

SENATE No. 1899

The Commonwealth of Massachusetts

PRESENTED BY:

Eric P. Lesser

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 relative to regional transportation ballot initiatives.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/25/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/1/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/25/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/3/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/5/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/9/2021</i>

SENATE No. 1899

By Mr. Lesser, a petition (accompanied by bill, Senate, No. 1899) of Eric P. Lesser, Harriette L. Chandler, Michael J. Barrett, James B. Eldridge and other members of the General Court for legislation relative to regional transportation ballot initiatives. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1694 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act relative to regional transportation ballot initiatives.

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 16. The General Laws are hereby amended by inserting after Chapter 64N the
2 following chapter:-

3 CHAPTER 64O

4 LOCAL AND REGIONAL TRANSPORTATION BALLOT INITIATIVES

5 Section 1. For purposes of this chapter, the following terms shall have the following
6 meanings unless the context clearly requires otherwise:

7 “District agreement”, a document specifying the terms and conditions of the powers and
8 duties of the 2 or more municipalities forming a district under section 4 of this chapter, pursuant

9 to the laws governing any such municipality, this chapter and such procedural regulations as the
10 commissioner of revenue may promulgate.

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

14 “Single subject of taxation”, 1 tax mechanism, including, sales, real or personal property,
15 room occupancy, vehicle excise, or any other tax then authorized to be assessed or collected by
16 the commonwealth or any city or town, as determined annually by the board of assessors or
17 department of revenue, that the city or town, or district, may subject to the tax surcharge.

18 “Transportation project”, a project or program involving the planning, design 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. (a) This chapter shall take effect in any city or town upon the approval of its
22 governing body and its acceptance by the voters of any city or town by a ballot question as set
23 forth in section 3.

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

30 (c) Notwithstanding chapters 59, 60A, 64H, 62 or any other general or special law to the
31 contrary but subject this chapter, the governing body of any city or town may vote to accept the
32 provisions of this chapter authorizing a surcharge on a single subject of taxation, as determined
33 annually by the board of assessors or department of revenue. A governing body that intends to
34 accept the provisions of this chapter shall determine prior to approval by the voters which single
35 subject of taxation will be levied and the amount and rate of surcharge. For a real or personal
36 property tax surcharge, the amount of the surcharge shall not be included in a calculation of total
37 taxes assessed for purposes of section 21C of chapter 59.

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

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

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

48 Section 3. (a) Upon approval by the governing body, the actions of the governing body
49 shall be submitted for acceptance to the voters of a city or town at the next regular municipal or
50 state election. The city or town clerk or the state secretary shall place it on the ballot in the form
51 of the following question: "Shall this (city or town) accept sections 2 to 5, inclusive of chapter

52 64O of the General Laws, as approved by its (governing body), a summary of which appears
53 below

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

57 In the ballot question, the city or town may include a list of specific transportation
58 projects for which the tax surcharge funds may be used, or a city or town may include a general
59 description of the types of transportation projects for which the tax surcharge may be used. The
60 city or town may also include a sunset provision in the ballot question, but the authorization for
61 the tax surcharge shall not exceed 30 years.

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

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

70 (c) If the governing body does not vote to accept the provisions of this chapter, not less
71 than 120 days before a regular city or town election or 180 days before a state election, a
72 question seeking said acceptance through approval of a particular surcharge amount and
73 percentage may be so placed on the ballot when a petition including information about the

74 subject of taxation, rate of taxation and project or types of projects is signed by not less than 5
75 per cent of the registered voters of the city or town requesting such action is filed with the
76 registrars, who shall have 7 days after receipt of such petition to certify its signatures. Upon
77 certification of the signatures, the city or town clerk or the state secretary shall cause the question
78 to be placed on the ballot at the next regular city or town election held more than 60 days after
79 such certification or at the next regular state election held more than 90 days after such
80 certification.

81 Section 4. (a) Two or more municipalities may, with the approval of the governing body
82 of each city or town thereof, form a district for the purposes of implementing the provisions of
83 this chapter.

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

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

90 (d) Two or more municipalities forming a district shall adopt a district agreement with
91 approval of the applicable governing body prior to presentment to the voters of the 2 or more
92 municipalities by a ballot question. The district agreement shall specify: (i) the purpose and
93 nature of the arrangement; (ii) the single municipality to serve as the treasurer of the
94 transportation fund or the regional planning agency to serve as fiscal agent of the transportation
95 fund under section 7 and that said municipality or regional planning agency shall also serve as

96 treasurer or fiscal agent for purposes of section 9; (iii) how the transportation fund will be used
97 and for what purposes, and how the municipalities will decide on details of use, plan changes or
98 urgent circumstances; (iv) the work to be performed, and the division or sharing of responsibility
99 among the municipalities; (v) the estimated costs and the methods of financing of the
100 transportation projects; (vi) the method of administration of the transportation fund and the
101 transportation projects to be paid for through the fund; (vii) the composition of the district's
102 transportation committee, the length of its term, and the criteria and method of selecting its
103 members; (viii) the duration of the proposed agreement; and (ix) the amount, type and
104 percentage of the tax surcharge for each municipality that comprises the district.

