SENATE DOCKET, NO. 1749 FILED ON: 1/21/2011

SENATE . . . . . No. 1598

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 passage of the accompanying:

An Act relative to publicly opened contracts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael O. Moore	*[District]*

SENATE DOCKET, NO. 1749 FILED ON: 1/21/2011

SENATE . . . . . No. 1598

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1598) of Michael O. Moore for legislation relative to publicly opened contracts. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to publicly opened contracts.

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 39M of Chapter 30 is hereby amended by striking subsection (a) in its entirety and adding in place thereof the following new language:-

(a) Every contract for the construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any material, as hereinafter defined, by the commonwealth, or political subdivision thereof, or by any county, city, town, district, or housing authority, and estimated by the awarding authority to cost more than ten thousand dollars, and every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency, as defined by subsection one of section forty-four A of chapter one hundred and forty-nine, estimated to cost more than $25,000 but not more than $100,000, shall be awarded to the lowest responsible and eligible bidder on the basis of competitive bids publicly opened, read, reviewed and properly awarded after said review by such awarding authority forthwith upon expiration of the time for the filing thereof; provided, however, that such awarding authority may reject any and all bids, if it is in the public interest to do so. Every bid for such contract shall be accompanied by a bid deposit in the form of a bid bond, or cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the awarding authority. The amount of such bid deposit shall be five per cent of the value of the bid. Any person submitting a bid under this section shall, on such bid, certify as follows:

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

23 _____

24 (Name of person signing bid)

25 _____

26 (Company)

27 This paragraph shall not apply to the award of any contract subject to the provisions of
28 sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine and every
29 such contract shall continue to be awarded as provided therein. In cases of extreme emergency
30 caused by enemy attack, sabotage or other such hostile actions or resulting from an imminent
31 security threat explosion, fire, flood, earthquake, hurricane, tornado or other such catastrophe, an
32 awarding authority may, without competitive bids and notwithstanding any general or specific
33 law, award contracts otherwise subject to this paragraph to perform work and to purchase or rent
34 materials and equipment, all as may be necessary for temporary repair and restoration to service
35 of any and all public work in order to preserve the health and safety of persons or property;
36 provided, that this exception shall not apply to any permanent reconstruction, alteration,
37 remodeling or repair of any public work.

38 Fraud shall be defined as a statement, act or omission relating to be a material fact that
39 has the natural tendency to be relied upon in influence the average person, and that is knowingly
40 false or misleading, or is in reckless disregard of its truth or falsity, and that is intended to
41 mislead, regardless of whether the statement, act or omission is actually relied upon.

42 Misrepresentation shall be defined as an intentionally or sometimes negligently false
43 representation made verbally, by conduct, or sometimes non disclosure or concealment and often
44 for the purpose for deceiving, defrauding or causing another to rely on it detrimentally, also an
45 act or instance of making such a representation.