

SENATE No. 1714

The Commonwealth of Massachusetts

PRESENTED BY:

Stanley C. Rosenberg

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 establishing the Massachusetts cultural trust fund.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Stanley C. Rosenberg

Hampshire and Franklin

Peter V. Kocot

1st Hampshire

SENATE No. 1714

By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 1714) of Stanley C. Rosenberg and Peter V. Kocot for legislation to establish the Massachusetts cultural trust fund. Tourism, Arts and Cultural Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1878 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act establishing the Massachusetts cultural trust fund.

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. The general court finds: that it is in the interest of the
2 commonwealth to promote the prosperity and general welfare of all citizens by enhancing the
3 vitality of our cities, towns and neighborhoods; that art, history, and humanities contribute
4 immeasurably to the quality of life, the economy, tourism industry and education; that cultural
5 organizations throughout the commonwealth play an invaluable role in ensuring that the benefits
6 of the art, history, and humanities are extended to the people and communities of the
7 commonwealth; that these vital cultural organizations have been undercapitalized and have been
8 subject to inconsistent funding as a result of fluctuating economic conditions; and that the
9 establishment of a permanent, interest generating fund as an additional source of revenue for
10 nonprofit art, history, and humanities organizations, specifically for the building of endowments,

11 the improvement of institutional and financial stability, and investment in arts related economic
12 development projects is essential to quality of life in the commonwealth.

13 SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting
14 after section 52, as appearing in the 2004 Official Edition, the following section:-

15 Section 52A. (a) There is hereby established upon the books of the
16 commonwealth a separate trust fund to be known as the Massachusetts Cultural Trust Fund, the
17 purpose of which shall be to finance, when fully vested, the operations of the Massachusetts
18 cultural council, established in section 52, and the activities and programs of organizations, profit
19 or non profit, public or private, within the commonwealth and concerned with the arts, history,
20 humanities, interpretive sciences. Said fund shall be considered "fully vested" when the treasurer
21 certifies to the comptroller, the fiscal affairs division, the house and senate committees on ways
22 and means, the joint committee on tourism arts and cultural development and the joint committee
23 on economic development and emerging technologies that the fund has accrued \$1,000,000,000
24 of principal. Said fund shall

25 (b) In conjunction with the preparation of the commonwealth's comprehensive
26 annual financial report, the comptroller shall prepare and issue an annual report detailing the
27 revenues and expenditures of the fund.

28 (c) The fund shall be managed by the state treasurer. All transactions affecting
29 the fund including, but not limited to, all amounts credited to and all expenditures, transfers or
30 allocations made from the fund, shall be recorded by subsidiary on the Massachusetts
31 management accounting and reporting system.

32 (d) The trust fund shall be classified by the comptroller as a non-budgeted fund
33 of the commonwealth. Amounts credited to the fund, including both principal and earnings,
34 shall not be subject to the calculation of the consolidated net surplus pursuant to sections 2H and
35 5C of chapter 29.

36 (e) Earnings and interest credited to said fund shall be expended, when the fund
37 is fully vested, by the Massachusetts Cultural Council, in accordance with the provisions of the
38 strategic plan for the creative economy, pursuant to the provisions of paragraph (i), to supplant
39 and supersede the appropriations of the Massachusetts Cultural Council in the preceding fiscal
40 year.

41 (f) The council shall administer the expenditure of the income, earnings and
42 interest in the Massachusetts Cultural Trust Fund, when fully vested, to (i) finance the operations
43 and grant-making programs of the council and (ii) finance the facilities, activities and programs
44 of Massachusetts-based organizations in the creative economy industries, both for-profit and
45 non-profit, concerned with the arts, humanities, interpretive sciences, community arts and local
46 arts and (iii) support and leverage investment in the creative economy, including but not limited
47 to grants, loans, and equity investments in galleries and museums, arts and cultural-based
48 commercial enterprises, centers of excellence in the arts, organizations and educational
49 institutions, and real estate developments that include both affordable and market rate housing or
50 studio space for artists, including but not limited to mill rehabilitation, and so-called second-
51 story investments, artist live-work space, and the development of gallery streets.

