

HOUSE No. 2533

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas P. Conroy

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 relative to local education investment.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Thomas P. Conroy

13th Middlesex

Thomas J. Calter

12th Plymouth

HOUSE No. 2533

By Mr. Conroy of Wayland, a petition (accompanied by bill, House, No. 2533) of Thomas P. Conroy and Thomas J. Calter for legislation to provide for a local option real estate tax education surcharge. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to local education investment.

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. This chapter shall be known and may be cited as the Local Education
- 2 Investment Act.
- 3 SECTION 2. As used in this chapter, the following words shall, unless the context clearly
- 4 indicates a different meaning, have the following meanings:-
- 5 "Annual income", a family's or person's gross annual income less such reasonable allowances
- 6 for dependents, other than a spouse, and for medical expenses as the housing authority or, in the
- 7 event that there is no housing authority, the department of housing and community development,
- 8 determines.
- 9 "School committee", the committee established by the legislative body of a city or town to
- 10 make recommendations for education, as provided in section 5.
- 11 "Local Education Investment Fund", the municipal fund established under section 7.
- 12 "Legislative body", the agency of municipal government which is empowered to enact
- 13 ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders,
- 14 bond authorizations and other financial matters and whether styled as a city council, board of
- 15 aldermen, town council, town meeting or by any other title.
- 16 SECTION 3. (a) Sections 3 to 7, inclusive, shall take effect in any city or town upon the
- 17 approval by the legislative body and their acceptance by the voters of a ballot question as set
- 18 forth in this section.
- 19 (b) Notwithstanding the provisions of chapter 59 or any other general or special law to the
- 20 contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a
- 21 surcharge on real property of not more than 3 per cent of the real estate tax levy against real
- 22 property, as determined annually by the board of assessors. The amount of the surcharge shall

23 not be included in a calculation of total taxes assessed for purposes of section 21C of said
24 chapter 59.

25 (c) All exemptions and abatements of real property authorized by said chapter 59 or any other
26 law for which a taxpayer qualifies as eligible shall not be affected by this chapter. A taxpayer
27 receiving an exemption of real property authorized by said chapter 59 or any other law shall be
28 exempt from any surcharge on real property established under this section. The surcharge to be
29 paid by a taxpayer receiving an abatement of real property authorized by said chapter 59 or any
30 other law shall be reduced in proportion to the amount of such abatement.

31 (d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per
32 annum provided in section 57 of said chapter 59.

33 (e) The legislative body may also vote to accept one or more of the following exemptions:

34 (1) for property owned and occupied as a domicile by a person who would qualify for low
35 income housing or low or moderate income senior housing in the city or town;

36 (2) for class three, commercial, and class four, industrial, properties as defined in section 2A of
37 said chapter 59, in cities or towns with classified tax rates; or

38 (3) for \$100,000 of the value of each taxable parcel of residential real property.

39 (f) Upon approval by the legislative body, the actions of the body shall be submitted for
40 acceptance to the voters of a city or town at the next regular municipal or state election. The city
41 or town clerk or the state secretary shall place it on the ballot in the form of the following
42 question:

43 "Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General Laws,
44 as approved by its legislative body, a summary of which appears below?"

45 (Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined
46 by the city solicitor or town counsel, including in said summary the percentage of the surcharge
47 to be imposed.)

48 If a majority of the voters voting on said question vote in the affirmative, then its provisions
49 shall take effect in the city or town, but not otherwise.

50 (g) The final date for notifying or filing a petition with the city or town clerk or the state
51 secretary to place such a question on the ballot shall be 35 days before the city or town election
52 or 60 days before the state election.

53 (h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90 days
54 before a regular city or town election or 120 days before a state election, then a question seeking
55 said acceptance through approval of a particular surcharge rate with exemption or exemptions,
56 may be so placed on the ballot when a petition signed by at least 5 per cent of the registered
57 voters of the city or town requesting such action is filed with the registrars, who shall have seven
58 days after receipt of such petition to certify its signatures. Upon certification of the signatures,
59 the city or town clerk or the state secretary shall cause the question to be placed on the ballot at
60 the next regular city or town election held more than 35 days after such certification or at the
61 next regular state election held more than 60 days after such certification.

