SENATE DOCKET, NO. 1672   FILED ON: 1/16/2015

SENATE . . . . No. 1485

The Commonwealth of Massachusetts

PRESENTED BY:

***Anne M. Gobi*, (BY REQUEST)**

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 to promote economic development in small communities of high need and opportunity.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jim White	*10 Petersham Rd* *Phillipston, MA 01331*
Marcos A. Devers	*16th Essex*

SENATE DOCKET, NO. 1672   FILED ON: 1/16/2015

SENATE . . . . No. 1485

By Ms. Gobi (by request), a petition (accompanied by bill, Senate, No. 1485) of Jim White and Marcos A. Devers for legislation to establish gateway regions and provide homeowner rehabilitation tax credits for developing certain small communities. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3433* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to promote economic development in small communities of high need and opportunity.

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. Section 3A of chapter 23A, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "Gateway municipality" the following definition:--

"Gateway region", a group of municipalities within 20 miles of each other or a group of municipalities within the counties of Barnstable, Dukes and Nantucket that agrees to: (i) collaborate as a region, (ii) applies as joint applicants for a designation as a gateway region and (iii) is designated as such by the secretary of housing and economic development pursuant to section 63.

SECTION 2. Said chapter 23A is hereby further amended by adding the following section:--

Section 63. Each year no later than January 31, the secretary of housing and economic development shall designate as gateway regions those municipalities that apply as joint applicants for the designation and that meet the following criteria:

(a) a combined population over 10,000 and under 45,000;

(b) median household income below the state average in each municipality;

(c) per capita income below the state average in each municipality; and

(d) percentage of the each municipality's population having attained a bachelor's degree or higher below the state's average;

Any region designated as a gateway region shall remain a gateway region for at least 3 consecutive calendar years.

SECTION 3. Section 6J of chapter 62 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 38 to 39, inclusive, the words "an amount not to exceed $50,000,000 per year" and inserting in place thereof the following:-- an unlimited amount for gateway regions as defined in section 3A of chapter 23A, and an amount not to exceed $50,000,000 annually for all other municipalities combined.

SECTION 4. Chapter 62 of the General Laws is hereby further amended by adding the following section:--

Section 65. (a) For the purposes of this section, unless the context clearly requires otherwise, the following words shall have the following meanings:--

"Certified housing structure", a housing structure within gateway region housing rehabilitation zones which meets the rehabilitation requirements set forth by the department.

"Department", the department of housing and community development.

"Gateway region", a region as defined in section 3A of chapter 23A.

"Gateway region rehabilitation zone", an area of a gateway region established under subsection (b).

"Qualified rehabilitation expenditure", any amount that: (i) is properly chargeable to the homeowner, (ii) is expended in the rehabilitation of a structure that, by the end of the taxable year in which the certified rehabilitation is completed, is certified heritage structure, (iii) is expended in compliance with a plan of proposed rehabilitation that has been approved by the department, and (iv) is not funded, financed, or otherwise reimbursed by any state or local grant, grant made from the proceeds of tax-exempt bonds issued by the commonwealth, a political subdivision of the commonwealth, or an instrumentality of the commonwealth or of a political subdivision of the commonwealth, state tax credit other than the tax credit provided for under this section, or other financial assistance from the federal government, the commonwealth, or a political subdivision of the commonwealth.

"Rehabilitation", the process of returning a structure to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the structure and its site and environment which make the structure and its site and environment historically, architecturally, or culturally significant.

"Secretary", the secretary of housing and economic development.

"Substantial rehabilitation", rehabilitation of a structure for which the qualified rehabilitation expenditures, during the 24-month period selected by the taxpayer ending with or within the taxable year, exceed $5,000.

"Taxpayer", resident of the commonwealth that makes qualified rehabilitation expenditures.

"Tax credit", the gateway region homeowner rehabilitation tax credit.

(b) There shall be a gateway region homeowner rehabilitation tax credit. The secretary, or the secretary's designee, in an agreement with the gateway region shall establish gateway region rehabilitation zones within which homes will be eligible for the tax credit. The secretary shall establish standards to determine an application process by which a taxpayer may request the tax credit. The application shall include proof of ownership, rehabilitation plans, estimated rehabilitation expenses, and any other information the secretary needs to be able to award the tax credit.

A taxpayer may file an application with the secretary or the secretary's designee. An incomplete application may not be processed until all required application information has been received.

