

**HOUSE . . . . . No. 2751**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Sarah K. Peake***

*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 establish regional transit authority enterprise fund.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/20/2017</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	
<i>Thomas M. McGee</i>	<i>Third Essex</i>	
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/2/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	

*Chris Walsh*  
*Bruce E. Tarr*

*6th Middlesex*  
*First Essex and Middlesex*

**HOUSE . . . . . No. 2751**

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 2751) of Sarah K. Peake and others for legislation to authorize regional transit authorities to establish enterprise funds. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3060 OF 2015-2016.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

An Act to establish regional transit authority enterprise fund.

*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 the purpose of establishing a pilot regional transit authority enterprise  
2 fund, the regional transit authorities are hereby authorized to create, Regional Transit Authority  
3 Enterprise Funds, provided however, the authorities shall receive approval from the secretary of  
4 the department of transportation for any projects to be constructed or operated as an enterprise  
5 fund project. All revenues and receipts generated by the authority in association with the  
6 operation of said approved enterprise fund projects shall be credited to said fund and used in  
7 accordance with this section. Expenditures from said fund shall be made for the following  
8 purposes: (i) for the payment of the principal, including sinking fund payments of and premium,  
9 if any, and interest on special obligation bonds of the authority, as hereinafter described, issued  
10 for payment of the cost of construction of said project, (ii) for the maintenance of, or provision

11 for, any reserves, additional security, insurance or other form of credit enhancement required or  
12 provided for in any trust agreement entered into pursuant to this section to secure such bonds;  
13 (iii) for the operation and maintenance expenses of said project; and (iv) for the study, design,  
14 construction and reconstruction of roads, exit and entrance ramps and highways in order to  
15 implement a traffic mitigation plan to address the increased traffic flow which may be associated  
16 with the operation of any project, provided, that said plan shall be completed in conjunction with  
17 the construction of any said project garage, when necessary.

18 SECTION 2. Notwithstanding any provisions of chapter 161B of the General Laws to the  
19 contrary, neither the income nor the expenses allocable to said fund shall be included in the  
20 calculation of the authority's net cost of service, nor shall subsection (c) of section 8 of said  
21 chapter 161B apply to expenses made from said fund; provided, however, that said subsection (c)  
22 shall apply to expenses to be funded by excess revenues, if any, transferred to the authority for  
23 purposes not related to said fund.

24 SECTION 3. Notwithstanding the provisions of any general or special law to the  
25 contrary, including without limitation section 60A of chapter 29 of the General Laws, any bonds  
26 issued by the authority to finance the construction of said projects shall be special obligations of  
27 the authority payable from special receipts to the extent available, and in any case payable from  
28 monies credited to said fund together with other pledged revenues, which additional revenue  
29 shall not be considered revenue of the fund, provided, that revenues related to projects other than  
30 the approved project being financed may not be pledged without the prior approval of the  
31 secretary of the department of transportation. Such bonds shall not be general obligations of the  
32 commonwealth. Bonds may be issued in such manner and on such terms and conditions as the  
33 authority may determine in accordance with the provisions of this paragraph, and, to the extent

34 not inconsistent with the provisions hereof, provisions of general law for the issuance of bonds of  
35 the authority. Bonds may be secured by a trust agreement entered into by the authority, which  
36 trust agreement may pledge or assign all or any part of monies credited to said fund and rights to  
37 receive the same, whether existing or coming into existence and whether held or thereafter  
38 acquired, and the proceeds thereof together with any other revenues as the authority may  
39 determine to be necessary or desirable to enhance the credit of said bonds as security in order to  
40 prevent default.

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42 The authority is also authorized to enter into additional security, insurance or other forms  
43 of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A  
44 pledge in any such trust agreement or credit enhancement agreement shall be valid and binding  
45 from the time such pledge shall be made without any physical delivery or further act, and the lien  
46 of such pledge shall be valid and binding as against all parties having claims of any kind in tort,  
47 contract or otherwise, irrespective of whether such parties have notice thereof. Any such pledge  
48 shall be perfected by filing of the trust agreement or credit enhancement agreement in the records  
49 of the authority, and no filing need be made under chapter 106 of the General Laws. Any such  
50 trust agreement or credit enhancement agreement may establish provisions defining defaults and  
51 establishing remedies and other matters relating to the rights and security of the holders of the  
52 bonds or other secured parties as determined by the authority, including provisions relating to the  
53 establishment of reserves, the issuance of additional or refunding bonds, whether or not secured  
54 on a parity basis, the application of receipts, monies or funds pledged pursuant to such  
55 agreement, hereinafter referred to as "pledged funds," and other matters deemed necessary or  
56 desirable by the authority for the security of such bonds, and may also regulate the custody,

57 investment and application of monies. Any such bonds shall be deemed to be investment  
58 securities under said chapter 106, shall be securities in which any public officer, fiduciary,  
59 insurance company, financial institution or investment company may properly invest funds and  
60 shall be securities which may be deposited with any public custodian for any purpose for which  
61 the deposit of bonds is authorized by law. Any such bonds, their transfer and the income  
62 therefrom, including profit on the sale thereof; shall at all times be exempt from taxation by and  
63 within the commonwealth. Within three months of the first issuance of special obligation bonds  
64 under this section, the authority shall report the results of the sale, including the cost of issuance,  
65 the interest rate for which the bonds sold, and the rating assigned by the bond rating agencies, as  
66 well as an analysis of how these compare to the authorities most recent bond issuance. Said  
67 report shall be submitted to the authorities advisory board, the joint committee on transportation  
68 and the secretary of the department of transportation.

69 SECTION 4. The authority shall incorporate in its annual budget request a report which  
70 details the revenues retained by any enterprise fund project, the expenditures made from said  
71 fund, and the remaining fund balance or deficit from the prior fiscal year.