SENATE DOCKET, NO. 613 FILED ON: 1/15/2015

SENATE . . . . . No. 1710

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 eliminate contingency fee auditors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael J. Rodrigues	*First Bristol and Plymouth*

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SENATE . . . . . No. 1710

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1710) of Michael J. Rodrigues for legislation to eliminate contingency fee auditors. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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

An Act to eliminate contingency fee auditors.

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

SECTION 1. Notwithstanding any special or general law to the contrary, in determining the liability of any taxpayer for a tax, the department of revenue, the state treasurer nor any state agency or constitutional officer shall contract with or employ any person, agent or firm who is compensated in whole or in part by the state for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer.

SECTION 2. Notwithstanding any special or general law to the contrary, the department of revenue, the state treasurer or constitutional officer and any other state agency, in any contract with or employment of any person, agent or firm to assist a local municipal official in the performance of the local municipal assessor's duties, may not compensate such person or firm, in whole or in part, on a contingent fee basis or any other similar method that may impair the assessor's independence or the perception of the assessor's independence by the public.

13 SECTION 3. Chapter 14 of the General Laws is hereby amended by inserting, after
14 section 3A, the following new section:-

15 Section 3B. Notwithstanding any special or general law to the contrary, the department of
16 revenue, the state treasurer or constitutional officer and any other state agency are expressly
17 prohibited from contracting with or employing any person, agent or firm on a contingent fee
18 basis or any other similar method that may impair an auditor's independence.

19 SECTION 4. Notwithstanding any special or general law to the contrary, the department
20 of revenue, the state treasurer and any other state agency or constitutional officer may not
21 contract with or employ a tax expert for the purposes of determining the tax liability of any
22 taxpayer for a tax or to defend the state department of revenue's or state treasurer's position
23 during the course of a dispute, mediation or litigation a person, agent or firm may not be
24 compensated, in whole or in part, on a contingent fee basis or any other similar method that may
25 impair the assessor's independence or the perception of the assessor's independence by the
26 public.

27 SECTION 5. Any regulations promulgated by any state agency or constitutional officer,
28 including the state treasurer and the department of revenue, authorizing the use of contingent
29 based contracts shall be repealed.

30 SECTION 6. Section 12 of Chapter 200A of the General Laws is hereby amended by
31 inserting, after subsection (i), a new subsection:-

32 (j) Notwithstanding any special or general law to the contrary, the department of revenue,
33 the state treasurer, a constitutional officer, and any other state agency are expressly prohibited

34 from contracting with or employing any person, agent or firm on a contingent fee basis or any
35 other similar method that may impair an auditor's independence.

36 SECTION 7. This act becomes effective July 1, 2015, and applies to audits,
37 determinations of liability, assessments, and services of a tax expert contracted for on or after
38 that date. State agencies and constitutional officers shall not renew contingency fee based
39 contracts for these services after July 1, 2015. For contingency fee based contracts entered into
40 prior to July 1, 2015, state agencies and constitutional officers shall not assign further audits on a
41 contingency fee basis to an auditing firm under such contracts that meet all the following
42 conditions: (i) the contract would have been prohibited under this act had the contract been
43 entered into on or after July 1, 2015, and (ii) the contract allows the assignment of audits on a
44 discretionary basis by the state agency or constitutional officer."