52 (g) No more than 20 per cent of the moneys transferred to the fund each year
53 shall be deposited within the Massachusetts Development Finance Agency, created pursuant to

54 chapter 23G. The funds shall be invested by the Massachusetts Development Finance Agency in
55 projects that further the arts including, but not limited to, galleries and museums, arts and
56 cultural-based companies, organizations and educational institutions, and real estate
57 developments that include housing or studio space for artists. The monies may be used to make
58 equity investments or loans. Net earnings on funds so invested shall be remitted to the
59 Massachusetts Cultural Trust Fund to be reinvested or distributed to the Massachusetts cultural
60 council. The Massachusetts Development Finance Agency shall be allowed to charge related
61 expenses to the fund including staff time and overhead and out of pocket expenses. Funds
62 managed by the Massachusetts Development Finance Agency shall be used to further the
63 mission of the Massachusetts Cultural Trust Fund and as opposed to maximizing financial
64 returns.

65 (h) The Massachusetts Cultural Trust Fund shall be credited with (1) all
66 amounts transferred pursuant to subparagraph (1) of section 5C of chapter 29; (2) any
67 appropriation, grant, gift or other contribution explicitly made to the trust fund; (3) income
68 derived from the investment of amounts credited to the trust fund.

69 (i) The Massachusetts Cultural Council shall, on annual basis, not later than
70 December 1, publish a strategic plan on the cultural economy recommending to the
71 Massachusetts General Court the most effective and prudent uses of the income, earnings and
72 interest available in said trust fund for the financing of the operations of the Massachusetts
73 Cultural Council and the financing of the facilities, activities and programs of organizations, both
74 for-profit and non-profit, within the Commonwealth concerned with the arts, humanities,
75 interpretive sciences, community arts and local arts.

76 (j) Said strategic plan shall outline the role of state agencies as they support the
77 creative economy industries, including a projection of any future costs for the Massachusetts
78 Cultural Council, annualization, and savings resulting from any financing recommendations.
79 Said financing recommendations shall not be predicated upon unexpended amounts from the
80 current fiscal year being automatically made available for re-appropriation for the same purpose
81 in the subsequent fiscal year, but nothing contained herein shall preclude the council from
82 making a recommendation to re-appropriate any unexpended amounts for the same or any other
83 purpose authorized by this chapter.

84 (k) Said strategic plan shall give priority to the funding of annualization for
85 programs and services obligated in prior fiscal years before recommending financing for the
86 expansion of services or the provision of new services.

87 (l) Said strategic plan shall evaluate the performance and effectiveness of all
88 programs funded by the income, earnings, and interest of said trust fund. The Massachusetts
89 Cultural shall undertake a sunset review, so-called, of any such program or service that does not
90 achieve performance expectations. Said commission shall monitor the extent to which funding
91 from the trust complements or expands upon previously implemented arts and culture programs
92 and services in the Commonwealth.

93 (m) The comptroller shall promptly certify to the fiscal affairs division, the
94 house and senate committees on ways and means, the joint committee on tourism, arts, and
95 cultural development and the joint committee on economic development and emerging
96 technologies the amount and date when any payments are made or credited to the fund.

97 (n) Not later than October 31 of each year, the comptroller shall certify to the
98 treasurer, the fiscal affairs division, the house and senate committees on ways and means, the
99 joint committee on tourism, arts and cultural development and the joint committee on economic
100 development and emerging technologies the balance in the Massachusetts Cultural Trust Fund
101 and the total return generated by the principal of the trust fund during the prior 12 month period
102 ending on June 30.

103 SECTION 3. Chapter 29 of the General Laws is hereby amended by
104 striking out section 5C, as so appearing, and inserting in place thereof the following section:-

105 Section 5C. The comptroller shall annually, on or before October 31, certify to
106 the commissioner of administration the amount of the consolidated net surplus in the budgetary
107 funds at the close of the preceding fiscal year. The amounts so certified shall be disposed as
108 follows:

109 (1) an amount equal to \$100,000,000 shall be transferred to the Massachusetts
110 Cultural Trust Fund on an annual basis until the state treasurer certifies to the comptroller, the
111 fiscal affairs divisions the house and senate committees on ways and means, the joint committee
112 on tourism arts and cultural development and the joint committee on economic development and
113 emerging technologies that the fund has accrued \$1,000,000,000 in principal.

114 (2) an amount equal to 1/2 of 1 per cent of the total revenue from taxes in the
115 preceding fiscal year shall be available to be used as revenue for the current fiscal year and 1/2 of
116 1 per cent of the total revenue from taxes in the preceding fiscal year shall be transferred to the
117 Stabilization Fund;

118 (3) any remaining amount of the consolidated net surplus after amounts made
119 available in clauses (1) and (2) shall be transferred to the Stabilization Fund; and

120 (4) transfers specified in this section shall be made from the undesignated fund
121 balances in the budgetary funds proportionally from said undesignated fund balances; but, the
122 transfer shall not cause a deficit in any of those funds.