

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr., (BY REQUEST)

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 providing for a receivership for the city of Newton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Attorney Michael Walsh</i>	<i>PO Box 9 Lynnfield, MA</i>	<i>2/18/2021</i>

HOUSE No.

By Mr. Jones of North Reading (by request), a petition (subject to Joint Rule 7B) of Michael Walsh relative to providing for a receivership for the city of Newton. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act providing for a receivership for the city of Newton.

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 Court hereby finds that:

2 (a) The City of Newton has been grossly mismanaged.

3 (b) The City of Newton’s fiscal affairs are so poorly supervised that “dark shadows”
4 loom across a “solid city.”

5 (c) The City of Newton has mistreated and demoralized its employees, who have
6 become frequent petitioners before the Commonwealth’s labor agencies.

7 (d) The City of Newton has abused the sovereign power of eminent domain,
8 particularly in relation to Boston College

9 (e) The City of Newton has exhibited contempt to the good work done by its
10 neighboring educational and charitable institutions.

11 (f) The City of Newton has violated the letter and spirit of the Dover Amendment

12 (g) The City of Newton has dealt in bad faith Boston College community, its
13 members, faculty, employees, staff, and students.

14 Section 2. As used in this act, the following words shall, unless the context requires
15 otherwise, have the following meanings:

16 “Alpha date,” “Bravo date,” “Charlie date” and “Delta date” shall refer to dates chosen
17 by the receiver, subject to confirmation by the Governor and Council, for the enactment of
18 portions of this law.

19 “City Council” shall mean the City Council of the City of Newton, previously constituted
20 as the Board of Alderman.

21 “Charter” shall mean the Charter of the City of Newton on file with the Archivist of the
22 Commonwealth, most recently amended by Chapter 87 of the Acts of 2015.

23 “City” shall refer to the City of Newton

24 “Constitution” shall mean the Constitution of the Commonwealth of Massachusetts

25 “interim” or “interim period” shall refer to a time period in which the City shall be under
26 the control of the receiver, from the appointment of the receiver to the approved Delta date.

27 “Receivership” shall mean the form of governance headed by a receiver as established by
28 this act

29 “School Committee” shall mean the school committee of the City of Newton established
30 under its charter.

31 “Secretary” shall refer to the secretary of the executive office of administration and
32 finance.

33 Section 3. A receivership is hereby established in the City of Newton.

34 (1) Said receivership shall continue for three years from the effective date of this act,
35 provided that the Secretary may extend the receivership, in one year increments, for no more
36 than three additional years.

37 (2) Said receiver shall be shall be the Chief Executive Officer of the City and shall be
38 responsible for the overall operation and administration of the City.

39 (3) Said receiver shall be a person especially suited by education, training, and
40 experience to perform the duties of the receiver and shall not be either an elected or appointed
41 official or former official of the City

42 (4) Said receiver shall be appointed by the Governor for an initial term of one year.

43 (5) Said receiver shall report to the secretary, who shall have the authority to
44 reappoint the receiver for additional one year terms. The secretary may terminate the receiver
45 for cause at any time. If the secretary does not reappoint the receiver, the Governor shall appoint
46 a new receiver who shall carry out and be subject to the provisions of this act.

47 (6) Upon the appointment of the receiver, the powers and authority of the receiver
48 shall supersede the powers and authority of the City of Newton. Upon the effective date of this
49 act, the mayor of said city shall cease to hold the office of mayor and shall not thereafter exercise
50 official acts or perform official duties. The office of mayor shall remain vacant during the
51 receivership established by this act. During the period of said receivership all city elections shall

52 take place as provided in the city charter with the exception of the office of the mayor. All
53 elected officials shall serve in an advisory capacity to said receiver

54 (7) The secretary shall determine the salary of the receiver and shall approve other
55 costs of the office of the receiver, which shall be paid by the commonwealth from an account
56 established within the executive office for administration and finance.

57 (8) The receiver shall be immune from civil liability arising from the exercise of his
58 duties.

59 Section 4. Within 45 days of the appointment of the receiver, he shall submit to the
60 secretary, for approval, four sequential dates known as the Alpha, Bravo, and Charlie, and Delta
61 dates. After approval, such dates shall be reported by the receiver to the Joint Committee On
62 Municipal and Regional Government. The Alpha date, occurring no sooner than 11 months after
63 the appointment of the receiver, shall be the occasion where the Receiver announces the details
64 of the two alternative proposals for the voters of Newton to consider, as provided for in this Act.
65 The Beta date shall be the date of an election, by secret ballot, conducted in accordance with
66 Chapters 53 and 54, for the voters to choose between the two alternative plans. The Charlie date
67 shall be the commencement of formal transition of power between the receiver and the chosen
68 form of successor government. The Delta date will be the final completion of the receivership
69 and the founding date of the successor communities.

