

**HOUSE . . . . . No. 1870**

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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*

**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 (by vote of the town) 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:*

1 SECTION 1. Notwithstanding the provisions of Section 3 of Chapter 83 of the General  
2 Laws or any general or special law, rule or regulation to the contrary, the town of West Boylston  
3 board of sewer commissioners (hereinafter "board" or "sewer commission"), which in this Act  
4 shall mean any other board or officer now or hereafter having charge of the repair and  
5 maintenance of sewers in the town of West Boylston, may, in its discretion, by permit upon  
6 application of the owner, allow land abutting upon a public or private way in which a common  
7 sewer has been laid to be connected with such sewer, but shall not be obligated to do so unless  
8 sufficient capacity exists at the time of such application and unless such parcel of land has  
9 heretofore or hereafter been assessed a sewer betterment or sewer privilege fee, and may limit  
10 the use of existing connections to the estimated sewage flow on which such betterment or  
11 privilege fee was based.

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

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

33 SECTION 4. The privilege fee shall be assessed at the rate of \$3,825 per equivalent  
34 residential unit, that is, per 220 gallons per day of sewage design flow estimated under said Title  
35 5, being the rate assessed as a betterment on or about February 9, 2011. This rate shall be  
36 indexed for inflation at 2.5% per annum from said date.

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

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

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

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

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