

HOUSE No. 3073

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act providing additional authority for issuance of revenue bonds by the cities and towns having a municipal gas or electric department..

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

1 SECTION 1. This act may be cited as the Revenue Bond Law of 2010.

2 SECTION 2. Definitions. The following words as used in this act shall, unless the context
3 otherwise requires, have the following meanings:—“Municipal light board” or “board”, the
4 municipal light board or commission, municipal gas and electric commission or similar body; the
5 mayor or city manager, as the case may be, of a city having no such body; or the selectmen of a
6 town having no such body. “Municipality”, a city or town having a municipal gas or electric
7 department established under chapter one hundred and sixty-four of the General Laws or a
8 special act. Except where otherwise specifically provided, a municipality shall exercise any of its
9 power or authority contained in this act through its municipal light board.

10 “Undertaking”, any undertaking with respect to the electric, gas or telecommunications
11 plant or system of a municipality in which such plant is authorized to distribute its product,
12 including without limiting the generality of the foregoing, planning, financing, acquiring,
13 constructing, improving, purchasing, operating, maintaining, using, altering, sharing costs of,

14 owning, leasing, selling, disposing of or otherwise participating in any system or facilities or
15 portion thereof, for the generation, production, transmission, transformation, distribution or sale
16 of electric power and energy, gas or telecommunications or the product or service therefrom.

17 SECTION 3. Revenue bonds authorized. (a) Any municipality, acting by its municipal
18 light board, may borrow money by the issue of its revenue bonds to pay all or part of the costs of
19 any undertaking. Without limiting the generality of the foregoing, such costs may include
20 finance charges, interest prior to and during the carrying out of any undertaking and for a
21 reasonable period thereafter, the funding of temporary notes issued as hereinafter provided, such
22 reserves for debt services or other capital or current expenses as may be required by a trust
23 agreement or resolution securing notes or bonds, and all other expenses incidental to the
24 determination of the feasibility of any undertaking or to carrying out the undertaking or to
25 placing it in operation. , (b) The bonds of each issue shall mature at a time or times not
26 exceeding forty years from their dates of issue and may be made redeemable before maturity
27 with or without premiums. Subject to the provisions of this act and to the terms of the
28 authorizing vote, the board shall determine the date or dates of the bonds, their denomination or
29 denominations, the place or places of payment of the principal and interest, which may be at any
30 bank or trust company within or without the commonwealth, their interest rate or rates, maturity
31 or maturities, redemption privileges, if any, and the form and other details of the bonds. The
32 bonds shall be signed by the city or town treasurer, shall be countersigned by the mayor or city
33 manager, as the case may be, of a city or by a majority of the selectmen of a town either
34 manually or by facsimile and shall bear the seal of the city or town or a facsimile thereof. Any
35 coupons attached thereto shall bear the facsimile signature of the city or town treasurer.

36 (c) In case any officer whose signature or a facsimile of whose signature shall appear on
37 any bonds, coupons or notes issued under this chapter shall cease to be such officer before the
38 delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all
39 purposes the same as if he had remained in office until after such delivery. (d) The bonds may be
40 issued in coupon or in registered form, or both, and provision may be made for the registration of
41 any coupon bonds as to principal alone and also as to both principal and interest, for the
42 reconversion into coupon bonds or bonds registered as to both principal and interest and for the
43 interchange of registered and coupon bonds. Subject to the provisions of this act and to the terms
44 of the authorizing vote, the board may sell the bonds in such manner, either at public or private
45 sale, and for such price, as it may determine will best effect the purposes of this act. The
46 municipality may also provide for authentication of bonds by a trustee, or fiscal agent.

47 (e) Prior to the preparation of definitive bonds, the municipality may issue interim
48 receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when
49 such bonds shall have been executed and are available for delivery. The municipality may also
50 provide for the replacement of any bonds which shall have become mutilated or shall have been
51 destroyed or lost.

52 SECTION 4. Temporary Notes. In anticipation of the issue of bonds under this Act, a
53 municipality, acting by its municipal light board, may issue temporary notes. Subject to the terms
54 of the authorizing vote, the board may provide for the sales of the notes at public or private sale
55 and may determine the date or dates of the notes, their denomination or denominations, the place
56 or places of payment of the principal and interest, which may be at any bank or trust company
57 within or without the commonwealth, their interest rate or rates, maturity or maturities,
58 redemption privileges, if any, and the form and other details of the notes. Temporary notes issued

59 herein shall be executed in the manner provided herein for bonds and shall be payable within five
60 years from their respective dates, but the principal of and interest on notes issued for a shorter
61 period may be renewed or paid from time to time by the issue of other notes under this act,
62 provided the period from the date of issue of an original note to the maturity of any note issued
63 to renew or pay the same debt or the interest thereon shall not exceed five years.

64 Unless otherwise provided in the authorizing vote, the board may cause notes to be
65 refunded to the extent provided in this chapter. To the extent of any borrowing in anticipation of
66 bonds, the maximum maturity of an equivalent amount of the bonds shall be measured from the
67 date of the anticipatory borrowing.

