

HOUSE No. 806

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to certain municipal costs..

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

1 Notwithstanding the provisions of section 27C of chapter 29 of the General Laws as most
2 recently amended by section 24 of chapter 71 of the Acts of 1993, or any other general or special
3 law to the contrary, any proposal initiated by the Department of Environmental Protection in the
4 form of a rule, regulation or so-called guidance document or policy resulting in the imposition of
5 additional cost to a city or town shall be termed a “local mandate”. Local mandates shall include
6 but not be limited to any Department of Environmental Protection initiated rule, regulation or so-
7 called guidance document or policy that: (1.) requires any city or town to undertake any service
8 or direct or indirect cost obligation, or to establish, expand or modify any existing activity in
9 such a way that results in the expenditure of funds or resources, or results in the diversion of
10 funds or resources from any existing activity. For the purposes of this section, the term “existing
11 activity” shall include any program or service lawfully undertaken by any city or town under the
12 authority of any law, special law, administrative rule or regulation or city or town charter, or; (2.)
13 relieves the state or a county from providing a service or program so that any city or town instead
14 incurs the direct or indirect cost of such service or program.

15 Section 2. No proposal initiated by the Department of Environmental Protection in the
16 form of a rule or regulation, or any so-called guidance document or policy, shall become
17 effective until a regulatory impact statement has been completed, made public during the hearing
18 process described in chapter 30A of the General Laws and filed with the secretary of state. The
19 regulatory impact statement shall: (a) identify the problem, issue or deficiency addressed by the
20 proposal; (b) identify the methodology or approach, including identification of expert
21 information and analysis used to address the problem, issue or deficiency; (c) identify
22 stakeholders who will be affected and to what extent by the proposal; (d) identify when such
23 proposal will become effective, when such proposal will be changed, if known, and how and
24 when the proposal will be reviewed in the future, if at all; (e) identify and describe the immediate
25 and long term financial impacts of the proposal on all stakeholders, including the agency or
26 entity issuing the proposal, any affected private party or entity, the state, the cities and towns,
27 and the general public. Such financial impact statement shall consider permitting costs, internal
28 compliance costs, and indirect costs, if any; (f) identify the fiscal effect on the public and private
29 sectors for the first and second year of the proposal's existence, and provide a projection of fiscal
30 impact over the first five years of the proposal's existence; and (g) identify and describe,
31 specifically, the benefits of the proposal. The secretary of administration and finance shall adopt
32 regulations to further define and implement the use of regulatory impact statements in said
33 executive offices' and agency's rulemaking.

34 Section 3. The Department of Environmental Protection shall maintain a notification list
35 of stakeholders in their proposals and who may request preliminary notification of such
36 proposals, such request renewed annually by persons or groups in December. No later than thirty
37 days prior to the notice of hearing described above the agency shall send a preliminary

38 notification of the proposal to each stakeholder who has requested preliminary notification of the
39 proposal and to the Joint Legislative Committee on Natural Resources, the Joint Legislative
40 Committee on Local Affairs, the House and Senate Committees on Ways & Means, the Office of
41 the State Auditor and the Massachusetts Municipal Association.

42 The preliminary notification of the proposal shall (a) identify the proposal to be noticed
43 for hearing and the scope of the proposal, (b) provide the statutory authority for such proposal,
44 and (c) identify the person within said executive office or agency responsible for the proposal
45 and who can be contacted for more information.

46 Section 4. No proposal initiated the by the Department of Environmental Protection in the
47 form of a rule, regulation, so-called guidance document or policy shall become effective until
48 said executive office and agency have complied with the provisions of Massachusetts
49 Administrative Procedures Act established under the provisions of Chapter 30A of the General
50 Laws. Any entity claiming to be aggrieved by lack of compliance with said chapter by said
51 executive office or agency shall be permitted to file a petition for relief with the superior court.