HOUSE DOCKET, NO. 2044 FILED ON: 2/18/2011

HOUSE . . . . . No. 3300

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

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 municpal relief.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael J. Moran	*18th Suffolk*

HOUSE DOCKET, NO. 2044 FILED ON: 2/18/2011

HOUSE . . . . . No. 3300

By Mr. Moran of Boston, a petition (accompanied by bill, House, No. 3300) of Michael J. Moran for legislation to authorize municipalities to make adjustments in certain property tax exemptions. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to municpal relief.

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

Whereas , the deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for additional tax revenue for cities and towns , therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

SECTION 1. Chapter 15A of the general laws is hereby amended by adding the following section:-

Section 42. Notwithstanding the provisions of any general or special law to the contrary, the board of higher education shall provide annually for grants to the community college segment of the system. Grants shall be provided in equal amounts to such community colleges from the proceeds received by the board pursuant to section 61 of chapter 40. Such grants shall not be subject to appropriation and shall not result in direct or indirect reductions in the commonwealth's appropriation or capital outlay for such segment.

13 SECTION 2. Chapter 40 of the general laws, as appearing in the 2008 Official Edition, is
14 hereby amended by adding the following section:-

15 Section 61. (a) Notwithstanding any general or special law to the contrary, a city or town
16 that has not granted a petition to a charitable organization for the exemption of real property
17 taxes pursuant to the third clause of section 5 of chapter 59 shall deposit the receipt of such funds
18 in a municipal relief fund pursuant to this section.

19 (b) A city or town shall establish a fund to be known as the Municipal Relief Fund. The
20 purpose of the fund is to provide for the funding of public higher education, public schools, and
21 libraries. The fund shall consist of: (1) revenues to be credited in accordance with the provisions
22 of the third clause of section 5 of chapter 59; (2) any appropriation or authorization of the
23 general court; and (3) any other amounts to be explicitly credited to the fund from any source, to
24 include any public or private, donations, grants, repayments and other receipts.

25 (c) The treasurer of a city or town shall receive and deposit all monies credited to the
26 fund in financial institutions as to provide the highest interest rate consistent with the safety of
27 the monies so deposited and to allow the immediate withdrawal of such monies without penalty.
28 All accrued investment income shall be credited to the fund.

29 (d) Amounts credited to the fund shall be made available annually, without appropriation,
30 for the following purposes and in the following amounts:

31 (1) 40 per cent of the proceeds of the fund annually to provide for funding of the
32 community college segment of the system of public institutions of higher education within the
33 commonwealth; provided, that such funds shall be paid to the board of higher education pursuant
34 to section 42 of chapter 15A.

35 (2) 40 per cent of the proceeds of the fund annually to provide funding of public schools,
36 as defined in section 1 of chapter 32, within the city or town; and

37 (3) 20 per cent of the proceeds of the fund annually to provide funding for public
38 libraries located within the city or town.

39 (e) No expenditure or obligation for expenditure from the fund shall be made to cause the
40 fund to become deficient at any time during a fiscal year. All available moneys in the fund that
41 are unexpended at the end of each fiscal year shall not revert to the city or town general fund and
42 shall be available for expenditure in the subsequent fiscal year.

43 SECTION 3. Section 5 of chapter 59 of the general laws is hereby amended by striking
44 out the Third clause and inserting in place thereof the following clause:-

45 Third, Personal property of a charitable organization, which term, as used in this clause,
46 shall mean (1) a literary, benevolent, charitable or scientific institution or temperance society
47 incorporated in the commonwealth, and (2) a trust for literary, benevolent, charitable, scientific
48 or temperance purposes if it is established by a declaration of trust executed in the
49 commonwealth or all its trustees are appointed by a court or courts in the commonwealth and if
50 its principal literary, benevolent, charitable, scientific or temperance purposes are solely carried
51 out within the commonwealth or its literary, benevolent, charitable, scientific or temperance
52 purposes are principally and usually carried out within the commonwealth. Real property of a
53 charitable organization, shall be taxed at 25 per cent of the commercial real property rate.
54 Pursuant to a filing under section 8F of chapter 12, a charitable organization may petition the
55 local assessor to grant a complete exemption on all real property; provided, however, that:--