68 SECTION 5. Resolution or trust agreement securing bonds or notes. (a) In the discretion
69 of the board, but subject to the terms of the authorizing vote, any bonds or notes issued
70 hereunder may be secured by a resolution of the board or by a trust agreement between the
71 municipality and a corporate trustee, which may be any trust company or bank having the powers
72 of a trust company within or without the commonwealth and such trust agreement shall be in
73 such form and executed in such manner as may be determined by the board. Such trust
74 agreement or resolution may pledge or assign, in whole or in part, the revenues and other moneys
75 derived or to be derived by the municipality from its electric or gas system and any contract or
76 other rights to receive the same, whether then existing or thereafter coming into existence and
77 whether then held or thereafter acquired by the city or town, and the proceeds thereof, but shall
78 not convey or mortgage the electric or gas plant or any part thereof. Such trust agreement or
79 resolution may contain, with respect to the electric or gas plant and its finances, such provisions
80 for protecting and enforcing the rights, security and remedies of the bondholders or noteholders
81 as may be reasonable and proper and not in violation of law, including without limiting the

82 generality of the foregoing provisions defining defaults and providing for remedies in the event
83 thereof which may include (i) the acceleration of maturities and covenants setting forth duties
84 of, and limitations on, the municipality in relation to the acquisition, construction, improvement,
85 enlargement, alteration, equipping, furnishing, maintenance, use, operation, repair, insurance and
86 disposition of property, the custody, safeguarding, investment and application of moneys, the
87 issue of additional bonds or notes, the fixing, revision and collection of fees and charges, the
88 obligations of the city or town to pay for electricity used by it, the use of any surplus bond or
89 note proceeds, the establishment of reserves, and the making and amending of contracts and (ii)
90 provision for the trustee under such a trust agreement to take possession and control of the
91 electric or gas system of the municipality, to operate and maintain the same, to make any
92 necessary repairs, renewals and replacements in respect thereof, and to fix, revise and collect
93 fees and charges. Such trust agreement or resolution may provide for the payment of debt service
94 on bonds and notes issued by the municipality for electric or gas purposes other than under this
95 act from the revenues or other moneys so pledged, either on a parity with any or all bonds and
96 notes issued hereunder or otherwise. Subject to the provisions of this act, moneys subject to the
97 trust agreement or resolution shall be held, invested and applied as provided herein, provided that
98 moneys not deposited in trust with a corporate trustee shall be in the custody of the municipal
99 treasurer. Moneys to be applied pursuant to the trust agreement or resolution shall be deemed
100 appropriated for the purposes to which they are to be so applied.

101 (b) For so long as any bonds issued by a municipality under this act are outstanding and
102 unpaid, the fees and charges for electricity or gas and other services, facilities and commodities
103 furnished or supplied by the municipality through its electric or gas system shall be so fixed as to
104 provide revenues at least sufficient to pay all costs and expenses in connection with the operation

105 and maintenance of the electric or gas system and all necessary repairs, replacements and
106 renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds
107 issued by the municipality for electric or gas purposes, to create and maintain reserves as may be
108 required by any resolution or trust agreement securing bonds, and to pay any and all amounts
109 which the municipality may be obligated to pay from said revenues by law or contract. (c) It
110 shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of
111 bonds or notes or of revenues or other moneys under any such trust agreement or resolution and
112 to furnish such indemnifying bonds or to pledge such securities as may be required by the trust
113 agreement or resolution. Any such trust agreement or resolution may set forth the rights and
114 remedies of the bondholders or noteholders and of the trustee, and may restrict the individual
115 right of action by bondholders or noteholders. In addition to the foregoing, any such trust
116 agreement or resolution may contain such other provisions as the board may deem reasonable and
117 proper for the security of the bondholders. All expenses incurred in carrying out the provisions of
118 such trust agreement or resolution may be treated as current operating expenses. Furthermore, so
119 much of those amounts accumulated for depreciation as established pursuant to section fifty-
120 seven of chapter one hundred and sixty-four may from time to time be used to pay any bonds and
121 notes issued under this Act when authorized by the municipality, acting through its municipal
122 light board. Debt service on bonds and notes issued hereunder and sums required to be reserved
123 from revenues pursuant to such trust agreement or resolution shall, to the extent not otherwise
124 provided, be included in the requirements of the sinking fund or serial debt of the plan for the
125 purposes of sections fifty-seven and fifty-eight of chapter one hundred sixty-four of the General
126 Laws. The pledge by any such trust agreement or resolution shall be valid and binding and shall
127 be deemed continuously perfected for the purposes of the Uniform Commercial Code from the

128 time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then
129 held or thereafter acquired or received by the municipality shall immediately be subject to the
130 lien of such pledge without any physical delivery or of segregation thereof or further act; and the
131 lien of any such pledge shall be valid and binding as against all parties having claims of any kind
132 in tort, contract or otherwise against the municipality, irrespective of whether such parties have
133 notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need
134 be filed or recorded except in the records of the board, and no filing need be made under the
135 Uniform Commercial Code.

