

SENATE No. 2653

Senate, July 25, 2018 -- Text of amendment (229) (offered by Senator Boncore) to the House
Bill relative economic development in the commonwealth

The Commonwealth of Massachusetts

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

1 by inserting after section X the following section:-

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

4 Chapter 64N. Local and Regional Transportation Ballot Initiatives

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

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

10 "Governing body", in a city having a Plan D or Plan E charter the city manager and city
11 council and in any other city the mayor and the city council and in towns the board of selectmen
12 or equivalent body.

13 "Single subject of taxation", one tax mechanism, including, sales, real or personal
14 property, room occupancy, vehicle excise, or any other tax then authorized to be assessed or

15 collected by the commonwealth or any city or town, as determined annually by the board of
16 assessors or department of revenue, that the city or town, or district, may subject to the tax
17 surcharge.

18 “Transportation project”, a project or program involving the planning, design and/or
19 construction of public or mass transportation transit systems, transit oriented development, roads,
20 bridges, bikeways, pedestrian pathways, and other transportation-related projects.

21 Section 2. Taxing authority and acceptance of this chapter.

22 (a) This chapter shall take effect in any city or town upon the approval of its governing
23 body and its acceptance by the voters of any city or town by a ballot question as set forth in
24 section 3.

25 (b) A city or town shall have authority to impose any tax surcharge within its city or town
26 on a single subject of taxation subject only to the condition that such tax is a surcharge on a tax
27 then authorized by state law; provided, however, that no tax surcharge shall be imposed within
28 the city or town unless it has first been approved by the governing body of such city and town
29 and accepted by a majority of the voters of a city or town through a ballot question as set forth in
30 section 3, except as provided in section 4.

31 (c) Notwithstanding the provisions of chapters 59, 60A, 64H, 62, or any other general or
32 special law to the contrary, but subject, however, to the provisions of this chapter, the governing
33 body of any city or town may vote to accept the provisions of this chapter authorizing a
34 surcharge on a single subject of taxation, as determined annually by the board of assessors or
35 department of revenue. A governing body that intends to accept the provisions of this chapter
36 shall determine prior to approval by the voters which single subject of taxation will be levied and

37 the amount and rate of surcharge. For a real or personal property tax surcharge, the amount of
38 the surcharge shall not be included in a calculation of total taxes assessed for purposes of section
39 21C of chapter 59.

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

46 (e) Any amount of the tax surcharge not paid by the due date shall bear interest at the rate
47 per annum as authorized by the law for any single subject of taxation.

48 (f) Revenues raised through the tax surcharge shall be separately accounted for and used
49 by the city or town for transportation projects.

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

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

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

59 In the ballot question, the city or town may include a list of specific transportation
60 projects for which the tax surcharge funds may be used, or a city or town may include a general
61 description of the types of transportation projects for which the tax surcharge may be used. The
62 city or town may also include a sunset provision in the ballot question, but in no event shall the
63 authorization for the tax surcharge exceed 30 years.

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

67 (b) The final date for notifying or filing a petition with the city or town clerk or the state
68 secretary to place such a question on the ballot shall be 60 days before the city or town election
69 or 100 days before the state election. For those petitions that will appear on the state election,
70 notice shall be given by filing with the state secretary a certified copy of the governing body’s
71 approval, and include a copy of the summary set forth in section 3(a).

72 (c) If the governing body does not vote to accept the provisions of this chapter, at least
73 120 days before a regular city or town election or 180 days before a state election, then a
74 question seeking said acceptance through approval of a particular surcharge amount and
75 percentage may be so placed on the ballot when a petition including information about the
76 subject of taxation, rate of taxation and project or types of projects is signed by at least 5 per cent
77 of the registered voters of the city or town requesting such action is filed with the registrars, who

78 shall have seven days after receipt of such petition to certify its signatures. Upon certification of
79 the signatures, the city or town clerk or the state secretary shall cause the question to be placed
80 on the ballot at the next regular city or town election held more than 60 days after such
81 certification or at the next regular state election held more than 90 days after such certification.

82 Section 4. Two or more municipalities.

83 (a) Two or more municipalities may, with the approval of the governing body of each city
84 or town thereof, form a district for the purposes of implementing the provisions of this chapter.

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

88 (c) Two or more municipalities that choose to form a district for purposes of this chapter
89 shall apply a tax surcharge to their preferred subject of taxation. The amount and percentage of
90 the tax surcharge may vary for each municipality that comprises the district.

91 (d) Two or more municipalities forming a district shall adopt a district agreement with
92 approval of the applicable governing body prior to presentment to the voters of the two or more
93 municipalities by a ballot question. The district agreement shall specify:

94 (1) the purpose and nature of the arrangement;

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

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

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

103 (5) the estimated costs and the methods of financing of the transportation projects;

104 (6) the method of administration of the transportation fund and the transportation
105 project(s) to be paid for through the fund;

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

108 (8) the duration of the proposed agreement: and

109 (9) the amount, type, and percentage of the tax surcharge for each municipality that
110 comprises the district.