105 (f) Nothing in this section shall be construed to: (i) amend, repeal or otherwise alter the
106 authority or jurisdiction of, or establish, a municipality; or (ii) confer any management authority
107 over transportation projects beyond the authority exercised by participating municipalities in the
108 district agreement set forth in this section and this chapter.

109 Section 5. (a) Upon acceptance of this chapter, the satisfaction of the requirements of this
110 chapter and upon the assessors' warrant to the tax collector, the accepted tax surcharge shall be
111 imposed. The city, town, or district, shall notify the commissioner of revenue of the date and
112 terms on which the voters accepted this chapter.

113 (b) For a tax surcharge levied on either property or excise tax, after receipt of the warrant,
114 the tax collector shall collect the surcharge in the amount and according to the computation
115 specified in the warrant and shall pay the amounts so collected, quarterly or semi-annually,
116 according to the schedule for collection of the single subject of taxation, to the city's or town's
117 treasurer, or the district's treasurer. The tax collector shall cause appropriate books and accounts

118 to be kept with respect to such tax surcharge, which shall be subject to public examination upon
119 reasonable request from time to time.

120 (c) Two or more municipalities forming a district shall select one of the municipalities or
121 the regional planning agency to serve as the district's treasurer for purposes of this chapter. The
122 district agreement shall establish the method of selecting the district treasurer. The municipality
123 or regional planning agency selected to serve as district treasurer shall perform duties in
124 accordance with section 5 of this chapter and chapter 41. Two or more municipalities forming a
125 district shall also select that same municipality or regional planning agency to receive funds and
126 provide certification for all municipalities within said district for purposes of section 9 and in
127 accordance with section 4.

128 Section 6. (a) A city or town that accepts this chapter, either on its own or as part of a
129 district, shall establish by ordinance or by-law and, in the case of a district, the ordinance or by-
130 law shall be established by all member municipalities, a transportation committee not more than
131 90 days following acceptance of this chapter. The committee shall consist of not less than 5
132 members. The ordinance or by-law shall determine the composition of the committee, the length
133 of its term and the criteria and method of selecting its members by appointment only. The
134 committee shall include, but not be limited to, 1 or more representatives from the municipality, 1
135 member of each regional transit authority to which the city or town is a member community, if
136 any, 1 member of the regional planning agency to which the city or town is a member
137 community and persons, as determined by the ordinance or by-law, acting in the capacity of or
138 performing like duties of the department, board or authority if they have not been established in
139 the city or town.

140 (b) Each transportation committee shall study the transportation-related needs,
141 possibilities, and resources of the city, town or district. The committee shall consult with existing
142 transportation agencies, including regional planning agencies, to develop transportation projects
143 in accordance with the ballot initiative. If a list of transportation projects for which the tax
144 surcharge funds may be used was included in a ballot question, the committee shall include said
145 projects in its study; provided, however, that the committee may recommend or not recommend
146 said projects.

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

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

160 (e) Not less than once every 2 fiscal years, each transportation committee shall make
161 recommendations to the governing body of the applicable city or town or to the district regarding

162 efficient and effective ways to improve and enhance local transportation systems in such city,
163 town or district. Recommendations to the governing body or district shall include anticipated
164 costs over the life cycle of the transportation project. The committee may include in its
165 recommendation to the governing body or district a recommendation to set aside for later
166 spending funds for specific purposes that are consistent with transportation-related purposes but
167 for which sufficient revenues are not currently available in the Local and Regional
168 Transportation Fund, as set forth in section 7, to accomplish that specific purpose, to satisfy debt
169 payments incurred from transportation-related projects or to set aside for later spending funds for
170 general purposes that are consistent with transportation improvements and in accordance with the
171 ballot initiative.

172 (f) After receiving such recommendations from the transportation committee, the
173 governing body or district shall take such action and approve such appropriations from the Local
174 and Regional Transportation Fund as may be necessary and appropriate for the recommendations
175 of the transportation committee, and such additional appropriations as it deems appropriate to
176 carry out the recommendations of the transportation committee and in accordance with the ballot
177 initiative.