62 SECTION 4. (a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors' warrant

63 to the tax collector, the accepted surcharge shall be imposed.

64 (b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount and
65 according to the computation specified in the warrant and shall pay the amounts so collected,
66 quarterly or semi-annually, according to the schedule for collection of property taxes for the tax
67 on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books
68 and accounts to be kept with respect to such surcharge, which shall be subject to public
69 examination upon reasonable request from time to time.

70 (c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall apply
71 to the surcharge on real property pursuant to this chapter.

72 SECTION 5. (a) The school committee of a city or town that accepts sections 3 to 7, inclusive,
73 shall (1) study the needs, possibilities and resources of the city or town regarding local public
74 education. As part of its study, the committee shall hold one or more public informational
75 hearings on the needs, possibilities and resources of the city or town regarding local education
76 possibilities and resources, notice of which shall be posted publicly and published for each of
77 two weeks preceding a hearing in a newspaper of general circulation in the city or town.

78 (2) The school committee shall make recommendations to the legislative body for the
79 improvement of all the schools in the city or town school district, including ideas related, but not
80 limited to, teacher professional development; purchase of technology; enhancing health and
81 wellness education; and meeting capital needs that are not reimbursable under the guidelines set
82 by the Massachusetts School Building Authority. In no instances shall funds from this act be
83 used for teacher and other professional or administrative staff salaries or benefits, or maintenance
84 needs of school buildings or properties, or similar school operating needs.

85 (3) The school committee may include in its recommendation to the legislative body a
86 recommendation to set aside for later spending funds for specific purposes that are consistent
87 with improving schools but for which sufficient revenues are not then available in the Local
88 Education Fund to accomplish that specific purpose or to set aside for later spending funds for
89 general purposes that are consistent with improving schools.

90 (c) The school committee shall not meet or conduct business without the presence of a quorum.
91 A majority of the members of the school committee shall constitute a quorum. The school
92 committee shall approve its actions by majority vote. Recommendations to the legislative body
93 shall include their anticipated costs.

94 (d) After receiving such recommendations from the school committee, the legislative body
95 shall then take such action and approve such appropriations from the Local Education Fund as
96 set forth in section 8, and such additional appropriations as it deems appropriate to carry out the
97 recommendations of the school committee.

98 SECTION 6. In every fiscal year and upon the recommendation of the school committee, the
99 legislative body shall spend, or set aside for later spending, not less than 50 per cent of the
100 annual revenues in the Local Education Fund. In each fiscal year, the legislative body shall
101 make such appropriations from the Local Education Fund as it deems necessary for the
102 additional administrative and operating expenses of the school committee pursuant to this act,

103 but the appropriations shall not exceed one per cent of the annual revenues in the Local
104 Education Fund. Funds that are set aside shall be held in the Local Education Fund and spent in
105 that year or later years, but funds set aside for a specific purpose shall be spent only for the
106 specific purpose. The local education funds shall not replace existing operating funds, only
107 augment them.

108 □SECTION 7. Notwithstanding the provisions of section 53 of chapter 44 or any other general
109 or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall establish
110 a separate account to be known as the Local Education Fund of which the municipal treasurer
111 shall be the custodian. The authority to approve expenditures from the fund shall be limited to
112 the legislative body and the municipal treasurer shall pay such expenses in accordance with
113 chapter 41.

114 □The following monies shall be deposited in the fund: (a) all funds collected from the real
115 property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11;
116 and (b) all funds received from the commonwealth or any other source for such purposes. The
117 treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies
118 incorporated under the laws of the commonwealth, banking companies incorporated under the
119 laws of the commonwealth which are members of the Federal Deposit Insurance Corporation,
120 and any income therefrom shall be credited to the fund. The expenditure of revenues from the
121 fund shall be limited to implementing the recommendations of the school committee and
122 providing administrative and operating expenses to the committee.

123 □SECTION 8. (a) The fees determined annually by the commissioner of administration under
124 the provision of section three B of chapter seven, for all licenses issued under the authority of the
125 division of professional licensure, except as otherwise provided, shall be subject to a surcharge
126 of \$20. The surcharges shall be imposed for the purposes of improving public education in the
127 commonwealth.

