have seven days after receipt of such petition to certify its
73 signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall

74 cause the question to be placed on the ballot at the next regular city or town election held more
75 than 35 days after such certification or at the next regular state election held more than 60 days
76 after such certification.

77 Section 4. Two or more municipalities.

78 (a) Two or more municipalities may, by vote of the city or town thereof, in a city by the
79 city council with the approval of the mayor or in a town by the board of selectmen, form a
80 district for the purposes set forth in section 2. Upon approval by each of the municipalities to
81 form a district for purposes of this chapter, Sections 2 to 5, inclusive, shall take effect in the two
82 or more municipalities upon the approval by the each of the municipalities thereof, in a city by
83 the city council with the approval of the mayor or in a town by the board of selectmen, and their
84 acceptance by the voters of a ballot question as set forth in section 3.Formation of a district may
85 occur before or after voters accept a ballot question as set forth in section 3.

86 (b) If a majority of the voters in each member municipality the district, for the purposes
87 set forth in the first paragraph of this section, vote on said question in the affirmative then its
88 provisions shall take effect in the district, but not otherwise.

89 (c) Two or more municipalities that choose to form a district for purposes of this chapter
90 shall apply a surcharge to the same single subject of taxation. The percentage of the surcharge
91 may vary for each municipality that comprises the district.

92 (d) Two or more municipalities forming a district under section 4 shall adopt a district
93 agreement with approval in a city by the city council with the approval of the mayor or in a town
94 by the board of selectmen. The district agreement shall specify:

95 (1) the purpose and nature of the arrangement;

96 (2) the single municipality to serve as the treasurer of the local and regional
97 transportation fund or the regional planning agency to serve as fiscal agent of the local and
98 regional transportation fund under section 7, and that said municipality or regional planning
99 agency shall also serve as treasurer or fiscal agent for purposes of section 9;

100 (3) how the money will be used and for what purposes, and how the municipalities will
101 decide on details of use, plan changes, or urgent circumstances;

102 (4) the work to be performed, and the division or sharing of responsibility among the
103 municipalities;

104 (5) the estimated costs and the methods of financing;

105 (6) the method of administration;

106 (7) the composition of the district's regional transportation committee, the length of its
107 term, and the criteria and method of selecting its members; and

108 (8) the duration of the proposed agreement.

109 (f) Nothing in this section shall be construed to:

110 (1) amend, repeal or otherwise alter the authority or jurisdiction of, or establish, a
111 municipality;

112 (2) confer any management authority over funds, land, or natural resources beyond the
113 authority exercised by participating municipalities in the district agreement set forth in this
114 section and this chapter.

115

116 Section 5. Levy and collection of tax.

117 (a) Upon acceptance of sections 2 to 5, inclusive, and upon the assessors' warrant to the
118 tax collector, the accepted surcharge shall be imposed. The city, town, or district, shall notify the
119 commissioner of revenue of the date and terms on which the voters accepted said sections 2 to 5,
120 inclusive.

121 (b) For a surcharge levied on either property or excise tax, after receipt of the warrant, the
122 tax collector shall collect the surcharge in the amount and according to the computation specified
123 in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to
124 the schedule for collection of the single subject of taxation, to the city's or town's treasurer, or
125 the district's treasurer. The tax collector shall cause appropriate books and accounts to be kept
126 with respect to such surcharge, which shall be subject to public examination upon reasonable
127 request from time to time.

128 (c) Two or more municipalities forming a district under section 4 shall select one of the
129 municipalities or the regional planning agency to serve as the district's treasurer for purposes of
130 section 5 and in accordance with section 4. The district agreement under section 4 shall establish
131 the method of selecting the district treasurer. The municipality or regional planning agency
132 selected to serve as district treasurer shall perform duties in accordance with section 5 and
133 chapter 41. Two or more municipalities forming a district under section 4 shall also select that
134 same municipality or regional planning agency to receive funds and provide certification for all
135 municipalities within said district for purposes of section 9 and in accordance with section 4.

