

HOUSE No. 2760

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:	DATE ADDED:
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/18/2013</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>1/31/2013</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>	<i>1/31/2013</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/1/2013</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>2/1/2013</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>1/30/2013</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>1/31/2013</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/18/2013</i>

HOUSE No. 2760

By Mr. Walsh of Framingham, a petition (accompanied by bill, House, No. 2760) of Chris Walsh and others for legislation to authorize municipalities to assess certain taxes for financing regional transportation needs and investments. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 65C the
2 following chapter: CHAPTER 65D. REGIONAL TRANSPORTATION BALLOT
3 INITIATIVES: -

4 Section 1. Purpose. The purpose of this Act is to give cities and towns the opportunity to
5 obtain an additional source of revenue with which to meet their local and regional transportation
6 financing needs and investments. This chapter grants a city or town the power to levy a tax only
7 after said tax has been approved by a ballot initiative.

8 Section 2. Definitions. The following terms shall have the following meanings:

9 “District agreement”, a document specifying the terms and conditions of the powers and
10 duties of the two or more municipalities forming a district under section 5 of this chapter,
11 pursuant to the laws governing any such municipality, the provisions of this chapter, and such
12 procedural regulations as the commissioner of revenue may promulgate.

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

16 Section 3. Taxing authority and acceptance of sections 3 through 6.
17

18 (a) Sections 3 to 6, inclusive, shall take effect in any city or town upon the approval in a
19 city by the city council with the approval of the mayor or in a town by the board of selectmen
20 and their acceptance by the voters of a ballot question as set forth in section 4.

21 (b) Upon passage of this Act, a city or town shall have authority to impose any tax
22 surcharge within its city or town on a single subject of taxation including a payroll, sales,
23 property, or vehicle excise tax, except as otherwise prohibited by the Constitution. Said tax shall
24 be used for transportation-related purposes only. However, no tax surcharge shall be imposed
25 within the city or town unless it has first been approved in a city by the city council with the
26 approval of the mayor or in a town by the board of selectmen and accepted by the voters of a city
27 or town through a ballot question as set forth in section 4, except as provided in section 5.

28 (c) Notwithstanding the provisions of chapters 59, 60A, 64H, 62, or any other general or
29 special law to the contrary, the city by the city council with the approval of the mayor or town by
30 the board of selectmen may vote to accept sections 3 to 6, inclusive, by approving a surcharge on
31 a single subject of taxation, as determined annually by the board of assessors or department of
32 revenue. A city council or board of selectmen that intends to approve sections 3 to 6 shall
33 determine prior to approval which single subject of taxation will be levied and the amount of
34 surcharge. For a property tax surcharge, the amount of the surcharge shall not be included in a
35 calculation of total taxes assessed for purposes of section 21C of chapter 59.

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

42 (e) Any amount of the surcharge not paid by the due date shall bear interest at the rate per
43 annum as authorized by the law for any single subject of taxation.

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

48 Section 4. Municipal or state election on adoption of ballot initiative.

49 (a) Upon approval in a city by the city council with the approval of the mayor or in a
50 town by the board of selectmen, the actions of the body shall be submitted for acceptance to the
51 voters of a city or town at the next regular municipal or state election. The city or town clerk or
52 the state secretary shall place it on the ballot in the form of the following question: "Shall this
53 (city or town) accept sections 3 to 6, inclusive of chapter 65D of the General Laws, as approved

54 by its (in a city by the city council with the approval of the mayor or in a town by the board of
55 selectmen), a summary of which appears below”

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

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

63 If a majority of the voters voting on said question vote in the affirmative, then its
64 provisions shall take effect in the city or town, or district as set forth under section 5, but not
65 otherwise.