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

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

114 (2) confer any management authority over transportation projects beyond the authority
115 exercised by participating municipalities in the district agreement set forth in this section and this
116 chapter.

117 Section 5. Levy and collection of tax.

118 (a) Upon acceptance of this chapter, the satisfaction of the requirements of this chapter,
119 and upon the assessors' warrant to the tax collector, the accepted tax surcharge shall be imposed.
120 The city, town, or district, shall notify the commissioner of revenue of the date and terms on
121 which the voters accepted this chapter.

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

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

137 Section 6. Transportation Committee.

138 (a) A city or town that accepts this chapter, either on its own or as part of a district, shall
139 establish by ordinance or by-law and, in the case of a district, the ordinance or by-law shall be

140 established by all member municipalities, a transportation committee not more than 90 days
141 following acceptance of this chapter. The committee shall consist of not less than five members.
142 The ordinance or by-law shall determine the composition of the committee, the length of its term
143 and the criteria and method of selecting its members by appointment only. The committee shall
144 include, but not be limited to, one or more representatives from the municipality, one member of
145 each regional transit authority to which the city or town is a member community, if any, one
146 member of the regional planning agency to which the city or town is a member community, and
147 persons, as determined by the ordinance or by-law, acting in the capacity of or performing like
148 duties of the department, board or authority if they have not been established in the city or town.

149 (b) Each transportation committee shall study the transportation-related needs,
150 possibilities, and resources of the city, town, or district. The committee shall consult with
151 existing transportation agencies, including regional planning agencies, to develop transportation
152 projects in accordance with the ballot initiative. If a list of transportation projects for which the
153 tax surcharge funds may be used was included in a ballot question, the committee shall include
154 said projects in its study, however, the committee may recommend or not recommend said
155 projects.

156 (c) Each transportation committee shall be subject to the requirements of section 19(a) of
157 chapter 30A. Each transportation committee shall keep a full and accurate account of all of its
158 actions, including its recommendations and the action taken on them and records of all
159 appropriations or expenditures made from the Local and Regional Transportation Fund. The
160 records and accounts of the committee shall be public records.

161 (d) Each city, town, or district, as applicable, shall consult with entity proposed to own
162 and maintain the transportation project prior to listing any transportation project on the ballot as
163 set forth in this chapter. If a city, town or district, as applicable, includes no specific
164 transportation projects in the ballot question, the transportation committee shall receive the
165 approval of the regional planning agency prior to submitting the local transportation committee's
166 recommendations to a city council or board of selectmen, unless the transportation-related
167 project or activity is solely under local jurisdiction. The city, town, or district shall study projects
168 that promote access to public transportation, biking, and walking.

169 (e) Not less than once every two fiscal years, each transportation committee shall make
170 recommendations to the governing body of the applicable city or town or to the district regarding
171 efficient and effective ways to improve and enhance local transportation systems in such city,
172 town or district. Recommendations to the governing body or district shall include anticipated
173 costs over the life cycle of the transportation project. The committee may include in its
174 recommendation to the governing body or district a recommendation to set aside for later
175 spending funds for specific purposes that are consistent with transportation-related purposes but
176 for which sufficient revenues are not currently available in the Local and Regional
177 Transportation Fund, as set forth in section 7, to accomplish that specific purpose, or to satisfy
178 debt payments incurred from transportation-related projects, or to set aside for later spending
179 funds for general purposes that are consistent with transportation improvements and in
180 accordance with the ballot initiative.

181 (f) After receiving such recommendations from the transportation committee, the
182 governing body or district shall take such action and approve such appropriations from the Local
183 and Regional Transportation Fund as may be necessary and appropriate for the recommendations

184 of the transportation committee, and such additional appropriations as it deems appropriate to
185 carry out the recommendations of the transportation committee and in accordance with the ballot
186 initiative.

187 Section 7. Local and Regional Transportation Fund.

188 (a) Notwithstanding the provisions of section 53 of chapter 44 or any other general or
189 special law to the contrary, a city, town, or district that accepts the provisions of this chapter
190 shall establish a separate account to be known as the Local and Regional Transportation Fund, of
191 which the municipal treasurer or fiscal agent shall be the custodian. The authority to approve
192 expenditures from the fund shall be limited to the governing body or any city or town, or the
193 designated municipality treasurer or regional planning agency of the district, as applicable, and
194 the municipal treasurer or fiscal agent shall pay such expenditures in accordance with chapter 41.

195 (b) Two or more municipalities forming a district shall select one of the municipalities or
196 regional planning agency to establish a separate account known as the Local and Regional
197 Transportation Fund. The municipality or regional planning agency selected to establish said
198 fund shall only use the funds for the district as a whole through the designated fiscal agent and
199 based solely upon the recommendations and approvals of the transportation committee as set
200 forth in this chapter. Administration of the fund by the fiscal agent may, at the option of the
201 governing body of any member city or town, be subject to the further approval of such governing
202 body.