136 Section 6. Local or Regional Transportation Committee.

137 (a) A city or town that accepts sections 2 to 5, inclusive, and is not a party to a district
138 agreement in accordance with section 4, shall establish by ordinance or by-law a local
139 transportation committee not more than 180 days following acceptance of sections 2 to 5,
140 inclusive. The committee shall consist of not less than five members. The ordinance or by-law
141 shall determine the composition of the committee, the length of its term and the criteria and
142 method of selecting its members by appointment only. The committee shall include, but not be
143 limited to, one or more representatives from the municipality, one representative of the
144 Massachusetts Department of Transportation as designated by its board, one member of the
145 Massachusetts Bay Transportation Authority as designated by its board if the city or town is
146 within the service area of the Massachusetts Bay Transportation Authority, one member of each
147 regional transit authority to which the city or town is a member community, one member of the
148 regional planning agency to which the city or town is a member community, or persons, as
149 determined by the ordinance or by-law, acting in the capacity of or performing like duties of the
150 department, board or authority if they have not been established in the city or town.
151 Representatives of the municipality shall not constitute a majority of the local transportation
152 committee.

153 (b) A district as set forth under section 4, that accepts sections 2 to 5, inclusive, shall
154 establish by district agreement in accordance with section 4 a regional transportation committee.
155 The committee shall consist of not less than seven members. The committee shall include, but
156 not be limited to, one or more representatives from each municipality, one member of the
157 Massachusetts Department of Transportation as designated its board, one member of the
158 Massachusetts Bay Transportation Authority as designated by its board if any municipalities of
159 the district are within the service area of the Massachusetts Bay Transportation Authority, one

160 member of each regional transit authority if any municipalities of a district is a member
161 community, one member of each regional planning agency serving one or more municipalities of
162 a district, or persons, as determined by district agreement, acting in the capacity of or performing
163 like duties of the department, board or authority if they have not been established in the city or
164 town. Representatives of the municipalities that comprise the district shall not constitute a
165 majority of the regional transportation committee.

166 (c) Both the local and regional transportation committees shall study the transportation-
167 related needs, possibilities, and resources of the city, town, or district. The committees shall
168 consult with existing transportation agencies, including the Massachusetts Department of
169 Transportation and regional planning agencies, to develop transportation-related projects
170 including maintaining, repairing, planning, design, financing, operating, improving and
171 constructing of public transportation and transit systems, roads, bridges, bikeways, and
172 pedestrian pathways, and coordinate joint-funding where appropriate in accordance with the
173 ballot initiative. If a list of specific transportation-related projects or activities for which the tax
174 surcharge funds may be used was included in a ballot question, the committee shall include said
175 projects or activities in its study, however, the committee may recommend or not recommend
176 said projects or activities.

177 (d) Both the local and regional transportation committees shall not meet or conduct
178 business without the presence of a quorum. A majority of the members of the local or regional
179 transportation committee shall constitute a quorum. The committees shall approve its actions by
180 majority vote. Both the local and regional transportation committees shall keep a full and
181 accurate account of all of its actions, including its recommendations and the action taken on them

182 and records of all appropriations or expenditures made from the Local and Regional
183 Transportation Fund. The records and accounts shall be public records.

184 (e) The city, town, or district as set forth in section 5, shall receive the approval of the
185 Massachusetts Department of Transportation and the regional planning agency or agencies for all
186 transportation-related projects or activities prior to listing specific projects on the ballot as set
187 forth in section 3, unless the transportation-related project or activity is under local jurisdiction.
188 If a city or town includes no specific transportation-related projects or activities in the ballot
189 question, or the ballot question was initiated under section 3(c), the local transportation
190 committee shall receive the approval of the Massachusetts Department of Transportation and the
191 regional planning agency prior to submitting the local transportation committee's
192 recommendations to a city council or board of selectmen, unless the transportation-related
193 project or activity is under local jurisdiction. If the district includes no specific transportation-
194 related projects or activities in the ballot question, the regional transportation committee shall
195 receive the approval of the Massachusetts Department of Transportation and the regional
196 planning agency or agencies prior to implementing the regional transportation committee's
197 recommendations, unless the transportation-related project or activity is under local jurisdiction.
198 The city, town, or district shall study projects that promote access to public transportation,
199 biking, and walking.