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

69 Section 5. Two or more municipalities.

70 (a) Two or more municipalities may, by vote of the city or town thereof, in a city by the
71 city council with the approval of the mayor or in a town by the board of selectmen, form a
72 district for the purposes set forth in section 3. Upon approval by each of the municipalities to
73 form a district for purposes of this chapter, Sections 3 to 6, inclusive, shall take effect in the two
74 or more municipalities upon the approval by the each of the municipalities thereof, in a city by
75 the city council with the approval of the mayor or in a town by the board of selectmen, and their
76 acceptance by the voters of a ballot question as set forth in section 4.

77 (b) If a majority of the voters in the district, for the purposes set forth in the first
78 paragraph of this section, vote on said question in the affirmative then its provisions shall take
79 effect in the district, but not otherwise.

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

83 (d) Two or more municipalities forming a district under section 5 shall adopt a district
84 agreement. The district agreement shall specify:

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

86 (2) the single municipality to serve as the treasurer of the local and regional
87 transportation fund or the regional planning agency to serve as fiscal agent of the local and

88 regional transportation fund under section 8, and that municipality or regional planning agency
89 shall also serve as treasurer or fiscal agent for purposes of section 10;

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

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

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

95 (6) the method of administration;

96 (7) the composition of the district's regional transportation committee, the length of its
97 term, and the criteria and method of selecting its members by appointment only; and

98 (8) the duration of the proposed agreement.

99 (e) The district agreement shall be approved and adopted by the regional transportation
100 committee for the district as set forth in section 7.

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

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

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

107 Section 6. Levy and collection of tax.

108 (a) Upon acceptance of sections 3 to 6, inclusive, and upon the assessors' warrant to the
109 tax collector, the accepted surcharge shall be imposed.

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

117 (c) Two or more municipalities forming a district under section 5 shall select one of the
118 municipalities or the regional planning agency to serve as the district's treasurer for purposes of
119 section 6 and in accordance with section 5. The district agreement under section 5 shall establish

120 the method of selecting the district treasurer. The municipality or regional planning agency
121 selected to serve as district treasurer shall perform duties in accordance with section 6 and
122 chapter 41. Two or more municipalities forming a district under section 5 shall also select that
123 same municipality or regional planning agency to receive funds and provide certification for all
124 municipalities within said district for purposes of section 10 and in accordance with section 5.

125 (d) Any tax surcharge against a single subject of taxation authorized by an election held
126 under section 4 shall be levied annually but for no more than 30 years. The surcharge shall be
127 used for local and regional transportation-related purposes only, as set forth in section 3.

128 (e) If the city by the city council with the approval of the mayor or the town by the board
129 of selectmen does not vote to accept sections 3 to 6, inclusive, at least 90 days before a regular
130 city or town election or 120 days before a state election, then a question seeking said acceptance
131 through approval of a particular surcharge rate, may be so placed on the ballot when a petition
132 signed by at least 5 per cent of the registered voters of the city or town requesting such action is
133 filed with the registrars, who shall have seven days after receipt of such petition to certify its
134 signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall
135 cause the question to be placed on the ballot at the next regular city or town election held more
136 than 35 days after such certification or at the next regular state election held more than 60 days
137 after such certification.

138 Section 7. Local or Regional Transportation Committee.

139 (a) A city or town that accepts sections 3 to 6, inclusive, shall establish by ordinance or
140 by-law a local transportation committee. The committee shall consist of not less than five
141 members. The ordinance or by-law shall determine the composition of the committee, the length
142 of its term and the criteria and method of selecting its members by appointment only. The
143 committee shall include, but not be limited to, one representative from the municipality, one
144 member of the Massachusetts Department of Transportation established under section 2 of
145 chapter 6C as designated by the board, one member of the Massachusetts Bay Transportation
146 Authority established under section 2 of said chapter 161A as designated by the board if the city
147 or town is within the service area of the Massachusetts Bay Transportation Authority, one
148 member of each regional transit authority established under section 3 of chapter 161B to which
149 the city or town is a member community, one member of the regional planning agency
150 established under chapter 40B to which the city or town is a member community, or persons, as
151 determined by the ordinance or by-law or district agreement, acting in the capacity of or
152 performing like duties of the department, board or authority if they have not been established in
153 the city or town. The local committee shall ensure that representatives or members of the
154 municipality constitute a majority of the local transportation committee.