The tax credit shall be for individual homeowners who make substantial rehabilitation to their primary home of residence. The credit shall not exceed 25 per cent of the home's appraised value. The credit shall be awarded annually in an amount not to exceed $5,000. If the credit allowable for any taxable year exceeds the annual limit for that tax year, the taxpayer may carry forward and apply in the next 9 subsequent taxable years, the remaining portion, still subject to the annual limit. The carryover period shall not exceed 9 taxable years after the close of the taxable year during which the tax credit was first taken. The secretary or the secretary's designee shall determine whether the proposed substantial rehabilitation for which a complete application is received meets the standards in determining the awarding of the tax credit.

SECTION 5. Section 38R of chapter 63, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 37 and 38, the words "an amount not to exceed $50,000,000 per year" and inserting in place thereof the following words:-- an unlimited amount for gateway regions as defined in section 3A of chapter 23A, and an amount not to exceed $50,000,000 annually for all other municipalities combined.

SECTION 6. Said chapter 63 of the General Laws is hereby further amended by adding the following section:--

Section 82. The department of revenue shall have the authority to provide a credit for a corporation against its corporate income tax to foster job creation in gateway regions as defined in section 3A of chapter 23A. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the department of revenue. The amount of the credit available for a taxable year cannot exceed either $2,500 per new employee or 10 per cent of that corporation's state income tax.

A taxpayer or potential taxpayer who proposes a project to create new jobs in the commonwealth may apply to the department of revenue to enter into an agreement for a tax credit under this section. The commissioner of revenue shall prescribe the form of the application. After receipt of an application, the department may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following: (1) the taxpayer's project will create new jobs in the commonwealth; (2) the taxpayer's project is economically sound and will benefit the people of the commonwealth by increasing opportunities for employment and strengthening the economy of the commonwealth; and (3) receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

An agreement under this section shall include the following: (1) a detailed description of the project that is the subject of the agreement; (2) the term of the tax credit, which shall not exceed 10 years, and the first taxable year, or first calendar year that includes a tax period, for which the credit may be claimed; (3) a requirement that the taxpayer shall maintain operations at the project location for at least twice the number of years as the term of the tax credit; (4) letters of support from the chairman of selectmen or chairman of a town council or town manager of each of the gateway region's municipalities in which the jobs will be created; (5) a specific method for determining how many new employees are employed during the taxable year or during a calendar year that includes a tax period; (6) a requirement that the taxpayer annually shall report to the commissioner of revenue the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the commissioner may need; and (7) a provision requiring that the taxpayer shall not relocate employment positions from elsewhere to the commonwealth to the project site that is subject to the agreement.

If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the department of revenue may amend the agreement to reduce the percentage or term of the tax credit. The reduction in percentage or term may take effect in the immediate taxable year in which the commissioner of revenue notifies the taxpayer in writing of such failure. If the taxpayer fails to annually report any of the information required by this section within the time required by the commissioner, the reduction of the percentage or term shall take effect in the current taxable year. Projects that consist solely of point-of-final-purchase retail facilities, as defined by the department of revenue, are not eligible for a tax credit under this section; provided, however, that point-of-final-purchase retail facilities shall not be defined to include facilities that primarily sell locally produced or grown products. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of the non-retail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase retail facilities for the purposes of this section, and are eligible for tax credits under this section.

Financial statements and other information submitted to the department of revenue by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are public records; and the commissioner of revenue may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section.

If the owner or successor owner of the project that qualified for the tax credits does not continue operations in the gateway region for at least twice the number of years as the term of the tax credit, the taxpayer shall forfeit all credits taken during such term. In the event of the forfeiture of such credits, the department shall initiate proceedings against the taxpayer to recover wrongfully exempted taxes and the taxpayer shall promptly repay to the department any wrongfully exempted state income taxes. The forfeited amount of credits shall be deemed assessed on the date the department initiates proceedings against the taxpayer and the taxpayer shall promptly repay to the department any wrongfully exempted state income taxes. The secretary of housing and economic development may elect to waive enforcement of any such forfeiture based on a finding that the waiver is necessary to avert an imminent and demonstrable hardship to the taxpayer. If a waiver is granted, the recipient shall agree to contractual recapture provisions. The existence of any waiver granted under this section, the date of the granting of such waiver, and a brief summary of the reasons supporting the granting of such waiver shall be disclosed consistent with the provisions of this section.