200 (f) Not less than once every two fiscal years,the local transportation committee shall
201 make recommendations to the city council of the city or board of selectmen of the town
202 regarding efficient and effective ways to improve and enhance local transportation systems.
203 Recommendations to the city council or board of selectmen shall include anticipated costs. The
204 committee may include in its recommendation to the city council or board of selectmen a

205 recommendation to set aside for later spending funds for specific purposes that are consistent
206 with transportation-related purposes but for which sufficient revenues are not currently available
207 in the Local and Regional Transportation Fund, as set forth in section 7, to accomplish that
208 specific purpose, or to satisfy debt payments incurred from transportation-related projects, or to
209 set aside for later spending funds for general purposes that are consistent with transportation
210 improvements and in accordance with the ballot initiative.

211 (g) After receiving such recommendations from the local transportation committee, the
212 city council or board of selectmen shall then take such action and approve such appropriations
213 from the Local and Regional Transportation Fund as set forth in section 7, and such additional
214 appropriations as it deems appropriate to carry out the recommendations of the local
215 transportation committee and in accordance with the ballot initiative.

216 (h) Not less than once every two fiscal years, the regional transportation committee shall
217 make recommendations to the designated municipality treasurer or regional planning agency as
218 set forth in section 4 regarding efficient and effective ways to improve and enhance local and
219 regional transportation systems. Recommendations to the designated municipality treasurer or
220 regional planning agency shall include anticipated costs. The committee may include in its
221 recommendation a recommendation to set aside for later spending funds for specific purposes
222 that are consistent with transportation-related purposes but for which sufficient revenues are not
223 currently available in the Local and Regional Transportation Fund, as set forth in section 7, to
224 accomplish that specific purpose, or to satisfy debt payments incurred from transportation-related
225 projects, or to set aside for later spending funds for general purposes that are consistent with
226 transportation improvements and in accordance with the ballot initiative.

227 (i) After receiving such recommendations from the regional transportation committee, the
228 designated municipality treasurer or regional planning agency shall then take such action and
229 approve such appropriations from the Local and Regional Transportation Fund as set forth in
230 section 7.

231

232 Section 7. Local and Regional Transportation Fund.

233 (a) Notwithstanding the provisions of section 53 of chapter 44 or any other general or
234 special law to the contrary, a city,town, or district that accepts sections 2 to 5, inclusive, shall
235 establish a separate account to be known as the Local and Regional Transportation Fund, of
236 which the municipal treasurer or fiscal agent shall be the custodian. The authority to approve
237 expenditures from the fund shall be limited to the city council of a city or board of selectmen of a
238 town, or the designated municipality treasurer or regional planning agency of the district, and the
239 municipal treasurer or fiscal agent shall pay such expenses in accordance with chapter 41.

240 (b) Two or more municipalities forming a district under section 4 shall select one of the
241 municipalities or regional planning agency to establish a separate account known as the Local
242 and Regional Transportation Fund in accordance with this section and section 4. The
243 municipality or regional planning agency selected to establish said fund shall only use the funds
244 for the district as a whole based solely upon the recommendations and approvals of the regional
245 transportation committee as set forth in this chapter.

246 (c) The following monies shall be deposited in the Local and Regional Transportation
247 Fund: (a) all funds collected from the levied tax surcharge on any single subject of taxation
248 pursuant to section 3, except if the single subject of taxation is a sales or payroll tax which shall

249 be deposited with the department of revenue in accordance with sections 8 and 9; and (b) all
250 funds received from the commonwealth or any other source for such purposes. The treasurer or
251 fiscal agent may deposit or invest the proceeds of the fund in savings banks, trust companies
252 incorporated under the laws of the commonwealth, banking companies incorporated under the
253 laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or
254 national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative
255 banks or in shares of savings and loan associations or in shares of federal savings and loan
256 associations doing business in the commonwealth or in the manner authorized by section 54 of
257 chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues
258 from the fund shall be limited to implementing the recommendations of the local and regional
259 transportation committees and providing administrative and operating expenses to the
260 committees, and in accordance with the ballot initiative.

