

**SENATE . . . . . No. 448**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Michael O. Moore***

*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:
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>

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By Mr. Moore, a petition (accompanied by bill, Senate, No. 448) of Michael O. Moore, Elizabeth A. Poirier, Brian M. Ashe and James Arciero for legislation 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.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 378 OF 2013-2014.]

**The Commonwealth of Massachusetts**

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

1           SECTION 1. Whereas, public drinking water, wastewater and stormwater systems are in  
2 need of major capital upgrades in order to continue to protect public health, safety and the  
3 environment; and

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

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

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

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

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

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

28           SECTION 2. No proposal initiated by the EOEEA in the form of a rule or regulation, or  
29 any so-called guidance document or policy, shall become effective until a regulatory impact

30 statement has been completed, made public during the hearing process described in chapter 30A  
31 of the General Laws and filed with the secretary of state. The regulatory impact statement shall:  
32 (a) identify the problem, issue or deficiency addressed by the proposal; (b) identify the  
33 methodology or approach, including identification of expert information and analysis used to  
34 address the problem, issue or deficiency; (c) identify stakeholders who will be affected and to  
35 what extent by the proposal; (d) identify when such proposal will become effective, when such  
36 proposal will be changed, if known, and how and when the proposal will be reviewed in the  
37 future, if at all; (e) identify and describe the immediate and long term financial impacts of the  
38 proposal on all stakeholders, including the agency or entity issuing the proposal, any affected  
39 private party or entity, the state, the cities and towns, and the general public. Such financial  
40 impact statement shall consider administrative costs, permitting costs, enforcement costs, capital  
41 costs, internal compliance costs, and indirect costs, if any; (f) identify the fiscal effect on the  
42 public and private sectors for the first and second year of the proposal's existence, and provide a  
43 projection of fiscal impact over the first five years of the proposal's existence or, in the case of  
44 proposals affecting permits issued by EOEEA, the term of the permit; and (g) identify and  
45 describe, specifically, the benefits of the proposal including, where possible, the financial value  
46 of these benefits. The secretary of administration and finance shall adopt regulations to further  
47 define and implement the use of regulatory impact statements in said executive offices' and  
48 agency's rulemaking.

49 SECTION 3. The EOEEA shall maintain a notification list of stakeholders in their  
50 proposals and who may request preliminary notification of such proposals, such request renewed  
51 annually by persons or groups in December. No later than thirty days prior to the notice of  
52 hearing described above the agency shall send a preliminary notification of the proposal to each

53 stakeholder who has requested preliminary notification of the proposal and to the Joint  
54 Legislative Committee on Natural Resources, the Joint Legislative Committee on Local Affairs,  
55 the House and Senate Committees on Ways & Means, the Office of the State Auditor and the  
56 Massachusetts Municipal Association.

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

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