

SENATE No. 1303

The Commonwealth of Massachusetts

PRESENTED BY:

Edward J. Kennedy

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 establishing a Municipal Building Assistance Program and Building Authority.

PETITION OF:

NAME:

Edward J. Kennedy

DISTRICT/ADDRESS:

First Middlesex

SENATE No. 1303

By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 1303) of Edward J. Kennedy for legislation relative to a Municipal Building Assistance Program and Building Authority. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1343 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act establishing a Municipal Building Assistance Program and Building Authority.

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

1 The General Laws are hereby amended by inserting after chapter 40W the following
2 chapter:-

3 CHAPTER 40X

4 SECTION 1. Whereas the costs of the municipal building construction is increasing at an
5 unsustainable rate and local governments need flexibility in municipal building assistance to
6 ensure that local needs for municipal facility space, downtown development, open space and
7 community space are met; and to promote the thoughtful planning and construction of municipal
8 facility space in order to insure safe and adequate plant facilities for the public, and to assist
9 towns in meeting the cost thereof, there is hereby established a municipal building assistance

10 program. It is in the best interests of the commonwealth and its citizens to create an authority to
11 achieve the objectives of effective management and planning of the commonwealth's
12 investments in municipal building assets, ensuring the health, safety, security and well-being of
13 residents and staff, easing and preventing overcrowding, maintaining good repair, efficient and
14 economical construction and maintenance, financial sustainability of the municipal building
15 assistance program, thoughtful community development, smart growth and accessibility.

16 SECTION 1A. (a) There is hereby created a body politic and corporate and a public
17 instrumentality to be known as the Massachusetts Municipal Building Authority, which shall be
18 an independent public authority not subject to the supervision and control of any other executive
19 office, department, commission, board, bureau, agency or political subdivision of the
20 commonwealth except as specifically provided in any general or special law. The exercise by the
21 authority of the powers conferred by this chapter shall be considered to be the performance of an
22 essential public function.

23 (b) The authority shall consist of the state treasurer, who shall serve as chairperson, the
24 secretary of administration and finance, a representative of the Massachusetts Municipal
25 Association, and 4 additional members appointed by the state treasurer, 2 of whom shall have
26 practical experience in public building construction, or architecture and design, and 2 of whom
27 shall be persons in the field of municipal management with demonstrated knowledge of
28 Massachusetts facility needs and other relevant federal and state building standards, each of
29 whom shall serve a term of 2 years; but, a person appointed to fill a vacancy shall serve only for
30 the unexpired term. An appointed member of the authority shall be eligible for reappointment.
31 The authority shall annually elect 1 of its members to serve as vice-chairperson. Each member of
32 the authority serving ex officio may appoint a designee pursuant to section 6A of chapter 30.

33 (c) Four members of the authority shall constitute a quorum, and the affirmative vote of 4
34 members of the authority shall be necessary and sufficient for any action taken by the authority.
35 No vacancy in the membership of the authority shall impair the right of a quorum to exercise all
36 the rights and duties of the authority. Members shall serve without pay but shall be reimbursed
37 for actual expenses necessarily incurred in the performance of their duties. The chairperson of
38 the authority shall report to the governor and to the general court no less than annually, to assist
39 the executive and legislative branches in coordinating community development and fiscal
40 policies of the commonwealth.

41 (d) Any action of the authority may take effect immediately and need not be published or
42 posted unless otherwise provided by law. Meetings of the authority shall be subject to section
43 11A1/2 of chapter 30A; but, said section 11A1/2 shall not apply to any meeting of members of
44 the authority serving ex officio in the exercise of their duties as officers of the commonwealth so
45 long as no matters relating to the official business of the authority are discussed and decided at
46 the meeting. The authority shall be subject to all other provisions of said chapter 30A, and
47 records pertaining to the administration of the authority shall be subject to section 42 of chapter
48 30 and section 10 of chapter 66. All moneys of the authority shall be considered to be public
49 funds for purposes of chapter 12A. The operations of the authority shall be subject to chapter
50 268A and chapter 268B and all other operational or administrative standards or requirements to
51 the same extent as the office of the state treasurer.

