

# SENATE . . . . . No. 766

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Mark C. Montigny***

*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 regulating compensation of board members of public charities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>

# SENATE . . . . . No. 766

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 766) of Mark C. Montigny, Robert M. Koczera, Gale D. Candaras, Martha M. Walz and others for legislation to regulate compensation of board members of public charities. The Judiciary.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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An Act regulating compensation of board members of public charities.

*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. Chapter 12 of the General Laws is hereby amended by inserting after  
2 section 8F the following section:-

3           Section 8F 1/2. (a) For the purposes of this section, the following words shall have the  
4 following meanings:-

5           “Compensation”, anything given or received for or on account of services, not including  
6 (i) reimbursement for costs and expenses reasonably incurred by the independent officer, director  
7 or trustee in the course and support of such service, or (ii) any noncash items of value that may  
8 be set forth in regulations by the attorney general.

9           “Independent officer, director or trustee”, an officer, director or trustee of a public  
10 charity, not including an employee of the public charity or an employee of a subsidiary or  
11 affiliate of the public charity.

12           “Massachusetts based public charity”, a public charity incorporated or otherwise  
13 organized in Massachusetts or, if incorporated or organized outside of Massachusetts, that  
14 primarily conducts its business in Massachusetts.

15           “Professional fiduciary services”, fiduciary services provided as part of the ordinary  
16 course of the trade or business of an individual or institution.

17           (b) No Massachusetts based public charity required to be registered under section 8E and  
18 to file annual reports under section 8F shall provide compensation to any independent officer,  
19 director or trustee for service as an independent officer, director or trustee except with the

20 approval of the attorney general under this section; provided, however, that an independent  
21 officer, director or trustee who provides professional fiduciary services to a Massachusetts based  
22 public charity may receive compensation for providing those services but shall not receive  
23 compensation for otherwise serving as an independent officer, director or trustee except with the  
24 approval of the attorney general under this section.

25 Any Massachusetts based public charity intending to provide compensation to any  
26 independent officer, director or trustee shall file an application with the division, on the forms  
27 and with the supporting information and documentation as the attorney general shall from time to  
28 time prescribe, requesting the approval of the attorney general to provide compensation.

29 The attorney general may adopt and promulgate guidelines, rules or regulations to carry  
30 out the provisions of this section including, but not limited to, the criteria for granting approval  
31 and the time period during which the approval shall be effective. The criteria shall recognize that  
32 service as an independent officer, director or trustee of a public charity is recognized as a  
33 voluntary contribution of time and expertise to benefit the community served by the public  
34 charity and that any departure from the voluntary nature of that service requires a clear and  
35 convincing showing that compensation is necessary to enable the public charity to attract and  
36 retain experienced and competent individuals to serve as independent officers, directors or  
37 trustees. These regulations may also authorize the attorney general to exempt categories of  
38 charities from the prohibition of this section if the exemption serves the public interest. Any  
39 regulations allowing for an exemption shall set forth the criteria for granting an exemption.

40 If the attorney general approves an application for compensation, the amount paid as  
41 compensation shall be limited to the amount the Massachusetts based public charity reasonably  
42 determines to be necessary to accomplish the purposes for which compensation is paid. The  
43 attorney general may rescind the approval for compensation if he finds that any compensation  
44 paid under this section is in excess of that reasonably necessary to accomplish the purposes for  
45 which compensation is approved and paid.

46 SECTION 2. Section 1 shall take effect 6 months after the effective date of this act.