

SENATE No. 1474

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

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 relative to regional transportation ballot initiatives.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>

SENATE No. 1474

By Mr. Downing, a petition (accompanied by bill, Senate, No. 1474) of Benjamin B. Downing, Patricia D. Jehlen, Chris Walsh, Jose F. Tosado and other members of the General Court for legislation relative to regional transportation ballot initiatives. Revenue.

The Commonwealth of Massachusetts

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

An Act relative to regional transportation ballot initiatives.

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. The General Laws are hereby amended by inserting after chapter 64M the
2 following chapter:-

3 Chapter 64N. Regional Transportation Ballot Initiatives

4 Section 1. Definitions. The following terms shall have the following meanings:

5 “District agreement”, a document specifying the terms and conditions of the powers and
6 dutiesof the two or more municipalities forming a district under section 4 of this chapter,
7 pursuant to the laws governing any such municipality, the provisions of this chapter, and such
8 procedural regulations as the commissioner of revenue may promulgate.

9 “Payroll Tax”, a tax an employer pays on behalf of its employees based on a percentage
10 of the wages of the employees of the employer.

“Single subject of taxation”, one of four taxes, payroll, sales, property, or vehicle excise tax, as determined annually by the board of assessors or department of revenue, that the city or town, or district, may subject to the tax surcharge.

Section 2. Taxing authority and acceptance of sections 2 through 5.

(a) Sections 2 to 5, inclusive, shall take effect in any city or town upon the approval in a city by the city council with the approval of the mayor or in a town by the board of selectmen and their acceptance by the voters of a ballot question as set forth in section 3.

(b) Upon passage of this Act, a city or town shall have authority to impose any tax surcharge within its city or town on a single subject of taxation including a payroll, sales, property, or vehicle excise tax. However, no tax surcharge shall be imposed within the city or town unless it has first been approved in a city by the city council with the approval of the mayor or in a town by the board of selectmen and accepted by the voters of a city or town through a ballot question as set forth in section 3, except as provided in section 4.

(c) Notwithstanding the provisions of chapters 59, 60A, 64H, 62, or any other general or special law to the contrary, the city by the city council with the approval of the mayor or town by the board of selectmen may vote to accept sections 2 to 5, inclusive, by approving a surcharge on a single subject of taxation, as determined annually by the board of assessors or department of revenue. A city council or board of selectmen that intends to approve sections 2 to 5 shall determine prior to approval which single subject of taxation will be levied and the amount of surcharge. For a property tax surcharge, the amount of the surcharge shall not be included in a calculation of total taxes assessed for purposes of section 21C of chapter 59.

(d) All exemptions and abatements of any single subject of taxation for which a taxpayer qualifies as eligible shall not be affected by this chapter. A taxpayer receiving an exemption for any single subject of taxation shall be exempt from any surcharge on any single subject of taxation established under this section. The surcharge to be paid by a taxpayer receiving an abatement of any single subject of taxation shall be reduced in proportion to the amount of such abatement.

(e) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum as authorized by the law for any single subject of taxation, and in the case of a payroll tax, at the rate per annum as authorized by the law for the taxation of corporations.

(f) Revenues raised through the tax surcharge shall be used for transportation-related purposes only including for the expenditure by the city or town for maintaining, repairing, planning, design, financing, operating, improving and constructing of public transportation and transit systems, roads, bridges, bikeways, pedestrian pathways, and other transportation-related enhancement projects.

Section 3. Municipal or state election on adoption of ballot initiative.

(a) Upon approval in a city by the city council with the approval of the mayor or in a town by the board of selectmen, the actions of the body shall be submitted for acceptance to the voters of a city or town at the next regular municipal or state election. The city or town clerk or the state secretary shall place it on the ballot in the form of the following question: "Shall this (city or town) accept sections 2 to 5, inclusive of chapter 64N of the General Laws, as approved by its (in a city by the city council with the approval of the mayor or in a town by the board of selectmen), a summary of which appears below

(Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, including in said summary the specific single subject of taxation to be levied and percentage of the surcharge to be imposed.)”

In the ballot question, the city or town may include a list of specific transportation-related projects or activities in accordance with section 6 for which the tax surcharge funds may be used. The city or town may also include a sunset provision in the ballot question, but in no event shall the authorization for the surcharge exceed 30 years.

If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in the city or town, or district as set forth under section 4, but not otherwise.

(b) The final date for notifying or filing a petition with the city or town clerk or the state secretary to place such a question on the ballot shall be 35 days before the city or town election or 60 days before the state election.

(c) If the city by the city council with the approval of the mayor or the town by the board of selectmen does not vote to accept sections 2 to 5, inclusive, at least 90 days before a regular city or town election or 120 days before a state election, then a question seeking said acceptance through approval of a particular surcharge rate, may be so placed on the ballot when a petition signed by at least 5 per cent of the registered voters of the city or town requesting such action is filed with the registrars, who shall have seven days after receipt of such petition to certify its signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall cause the question to be placed on the ballot at the next regular city or town election held more

than 35 days after such certification or at the next regular state election held more than 60 days after such certification.