178 Section 7. (a) Notwithstanding section 53 of chapter 44 or any other general or special
179 law to the contrary, a city, town or district that accepts the provisions of this chapter shall
180 establish a separate account to be known as the Local and Regional Transportation Fund, of
181 which the municipal treasurer or fiscal agent shall be the custodian. The authority to approve
182 expenditures from the fund shall be limited to the governing body or any city or town, or the
183 designated municipality treasurer or regional planning agency of the district, as applicable, and
184 the municipal treasurer or fiscal agent shall pay such expenditures in accordance with chapter 41.

185 (b) Two or more municipalities forming a district shall select 1 of the municipalities or
186 regional planning agency to establish a separate account known as the Local and Regional
187 Transportation Fund. The municipality or regional planning agency selected to establish said
188 fund shall only use the funds for the district as a whole through the designated fiscal agent and
189 based solely upon the recommendations and approvals of the transportation committee as set
190 forth in this chapter. Administration of the fund by the fiscal agent may, at the option of the
191 governing body of any member city or town, be subject to the further approval of such governing
192 body.

193 (c) The following monies shall be deposited in the Local and Regional Transportation
194 Fund: (i) all funds collected from the tax surcharge on any single subject of taxation pursuant to
195 section 3, except if the single subject of taxation is a tax collected at the state level which shall be
196 deposited with the department of revenue in accordance with sections 8 and 9; and (ii) all funds
197 received from the commonwealth or any other source for such purposes. The treasurer or fiscal
198 agent may deposit or invest the proceeds of the fund in savings banks, trust companies
199 incorporated under the laws of the commonwealth, banking companies incorporated under the
200 laws of the commonwealth that are members of the Federal Deposit Insurance Corporation or
201 national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative
202 banks or in shares of savings and loan associations or in shares of federal savings and loan
203 associations doing business in the commonwealth or in the manner authorized by section 54 of
204 chapter 44 and any income therefrom shall be credited to the fund. The expenditure of revenues
205 from the fund shall be limited to implementing the recommendations of the transportation
206 committees, to providing administrative and operating expenses to the committees, and in
207 accordance with the ballot initiative. The city or town, or the municipality treasurer or regional

208 planning agency of the district as set forth in section 4, shall be prohibited from diverting
209 revenues derived from the tax surcharge into any other fund created by law or ordinance.

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

212 Section 8. (a) There shall be established and set up on the books of the commonwealth a
213 separate fund, to be known as the Massachusetts Local and Regional Transportation Trust Fund,
214 for the benefit of cities, towns, or districts that have accepted the provisions of this chapter and
215 have imposed a tax surcharge on a tax collected by the commonwealth, subject to any
216 exemptions adopted by a municipality or district. The fund shall consist of all revenues received
217 by the commonwealth: (i) from the tax surcharge on such tax pursuant to section 3; (ii) from
218 public and private sources as gifts, grants and donations to further local or regional transportation
219 projects; and (iii) all other monies credited to or transferred to from any other fund or source
220 pursuant to law.

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

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

238 Section 9. (a) All sums received by the commissioner under this chapter shall, not less
239 than quarterly, be distributed, credited and paid by the state treasurer upon certification of the
240 commissioner to each city or town or the municipality treasurer or regional planning agency of
241 the district and notified the commissioner of their acceptance.

242 (b) The state treasurer, upon certification of the commissioner, shall distribute the funds
243 to the city or town, or the municipality treasurer or regional planning agency of the district based
244 on the proportional amount the city, town or district has raised by imposing the surcharge. The
245 total distribution of funds shall include all sources of revenue raised in the previous year as set
246 forth in subsection (a) of section 8, less not more than 5 per cent of the annual total revenue of
247 the fund, as set forth in subsection (c) of section 8. Any city, town or district seeking to dispute
248 the commissioner's calculation of its distribution under this subsection shall notify the
249 commissioner, in writing, not later than 1 year from the date the tax was distributed by the
250 commissioner to the city, town or district.

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

253 (d) Notwithstanding any provision to the contrary, the commissioner may make available
254 to cities, towns and districts any information necessary for administration of the tax surcharge
255 imposed by this chapter including, but not limited to, a report of the amount of the surcharge on
256 tax collected in the aggregate by each city, town or district under this chapter in the preceding
257 fiscal year, and the identification of each individual vendor collecting the surcharge on sales tax
258 collected under this chapter.

259 Section 10. (a) At any time after imposition of the tax surcharge, the governing body of
260 each city or town may approve and the voters may accept an amendment to the amount and
261 computation of the tax surcharge in the same manner and subject to the same requirements set
262 forth in this chapter.

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

267 Section 11. The commissioner of revenue shall have the authority to promulgate rules and
268 regulations to effect the purposes of this chapter.