128 □(c) All surcharges on fees collected pursuant to this section shall be forwarded to the
129 Massachusetts Local Education Trust Fund, established in section 9.

130 □SECTION 9. (a) There shall be established and set up on the books of the commonwealth a
131 separate fund, to be known as the Massachusetts Local Education Trust Fund, for the benefit of
132 cities and towns that have accepted sections 3 to 7, inclusive, and pursuant to said sections 3 to 7,
133 inclusive, have imposed a surcharge on their real property tax levy, subject to any exemptions
134 adopted by a municipality. The fund shall consist of all revenues received by the commonwealth:
135 (1) under the provisions of section 8; (2) from public and private sources as gifts, grants and
136 donations to further education improvement programs; or (3) all other monies credited to or
137 transferred to from any other fund or source pursuant to law.

138 □(b) The state treasurer shall deposit the fund in accordance with the provisions of section 10 in
139 such manner as will secure the highest interest rate available at a banking company incorporated
140 under the laws of the commonwealth that is a member of the Federal Deposit Insurance
141 Corporation and with the requirement that all amounts on deposit be available for withdrawal
142 without penalty for such withdrawal at any time. All interest accrued and earnings shall be

143 deposited into the fund. The fund shall be expended solely for the administration and
144 implementation of this chapter. Any unexpended balances shall be redeposited for future use
145 consistent with the provisions of this chapter.

146 □(c) The state treasurer shall make all disbursements and expenditures from the fund without
147 further appropriation, as directed by the commissioner of revenue in accordance with said section
148 10. The department of revenue shall report by source all amounts credited to said fund and all
149 expenditures from said fund. The commissioner of revenue shall assign personnel of the
150 department as it may need to administer and manage the fund disbursements and any expense
151 incurred by the department shall be deemed an operating and administrative expense of the
152 program. The operating and administrative expenses shall not exceed 2.5 per cent of the annual
153 total revenue received under the provisions of said section 10.

154 □SECTION 10. (a) The commissioner of revenue shall annually on October 15 disburse monies
155 from the fund established in section 10 to cities and towns that have accepted sections 3 to 7,
156 inclusive, and notified the commissioner of their acceptance. The community shall notify the
157 commissioner of the date and terms on which the voters accepted said sections 3 to 7, inclusive.
158 The municipal tax collecting authority shall certify to the commissioner the amount the
159 municipality has raised through June 30 by imposing a surcharge on its real property levy and
160 shall certify the percentage of the surcharge applied.

161 □(b) The commissioner shall multiply the amount in the fund by 80 per cent. This amount
162 distributed in the first round distribution shall be known as the match distribution. The first round
163 total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an
164 amount not less than 5 per cent but not greater than 100 per cent of the total amount raised by the
165 additional surcharge on real property by each city or town. The percentage shall be the same for
166 each city and town and shall be determined by the commissioner annually in a manner that
167 distributes the maximum amount available to each participating city or town.

168 □(c) The commissioner shall further divide the remaining 20 per cent of the fund in a second
169 round distribution, known as the equity distribution. The commissioner shall determine the
170 equity distribution in several steps. The first step shall be to divide the remaining 20 per cent of
171 the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive. This
172 dividend shall be known as the base figure for equity distribution. This base figure shall be
173 determined solely for purposes of performing the calculation for equity distribution and shall not
174 be added to the amount received by a participant.

175 □(d) Each city and town in the commonwealth shall be assigned a local education rank for
176 purposes of the equity distribution. The commissioner shall determine each community's rank by
177 first determining the municipality's equalized property valuation per capita ranking, ranking
178 municipalities from highest to lowest valuation. The commissioner shall also determine the
179 population of each municipality and rank each from largest to smallest in population. The
180 commissioner shall add each equalized property valuation rank and population rank, and divide
181 the sum by two. The dividend is the local education raw score for that municipality.

182 □(e) The commissioner shall then order each municipality by LE raw score, from the lowest raw

183 score to the highest raw score. This order shall be the LE rank for each municipality. If more
184 than one municipality has the same LE raw score, the municipality with the higher equalized
185 valuation rank shall receive the higher LE rank.