Section 4. Two or more municipalities.

(a) Two or more municipalities may, by vote of the city or town thereof, in a city by the city council with the approval of the mayor or in a town by the board of selectmen, form a district for the purposes set forth in section 2. Upon approval by each of the municipalities to form a district for purposes of this chapter, Sections 2 to 5, inclusive, shall take effect in the two or more municipalities upon the approval by the each of the municipalities thereof, in a city by the city council with the approval of the mayor or in a town by the board of selectmen, and their acceptance by the voters of a ballot question as set forth in section 3. Formation of a district may occur before or after voters accept a ballot question as set forth in section 3.

(b) If a majority of the voters in each member municipality the district, for the purposes set forth in the first paragraph of this section, vote on said question in the affirmative then its provisions shall take effect in the district, but not otherwise.

(c) Two or more municipalities that choose to form a district for purposes of this chapter shall apply a surcharge to the same single subject of taxation. The percentage of the surcharge may vary for each municipality that comprises the district.

(d) Two or more municipalities forming a district under section 4 shall adopt a district agreement with approval in a city by the city council with the approval of the mayor or in a town by the board of selectmen. The district agreement shall specify:

(1) the purpose and nature of the arrangement;

(2) the single municipality to serve as the treasurer of the local and regional transportation fund or the regional planning agency to serve as fiscal agent of the local and regional transportation fund under section 7, and that said municipality or regional planning agency shall also serve as treasurer or fiscal agent for purposes of section 9;

(3) how the money will be used and for what purposes, and how the municipalities will decide on details of use, plan changes, or urgent circumstances;

(4) the work to be performed, and the division or sharing of responsibility among the municipalities;

(5) the estimated costs and the methods of financing;

(6) the method of administration;

(7) the composition of the district's regional transportation committee, the length of its term, and the criteria and method of selecting its members; and

(8) the duration of the proposed agreement.

(f) Nothing in this section shall be construed to:

(1) amend, repeal or otherwise alter the authority or jurisdiction of, or establish, a municipality;

(2) confer any management authority over funds, land, or natural resources beyond the authority exercised by participating municipalities in the district agreement set forth in this section and this chapter.

Section 5. Levy and collection of tax.

116 (a) Upon acceptance of sections 2 to 5, inclusive, and upon the assessors' warrant to the
117 tax collector, the accepted surcharge shall be imposed. The city, town, or district, shall notify the
118 commissioner of revenue of the date and terms on which the voters accepted said sections 2 to 5,
119 inclusive.

120 (b) For a surcharge levied on either property or excise tax, after receipt of the warrant, the
121 tax collector shall collect the surcharge in the amount and according to the computation specified
122 in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to
123 the schedule for collection of the single subject of taxation, to the city's or town's treasurer, or
124 the district's treasurer. The tax collector shall cause appropriate books and accounts to be kept
125 with respect to such surcharge, which shall be subject to public examination upon reasonable
126 request from time to time.

127 (c) Two or more municipalities forming a district under section 4 shall select one of the
128 municipalities or the regional planning agency to serve as the district's treasurer for purposes of
129 section 5 and in accordance with section 4. The district agreement under section 4 shall establish
130 the method of selecting the district treasurer. The municipality or regional planning agency
131 selected to serve as district treasurer shall perform duties in accordance with section 5 and
132 chapter 41. Two or more municipalities forming a district under section 4 shall also select that
133 same municipality or regional planning agency to receive funds and provide certification for all
134 municipalities within said district for purposes of section 9 and in accordance with section 4.

135 Section 6. Local or Regional Transportation Committee.

136 (a) A city or town that accepts sections 2 to 5, inclusive, and is not a party to a district
137 agreement in accordance with section 4, shall establish by ordinance or by-law a local

138 transportation committee not more than 180 days following acceptance of sections 2 to 5,
139 inclusive. The committee shall consist of not less than five members. The ordinance or by-law
140 shall determine the composition of the committee, the length of its term and the criteria and
141 method of selecting its members by appointment only. The committee shall include, but not be
142 limited to, one or more representatives from the municipality, one representative of the
143 Massachusetts Department of Transportation as designated by its board, one member of the
144 Massachusetts Bay Transportation Authority as designated by its board if the city or town is
145 within the service area of the Massachusetts Bay Transportation Authority, one member of each
146 regional transit authority to which the city or town is a member community, one member of the
147 regional planning agency to which the city or town is a member community, or persons, as
148 determined by the ordinance or by-law, acting in the capacity of or performing like duties of the
149 department, board or authority if they have not been established in the city or town.
150 Representatives of the municipality shall not constitute a majority of the local transportation
151 committee.