261 (d) Only those cities and towns, or district that adopt the surcharge allowed by this
262 chapter shall be eligible to receive monies through the Local and Regional Transportation Fund.

263 Section 8. Massachusetts Local and Regional Transportation Trust Fund.

264 (a) There shall be established and set up on the books of the commonwealth a separate
265 fund, to be known as the Massachusetts Local and Regional Transportation Trust Fund, for the
266 benefit of cities, towns, or districts as set forth in section 4, that have accepted sections 2 to 5,
267 inclusive, and pursuant to said sections 2 to 5, inclusive, have imposed a surcharge on either a
268 sales or payroll tax levy, subject to any exemptions adopted by a municipality or district. The
269 fund shall consist of all revenues received by the commonwealth: (1) from the levied tax
270 surcharge on either a sales or payroll tax pursuant to section 3; (2) from public and private

271 sources as gifts, grants and donations to further local or regional transportation-related projects;
272 and (3) all other monies credited to or transferred to from any other fund or source pursuant to
273 law.

274 (b) The state treasurer shall deposit the fund in accordance with the provisions of section
275 9 in such manner as will secure the highest interest rate available consistent with the safety of the
276 fund and with the requirement that all amounts on deposit be available for withdrawal without
277 penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into
278 the fund. The fund shall be expended solely for the administration and implementation of this
279 chapter. Any unexpended balances shall be redeposited for future use consistent with the
280 provisions of this chapter.

281 (c) The state treasurer shall make all disbursements and expenditures from the fund
282 without further appropriation, as directed by the commissioner of revenue in accordance with
283 section 9. The department of revenue shall report by source all amounts credited to said fund and
284 all expenditures from said fund. The commissioner of revenue shall assign personnel of the
285 department as it may need to administer and manage the fund disbursements and any expense
286 incurred by the department shall be deemed an operating and administrative expense of the
287 program. The operating and administrative expenses shall not exceed 5 per cent of the annual
288 total revenue received under the provisions of section 8.

289 Section 9. Annual distributions of monies in trust fund; diversion of funds.

290 (a) The commissioner of revenue shall annually on October 15 disburse monies from the
291 fund established in section 9 to cities and towns, or the municipality treasurer or regional

292 planning agency of the district as set forth in section 4, that have accepted sections 2 to 5,
293 inclusive, and notified the commissioner of their acceptance.

294 (b) The commissioner shall distribute the funds to the city or town, or the municipality
295 treasurer or regional planning agency of the district as set forth in section 4, in accordance with
296 the first paragraph of this section based on the proportional amount the city,town, or district, has
297 raised by imposing the surcharge. The total distribution of funds shall include all sources of
298 revenue raised in the previous year as set forth in section 8(a), less no more than 5 per cent of the
299 annual total revenue of the fund, as set forth by section 8(c).

300 (c) The commissioner shall be prohibited from diverting revenues derived from the
301 surcharge into any fund created by law.

302 Section 10. Amendments to amount and computation of surcharge; revocation of Sections
303 2 to 5.

304 (a) At any time after imposition of the surcharge, the city by the city council with the
305 approval of the mayor or town by the board of selectmen may approve and the voters may accept
306 an amendment to the amount and computation of the surcharge in the same manner and within
307 the limitations set forth in this chapter.

308 (b) At any time after imposition of the surcharge, a district under section 4, with the
309 approval of the majority of voters in the district may accept an amendment to the amount and
310 computation of the surcharge in the same manner and within the limitations set forth in this
311 chapter so that the surcharge becomes uniform in all municipalities of the district.

312 Section 12. Rules and regulations. The commissioner of revenue shall have the authority

313 to promulgate rules and regulations to effect the purposes of this chapter.