(b) (1) All or any portion of tax credits issued in accordance with this section may be transferred, sold, or assigned to parties who are eligible under subsection (a).

(2) An owner or transferee desiring to make a transfer, sale, or assignment as described in paragraph (1) of subsection (b) shall submit to the commissioner a statement which describes the amount of tax credit for which such transfer, sale, or assignment of the tax credit is eligible. The owner shall provide to the commissioner appropriate information so that the tax credit can be properly allocated.

(3) In the event that recapture of tax credits is required, any statement submitted to the commissioner as provided in paragraph (2) of subsection (b) shall include the proportion of the tax credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.

(c) The department shall annually compile a report on the outcomes and effectiveness of the recapture provisions of this section, including but not limited to: (1) the total number of taxpayers receiving a tax credit under this section; (2) the total number of recipients in violation of this section; (3) the total number of completed recapture efforts; (4) the total number of recapture efforts initiated; and (5) the number of waivers granted. The report shall be a public record under clause Twenty-sixth of section 7 of chapter 4 and chapter 66.

(d) The commissioner, in consultation with the secretary of housing and economic development, shall promulgate regulations necessary for the administration of this section.

SECTION 7. Chapter 63 of the General Laws is hereby further amended by adding the following section:--

Section 38GG. (a) For the purposes of this section, unless the context clearly requires otherwise, the following words shall have the following meanings:-

“Commissioner”, the commissioner of revenue.

“Department”, the department of housing and economic development, or its successor agency.

“Gateway region”, a region as defined in section 3A of chapter 23A.

“Gateway region housing project”, a project to build, convert from non-residential uses, or rehabilitate housing in a gateway region;

“Secretary”, the secretary of housing and economic development.

(b) (1) There shall be a tax credit for gateway region housing projects. The department may authorize annually under this section the total sum of $25,000,000 collectively for the gateway regions as defined in section 3A of chapter 23A.

(2) The department shall allocate the total available gateway region housing project tax credit among as many qualified projects as fiscally feasible, with the goal of increasing market rate housing in the gateway regions.

(c) (1) The gateway region housing tax credit shall be taken against the taxes imposed under this chapter, claimed equally for 5 years, subtracted from the amount of state tax otherwise due for each taxable period and shall not be refundable. The tax credit shall not exceed the amount of state tax owed annually by the claimant.

(2) An owner of a gateway region housing project shall certify to the commissioner the amount of credit allocated to the owner. The owner shall provide to the commissioner appropriate information as needed by the commissioner.

(d) The owner of a gateway region housing project eligible for the gateway region housing tax credit shall submit, at the time of filing the project owner's state tax return, a letter of support from the chairman of selectmen or chairman of town council or town manager of the municipality in which the project is located, and a copy of the required statements issued by the department with respect to the gateway region's housing project. In the case of failure to attach the required statements, a credit under this section shall not be allowed with respect to such qualified gateway region housing project for that year until the copy is provided to the commissioner.

(e) The commissioner may promulgate regulations to require the filing of additional documentation necessary to determine the eligibility or accuracy of a tax credit claimed under this section.

(f) (1) All or any portion of tax credits issued in accordance with this section may be transferred, sold, or assigned to parties who are eligible under paragraph (1) of subsection (c).

(2) An owner or transferee desiring to make a transfer, sale, or assignment as described in paragraph (1) of subsection (f) shall submit to the commissioner a statement which describes the amount of gateway region housing tax credit for which such transfer, sale, or assignment of gateway regions housing tax credit is eligible. The owner shall provide to the commissioner appropriate information so that the housing tax credit can be properly allocated.

(3) In the event that recapture of gateway regions housing tax credits is required, any statement submitted to the commissioner as provided in paragraph (2) of subsection (f) shall include the proportion of the gateway region housing tax credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.

(4) The commissioner, in consultation with the department, shall promulgate regulations necessary for the administration of the provisions of paragraph (f).

(g) The department, in consultation with the commissioner, shall monitor and oversee compliance with the gateway regions housing tax credit program and may promulgate regulations requiring the filing of additional documentation deemed necessary to determine continuing eligibility for the gateway region housing tax credit. The department or the commissioner shall report specific occurrences of noncompliance to appropriate state, federal, and local authorities.