152 (b) A district as set forth under section 4, that accepts sections 2 to 5, inclusive, shall
153 establish by district agreement in accordance with section 4 a regional transportation committee.
154 The committee shall consist of not less than seven members. The committee shall include, but
155 not be limited to, one or more representatives from each municipality, one member of the
156 Massachusetts Department of Transportation as designated its board, one member of the
157 Massachusetts Bay Transportation Authority as designated by its board if any municipalities of
158 the district are within the service area of the Massachusetts Bay Transportation Authority, one
159 member of each regional transit authority if any municipalities of a district is a member
160 community, one member of each regional planning agency serving one or more municipalities of

161 a district, or persons, as determined by district agreement, acting in the capacity of or performing
162 like duties of the department, board or authority if they have not been established in the city or
163 town. Representatives of the municipalities that comprise the district shall not constitute a
164 majority of the regional transportation committee.

165 (c) Both the local and regional transportation committees shall study the transportation-
166 related needs, possibilities, and resources of the city, town, or district. The committees shall
167 consult with existing transportation agencies, including the Massachusetts Department of
168 Transportation and regional planning agencies, to develop transportation-related projects
169 including maintaining, repairing, planning, design, financing, operating, improving and
170 constructing of public transportation and transit systems, roads, bridges, bikeways, and
171 pedestrian pathways, and coordinate joint-funding where appropriate in accordance with the
172 ballot initiative. If a list of specific transportation-related projects or activities for which the tax
173 surcharge funds may be used was included in a ballot question, the committee shall include said
174 projects or activities in its study, however, the committee may recommend or not recommend
175 said projects or activities.

176 (d) Both the local and regional transportation committees shall not meet or conduct
177 business without the presence of a quorum. A majority of the members of the local or regional
178 transportation committee shall constitute a quorum. The committees shall approve its actions by
179 majority vote. Both the local and regional transportation committees shall keep a full and
180 accurate account of all of its actions, including its recommendations and the action taken on them
181 and records of all appropriations or expenditures made from the Local and Regional
182 Transportation Fund. The records and accounts shall be public records.

(e) The city, town, or district as set forth in section 5, shall receive the approval of the Massachusetts Department of Transportation and the regional planning agency or agencies for all transportation-related projects or activities prior to listing specific projects on the ballot as set forth in section 3, unless the transportation-related project or activity is under local jurisdiction. If a city or town includes no specific transportation-related projects or activities in the ballot question, or the ballot question was initiated under section 3(c), the local transportation committee shall receive the approval of the Massachusetts Department of Transportation and the regional planning agency prior to submitting the local transportation committee's recommendations to a city council or board of selectmen, unless the transportation-related project or activity is under local jurisdiction. If the district includes no specific transportation-related projects or activities in the ballot question, the regional transportation committee shall receive the approval of the Massachusetts Department of Transportation and the regional planning agency or agencies prior to implementing the regional transportation committee's recommendations, unless the transportation-related project or activity is under local jurisdiction. The city, town, or district shall study projects that promote access to public transportation, biking, and walking.

(f) Not less than once every two fiscal years, the local transportation committee shall make recommendations to the city council of the city or board of selectmen of the town regarding efficient and effective ways to improve and enhance local transportation systems. Recommendations to the city council or board of selectmen shall include anticipated costs. The committee may include in its recommendation to the city council or board of selectmen a recommendation to set aside for later spending funds for specific purposes that are consistent with transportation-related purposes but for which sufficient revenues are not currently available

in the Local and Regional Transportation Fund, as set forth in section 7, to accomplish that specific purpose, or to satisfy debt payments incurred from transportation-related projects, or to set aside for later spending funds for general purposes that are consistent with transportation improvements and in accordance with the ballot initiative.

(g) After receiving such recommendations from the local transportation committee, the city council or board of selectmen shall then take such action and approve such appropriations from the Local and Regional Transportation Fund as set forth in section 7, and such additional appropriations as it deems appropriate to carry out the recommendations of the local transportation committee and in accordance with the ballot initiative.

(h) Not less than once every two fiscal years, the regional transportation committee shall make recommendations to the designated municipality treasurer or regional planning agency as set forth in section 4 regarding efficient and effective ways to improve and enhance local and regional transportation systems. Recommendations to the designated municipality treasurer or regional planning agency shall include anticipated costs. The committee may include in its recommendation a recommendation to set aside for later spending funds for specific purposes that are consistent with transportation-related purposes but for which sufficient revenues are not currently available in the Local and Regional Transportation Fund, as set forth in section 7, to accomplish that specific purpose, or to satisfy debt payments incurred from transportation-related projects, or to set aside for later spending funds for general purposes that are consistent with transportation improvements and in accordance with the ballot initiative.

