HOUSE DOCKET, NO. 820 FILED ON: 1/15/2013

HOUSE . . . . . No. 1870

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day and Harriette L. Chandler

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 authorizing the town of West Boylston to assess compensatory sewer privilege fees.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James J. O'Day	*14th Worcester*
Harriette L. Chandler	*First Worcester*

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HOUSE . . . . . No. 1870

By Representative O'Day of West Boylston and Senator Chandler, a joint petition (accompanied by bill, House, No. 1870) of James J. O'Day and Harriette L. Chandler for legislation to authorize the town of West Boylston to assess sewer privilege fees for certain connections to the common sewer and deposit said fees in the Sewer Enterprise Reserve Fund. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act authorizing the town of West Boylston to assess compensatory sewer privilege fees.

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. Notwithstanding the provisions of Section 3 of Chapter 83 of the General Laws or any general or special law, rule or regulation to the contrary, the town of West Boylston board of sewer commissioners (hereinafter "board" or "sewer commission"), which in this Act shall mean any other board or officer now or hereafter having charge of the repair and maintenance of sewers in the town of West Boylston, may, in its discretion, by permit upon application of the owner, allow land abutting upon a public or private way in which a common sewer has been laid to be connected with such sewer, but shall not be obligated to do so unless sufficient capacity exists at the time of such application and unless such parcel of land has heretofore or hereafter been assessed a sewer betterment or sewer privilege fee, and may limit the use of existing connections to the estimated sewage flow on which such betterment or privilege fee was based.

SECTION 2. Notwithstanding the provisions of Section 3 of Chapter 83 of the General Laws or any general or special law, rule or regulation to the contrary, no owner of land connected to the common sewer shall reconstruct, enlarge, alter or renovate an existing structure on such land or expand, change or alter an existing use of such land without a permit from said board. Said board may, in its discretion, permit continued use of an existing sewer connection, but shall not be obligated to permit continued use of an existing sewer connection for such reconstructed, enlarged, altered or renovated structure or expanded, changed or altered use, unless the estimated flow from such structure or use does not exceed the estimated sewage flow on which a betterment or privilege fee assessed upon such land was based.

SECTION 3. The sewer commission shall assess a sewer privilege fee for all connections to the common sewer or increased use of existing connections that are estimated to generate a sewage design flow calculated for the use of the land under Title 5 of the State Environmental Code published at 310 Code of Massachusetts Regulations 15.203, or replacement regulations having the same purpose, in excess of the sewage design flow assigned to the relevant property at the time of assessment of a betterment assessment or privilege fee upon the relevant property, if any, including without limitation the Actual betterment assessed by the board on or about February 9, 2011 to recover the final costs for establishing, developing, and constructing the facilities described in Section 4 of Chapter 20 of the Acts of 1999, unless the sewage flow from the improvements upon the land to be served by such new connection or increased use of an existing connection does not increase above the sewage flow assigned at the time of prior assessment of a betterment or privilege fee for that property.

SECTION 4. The privilege fee shall be assessed at the rate of $3,825 per equivalent residential unit, that is, per 220 gallons per day of sewage design flow estimated under said Title 5, being the rate assessed as a betterment on or about February 9, 2011. This rate shall be indexed for inflation at 2.5% per annum from said date.

SECTION 5. All revenue from privilege fees to be assessed hereunder shall be deposited to the sewer enterprise reserve fund maintained by the town of West Boylston under section 53F ½ of chapter 44 of the general laws, without the necessity of appropriation thereto by the legislative body of said town, and may be used by the board, as provided in said section 53F ½ of chapter 44, for capital expenses of the enterprise, subject to appropriation, or to reduce sewer user charges if authorized by the board.

SECTION 6. The provisions of chapter 80 of the general laws, relative to the apportionment, deferral, division, reassessment, abatement and collection of assessments, and to interest, shall apply to privilege fees assessed under this Act, as such provisions have been modified by the provisions of Sections 2, 3 and 4 of Chapter 95 of the Acts of 1998.

SECTION 7. All privilege fees assessed by the board after February 9, 2011 pursuant to regulations of the board consistent with the provisions of this Act and assessed prior to the effective date of this Act are hereby validated and all revenue from such privilege fees received by the town of West Boylston from the effective date of this Act shall be deposited to the sewer enterprise reserve fund pursuant to section 5 of this Act.

SECTION 8. Notwithstanding the provisions of this Act, the board shall continue to have all the powers of sewer commissioners to assess betterments to recover the cost to the town of West Boylston of future sewer system capital projects from those obtaining benefit from such projects pursuant to the provisions of chapters 80 and 83 of the general laws as such provisions have been modified by the provisions of sections 2, 3 and 4 of Chapter 95 of the Acts of 1998.

SECTION 9. This Act shall take effect upon its passage.