

SENATE No. 586

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to assist municipal and district ratepayers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/3/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>3/8/2021</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>3/8/2021</i>
<i>John C. Velis</i>	<i>Second Hampden and Hampshire</i>	<i>3/8/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>6/9/2021</i>

SENATE No. 586

By Mr. Moore, a petition (accompanied by bill, Senate, No. 586) of Michael O. Moore, Hannah Kane, Michael D. Brady, Joan B. Lovely and others for legislation relative to the costs imposed upon the municipal and district ratepayers due to public drinking water, wastewater and stormwater systems capital upgrades. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 506 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act to assist municipal and district ratepayers.

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. Whereas, public drinking water, wastewater and stormwater systems are in
2 need of major capital upgrades in order to continue to protect public health, safety and the
3 environment; and

4 Whereas, the costs for these infrastructure upgrades are significant and increasing each
5 year; and

6 Whereas, local ratepayers must pay for most of these upgrades as the Federal and State
7 governments have reduced their level of funding assistance to cities, towns and districts; and

8 Whereas, many of the costs for water infrastructure improvements are due to regulatory
9 demands by Federal and State environmental agencies; and

10 Whereas, Federal and State regulatory demands on cities, towns and districts do not
11 consider compliance costs or assess the value of the benefits derived; and

12 Whereas, it is in the public interest to spend local funds wisely and to insure the
13 maximum benefits are derived for each dollar expended.

14 Notwithstanding the provisions of section 27C of chapter 29 of the General Laws, as
15 most recently amended by section 24 of chapter 71 of the acts of 1993, or any other general or
16 special law to the contrary, any proposal initiated by the executive office of energy and
17 environmental affairs and its agencies in the form of a rule, regulation or so-called guidance
18 document or policy resulting in the imposition of additional cost to a city or town shall be termed
19 a “local mandate”. Local mandates shall include but not be limited to any executive office of
20 energy and environmental affairs initiated rule, regulation or so-called guidance document or
21 policy that: (1.) requires any city or town to undertake any service or direct or indirect cost
22 obligation, or to establish, expand or modify any existing activity in such a way that results in the
23 expenditure of funds or resources, or results in the diversion of funds or resources from any
24 existing activity. For the purposes of this section, the term “existing activity” shall include any
25 program or service lawfully undertaken by any city or town under the authority of any law,
26 special law, administrative rule or regulation or city or town charter, or; (2.) relieves the state or
27 a county from providing a service or program so that any city or town instead incurs the direct or
28 indirect cost of such service or program.

29 SECTION 2. No proposal initiated by the executive office of energy and environmental
30 affairs in the form of a rule or regulation, or any so-called guidance document or policy, shall
31 become effective until a regulatory impact statement has been completed, made public during the
32 hearing process described in chapter 30A of the General Laws and filed with the secretary of
33 state. The regulatory impact statement shall: (a) identify the problem, issue or deficiency
34 addressed by the proposal; (b) identify the methodology or approach, including identification of
35 expert information and analysis used to address the problem, issue or deficiency; (c) identify
36 stakeholders who will be affected and to what extent by the proposal; (d) identify when such
37 proposal will become effective, when such proposal will be changed, if known, and how and
38 when the proposal will be reviewed in the future, if at all; (e) identify and describe the immediate
39 and long term financial impacts of the proposal on all stakeholders, including the agency or
40 entity issuing the proposal, any affected private party or entity, the state, the cities and towns,
41 and the general public. Such financial impact statement shall consider administrative costs,
42 permitting costs, enforcement costs, capital costs, internal compliance costs, and indirect costs, if
43 any; (f) identify the fiscal effect on the public and private sectors for the first and second year of
44 the proposal's existence, and provide a projection of fiscal impact over the first five years of the
45 proposal's existence or, in the case of proposals affecting permits issued by the executive office
46 of energy and environmental affairs, the term of the permit; and (g) identify and describe,
47 specifically, the benefits of the proposal including, where possible, the financial value of these
48 benefits. The secretary of administration and finance shall adopt regulations to further define and
49 implement the use of regulatory impact statements in said executive offices' and agency's
50 rulemaking.

51 SECTION 3. The executive office of energy and environmental affairs shall maintain a
52 notification list of stakeholders in their proposals and who may request preliminary notification
53 of such proposals, such request renewed annually by persons or groups in December. No later
54 than thirty days prior to the notice of hearing described above the agency shall send a
55 preliminary notification of the proposal to each stakeholder who has requested preliminary
56 notification of the proposal and to the Joint Legislative Committee on Natural Resources, the
57 Joint Legislative Committee on Local Affairs, the House and Senate Committees on Ways &
58 Means, the Office of the State Auditor and the Massachusetts Municipal Association.

59 The preliminary notification of the proposal shall (a) identify the proposal to be noticed
60 for hearing and the scope of the proposal, (b) provide the statutory authority for such proposal,
61 and (c) identify the person within said executive office or agency responsible for the proposal
62 and who can be contacted for more information.

63 SECTION 4. No proposal initiated by the executive office of energy and environmental
64 affairs in the form of a rule, regulation, so-called guidance document or policy shall become
65 effective until said executive office and agency have complied with the provisions of
66 Massachusetts Administrative Procedures Act established under the provisions of Chapter 30A
67 of the General Laws. Any entity claiming to be aggrieved by lack of compliance with said
68 chapter by said executive office or agency shall be permitted to file a petition for relief with the
69 superior court.