(i) After receiving such recommendations from the regional transportation committee, the designated municipality treasurer or regional planning agency shall then take such action and

approve such appropriations from the Local and Regional Transportation Fund as set forth in section 7.

Section 7. Local and Regional Transportation Fund.

(a) Notwithstanding the provisions of section 53 of chapter 44 or any other general or special law to the contrary, a city, town, or district that accepts sections 2 to 5, inclusive, shall establish a separate account to be known as the Local and Regional Transportation Fund, of which the municipal treasurer or fiscal agent shall be the custodian. The authority to approve expenditures from the fund shall be limited to the city council of a city or board of selectmen of a town, or the designated municipality treasurer or regional planning agency of the district, and the municipal treasurer or fiscal agent shall pay such expenses in accordance with chapter 41.

(b) Two or more municipalities forming a district under section 4 shall select one of the municipalities or regional planning agency to establish a separate account known as the Local and Regional Transportation Fund in accordance with this section and section 4. The municipality or regional planning agency selected to establish said fund shall only use the funds for the district as a whole based solely upon the recommendations and approvals of the regional transportation committee as set forth in this chapter.

(c) The following monies shall be deposited in the Local and Regional Transportation Fund: (a) all funds collected from the levied tax surcharge on any single subject of taxation pursuant to section 3, except if the single subject of taxation is a sales or payroll tax which shall be deposited with the department of revenue in accordance with sections 8 and 9; and (b) all funds received from the commonwealth or any other source for such purposes. The treasurer or fiscal agent may deposit or invest the proceeds of the fund in savings banks, trust companies

incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth or in the manner authorized by section 54 of chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues from the fund shall be limited to implementing the recommendations of the local and regional transportation committees and providing administrative and operating expenses to the committees, and in accordance with the ballot initiative.

(d) Only those cities and towns, or district that adopt the surcharge allowed by this chapter shall be eligible to receive monies through the Local and Regional Transportation Fund.

Section 8. Massachusetts Local and Regional Transportation Trust Fund.

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Local and Regional Transportation Trust Fund, for the benefit of cities, towns, or districts as set forth in section 4, that have accepted sections 2 to 5, inclusive, and pursuant to said sections 2 to 5, inclusive, have imposed a surcharge on either a sales or payroll tax levy, subject to any exemptions adopted by a municipality or district. The fund shall consist of all revenues received by the commonwealth: (1) from the levied tax surcharge on either a sales or payroll tax pursuant to section 3; (2) from public and private sources as gifts, grants and donations to further local or regional transportation-related projects; and (3) all other monies credited to or transferred to from any other fund or source pursuant to law.

(b) The state treasurer shall deposit the fund in accordance with the provisions of section 9 in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit be available for withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into the fund. The fund shall be expended solely for the administration and implementation of this chapter. Any unexpended balances shall be redeposited for future use consistent with the provisions of this chapter.

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with section 9. The department of revenue shall report by source all amounts credited to said fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of the department as it may need to administer and manage the fund disbursements and any expense incurred by the department shall be deemed an operating and administrative expense of the program. The operating and administrative expenses shall not exceed 5 per cent of the annual total revenue received under the provisions of section 8.

Section 9. Annual distributions of monies in trust fund; diversion of funds.

(a) The commissioner of revenue shall annually on October 15 disburse monies from the fund established in section 9 to cities and towns, or the municipality treasurer or regional planning agency of the district as set forth in section 4, that have accepted sections 2 to 5, inclusive, and notified the commissioner of their acceptance.

(b) The commissioner shall distribute the funds to the city or town, or the municipality treasurer or regional planning agency of the district as set forth in section 4, in accordance with

294 the first paragraph of this section based on the proportional amount the city,town, or district, has
295 raised by imposing the surcharge. The total distribution of funds shall include all sources of
296 revenue raised in the previous year as set forth in section 8(a), less no more than 5 per cent of the
297 annual total revenue of the fund, as set forth by section 8(c).

298 (c) The commissioner shall be prohibited from diverting revenues derived from the
299 surcharge into any fund created by law.

300 Section 10. Amendments to amount and computation of surcharge; revocation of Sections
301 2 to 5.

302 (a) At any time after imposition of the surcharge, the city by the city council with the
303 approval of the mayor or town by the board of selectmen may approve and the voters may accept
304 an amendment to the amount and computation of the surcharge in the same manner and within
305 the limitations set forth in this chapter.

306 (b) At any time after imposition of the surcharge, a district under section 4, with the
307 approval of the majority of voters in the district may accept an amendment to the amount and
308 computation of the surcharge in the same manner and within the limitations set forth in this
309 chapter so that the surcharge becomes uniform in all municipalities of the district.

310 SECTION 2. The commissioner of revenue shall promulgate regulations as necessary to
311 effect the purposes of this chapter.