SENATE DOCKET, NO. 815 FILED ON: 2/8/2021

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

SENATE DOCKET, NO. 815 FILED ON: 2/8/2021

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:

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

CHAPTER 64O

LOCAL AND REGIONAL TRANSPORTATION BALLOT INITIATIVES

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

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

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

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

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

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

Section 2. (a) This chapter shall take effect in any city or town upon the approval of its governing body and its acceptance by the voters of any city or town by a ballot question as set forth in section 3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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