HOUSE DOCKET, NO. 1158 FILED ON: 1/20/2011

HOUSE . . . . . No. 1169

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz and Byron Rushing

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 protecting sunlight in certain public parks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	*8th Suffolk*
Byron Rushing	*9th Suffolk*
Denise Provost	*27th Middlesex*
Aaron Michlewitz	*3rd Suffolk*

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HOUSE . . . . . No. 1169

By Representatives Walz of Boston and Rushing of Boston, a petition (accompanied by bill, House, No. 1169) of Martha M. Walz, Byron Rushing and others for legislation to regulate the construction of buildings and structures that would cast shadows on certain public parks . Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act protecting sunlight in certain public parks.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the public's access to sunlight in certain public parks, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 1 of Chapter 362 of the Acts of 1990 is hereby amended by striking the definition of “new shadow” and inserting in place thereof the following definition:-

“New shadow”, the casting of a shadow at any time of day on an area which is not cast in shadow at such time by a structure. New shadow shall not include a shadow cast (a) by a structure which exists; (b) by a structure for which a building permit has been granted on the date upon which application is made to a permit-granting authority for a proposed structure; or (c) by the proposed structure for which approval is being sought from a permit granting authority if such structure conforms to as-of-right height limits allowed by the Boston, Cambridge or Lynn Zoning Code, whichever is applicable, as in force on May first, nineteen hundred and ninety. New shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign

11 or other similar structure. If the proposed structure is proposed for a site that is or may be
12 exempt from Boston zoning law or if said site has no as-of-right height limit, the height limit for
13 the purpose of determining new shadow shall be the height limit for the zoning district in which
14 the site is located.

15 SECTION 2. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further
16 amended, in the definition of "permit granting authority," by inserting after the words
17 "authorized to grant permits or approvals pursuant to" the following words:- chapter thirty,
18 sections sixty one through sixty two H, inclusive,.

19 SECTION 3. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further
20 amended in the definition of "permit granting authority", by inserting after the words "the
21 Inspectional Services Department in the city of Boston," the following words:- the Inspectional
22 Services Department in the city of Cambridge,.

23 SECTION 4. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further
24 amended, in the definition of "structure", by inserting after the words "and (ii) not located within
25 the boundaries of the Boston Common or the Lynn Common" the following words:- or Charles
26 River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square
27 Park, Magazine Beach Park, or Back Bay Fens.

28 SECTION 5. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further
29 amended by inserting the following 6 definitions:-

30 "Back Bay Fens", the land in the city of Boston bounded by The Fenway, Park Drive and
31 Boylston Street.

32 “Charles River Esplanade”, the land in the city of Boston bounded by the Charles River
33 Dam, the Boston University Bridge, so called, the Charles River, Embankment Road, and James
34 Jackson Storrow Memorial Drive.

35 “Christopher Columbus Park”, the land in the city of Boston bounded by Atlantic
36 Avenue, the Boston Harbor, Long Wharf, and Commercial Wharf.

37 “Commonwealth Avenue Mall”, the land in the city of Boston bounded by Arlington
38 Street, Kenmore Street, Commonwealth Avenue (westbound) and Commonwealth Avenue
39 (eastbound).

40 “Copley Square Park”, the land in the city of Boston bounded by Boylston Street,
41 Clarendon Street, St. James Avenue, and Dartmouth Street, excluding therefrom the land
42 occupied by Trinity Church.

43 “Magazine Beach Park”, the land in the city of Cambridge bounded by Memorial Drive,
44 the Charles River, the Boston University Bridge, so called, and River Street.

45 SECTION 6. Said chapter 362 of the Acts of 1990 is hereby amended by inserting after
46 section 2 the following section:-

47 Section 3. Notwithstanding any provision of chapter 30, sections 61 to 62H inclusive,
48 chapter 40A, chapter 121A, or chapter 121B of the General Laws or chapter 665 of the Acts of
49 1956, or any other general or special law to the contrary, no permit granting authority shall take
50 any action which would authorize the construction of any structure which would cast a new
51 shadow on the Charles River Esplanade, Christopher Columbus Park, Commonwealth Avenue
52 Mall, Copley Square Park, Magazine Beach Park, or the Back Bay Fens; provided, however, that

53 the provisions of this section shall not apply to actions authorizing any structure which casts a
54 new shadow upon the aforementioned lands only during the first hour after sunrise or before
55 seven o'clock in the morning, whichever is later, or the last hour before sunset.

56 SECTION 7. Section 1 of Chapter 384 of the Acts of 1992 is hereby amended by striking
57 the definition of "new shadow" and inserting in place thereof the following definition:-

58 "New shadow", the casting of a shadow at any time of day on an area which is not cast in
59 shadow at such time by a structure. New shadow shall not include a shadow cast (a) by a
60 structure which exists; (b) by a structure for which a building permit has been granted on the date
61 upon which application is made to a permit-granting authority for a proposed structure; or (c) by
62 the proposed structure for which approval is being sought from a permit granting authority if
63 such structure conforms to as-of-right height limits allowed by the Boston, Cambridge or Lynn
64 Zoning Code, whichever is applicable, as in force on May first, nineteen hundred and ninety.
65 New shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign
66 or other similar structure. If the proposed structure is proposed for a site that is or may be
67 exempt from Boston zoning law or if said site has no as-of-right height limit, the height limit for
68 the purpose of determining new shadow shall be the height limit for the zoning district in which
69 the site is located.