HOUSE DOCKET, NO. 2627 FILED ON: 1/18/2013

HOUSE . . . . . No. 444

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 to expand access to the MCAS appeals process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Elizabeth A. Malia	*11th Suffolk*	*1/18/2013*
Frank I. Smizik	*15th Norfolk*	*1/18/2013*
David Paul Linsky	*5th Middlesex*	*1/18/2013*
Antonio F. D. Cabral	*13th Bristol*	*1/18/2013*
Denise Provost	*27th Middlesex*	*1/18/2013*
Thomas P. Conroy	*13th Middlesex*	*1/18/2013*
Cleon H. Turner	*1st Barnstable*	*1/18/2013*
Benjamin Swan	*11th Hampden*	*1/18/2013*
Carl M. Sciortino, Jr.	*34th Middlesex*	*1/18/2013*
Aaron Vega	*5th Hampden*	*1/31/2013*
Cory Atkins	*14th Middlesex*	*1/18/2013*
Patricia D. Jehlen	*Second Middlesex*	*1/18/2013*
James J. O'Day	*14th Worcester*	*1/18/2013*
Tom Sannicandro	*7th Middlesex*	*1/18/2013*
Carlos Henriquez	*5th Suffolk*	*1/18/2013*
Ruth B. Balser	*12th Middlesex*	*1/18/2013*
Thomas M. McGee	*Third Essex*	*1/18/2013*
Alice Hanlon Peisch	*14th Norfolk*	*1/18/2013*

John J. Lawn, Jr.	*10th Middlesex*	*1/18/2013*
Kay Khan	*11th Middlesex*	*1/18/2013*
Sean Garballey	*23rd Middlesex*	*1/18/2013*
Paul McMurtry	*11th Norfolk*	*1/18/2013*

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By Ms. Malia of Boston, a petition (accompanied by bill, House, No. 444) of Elizabeth A. Malia and others that the Board of Elementary and Secondary Education be directed to promulgate emergency regulations to modify the process governing the Massachusetts Comprehensive Assessment System (MCAS). Education.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to expand access to the MCAS appeals process.

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

SECTION 1. Notwithstanding any general or special law to the contrary, the board of elementary and secondary education shall take such action as necessary including, as appropriate, promulgating emergency regulations to modify the process governing the Massachusetts Comprehensive Assessment System, hereinafter referred to as "MCAS", performance appeals. To be eligible for a performance appeal, a student shall meet all of the following requirements: (1) for a performance appeal in mathematics or English language arts, a student shall have taken the grade 10 MCAS test in the subject area of the appeal at least two times; (2) for a performance appeal in Science and Technology/Engineering, a student shall have taken the grade 10 MCAS test in the subject area of the appeal at least once, and be currently enrolled in a Science or Technology/Engineering class or have completed the 12th grade; (3) a student shall have maintained at least a 95 per cent attendance level in the school year prior to the appeal, and in the school year of the appeal, provided that excused absences shall not count against a student’s attendance level; (4) a student shall have satisfactorily participated in the tutoring and other academic support services made available by or approved by the school, provided that the superintendent may present evidence of extenuating circumstances, such as a student’s disability, illness, or child care or other family responsibilities, that would justify an exemption from this requirement; and (5) a student who has submitted a portfolio assessment through the MCAS-alt without being granted a competency determination shall have taken the MCAS-alt in the subject area of appeal at least once. For both the MCAS and MCAS-alt, a separate application shall be submitted for each subject area. The commissioner may waive one or more of the aforementioned eligibility requirements, and shall provide an annual report to the

board of elementary and secondary education on any such waivers, provided that the student's identity remains confidential.

The regulations shall require that all students who fail the grade 10 MCAS in one or more subject area and their parents and guardians shall be notified of the right to appeal and the right to have an advocate to assist in the appeal. Said notice shall be in the most prevalent languages of the district. At the request of the student's parent or guardian or the student who has reached the age of sixteen, the superintendent of schools or his designee for the school district in which the student is enrolled shall file an appeal. The superintendent may initiate an appeal for any student with the consent of the parent, guardian or student who has reached the age of sixteen, if the student meets the eligibility criteria set forth in said first paragraph. The superintendent may submit any written comments or evidence relevant to the appeal. Denial of an earlier appeal shall not prevent a new appeal from being filed.