70 Section 5. During the interim period the receiver shall run and administer the functions of
71 the City of Newton. The assets, departments, personnel, shall serve at the control and direction
72 of the receiver. The receiver shall have all rights, in relation to both the assets and liabilities of
73 the City, as the City would have. All powers vested in the mayor prior to the effective date of

74 this act shall be vested in said receiver upon his appointment. The elected local legislative
75 assembly shall be vest only with the power to advise the receiver concerning matters previously
76 within its jurisdiction under the city charter. Said receiver shall have supervision and control of
77 all financial affairs of said city, and no appropriations shall be made, no debts incurred, except
78 with the approval or upon the recommendation or requisition of said receiver, which shall be
79 given in writing and signed by the receiver. The receiver may delegate these powers as he sees
80 fit. The receiver shall also have the following powers:

81 (1) To formulate and establish for each fiscal year during his term, the annual budget
82 of the city and school committee, including the establishment of appropriations and spending
83 authority for such fiscal years for all departments, boards, committees, agencies, and other units
84 of the city and school committee.

85 (2) To implement and maintain uniform budget guidelines and procedures for all
86 departments

87 (3) To control any and all expenditure or indebtedness of the City

88 (4) to require bonds or issue municipal bonds

89 (5) to borrow from the Commonwealth, from such time to time, upon favorable terms
90 agreed to by the Secretary and the Treasurer and Receiver-General

91 (6) to formulate and execute capital budgets

92 (7) the amortize operational deficits in such amounts and on such terms

93 (8) to review and approve or disapprove all proposed contracts for goods or services

94 (9) to initiate federal bankruptcy proceedings

95 Section 6.

96 (a) The receiver shall develop two plans for the future government of Newton.

97 Neither plan shall affect or encompass the community known as Eagle's Lair, as provided for in

98 Section 7 of this act. The details of these plans shall be published, by the receiver, to the

99 advisory City Council, the voters of Newton, the Joint Committee of the Legislature on

100 Municipal and Regional Government, the Trustees and President of Boston College on the Alpha

101 date.

102 (b) The plans shall be presented to the voters in the City in the alternative. That plan

103 which secures a plurality of the vote shall become law and be implemented by the receiver.

104 (c) The receiver, in developing the plans, shall propose boundaries for the new

105 communities. The new communities shall comport with traditional redistricting principles of

106 compactness, contiguity, and shall be roughly equal in population and geographic area. Both

107 plans shall provide for continued representation in the legislature. After submission to the

108 Secretary for approval of the proposed boundaries, the maps shall be published and posted in a

109 manner accessible to the voter at least 30 days before the special election.

110 (d) Once the voters have made their choice between the two plans, at a special

111 election on the Bravo date, the receiver shall implement the law by appropriately dividing the

112 assets, equities, and liabilities of the former City of Newton amongst its successors.

113 (e) The first plan shall provide for the City of Newton to be divided into two

114 independent cities to be known as Newton North and Newton South. Both Newton North and

115 Newton South shall be governed by the Plan C form of administration, G. L. c. 43, §§64-77, for a
116 period of five years after their respective establishment, after which they make such provisions
117 for their own government as allowed by the Constitution and laws. Newton North and Newton
118 South shall each elect two members to a new regional school committee.

119 (f) The second plan shall provide for the independence of each of the thirteen
120 villages of Newton. The thirteen villages shall constitute independent towns, of roughly equal
121 population and geographic area, and shall be governed by the traditional open town meeting and
122 selectmen form of government. The thirteen villages are Auburndale, Chestnut Hill, Newton
123 Centre, Newton Corner, Newton Highlands, Newton Lower Falls, Newton Upper Falls,
124 Newtonville, Nonantum, Oak Hill, Thompsonville, Waban and West Newton. The thirteen
125 villages shall each elect a member to a new regional school committee.

126 (g) The plans developed by the receiver, especially the maps of the proposed
127 community boundaries, shall be approved by the secretary before they are submitted to the voters
128 of the City of Newton.

129 (h) Once approved, the two plans shall be submitted to the voters at a single issue
130 special election, on the Bravo date. The special election shall be run in accordance with the laws
131 governing special elections, not sooner than 120 after the secretary's approval and not later than
132 180 days after the secretary's approval. The right of the secret ballot shall be maintained.

133 (i) The receiver shall prepare and submit a short summary of each plan, and allow for
134 a statement by proponents and opponents, in the manner of state ballot questions.

135 (j) The ballot at the special election shall provide a question in the following form:

136 SHALL THE CITY OF NEWTON BE DIVIDED INTO TWO CITIES OR INTO
137 THIRTEEN TOWNS?

138 -PLAN ONE—Two Cities

139 -PLAN TWO-Thirteen Towns.