155 (b) A district as set forth under section 5, that accepts sections 3 to 6, inclusive, shall
156 establish by district agreement in accordance with section 5 a regional transportation committee.

157 The committee shall consist of not less than seven members. The committee shall include, but
158 not be limited to, one representative from each community, one member of the Massachusetts
159 Department of Transportation established under section 2 of chapter 6C as designated by the
160 board, one member of the Massachusetts Bay Transportation Authority established under section
161 2 of said chapter 161A as designated by the board if any municipalities of the district are within
162 the service area of the Massachusetts Bay Transportation Authority, one member of each
163 regional transit authority established under section 3 of chapter 161B if any municipalities of a
164 district is a member community, one member of each regional planning agency established under
165 chapter 40B if any municipalities of a district is a member community, or persons, as determined
166 by the ordinance or by-law or district agreement, acting in the capacity of or performing like
167 duties of the department, board or authority if they have not been established in the city or town.
168 The regional committee shall ensure that representatives or members of the municipalities that
169 comprise the district constitute a majority of the regional transportation committee.

170 (c) Both the local and regional transportation committees shall study the transportation-
171 related needs, possibilities, and resources of the city or town, or district. The committees shall
172 consult with existing transportation agencies, including MassDOT and regional planning
173 agencies, to develop transportation-related projects including maintaining, repairing, planning,
174 design, improving and constructing of public transportation and transit systems, roads, bridges,
175 bikeways, and pedestrian pathways, and coordinate joint-funding where appropriate in
176 accordance with the ballot initiative.

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.

181 (e) The city or town, or district as set forth in section 5, shall seek the approval of
182 MassDOT and the regional planning agency or agencies for all transportation-related projects or
183 activities prior to listing specific projects on the ballot as set forth in section 4. If a city or town
184 includes no specific transportation-related projects or activities in the ballot question, the local
185 transportation committee shall seek the approval of MassDot and the regional planning agency
186 prior to submitting the local transportation committee's recommendations to a city council or
187 board of selectmen, unless the transportation-related project is under local jurisdiction. If the
188 district includes no specific transportation-related projects or activities in the ballot question, the
189 regional transportation committee shall seek the approval of MassDot and the regional planning
190 agency or agencies prior to implementing the regional transportation committee's
191 recommendations.

192 (f) The local transportation committee shall make recommendations to the city council of
193 the city or board of selectmen of the town regarding efficient and effective ways to improve and
194 enhance local transportation systems. Recommendations to the city council or board of

195 selectmen shall include their anticipated costs. The committee may include in its
196 recommendation to the city council or board of selectmen a recommendation to set aside for later
197 spending funds for specific purposes that are consistent with transportation-related purposes but
198 for which sufficient revenues are not then available in the Local and Regional Transportation
199 Fund, as set forth in section 8, to accomplish that specific purpose, or to satisfy debt payments
200 incurred from transportation-related projects, or to set aside for later spending funds for general
201 purposes that are consistent with transportation improvements and in accordance with the ballot
202 initiative.

203 (g) After receiving such recommendations from the local transportation committee, the
204 city council or board of selectmen shall then take such action and approve such appropriations
205 from the Local and Regional Transportation Fund as set forth in section 8, and such additional
206 appropriations as it deems appropriate to carry out the recommendations of the local regional
207 transportation committee and in accordance with the ballot initiative.