The regulations shall require that the superintendent include in the performance appeal evidence of the student's knowledge and skills in the subject at issue, including: (1) a recommendation from at least one of the student's teachers in the area of appeal, assessing the level of the student's knowledge and skills in the subject area at issue; (2) where possible, a meaningful comparison of the student with a group of other students who passed the MCAS in the subject area of the student's appeal; provided, that in the event of an inability within a reasonable time, but in no event later than the calendar year in which the MCAS test was taken, to identify an appropriate set of students to enable a meaningful comparison with other students, this clause shall be waived and the superintendent shall submit a portfolio of the student's work in the area of the appeal, as specified by the commissioner, sufficient to demonstrate whether the student's knowledge and skills meet or exceed the performance level established by the board for the competency determination; (3) documentation that the student's individual education plan team, if any, with the approval of a parent or guardian of the student, supports the graduation of the student; (4) for a student with a disability, a statement that the student has completed or is on track to complete local graduation requirements during grade 12 or after; (5) any additional information that the student's individual education plan team, if any, with the approval of the student's parent or guardian, requests the superintendent to submit indicating that the student's knowledge and skill in the subject area of the appeal meets or exceeds the performance level established by the board of elementary and secondary education for the competency determination and that the student's MCAS scores do not accurately measure the student's abilities; and (6) other supporting information relevant to the determination as to whether the student's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the board of elementary and secondary education for the competency determination, which may include work samples, scores of the student on other standardized tests in the subject area of the appeal, evidence of acceptance to college courses, or other evidence of academic achievement which demonstrates that the student meets the competency determination standard.

The superintendent shall send the performance appeal to the commissioner of elementary and secondary education, who shall review the submission to ensure that it meets requirements. The commissioner of elementary and secondary education shall grant the appeal for any student if there is a preponderance of evidence in the documentation provided in clause (1) to (6), inclusive, the first paragraph and any other evidence submitted by the superintendent that the student's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the board of elementary and secondary education for the competency determination. The commissioner shall provide notice of the results of the appeal to the student, parents or guardian and superintendent. In the case of a denial, the commissioner shall, upon request of the student or parent or guardian, provide written findings for the denial. The commissioner's decision on this appeal shall be final and shall not be subject to further review or appeal to any other entity; except that the regulations shall permit the superintendent, parent, guardian or student to seek reconsideration from the commissioner.

SECTION 2. Every school district shall collect data concerning the appeals process and submit this information to the department of elementary and secondary education on an annual basis. The data shall include, but shall not be limited to, the total number of students who failed the MCAS mathematics or English language arts subject area twice and the science and technology/engineering exam once, the total number of appeals submitted in each MCAS subject area, and who, if anyone, is responsible in the school district for assisting students with and filing appeals.

The commissioner of elementary and secondary education shall compile an annual report on the appeals process for the board of elementary and secondary education, which report shall include, at a minimum, the total number of students who failed the MCAS mathematics or English language arts subject area exam twice and the science and technology/engineering exam once in each school district, the total number of appeals filed by school district by MCAS subject area each school year and the disposition of each appeal submitted by school district in each school year, the total number of waivers granted by school district for each eligibility requirement, and an aggregate state-wide calculation of all of the aforementioned data categories. Said report shall be submitted annually to the Joint Committee on Education.

SECTION 3. The commissioner of elementary and secondary education shall develop a standard comprehensive template for superintendents to use when compiling an appeals package, and shall make this template publicly available. The commissioner shall also compile a report, every three years, on the best practices of the two school districts in the state with the highest percentages of eligible students filing appeals and of the two school districts in the state with the highest percentages of appeals granted. Said report shall be made publicly available. Said report shall consider whether certain techniques or strategies employed by the district have likely contributed to its high percentage of eligible students filing for appeals or its high percentage of appeals granted. Multiple factors, such as methods of student outreach, dedicated staff to

manage and file appeals, methods of compiling portfolios, and extra assistance provided to students during the appeals process, may be considered.