140 Section 7. There is hereby established an independent Town known as Eagle’s Lair,
141 within the confines of the present City of Newton. The Town of Eagle’s Lair shall exist as
142 enclave. The geographic territory of Eagle’s Lair shall consisted of all real property owned or
143 controlled by Boston College, or designated and controlled by the Archdiocese of Boston, within
144 the City of Newton, on the 183rd day after the enactment of this legislation. The Town of
145 Eagle’s Lair shall be run by a Town Administrator elected by the Trustees of Boston College.
146 The legislative power of the Town of Eagle’s Lair shall be vested in the Trustees of Boston
147 College. The Police Department of Boston College is hereby invested and reconstituted as a
148 municipal police department of the Town of Eagle’s Lair.

149 Section 8. For a three years after the enactment of this legislation there shall exist a
150 regional school district known as Newton Regional School District, which shall have all the
151 statutory powers of a regional school district. The members shall be selected as described in
152 Section 5, based upon which plan the voters select, provided that the Governor, or upon his
153 delegation the secretary, shall appoint a chairman of the school committee. If the voters select
154 the first plan, the assets, equities, and liabilities of the school system of the City of Newton shall
155 be divided equally between the new communities of Newton North and Newton South. If the
156 voters select the second plan, the Newton Regional School District shall exist into perpetuity.

157 Section 9. Before the termination of the receivership, the receiver and the secretary shall
158 ensure that the successor communities are in a position of economic and financial stability. The
159 receiver shall provide, annually, a complete copy of the financial doings and accounts of the City
160 to the secretary and the commissioner of the department of revenue.

161 Section 10. The receiver shall make annual report of his doings, with such endorsements
162 or comments as the secretary shall care to make thereon, to the Chairmen and Ranking Members
163 of the Legislatures' Joint Committee on Municipal and Regional Government. The receiver, and
164 such staff as he shall appoint or designate, shall appear in person before the Joint Committee at
165 least annually, and at such other times as the Chairmen designate, for hearing on the progress of
166 the implementation of this act.

167 Section 11. The parcel presently or formerly owned by Boston College known as
168 Webster's Woods, in the City of Newton, shall forever after be owed by Boston College in
169 inalienable fee simple. This arrangement shall persist into perpetuity, until and unless Boston
170 College freely and voluntarily parts with the property for valuable consideration. Any such sale
171 shall be subject to approval of the Public Charities Division of the Attorney General's Office.

172 Section 12. In no event shall the receivership extend beyond the six year after enactment
173 of this legislation. After ensuring the financial stability and effective management of Newton's
174 successor communities, as dictated by the will of the voters, the receiver shall certify to the
175 secretary the completion of the object of the receivership. The receiver shall make such
176 certification at the earliest opportunity after the establishment of the successor communities,
177 consonant with good management and financial stability on the Charlie date. The receivership
178 shall dissolve, automatically by operation of law, 90 days after the receiver's certification on the

179 Delta date. The secretary and receiver shall provide the Joint Committee at least 60 days
180 advance notice before the dissolution of the receivership.

181 Section 13. The receiver shall have the authority to establish, increase or decrease, any
182 fee, rate, or charge for any service, license, permit, or other municipal activity, otherwise within
183 the authority of the city.

184 Section 14. The receiver shall be the sole appointing authority and have supervision and
185 control over all city employees and all personnel matters and have supervision and control over
186 all city employees and all personnel matters; the receiver shall hold all existing powers to hire
187 and fire and set the terms and conditions of employment held by employees or officers of the
188 city, whether or not elected; the receiver shall have the authority to exercise all powers otherwise
189 available to a municipality regarding contractual obligations during a fiscal emergency; and no
190 city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any
191 employee except with the written approval of the receiver. The receiver may delegate or assign
192 these powers, so long the secretary is notified in writing and makes no timely objection. This
193 provision shall supercede any existing city charter or ordinances.

194 Section 15. In addition to the other provisions of this act, the receiver shall have the
195 power to exercise any power, duty, or right of the City, or have officers and employees of the
196 City exercise any such powers, duties or rights as he shall direct. He shall have the power to
197 reorganize City government and alter or abolish departments or committees. He shall exercise
198 all control of the City's capital assets and building and maintenance programs, and the powers of
199 the public works department. He shall have the power to freeze or suspend the operation of any

200 city ordinance, bylaw, zoning provision, in favor of fostering businesses within the city; provided
201 that such power shall not be exercised without the express approval of the Secretary.

202 Section 16. The receiver shall have the power:

203 (1) to sell, lease, transfer any real property or other assets of the city with the
204 approval of the secretary.

205 (2) To purchase, lease, or acquire property for the city, with such approval

206 (3) To issues rules, directions, and orders to city employees or officers

207 (4) To seek voter approval for a general override, debt exclusion, capital expenditure
208 exclusion, or override under Proposition 2½.

209 (5) To exercise any rights under the fraudulent transfer laws for any expenditure or
210 dispossession of property not approved by him or his delegate.

211 Section 17. This act is declared severable and any constitutional infirmity shall not affect
212 the validity of other provisions.

213 Section 18. This act shall take effect 93 days after passage.