203 (c) The following monies shall be deposited in the Local and Regional Transportation
204 Fund: (a) all funds collected from the tax surcharge on any single subject of taxation pursuant to
205 section 3, except if the single subject of taxation is a tax collected at the state level which shall be

206 deposited with the department of revenue in accordance with sections 8 and 9; and (b) all funds
207 received from the commonwealth or any other source for such purposes. The treasurer or fiscal
208 agent may deposit or invest the proceeds of the fund in savings banks, trust companies
209 incorporated under the laws of the commonwealth, banking companies incorporated under the
210 laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or
211 national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative
212 banks or in shares of savings and loan associations or in shares of federal savings and loan
213 associations doing business in the commonwealth or in the manner authorized by section 54 of
214 chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues
215 from the fund shall be limited to implementing the recommendations of the transportation
216 committees, to providing administrative and operating expenses to the committees, and in
217 accordance with the ballot initiative. The city or town, or the municipality treasurer or regional
218 planning agency of the district as set forth in section 4, shall be prohibited from diverting
219 revenues derived from the tax surcharge into any other fund created by law or ordinance.

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

222 Section 8. Massachusetts Local and Regional Transportation Trust Fund.

223 (a) There shall be established and set up on the books of the commonwealth a separate
224 fund, to be known as the Massachusetts Local and Regional Transportation Trust Fund, for the
225 benefit of cities, towns, or districts that have accepted the provisions of this chapter and have
226 imposed a tax surcharge on a tax collected by the Commonwealth, subject to any exemptions
227 adopted by a municipality or district. The fund shall consist of all revenues received by the

228 Commonwealth: (1) from the tax surcharge on such tax pursuant to section 3; (2) from public
229 and private sources as gifts, grants and donations to further local or regional transportation
230 projects; and (3) all other monies credited to or transferred to from any other fund or source
231 pursuant to law.

232 (b) The state treasurer shall deposit revenues received by any such tax surcharge into the
233 fund in accordance with the provisions of section 9 in such manner as will secure the highest
234 interest rate available consistent with the safety of the fund and with the requirement that all
235 amounts on deposit be available for withdrawal without penalty for such withdrawal at any time.
236 All interest accrued and earnings shall be deposited into the fund. The fund shall be administered
237 in a manner to separately account for revenues raised by each city, town, or district, shall be held
238 for the benefit of such city, town, or district, and expenditures from the fund shall be made solely
239 for the administration and implementation of this chapter. Any unexpended balances shall be
240 redeposited for future use by the city, town, or district consistent with the provisions of this
241 chapter.

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

250 Section 9. Distributions of monies in trust fund; diversion of funds.

251 (a) All sums received by the commissioner under this chapter shall, at least quarterly, be
252 distributed, credited and paid by the state treasurer upon certification of the commissioner to
253 each city or town, or the municipality treasurer or regional planning agency of the district, and
254 notified the commissioner of their acceptance.

255 (b) The state treasurer, upon certification of the commissioner, shall distribute the funds
256 to the city or town, or the municipality treasurer or regional planning agency of the district based
257 on the proportional amount the city, town, or district, has raised by imposing the surcharge. The
258 total distribution of funds shall include all sources of revenue raised in the previous year as set
259 forth in section 8(a), less no more than 5 per cent of the annual total revenue of the fund, as set
260 forth by section 8(c). Any city, town or district seeking to dispute the commissioner's calculation
261 of its distribution under this subsection shall notify the commissioner, in writing, not later than 1
262 year from the date the tax was distributed by the commissioner to the city, town or district.

263 (c) The commissioner shall be prohibited from diverting revenues derived from the tax
264 surcharge into any other fund created by law.

265 (d) Notwithstanding any provisions to the contrary, the commissioner may make
266 available to cities, towns and districts any information necessary for administration of the tax
267 surcharge imposed by this chapter including, but not limited to, a report of the amount of the
268 surcharge on tax collected in the aggregate by each city, town or district under this chapter in the
269 preceding fiscal year, and the identification of each individual vendor collecting the surcharge on
270 sales tax collected under this chapter.

271 Section 10. Amendments to amount and computation of surcharge; revocation of Sections
272 2 to 5.

273 (a) At any time after imposition of the tax surcharge, the governing body of each city or
274 town may approve and the voters may accept an amendment to the amount and computation of
275 the tax surcharge in the same manner and subject to the same requirements set forth in this
276 chapter.

277 (b) At any time after imposition of the tax surcharge, a district under section 4, with the
278 approval of the majority of voters in the district may accept an amendment to the amount and
279 computation of the tax surcharge in the same manner and subject to the same requirements set
280 forth in this chapter so that the surcharge becomes uniform in all municipalities of the district.

281 Section 11. Rules and regulations. The commissioner of revenue shall have the authority
282 to promulgate rules and regulations to effect the purposes of this chapter."