

HOUSE No. 3868

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh and Karen E. Spilka

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 authorizing the town of Framingham to assess fines for failure to relocate or remove utility poles and wires.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>11/18/2015</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>	<i>11/18/2015</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>11/18/2015</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>11/18/2015</i>

HOUSE No. 3868

By Representative Walsh of Framingham and Senator Spilka, a joint petition (accompanied by bill, House, No. 3868) of Chris Walsh, Karen Spilka, and others (by vote of the town) that the town of Framingham be authorized to assess fines for failure to relocate or remove utility poles and wires. Telecommunications, Utilities and Energy. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act authorizing the town of Framingham to assess fines for failure to relocate or remove utility poles and wires.

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. For purposes of this act, a “utility company” shall mean a company,
2 department or other entity that distributes and/or supplies electricity, telephone, telegraph, gas,
3 communication, cable television services, and/or other utilities, and shall include the owner of
4 utility wires, cables, attachments, and poles used for such purposes.

5 SECTION 2. Notwithstanding the provisions of M.G.L. c. 166, § 22, M.G.L. c. 164, §
6 34B, M.G.L. c. 166, § 22A, or any other general or special law to the contrary, the town of
7 Framingham shall have the authority to assess fines to any utility company which fails to
8 relocate utility wires, cables and attachments which it is responsible or otherwise required or
9 authorized to relocate to an adjacent or nearby pole within twenty-one (21) days of the date on
10 which said relocation is practical as defined in this act, in an amount not to exceed the sum of

11 two hundred fifty dollars (\$250.00) per location per day after the twenty-first (21st) day, and one
12 thousand dollars (\$1,000.00) per location per day after the sixtieth (60th) day.

13 SECTION 3. For purposes of this act, the relocation of a utility wire, cable or attachment
14 is practical in circumstances in which the wire, cable or attachment is the highest mounted wire,
15 cable or attachment on a pole, a replacement pole or conduit has been installed at a nearby
16 location, no lighting or other fixture impedes the relocation, and any permits, grants of location
17 or other approvals necessary for such relocation have been provided.

18 SECTION 4. Notwithstanding the provisions of M.G.L. c. 164, §34B, or any other
19 general or special law to the contrary, the town of Framingham shall have the authority to assess
20 fines to any utility company which fails to remove a utility pole which it is responsible or
21 otherwise required or authorized to remove as part of a relocation within ninety (90) days of the
22 date on which said relocation is practical as defined in this act, in an amount not to exceed the
23 sum of two hundred fifty dollars (\$250.00) per location per day after the twenty-first (21st) day,
24 and one thousand dollars (\$1,000.00) per location per day after the sixtieth(60th) day.

25 SECTION 5. For purposes of this act, removal of a utility pole is practical in
26 circumstances in which all wires, cables and attachments have been removed from the pole
27 and/or relocated to one (1) or more adjacent utility poles or locations, and any permits, grants of
28 location or other approvals necessary for such relocation have been provided.

29 SECTION 6. Notwithstanding the provisions of M.G.L. c. 164, § 34B, or any other
30 general or special law to the contrary, the town of Framingham shall have the authority to assess
31 fines to any utility company which fails to initiate the installation of a new utility pole which it is
32 responsible or otherwise required or authorized to install within ninety (90) days of the date on

33 which said installation is requested or ordered by the town as defined in this act, in an amount
34 not to exceed the sum of two hundred fifty dollars (\$250.00) per location per day after the
35 ninetieth (90th) day, and one thousand dollars (\$1,000.00) per location per day after the one
36 hundred and twentieth (120th) day.

37 SECTION 7. For purposes of this act, installation of a new utility pole is practical in
38 circumstances where the company responsible for installing a pole has been formally requested
39 or ordered to do so by the town of Framingham or its authorized representative for reasons of
40 compliance with the Americans With Disabilities Act, the Massachusetts Architectural Access
41 Board, other applicable state or federal law or regulation, the requirements of a roadway project,
42 or compliance with town of Framingham policy, and for which any permits, grants of location or
43 other approvals necessary for such installation have been provided.

44 SECTION 8. Notwithstanding the provisions of M.G.L. c. 166, § 22, M.G.L. c. 164, §
45 34B, or any other general or special law to the contrary, the town of Framingham shall have the
46 authority to assess fines to any utility company which fails to remove or fully secure a utility
47 wire, cable or attachment under its ownership or authority that has been disconnected from a
48 customer location and which remains attached to a utility pole or an adjoining fixture within
49 twenty one (21) days of the date on service has been discontinued, in an amount not to exceed
50 the sum of two hundred fifty dollars (\$250) per location per day after the twenty-first (21st) day,
51 and one thousand dollars (\$1,000) per location per day after the sixtieth (60th) day.

52 SECTION 9. For purposes of this act, removal or securing of a utility wire, cable or
53 attachment is practical in circumstances in which the service has been discontinued from a
54 customer location, and the wire, cable or attachment has been disconnected from the customer

55 location, and remains attached to, but is not fully secured to a utility pole or fixtures attached
56 thereto.

57 SECTION 10. No utility company may restrict access by the Town of Framingham to
58 information about utility poles and wires that are the subject of this act and which are
59 documented on any system to which two or more utility companies are a party.

60 SECTION 11. Notwithstanding the provisions of M.G.L. c. 166, § 22, M.G.L. c. 164, §
61 34B, or any other general or special law to the contrary, the town of Framingham shall have the
62 authority to assess fines to any utility company which is a participant in any system providing
63 information about the location of utility poles and wires that are the subject of this act, to which
64 system two or more utility companies are a party, and which fails to provide notifications
65 through such system about any attachments or detachments of utility wires, or setting or removal
66 of utility poles that will cause a violation of any provision of this act within seven (7) days of
67 such action, in an amount not to exceed the sum of two hundred fifty dollars (\$250) per location
68 per day after the seventh (7th) day, and one thousand dollars (\$1,000) per location per day after
69 the twenty first (21st) day.

70 SECTION 12. A utility company may request an exemption from provisions of this act,
71 which may be granted only following a duly posted public meeting of the Framingham board of
72 selectmen, who shall have sole authority to grant such exemption.

73 SECTION 13. Fines that are collected in accordance with this act shall be issued by the
74 Framingham board of selectmen or their designee, and shall be deposited in the town of
75 Framingham general fund, or in a fund lawfully established for the improvement of public ways.
76 The issuance of a fine shall not preclude the town of Framingham from seeking or obtaining any

77 or all other legal and equitable remedies to prevent or remove a violation of this act. The fines set
78 forth herein may be annually revised by the Framingham board of selectmen.

79 SECTION 14. This act shall take effect upon its passage.