

HOUSE No. 02002

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

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 bill:

An Act to assist municipal and district ratepayers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Geraldo Alicea</i>	<i>6th Worcester</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>

HOUSE No. 02002

By Ms. Gobi of Spencer, a petition (accompanied by bill, House, No. 2002) of Smola and others relative to the costs imposed upon the municipal and district ratepayers due to public drinking water, wastewater and stormwater systems capital upgrades Joint Committee on Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to assist municipal and district ratepayers.

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

- 1 Whereas, public drinking water, wastewater and stormwater systems are in need of major capital
- 2 upgrades in order to continue to protect public health, safety and the environment; and
- 3 Whereas, the costs for these infrastructure upgrades are significant and increasing each year; and
- 4 Whereas, local ratepayers must pay for most of these upgrades as the Federal and State
- 5 governments have reduced their level of funding assistance to cities, towns and districts; and
- 6 Whereas, many of the costs for water infrastructure improvements are due to regulatory demands
- 7 by Federal and State environmental agencies; and
- 8 Whereas, Federal and State regulatory demands on cities, towns and districts do not consider
- 9 compliance costs or assess the value of the benefits derived; and

10 Whereas, it is in the public interest to spend local funds wisely and to insure the maximum
11 benefits are derived for each dollar expended.

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

14 Notwithstanding the provisions of section 27C of chapter 29 of the General Laws as most
15 recently amended by section 24 of chapter 71 of the Acts of 1993, or any other general or special
16 law to the contrary, any proposal initiated by the Executive Office of Energy and Environmental
17 Affairs and its agencies (collectively EOEEA) in the form of a rule, regulation or so-called
18 guidance document or policy resulting in the imposition of additional cost to a city or town shall
19 be termed a “local mandate”. Local mandates shall include but not be limited to any EOEEA
20 initiated rule, regulation or so-called guidance document or policy that: (1.) requires any city or
21 town to undertake any service or direct or indirect cost obligation, or to establish, expand or
22 modify any existing activity in such a way that results in the expenditure of funds or resources,
23 or results in the diversion of funds or resources from any existing activity. For the purposes of
24 this section, the term “existing activity” shall include any program or service lawfully undertaken
25 by any city or town under the authority of any law, special law, administrative rule or regulation
26 or city or town charter, or; (2.) relieves the state or a county from providing a service or program
27 so that any city or town instead incurs the direct or indirect cost of such service or program.

28 Section 2. No proposal initiated by the EOEEA in the form of a rule or regulation, or any so-
29 called guidance document or policy, shall become effective until a regulatory impact statement
30 has been completed, made public during the hearing process described in chapter 30A of the
31 General Laws and filed with the secretary of state. The regulatory impact statement shall: (a)

32 identify the problem, issue or deficiency addressed by the proposal; (b) identify the methodology
33 or approach, including identification of expert information and analysis used to address the
34 problem, issue or deficiency; (c) identify stakeholders who will be affected and to what extent by
35 the proposal; (d) identify when such proposal will become effective, when such proposal will be
36 changed, if known, and how and when the proposal will be reviewed in the future, if at all; (e)
37 identify and describe the immediate and long term financial impacts of the proposal on all
38 stakeholders, including the agency or entity issuing the proposal, any affected private party or
39 entity, the state, the cities and towns, and the general public. Such financial impact statement
40 shall consider administrative costs, permitting costs, enforcement costs, capital costs, internal
41 compliance costs, and indirect costs, if any; (f) identify the fiscal effect on the public and private
42 sectors for the first and second year of the proposal's existence, and provide a projection of fiscal
43 impact over the first five years of the proposal's existence or, in the case of proposals affecting
44 permits issued by EOEEA, the term of the permit; and (g) identify and describe, specifically, the
45 benefits of the proposal including, where possible, the financial value of these benefits. The
46 secretary of administration and finance shall adopt regulations to further define and implement
47 the use of regulatory impact statements in said executive offices' and agency's rulemaking.

48 Section 3. The EOEEA shall maintain a notification list of stakeholders in their proposals and
49 who may request preliminary notification of such proposals, such request renewed annually by
50 persons or groups in December. No later than thirty days prior to the notice of hearing described
51 above the agency shall send a preliminary notification of the proposal to each stakeholder who
52 has requested preliminary notification of the proposal and to the Joint Legislative Committee on
53 Natural Resources, the Joint Legislative Committee on Local Affairs, the House and Senate

54 Committees on Ways & Means, the Office of the State Auditor and the Massachusetts Municipal
55 Association.

56 The preliminary notification of the proposal shall (a) identify the proposal to be noticed for
57 hearing and the scope of the proposal, (b) provide the statutory authority for such proposal, and
58 (c) identify the person within said executive office or agency responsible for the proposal and
59 who can be contacted for more information.

60 Section 4. No proposal initiated by the EOEEA in the form of a rule, regulation, so-called
61 guidance document or policy shall become effective until said executive office and agency have
62 complied with the provisions of Massachusetts Administrative Procedures Act established under
63 the provisions of Chapter 30A of the General Laws. Any entity claiming to be aggrieved by lack
64 of compliance with said chapter by said executive office or agency shall be permitted to file a
65 petition for relief with the superior court.