186 □(f) After determining the LE rank for each municipality in the commonwealth, the
187 commissioner shall divide all municipalities into deciles according to their LE ranking, with
188 approximately the same number of municipalities in each decile, and with the municipalities with
189 the highest LE rank shall be placed in the lowest decile category, starting with decile 10.
190 Percentages shall be assigned to each decile as follows:- decile 1, 140 per cent of the base
191 figure; decile 2, 130 per cent of the base figure; decile 3, 120 per cent of the base figure; decile 4,
192 110 per cent of the base figure; decile 5, 100 per cent of the base figure; decile 6, 90 per cent of
193 the base figure; decile 7, 80 per cent of the base figure; decile 8, 70 per cent of the base figure;
194 decile 9, 60 per cent of the base figure; decile 10, 50 per cent of the base figure.

195 □After assigning each municipality to a decile according to their LE rank, the commissioner
196 shall multiply the percentage assigned to that decile by the base figure to determine the second
197 round equity distribution for each participant.

198 □(f) Notwithstanding any other provision of this section, the total state contribution for each city
199 or town shall not exceed the amount raised by the municipality's surcharge on its real property
200 levy.

201 □(g) When there are monies remaining in the trust fund after the first and second round
202 distributions, and any necessary administrative expenses have been paid in accordance with
203 section 6, the commissioner may conduct a third round surplus distribution. Any remaining
204 surplus in the fund may be distributed by dividing the amount of the surplus by the number of
205 cities and towns that have accepted this chapter. The resulting dividend shall be the surplus base
206 figure. The commissioner shall then use the decile categories and percentages as defined in this
207 section to determine a surplus equity distribution for each participant.

208 □(h) The commissioner shall determine each participant's total state grant by adding the amount
209 received in the first round distribution with the amounts received in any later round or rounds of
210 distributions, with the exception of a city or town that has already received a grant equal to 100
211 per cent of the amount the community raised by its surcharge on its real property levy.

212 □(1) Only those cities and towns that adopt the maximum surcharge allowed by this chapter
213 shall be eligible to receive additional state monies through the equity and surplus distributions.

214 □(2) If less than 10 per cent of the cities and towns in the commonwealth have accepted sections
215 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the
216 commissioner may calculate the state grant with only one round of distributions, or in any other
217 equitable manner.

218 □(j) After distributing the trust fund in accordance with this section, the commissioner may keep
219 any remaining funds in the trust for distribution in the following year.

220 □SECTION 11. The school committee shall keep a full and accurate account of all of its actions,
221 including its recommendations and the action taken on them and records of all appropriations or
222 expenditures made from the Local Education Fund. The records and accounts shall be public

223 records.

224 SECTION 12. Notwithstanding the provisions of any general or special law to the contrary,
225 every city and town may accept sections 3 to 7, inclusive, and may thereupon receive state grants
226 under section 10. A city or town that accepts said sections 3 to 7, inclusive, shall not be
227 precluded from participating in state grant programs.

228 State grant programs may include local adoption of this chapter among the criteria for selection
229 of grant recipients. Funds in the Local Education Fund may be made available and used by the
230 city or town as the local share for state or federal grants upon recommendation of the school
231 committee and the legislative body, as provided for in section 5, if such grants and such local
232 share are used in a manner consistent with the recommendations of the school committee.

233 SECTION 13. (a) At any time after imposition of the surcharge, the legislative body may
234 approve and the voters may accept an amendment to the amount and computation of the
235 surcharge, or to the amount of exemption or exemptions, in the same manner and within the
236 limitations set forth in this chapter.

237 (b) At any time after the expiration of five years after the date on which sections 3 to 7,
238 inclusive, have been accepted in a city or town, said sections may be revoked in the same manner
239 as they were accepted by such city or town, but the surcharge imposed under section 3 shall
240 remain in effect in any such city or town, with respect to unpaid taxes on past transactions and
241 with respect to taxes due on future transactions, until all contractual obligations incurred by the
242 city or town prior to such termination shall have been fully discharged.

243 Section 14. The commissioner of revenue shall have the authority to promulgate rules and
244 regulations to effect the purposes of this chapter.

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