52 SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after
53 section 35SSS, the following section:-

54 Section 35TTT. (a) As used in this section, the following words shall, unless the context
55 requires otherwise, have the following meanings:-

56 "Authority", the Massachusetts Municipal Building Authority.

57 "Dedicated sales tax revenue amount", all moneys received by the commonwealth equal
58 to 0.5 per cent of the receipts from sales, as defined by chapter 64H, and 0.5 per cent of the sales
59 price of purchases, as defined by chapter 64I, from that portion of the taxes imposed under said
60 chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services,
61 and upon the storage, use or other consumption of tangible property or of services, including
62 interest thereon or penalties, but not including any portion of the taxes that constitute special
63 receipts within the meaning of subsection (b 1/2) of section 10 of chapter 152 of the acts of 1997
64 or within the meaning of subsection (b½) of said section 10 of said chapter 152 or any portion of
65 the taxes imposed on the sale of meals as defined in paragraph (h) of section 6 of said chapter
66 64H.

67 "Receipts from sales", gross receipts from nonexempt sales, less amounts abated or
68 reimbursed.

69 "Sales price of purchases", sales price of nonexempt purchases, less amounts abated or
70 reimbursed.

71 (b) There shall be established on the books of the commonwealth a separate fund, to be
72 known as the Municipal Building Modernization and Reconstruction Trust Fund. There shall be
73 credited to the fund the dedicated sales tax revenue amount. Annual receipts into the fund on
74 account of any fiscal year shall be considered to meet the full obligation of the commonwealth to
75 the authority for such fiscal year.

76 (c) Amounts in the fund shall be held by the state treasurer or his designee, as trustee and
77 not on account of the commonwealth, exclusively for the purposes of the authority, and the state
78 treasurer shall disburse amounts in the fund to the authority, without further appropriation, upon
79 the request from time to time of the executive director of the authority. All amounts in the fund,
80 including investment earnings, shall be available for expenditure by the authority for any lawful
81 purpose, including without limitation payment of debt service on debt obligations issued by the
82 authority, and may be pledged to secure debt of the authority in such manner and according to
83 such priority as the authority may determine.

84 (d) The authority shall certify annually to the treasurer as trustee with copies provided to
85 the clerks of the house and senate and to the house and senate committees on ways and means
86 that it has made provision in its annual budget and its capital plan under section 17 of chapter
87 70B for sufficient amounts to be available to meet debt service payments or other payments due
88 under financing obligations, including, without limitation, leases or grant obligations.

89 (e) Subject to applicable restrictions contained in any bond resolution, trust or security
90 agreement or credit enhancement agreement, surety bond or insurance policy related to
91 indebtedness incurred by the authority, including without limitation coverage requirements, if the
92 authority shall determine that the balance of the fund exceeds the amount necessary to achieve
93 the purposes of the authority, including, without limitation, to meet debt service payments, lease
94 payments and grant obligations, the authority may transfer the excess amount to the
95 commonwealth.

96 (f) In order to increase the marketability of any bonds or notes of the trust which may be
97 secured by or payable from amounts held in the fund, the sums to be credited to the fund are

98 hereby impressed with a trust for the benefit of the trust and the holders from time to time of the
99 bonds or notes, and in consideration of the acceptance of payment for the bonds or notes, the
100 commonwealth covenants with the purchasers and all subsequent holders and transferees of the
101 bonds or notes that while the bond or note shall remain outstanding, and so long as the principal
102 of or interest on the bond or note shall remain unpaid, the sums to be credited to the fund shall
103 not be diverted from the control of the trust and, so long as the sums are necessary, as determined
104 by the authority in accordance with any applicable bond resolution, trust or security agreement or
105 credit enhancement agreement, surety bond or insurance policy related to indebtedness incurred
106 by the trust, for the purposes for which they have been pledged, the rates of the excises imposed
107 by said chapters 64H and 64I shall not be reduced below the rates prescribed by this section.