136 SECTION 6. Deposit or investment of bond or note proceeds. Subject to the trust
137 agreement or resolution, the proceeds of bonds or notes issued under this act and any other
138 moneys governed by the trust agreement or resolution may be deposited or invested in demand
139 deposits, time deposits or saving deposits in banks which are members of the Federal Deposit
140 Insurance Corporation or in obligations issued or guaranteed by the United States of America or
141 by any agency or instrumentality thereof or as may be provided by any other applicable law.

142 SECTION 7. Bonds and notes as limited obligations. The bonds and notes issued under
143 this act shall be payable solely from the funds provided therefor under this act, the liability of the
144 municipality from other funds being limited to obligations undertaken by it to pay for the
145 electricity used by it, and a statement to this effect shall be included on the face of such bonds
146 and notes. The bonds and notes and such obligations shall not at any time be included in the debt
147 of the municipality for the purpose of ascertaining its borrowing capacity.

148 SECTION 8. Trust funds.

149 All moneys received pursuant to the provisions of this act, shall be deemed to be trust
150 funds to be held and applied solely as provided in this act.

151 SECTION 9. Enforcement of bondholders' rights. Any holder of bonds or notes issued
152 under the provisions of this act or of any of the coupons appertaining thereto, and the trustee
153 under a trust agreement or resolution securing the same except to the extent the rights herein
154 given may be restricted by such trust agreement or resolution, may bring suit upon the bonds,
155 notes or coupons and may, either at law or in equity, by suit, action, mandamus, or other
156 proceedings (which may include the appointment of a receiver to take possession and control of
157 the electric or gas system of the municipality, to operate and maintain the same, to make any
158 necessary repairs, renewals and replacements in respect thereof, and to fix, revise and collect
159 fees and charges), protect and enforce any and all rights under the laws of the commonwealth or
160 granted hereunder or under such trust agreement or resolution, and may enforce and compel the
161 performance of all duties required by this act or by such trust agreement or resolution to be
162 performed by the municipality or by any officer thereof.

163 SECTION 10. Bonds and notes issued as legal investments. Bonds and notes issued
164 under the provisions of this act are hereby made securities in which all public officers and public
165 bodies of the commonwealth and its political subdivisions, all insurance companies, trust
166 companies in their commercial departments, savings banks, cooperative banks, banking
167 associations, investment companies, executors, administrators, trustees and other fiduciaries may
168 properly and legally invest funds, including capital in their control or belonging to them. Such
169 bonds and notes are hereby made securities which may properly and legally be deposited with
170 and received by any state or municipal officer or any agency or political subdivision of the

171 commonwealth for any purpose for which the deposit of bonds or obligations of the
172 commonwealth is now or may hereafter be authorized by law.

173 SECTION 11. Bonds and notes deemed investment securities. Notwithstanding any of
174 the provisions of this act, or any recitals in any bonds or notes issued under this act, all such
175 bonds and notes shall be deemed to be investment securities under the Uniform Commercial
176 Code.

177 SECTION 12. Tax exemption. The bonds and notes issued under this act, their transfer
178 and the income therefrom, including any profit made on the sale thereof, shall at all times be free
179 from taxation within the commonwealth.

180 SECTION 13. Refunding bonds. Any municipality having bonds, outstanding under this
181 act, acting by its municipal light board, may issue refunding bonds for the purpose of paying
182 bonds issued at maturity or upon acceleration or redemption. The refunding bonds may be issued
183 at such time prior to the maturity or redemption of the refunded bonds as the board deems to be
184 in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide
185 the principal of the bonds being refunded, together with any redemption premium thereon, any
186 interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the
187 refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt
188 service or other capital or current expenses from the proceeds of such refunding bonds as may be
189 required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the
190 maturities and other details thereof, the security therefor, the rights of the holders thereof, and the
191 rights, duties and obligations of the municipality respect of the same shall be governed by the

192 provisions of this act relating to the issue of bonds other than refunding bonds insofar as the
193 same may be applicable.

194 SECTION 14. No other consent or proceedings. Bonds and notes may be issued under
195 this act without the consent of any department, division, commission or agency of the
196 commonwealth or of any political subdivision thereof and without any other proceedings or the
197 happening of any other conditions or things than those proceedings, conditions or things which
198 are specifically required therefor by this act, and the validity of and security for any bonds or
199 notes issued by the municipality shall not be affected by the existence or non-existence of any
200 such consent or other proceedings, conditions or things. The provisions of this act authorizing the
201 issue of bonds and notes shall not be deemed to preclude the issue of bonds and notes under any
202 other authority.

203 SECTION 15. Construction of act. The provisions of this act shall be deemed to provide
204 an additional, alternative and complete method for the doings of the things authorized hereby and
205 shall be deemed and construed to be supplemental and additional to, and not in derogation of,
206 powers conferred upon a municipality by law.

207 SECTION 16. Severability. The provisions of this act are severable, and if any provision
208 hereof shall be held invalid in any circumstances, such invalidity shall not affect any other
209 provisions or circumstances. This act shall be construed in all respects so as to meet all
210 constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall
211 be taken which are necessary to meet constitutional requirements whether or not such steps are
212 required by statute.

213 SECTION 17. A municipality may accept the provisions of this act when authorized by a
214 majority vote as defined in section one of chapter forty-four of the General Laws.