208 (h) The regional transportation committee shall make recommendations to the designated
209 municipality treasurer or regional planning agency as set forth in section 5 regarding efficient
210 and effective ways to improve and enhance local and regional transportation systems.
211 Recommendations to the designated municipality treasurer or regional planning agency shall
212 include their anticipated costs. The committee may include in its recommendation a
213 recommendation to set aside for later spending funds for specific purposes that are consistent
214 with transportation-related purposes but for which sufficient revenues are not then available in
215 the Local and Regional Transportation Fund, as set forth in section 8, to accomplish that specific
216 purpose, or to satisfy debt payments incurred from transportation-related projects, or to set aside
217 for later spending funds for general purposes that are consistent with transportation
218 improvements and in accordance with the ballot initiative.

219 (i) After receiving such recommendations from the regional transportation committee, the
220 designated municipality treasurer or regional planning agency shall then take such action and
221 approve such appropriations from the Local and Regional Transportation Fund as set forth in
222 section 8, and such additional appropriations as it deems appropriate to carry out the
223 recommendations of the regional transportation committee and in accordance with the ballot
224 initiative.

225 Section 8. Local and Regional Transportation Fund.

226 (a) Notwithstanding the provisions of section 53 of chapter 44 or any other general or
227 special law to the contrary, a city or town, or district as set forth in section 5, that accepts
228 sections 3 to 6, inclusive, shall establish a separate account to be known as the Local and
229 Regional Transportation Fund, of which the municipal treasurer or fiscal agent shall be the
230 custodian. The authority to approve expenditures from the fund shall be limited to the city
231 council of a city or board of selectmen of a town, or the designated municipality treasurer or

232 regional planning agency of the district, and the municipal treasurer or fiscal agent shall pay such
233 expenses in accordance with chapter 41.

234 (b) Two or more municipalities forming a district under section 5 shall select one of the
235 municipalities or regional planning agency to establish a separate account known as the Local
236 and Regional Transportation Fund in accordance with this section and section 5. The
237 municipality or regional planning agency selected to establish said fund shall only use the funds
238 for the district as a whole based solely upon the recommendations and approvals of the regional
239 transportation committee as set forth in this chapter.

240 (c) The following monies shall be deposited in the Local and Regional Transportation
241 Fund: (a) all funds collected from the levied tax surcharge on any single subject of taxation
242 pursuant to section 4, except if the single subject of taxation is a sales or payroll tax which shall
243 be deposited with the department of revenue in accordance with sections 9 and 10; and (b) all
244 funds received from the commonwealth or any other source for such purposes. The treasurer or
245 fiscal agent may deposit or invest the proceeds of the fund in savings banks, trust companies
246 incorporated under the laws of the commonwealth, banking companies incorporated under the
247 laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or
248 national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative
249 banks or in shares of savings and loan associations or in shares of federal savings and loan
250 associations doing business in the commonwealth or in the manner authorized by section 54 of
251 chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues
252 from the fund shall be limited to implementing the recommendations of the local and regional
253 transportation committees and providing administrative and operating expenses to the
254 committees, and in accordance with the ballot initiative.

255 (d) Only those cities and towns, or district under section 5, that adopt the surcharge
256 allowed by this chapter shall be eligible to receive monies through the Local and Regional
257 Transportation Fund.

258 Section 9. Massachusetts Local and Regional Transportation Trust Fund.

259 (a) There shall be established and set up on the books of the commonwealth a separate
260 fund, to be known as the Massachusetts Local and Regional Transportation Trust Fund, for the
261 benefit of cities and towns, or districts as set forth in section 5, that have accepted sections 3 to 6,
262 inclusive, and pursuant to said sections 3 to 6, inclusive, have imposed a surcharge on either a
263 sales or payroll tax levy, subject to any exemptions adopted by a municipality or district. The
264 fund shall consist of all revenues received by the commonwealth: (1) from the levied tax
265 surcharge on either a sales or payroll tax pursuant to section 4; (2) from public and private
266 sources as gifts, grants and donations to further local or regional transportation-related projects;
267 and (3) all other monies credited to or transferred to from any other fund or source pursuant to
268 law.

