

SENATE No. 1534

The Commonwealth of Massachusetts

PRESENTED BY:

Michael F. Rush

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 allow for municipal innovation through procurement reform.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Mayor Thomas M. Menino</i>	<i>Boston City Hall One City Hall Square Boston, MA 02201</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>

SENATE No. 1534

By Mr. Rush, a petition (accompanied by bill, Senate, No. 1534) of Michael F. Rush, Mayor Thomas M. Menino, William N. Brownsberger, Carlo Basile and other members of the General Court for legislation to allow for municipal innovation through procurement reform. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to allow for municipal innovation through procurement reform.

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. Subsection (b) of section 1 of chapter 30B of the General Laws, as
2 appearing in the 2010 Official Edition, is hereby amended by inserting after clause (34), the
3 following clause:-

4 (35) a contract of less than \$100,000 for open source deliverables, including but not
5 limited to software, data, and designs. Within sixty days of entering into such a contract, the
6 governmental body shall provide public notice of the contract on its website for at least two
7 weeks. The public notice shall specify the dollar amount, contractor, and subject matter of the
8 contract and identify the manner in which open source deliverables will be made available to the
9 public.

10 SECTION 2. Chapter 41 of the General Laws is hereby amended by striking out section
11 17, as appearing in the 2010 Official Edition, and inserting in place thereof the following
12 section:-

13 Section 17. Every officer of a city who makes or executes a contract on behalf of the city
14 shall furnish said contract or a copy thereof to the city clerk and the city auditor within one week
15 after its execution; and the city clerk shall keep such contract or copy on file, open to public
16 inspection during business hours. Such contracts or copies shall be kept on file, arranged
17 according to the subject of the contract, or in other convenient form, and an index to the subject
18 matter of the contracts and to the names of the contractors shall be made available, and shall also
19 be open to public inspection in some convenient form. The city clerk and the city auditor may

20 agree to share such files and indexes. All allowances under and additions to such contracts, or
21 copies thereof, shall be filed with the city clerk and the city auditor, together with a sworn
22 statement of the officer making such allowances or additions that the same are correct and in
23 accordance with the contract. The city clerk and the city auditor may agree to share such files.

24 SECTION 3. Section 44E of chapter 149 of the General Laws, as appearing in the 2010
25 Official Edition, is hereby amended by inserting, after the first paragraph of subsection (1)
26 thereof, the following:-

27 In inviting bids, the awarding authority shall reserve the right to reject any or all such
28 general bids, if it be in the public interest to do so. In inviting sub-bids in connection with such a
29 contract, the awarding authority shall reserve the right to reject any sub-bid on any sub-trade, if it
30 determines that such sub-bid does not represent the sub-bid of a person competent to perform the
31 work as specified or that less than three such sub-bids were received and that the prices are not
32 reasonable for acceptance without further competition.

33 SECTION 4. Section 44J of chapter 149 of the General Laws, as appearing in the 2010
34 Official Edition, is hereby amended by inserting the following subsection:-

35 (10) The provisions of this section shall not apply (1) to the extent that they prevent the
36 approval by any contributing federal agency of any contract or specification solely for the
37 purchase of materials by a governmental body, as defined by section 2 of chapter 30B, (2) to
38 materials purchased under specifications of the state department of highways at prices
39 established by the said department pursuant to advertisement and bidding in connection with
40 work to be performed under the provisions of chapter 81 or chapter 90, (3) to any transaction
41 between the commonwealth and any of its political subdivisions or governmental body, as
42 defined by section 2 of chapter 30B, or between the commonwealth and any public service
43 corporation, and (4) to any procurement or contract of not more than twenty-five thousand
44 dollars awarded by a governmental body, as defined by section 2 of chapter 30B, in accordance
45 with the provisions of section 5 of said chapter 30B; and (5) to any procurement or contract
46 solely for the purchase of materials awarded by a governmental body, as defined by section 2 of
47 chapter 30B, in accordance with section 5 of said chapter 30B.

48 SECTION 5. Section 20A of chapter 9 of the General Laws, as appearing in the 2010
49 Official Edition, is hereby amended by inserting the following paragraph:-

50 The provisions of this section shall not apply (1) to the extent that they prevent the
51 approval by any contributing federal agency of any contract or specification solely for the
52 purchase of materials by a governmental body, as defined by section 2 of chapter 30B, (2) to
53 materials purchased under specifications of the state department of highways at prices
54 established by the said department pursuant to advertisement and bidding in connection with
55 work to be performed under the provisions of chapter 81 or chapter 90, (3) to any transaction
56 between the commonwealth and any of its political subdivisions or governmental body, as

57 defined by section 2 of chapter 30B, or between the commonwealth and any public service
58 corporation, and (4) to any procurement or contract of not more than twenty-five thousand
59 dollars awarded by a governmental body, as defined by section 2 of chapter 30B, in accordance
60 with the provisions of section 5 of said chapter 30B; and (5) to any procurement or contract
61 solely for the purchase of materials awarded by a governmental body, as defined by section 2 of
62 chapter 30B, in accordance with section 5 of said chapter 30B.