

**SENATE . . . . . No. 01637**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Steven A. Tolman*

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*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 emergency contracts..

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PETITION OF:

NAME:

*Steven A. Tolman*

DISTRICT/ADDRESS:

*Second Suffolk and Middlesex*

# SENATE . . . . . No. 01637

By Mr. Tolman, petition (accompanied by bill, Senate, No. 1637) of Tolman for legislation relative to emergency contracts for public construction projects [Joint Committee on State Administration and Regulatory Oversight].

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ SENATE  
□ , NO. 1465 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to emergency contracts..

*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. Chapter 149 of the General Laws is hereby amended in section 44A by  
2 striking paragraph (4) and inserting in place thereof the following:-

3 (4) In cases of extreme emergency, the awarding authority may, with the prior  
4 approval of the auditor, award a contract for that portion of the work necessary to preserve the  
5 health or safety of persons or property on the basis of such competitive bids or proposals as it can  
6 obtain in the time to care for the extreme emergency and without public opening of the bids or  
7 proposals. In no case shall such a contract be approved pursuant to this paragraph for any work  
8 that the auditor determines could have been avoided through regular maintenance. All contracts  
9 awarded pursuant to this paragraph shall be to remedy the immediate emergency only. Upon

10 executing a contract pursuant to this paragraph the awarding authority shall forward a copy of  
11 said contract to the auditor. The auditor shall cause a list of such contracts to be published  
12 monthly in the central register. Said list shall include the awarding authority and a brief  
13 description of the work covered by the contract.

14           Where the nature of the emergency prevents the awarding authority from obtaining the  
15 prior approval of the author, the awarding authority may contract for the necessary work without  
16 said prior approval; provided, however, that the approval of the auditor shall still be sought at the  
17 earliest possible time; and provided, further, that if the auditor at that time fails to approve the  
18 emergency determination the awarding authority shall promptly cease all work for which the  
19 emergency determination was denied. In such cases, the contractor shall be entitled to payment  
20 for the fair value of the labor and materials furnished prior to cessation of the work.

21           The auditor shall maintain a record of all contracts awarded pursuant to this subsection,  
22 containing a description of the circumstances and the reasons for the Commissioner's  
23 determination.