269 (b) The state treasurer shall deposit the fund in accordance with the provisions of section
270 10 in such manner as will secure the highest interest rate available consistent with the safety of
271 the fund and with the requirement that all amounts on deposit be available for withdrawal
272 without penalty for such withdrawal at any time. All interest accrued and earnings shall be
273 deposited into the fund. The fund shall be expended solely for the administration and
274 implementation of this chapter. Any unexpended balances shall be redeposited for future use
275 consistent with the provisions of this chapter.

276 (c) The state treasurer shall make all disbursements and expenditures from the fund
277 without further appropriation, as directed by the commissioner of revenue in accordance with
278 section 10. The department of revenue shall report by source all amounts credited to said fund
279 and all expenditures from said fund. The commissioner of revenue shall assign personnel of the
280 department as it may need to administer and manage the fund disbursements and any expense
281 incurred by the department shall be deemed an operating and administrative expense of the
282 program. The operating and administrative expenses shall not exceed 5 per cent of the annual
283 total revenue received under the provisions of section 10.

284 Section 10. Annual distributions of monies in trust fund; diversion of funds.

285 (a) The commissioner of revenue shall annually on October 15 disburse monies from the
286 fund established in section 10 to cities and towns, or the municipality treasurer or regional
287 planning agency of the district as set forth in section 5, that have accepted sections 3 to 6,
288 inclusive, and notified the commissioner of their acceptance. The city or town, or district, shall
289 notify the commissioner of the date and terms on which the voters accepted said sections 3 to 6,
290 inclusive. The municipal tax collecting authority shall certify to the commissioner the amount the
291 municipality has raised through June 30 by imposing a surcharge on its sale or payroll tax levy
292 and shall certify the percentage of the surcharge applied.

293 (b) The commissioner shall distribute the funds to the city or town, or the municipality
294 treasurer or regional planning agency of the district as set forth in section 5, in accordance with
295 the first paragraph of this section based on the amount the city or town, or district, has raised by
296 imposing the surcharge. No city or town, or district, shall receive funds from monies raised in
297 another city or town, or district, unless the city or town is included in the district as set forth in
298 section 5.

299 (c) The commissioner shall be prohibited from diverting revenues derived from the
300 surcharge into any fund created by law including, but not limited to section 2ZZZZ of chapter
301 29, any of their subsidiaries into the general fund of the state, or into any other fund maintained
302 for the support of another governmental purpose. No diversion of funds can occur contrary to
303 this section by an administrative act of the commissioner or any other person in the executive
304 branch unless the governor declares a fiscal emergency, and communicates such emergency to

305 the general assembly, and a statute is enacted into law authorizing a diversion that would
306 otherwise be prohibited by this section.

307 (d) Only those cities and towns, or district under section 5, that adopt the surcharge
308 allowed by this chapter shall be eligible to receive state monies through the Massachusetts Local
309 and Regional Transportation Fund.

310 (e) Notwithstanding any other provision of this section, the total state contribution for
311 each city or town, or district, shall not exceed the amount raised by the municipality's surcharge
312 on its sales or payroll tax levy.

313 (f) After distributing the trust fund in accordance with this section, the commissioner may
314 keep any remaining funds in the trust for distribution in the following year.

315 Section 11. Records of recommendations, appropriations and expenditures.

316 (a) Both the local and regional transportation committees shall keep a full and accurate
317 account of all of its actions, including its recommendations and the action taken on them and
318 records of all appropriations or expenditures made from the Local and Regional Transportation
319 Fund. The records and accounts shall be public records.

320 Section 12. Amendments to amount and computation of surcharge; revocation of
321 Sections 3 to 6.

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

326 (b) At any time after imposition of the surcharge, a district under section 5, with the
327 approval of the majority of voters in the district may accept an amendment to the amount and
328 computation of the surcharge in the same manner and within the limitations set forth in this
329 chapter.

330 Section 13. Rules and regulations. The commissioner of revenue shall have the authority
331 to promulgate rules and regulations to affect the purposes of this chapter.