SENATE DOCKET, NO. 2348 FILED ON: 1/17/2025

# SENATE . . . . . No. 1475

## The Commonwealth of Massachusetts

PRESENTED BY:

***Bruce E. Tarr*, (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 to provide clarifications to Massachusetts General Laws Chapter 83.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|---|---|---|
| *Joyce A. Tomaselli* | | |
| *Gracemarie R. Tomaselli* | | |
| *Peter J. Durant* | *Worcester and Hampshire* | *3/17/2025* |

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# SENATE . . . . . No. 1475

By Mr. Tarr (by request), a petition (accompanied by bill, Senate, No. 1475) of Joyce A. Tomaselli, and Gracemarie R. Tomaselli, for legislation relative to the construction of sewer systems and assessments by cities and towns. Municipalities and Regional Government.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court**
**(2025-2026)**

An Act to provide clarifications to Massachusetts General Laws Chapter 83.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Mass General Law Chapter 83 Section 15 as appearing in the 2022 edition is hereby amended by striking it in its entirety and replacing it with the following: -

Section 15. The city council of a city or a town may adopt a system of sewerage for a part or the whole of its territory, and may provide that assessments under section fourteen shall be made upon owners of land within such territory by a fixed uniform rate or a rate based upon a uniform unit method. A municipality may not vote to adopt sewer betterment charges under this section. A municipality cannot vote to adopt sewer betterment charges or sewer assessment charges, after the particular project which included the contracts within the project are constructed, and a municipality cannot combine projects with other projects. No betterment assessment or special assessment can be assessed for a particular public improvement project unless the vote is a formal vote at Town Meeting or City Council which includes the order to construct the sewer to impose assessments, project plan including contracts, project estimate, per

parcel estimate, and this vote is recorded at the Registry of Deeds to create a lien. The Order of Assessment shall state that betterments are to be assessed for the system extension. The Order of Assessment shall specify the area that the sewer is to be located, identify the properties specially benefited by the extension, identify the owners of said properties as appearing in the Assessor's record A fixed uniform rate shall be based upon the estimated average cost of all the sewers therein, according to the frontage of such land on any way in which a sewer is constructed, or according to the area of such land within a fixed depth from such way, or according to both such frontage and area; but no assessment in respect to any such land, which by reason of its grade or level or any other cause cannot be drained into such sewer, shall be made until such incapacity is removed. If the assessment is according to the area within such fixed depth, the lien therefor shall attach to the parcel assessed in accordance with Chapter 80 section 2 and Chapter 83 section 27. A uniform unit method shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served, after having proportioned the cost of special and general benefit facilities. Each sewer unit shall be equal to a single family residence. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing and potential multifamily, commercial, industrial and semipublic uses shall be converted into sewer units on the basis of residential equivalents. A city by ordinance or a town by by-law may separate the costs of general benefit facilities, including but not limited to pumping stations, trunk and force mains, from that of special benefit facilities, including but not limited to the sewer mains, serving adjacent properties. A portion of costs of the general benefit facilities may be apportioned by the uniform unit method on all areas to receive benefits within the pumping district or combination of districts. The cost of the general benefit facilities, attributable to undeveloped land not abutting a sewered street, may not be assessed until

properties are serviced by public sewerage. The proportional cost of the special benefit and general benefit facilities may be assessed against all properties abutting a sewered street.

SECTION 2. Mass General Law Chapter 83 Section 16 as appearing in the 2022 edition is hereby amended by striking it in its entirety and replacing it with the following:-

Section 16. The aldermen of any city or the sewer commissioners, selectmen or road commissioners of a town, may from time to time establish just and equitable annual charges for the use of common sewers and main drains and related stormwater facilities, which shall be paid by every person who enters his particular sewer therein. The user fee xvi charge shall be based on each sewer user's actual water use when water records are available. The money so received may be applied to the payment of the cost of maintenance and repairs of such sewers or of any debt contracted for sewer purposes. In establishing quarterly or annual charges for the use of main drains and related stormwater facilities, the city, town, or district may either charge a uniform fee for residential properties and a separate uniform fee for commercial properties or establish an annual charge based upon a uniform unit method; but, the charge shall be assessed in a fair and equitable manner. The annual charge shall be calculated to supplement other available funds as may be necessary to plan, construct, operate and maintain stormwater facilities and to conduct stormwater programs. The city, town or district may grant credits against the amount of the quarterly or annual charge to those property owners who maintain on-site functioning retention/detention basins or other filtration structures as approved by the stormwater utility, conservation commission, or other governmental entity with appropriate authority.

SECTION 3. Mass General Law Chapter 83 Section 27 as appearing in the 2022 edition is hereby amended by striking it in its entirety and replacing it with the following: -

Section 27. Whenever the aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town lay out or determine to construct a sewer or drain in a public way, or in a way opened or dedicated to the public use which has not become a public way, or adopt an order for the establishment or reconstruction of a sidewalk for such a way, and assessments may be made or charges imposed under this chapter for the construction of such improvement or the use thereof, they shall forthwith cause to be recorded in the registry of deeds of the county or district in which such city or town is situated a statement of their action, which shall specify the ways in which such sewer, drain or sidewalk is located. All assessments made or charges imposed under this chapter upon land which abuts upon any such way in which such sewer, drain or sidewalk is located shall constitute a lien upon such land from the time such statement is recorded and all charges authorized by section sixteen shall from the time of assessment construction order constitute a lien upon the land connected with the common sewer. Liens under this section shall continue for the same period and under the same conditions as a lien established under chapter eighty.

SECTION 4. Mass General Law Chapter 83 Section 28 as appearing in the 2022 edition is hereby amended by striking it in its entirety and replacing it with the following: -

Section 28 Application of betterment law FOR CONSTRUCTION OF SEWER PROJECTS.

The provisions of chapter eighty relative to imposing assessment of costs of public improvement, order of construction, plan and estimate; recordation of liens, apportionment, division, reassessment, abatement and collection of assessments, and to interest, lien status of assessments, and duration of lien, shall apply to assessments made under this chapter.