56 (a) if any of the income or profits of the business of the charitable organization is divided
57 among the stockholders, the trustees or the members, or is used or appropriated for other than
58 literary, benevolent, charitable, scientific or temperance purposes or if upon dissolution of such
59 organization a distribution of the profits, income or assets may be made to any stockholder,
60 trustee or member, its property shall not be exempt;

61 (b) a corporation coming within the foregoing description of a charitable organization or
62 trust established by a declaration of trust executed in the commonwealth and coming within said
63 description of a charitable organization shall not be exempt for any year in which it omits to
64 bring in to the assessors the list, statements and affidavit required by section 29 and a true copy
65 of the report for such year required by section 8F of chapter 12 to be filed with the division of
66 public charities in the department of the attorney general, nor shall it be exempt for that athletic
67 property or portion thereof for the part of the year which the assessors have determined to be
68 utilized for other than literary, educational, benevolent, temperance, charitable, or scientific
69 purposes in direct competition with a person engaged in the same activity and subject to the tax
70 imposed by this chapter on properties so used. In the case of the exemption of property from tax
71 for a part of the year, the tax imposed shall bear the same proportion to the tax which would be
72 applicable to such property if it were subject to tax for the entire year as the time such property is
73 employed in such use bears to the total time during which such property is available for use
74 during the year;

75 (c) real or personal property of a charitable organization occupied or used wholly or
76 partly as or for an insane asylum, insane hospital, or institution for the insane, or principally for
77 the treatment of mental diseases or mental disorders, shall not be exempt unless at least one
78 fourth of all property so occupied or used, wholly or partly, on the basis of valuation thereof, and

79 one fourth of the income of all trust and other funds and property held for the benefit of such
80 asylum, hospital or institution and not actually occupied or used by it for such purposes, is used
81 and expended entirely for the treatment, board, lodging or other direct benefit of indigent insane
82 persons, or indigent persons in need of treatment for mental diseases, as resident patients,
83 without any charge therefor to such persons either directly or indirectly, except that a charitable
84 organization conducting an insane asylum, insane hospital or institution for the insane to which
85 persons adjudged insane by due process of law may be committed shall be exempt from taxation
86 on personal property and buildings so occupied or used, but shall be subject to taxation on the
87 fair cash value of the land owned by it and used for the purposes of such asylum, hospital or
88 institution;

89 (d) real estate acquired after May 4, 1911 by any association or private corporation
90 formed or incorporated for the care of the insane, shall not be exempt under paragraph (c) unless
91 the city council of the city, or the inhabitants of the town, in which it is situated, have by vote
92 lawfully taken consented to the acquisition of such real estate, to be so exempt; nor shall real
93 estate of a trust coming within the foregoing description of a charitable organization, if occupied
94 or used wholly or partly as or for an insane asylum, insane hospital, or institution for the insane,
95 or principally for the treatment of mental diseases or mental disorders, be exempt under
96 paragraph (c) unless the city council of the city, or the inhabitants of the town, in which it is
97 situated, have by vote lawfully taken consented to such exemption; and

98 (e) Real and personal property of an educational institution coming within the foregoing
99 description of a charitable organization which is occupied or used wholly or principally as
100 residences for officers of such institutions and which is not part of or contiguous to real estate
101 which is the principal location of such institution shall not be exempt.

102 In any city or town which accepts the provisions of this paragraph, the provisions of
103 subsection (c) shall not apply to any charitable non-residential mental health facility, organized
104 under chapter 180 which provides clinical, therapeutic, diagnostic and counseling services to
105 persons with mental disorders. In any city or town that accepts this paragraph, any real estate
106 owned by, or held in trust for, a charitable organization for the purpose of creating community
107 housing, as defined in section 2 of chapter 44B, that was purchased from an entity that acquired
108 the property pursuant to section 14 of chapter 244 shall be exempt until such real estate is leased,
109 rented or otherwise disposed of, but not for more than 7 years after such purchase.