HOUSE DOCKET, NO. 1438 FILED ON: 1/15/2015

# HOUSE . . . . . No. 668

## The Commonwealth of Massachusetts

PRESENTED BY:

***John V. Fernandes***

*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 assist municipal and district ratepayers.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *John V. Fernandes* | *10th Worcester* | *1/15/2015* |
| *Stephen L. DiNatale* | *3rd Worcester* | *8/30/2019* |
| *Elizabeth A. Poirier* | *14th Bristol* | *8/30/2019* |
| *Peter J. Durant* | *6th Worcester* | *8/30/2019* |
| *Keiko M. Orrall* | *12th Bristol* | *8/30/2019* |
| *David F. DeCoste* | *5th Plymouth* | *8/30/2019* |
| *F. Jay Barrows* | *1st Bristol* | *8/30/2019* |
| *David M. Nangle* | *17th Middlesex* | *8/30/2019* |
| *Thomas A. Golden, Jr.* | *16th Middlesex* | *8/30/2019* |
| *James Arciero* | *2nd Middlesex* | *8/30/2019* |
| *Kevin J. Kuros* | *8th Worcester* | *8/30/2019* |
| *Patricia A. Haddad* | *5th Bristol* | *8/30/2019* |
| *Kate D. Campanale* | *17th Worcester* | *8/30/2019* |

HOUSE DOCKET, NO. 1438 FILED ON: 1/15/2015

# HOUSE . . . . . No. 668

By Mr. Fernandes of Milford, a petition (accompanied by bill, House, No. 668) of John V. Fernandes and others relative to the costs imposed upon the municipal and district ratepayers due to public drinking water, wastewater and stormwater systems capital upgrades. Environment, Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

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

An Act to assist municipal and district ratepayers.

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

Whereas, public drinking water, wastewater and stormwater systems are in need of major capital upgrades in order to continue to protect public health, safety and the environment; and

Whereas, the costs for these infrastructure upgrades are significant and increasing each year; and

Whereas, local ratepayers must pay for most of these upgrades as the Federal and State governments have reduced their level of funding assistance to cities, towns and districts; and

Whereas, many of the costs for water infrastructure improvements are due to regulatory demands by Federal and State environmental agencies; and

Whereas, Federal and State regulatory demands on cities, towns and districts do not consider compliance costs or assess the value of the benefits derived; and

Whereas, it is in the public interest to spend local funds wisely and to insure the maximum benefits are derived for each dollar expended.

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

Notwithstanding the provisions of section 27C of chapter 29 of the General Laws as most recently amended by section 24 of chapter 71 of the Acts of 1993, or any other general or special law to the contrary, any proposal initiated by the Executive Office of Energy and Environmental Affairs and its agencies (collectively EOEEA) in the form of a rule, regulation or so-called guidance document or policy resulting in the imposition of additional cost to a city or town shall be termed a "local mandate". Local mandates shall include but not be limited to any EOEEA initiated rule, regulation or so-called guidance document or policy that: (1.) requires any city or town to undertake any service or direct or indirect cost obligation, or to establish, expand or modify any existing activity in such a way that results in the expenditure of funds or resources, or results in the diversion of funds or resources from any existing activity. For the purposes of this section, the term "existing activity" shall include any program or service lawfully undertaken by any city or town under the authority of any law, special law, administrative rule or regulation or city or town charter, or; (2.) relieves the state or a county from providing a service or program so that any city or town instead incurs the direct or indirect cost of such service or program.

Section 2. No proposal initiated by the EOEEA in the form of a rule or regulation, or any so-called guidance document or policy, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described in chapter 30A of the General Laws and filed with the secretary of state. The regulatory impact statement shall:

(a) identify the problem, issue or deficiency addressed by the proposal; (b) identify the methodology or approach, including identification of expert information and analysis used to address the problem, issue or deficiency; (c) identify stakeholders who will be affected and to what extent by the proposal; (d) identify when such proposal will become effective, when such proposal will be changed, if known, and how and when the proposal will be reviewed in the future, if at all; (e) identify and describe the immediate and long term financial impacts of the proposal on all stakeholders, including the agency or entity issuing the proposal, any affected private party or entity, the state, the cities and towns, and the general public. Such financial impact statement shall consider administrative costs, permitting costs, enforcement costs, capital costs, internal compliance costs, and indirect costs, if any; (f) identify the fiscal effect on the public and private sectors for the first and second year of the proposal's existence, and provide a projection of fiscal impact over the first five years of the proposal's existence or, in the case of proposals affecting permits issued by EOEEA, the term of the permit; and (g) identify and describe, specifically, the benefits of the proposal including, where possible, the financial value of these benefits. The secretary of administration and finance shall adopt regulations to further define and implement the use of regulatory impact statements in said executive offices' and agency's rulemaking.

Section 3. The EOEEA shall maintain a notification list of stakeholders in their proposals and who may request preliminary notification of such proposals, such request renewed annually by persons or groups in December. No later than thirty days prior to the notice of hearing described above the agency shall send a preliminary notification of the proposal to each stakeholder who has requested preliminary notification of the proposal and to the Joint Legislative Committee on Natural Resources, the Joint Legislative Committee on Local Affairs,

the House and Senate Committees on Ways & Means, the Office of the State Auditor and the Massachusetts Municipal Association.

The preliminary notification of the proposal shall (a) identify the proposal to be noticed for hearing and the scope of the proposal, (b) provide the statutory authority for such proposal, and (c) identify the person within said executive office or agency responsible for the proposal and who can be contacted for more information.

Section 4. No proposal initiated by the EOEEA in the form of a rule, regulation, so-called guidance document or policy shall become effective until said executive office and agency have complied with the provisions of Massachusetts Administrative Procedures Act established under the provisions of Chapter 30A of the General Laws. Any entity claiming to be aggrieved by lack of compliance with said chapter by said executive office or agency shall be permitted to file a petition for relief with the superior court.