

**SENATE . . . . . No. 2405**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Stephen M. Brewer*

*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 relative to the financial condition of the town of Winchendon.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>

**SENATE . . . . . No. 2405**

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By Mr. Brewer, a petition (accompanied by bill, Senate, No. 2405) of Stephen M. Brewer, Anne M. Gobi and Jonathan D. Zlotnik (by vote of the town) for legislation relative to the financial condition of the town of Winchendon. Municipalities and Regional Government. [Local Approval Received.]

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Fourteen**

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An Act relative to the financial condition of the town of Winchendon.

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

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

3 SECTION 1. (a) Notwithstanding any general or special law, town charter provision or  
4 local bylaw to the contrary, the town of Winchendon, with the approval of the director of  
5 accounts in the department of revenue, in this act called the director, may borrow sums, as  
6 approved by the board of selectmen and the director, for the purpose of achieving a balanced  
7 budget for fiscal years 2015 and 2016; provided, however, that the aggregate of all such sums  
8 shall not exceed \$5,700,000, unless the director of accounts makes a separate finding that an  
9 additional \$300,000 is necessary for the town to achieve a balanced budget, in which case, the  
10 aggregate of all such sums shall not exceed \$6,000,000. The director may limit this borrowing to  
11 an amount or amounts less than the amount or amounts approved by the selectmen.  
12 Notwithstanding chapter 44A of the General Laws, bonds or notes issued under this act for the  
13 above purposes may be issued, with the approval of the director, for a term of not more than 10  
14 years and shall be backed by the full faith and credit of the town and the bonds and notes shall be  
15 eligible to be issued as qualified bonds or notes. Indebtedness incurred under this act shall not be  
16 included in determining the statutory limit of indebtedness of the town under section 10 of  
17 chapter 44 of the General Laws but, except as provided in this act, shall otherwise be subject to  
18 said chapter 44. Amounts raised to pay indebtedness incurred under authority of this section shall  
19 be subject to section 21C of chapter 59 of the General Laws.

20 (b) The maturities of each issue of bonds or notes authorized under this act, including any  
21 refunding bonds, may, if approved by the town officers authorized to issue and approve these  
22 bonds or notes, and by the director, be arranged so that for each issue the amounts payable in the  
23 several years for principal and interest combined are as nearly equal as is practicable in the  
24 opinion of the officers authorized to issue and approve the bonds or notes, or in the alternative, in  
25 accordance with a schedule providing for a more rapid amortization of principal.

26 (c) All proceeds of any loan authorized by this act shall be deposited in the general fund  
27 of the town of Winchendon.

28 (d) The director may establish rules and procedures that he considers appropriate relating  
29 to the accounting standards applicable to the town of Winchendon for the purposes of this act  
30 and otherwise.

31 SECTION 2. Notwithstanding any general or special law, town charter provision or local  
32 bylaw to the contrary, and as an alternative to borrowing authorized under section 1, the town of  
33 Winchendon may capitalize a sum of \$5,700,000, unless the director of accounts makes a  
34 separate finding that an additional \$300,000 is necessary for the town to achieve a balanced  
35 budget, in which case, the town may capitalize a sum not to exceed \$6,000,000, for the purpose  
36 stated in Section 1, the amortization amount, and fund the amortization amount in equal or  
37 decreasing annual installments over a period starting with fiscal year 2016 and not exceeding 10  
38 years. For fiscal year 2016, and fully subject to section 21C of chapter 59 of the General Laws,  
39 the board of assessors of the town of Winchendon, may, subject to the approval of the director,  
40 deduct such portion of the amortization amount as the director approves as consistent with this  
41 act, from the amount to be assessed under section 23 of chapter 59. Under the conditions  
42 imposed in this act, the assessors of the town of Winchendon may similarly deduct such portion  
43 of the amortized amount in any year until the amortization is completed not later than fiscal year  
44 2025.

45 SECTION 3. (a) With respect to fiscal year 2015, and in any other year in which bonds,  
46 notes or an amortization amount authorized under this act remain outstanding, not later than 10  
47 days after the adoption of the town budget, or July 1, whichever is earlier, the assessors and  
48 board of selectmen shall submit to the director a pro forma tax rate recapitulation for the  
49 following fiscal year, together with a copy of the adopted budget and such supporting revenue  
50 and expenditure information as the director may prescribe. The director shall ascertain whether  
51 the town budget for that fiscal year contains reasonable revenues from taxation and other sources  
52 to meet the appropriations and other amounts required by law to be raised under section 23 of  
53 chapter 59 of the General Laws, and the director shall report his findings to the selectmen and  
54 town manager. In no event shall the tax rate for the year be approved until submission of an  
55 annual tax rate recapitulation based on the actions the town has approved or taken to achieve a  
56 balanced budget.

57 (b) In any year during which bonds, notes or an amortization amount authorized under  
58 this act remain outstanding, the commissioner of revenue shall not certify the annual tax rate of  
59 the town of Winchendon until an audit report for the preceding fiscal year has been received and  
60 accepted by the director. The audit report shall be prepared by a certified public accountant in  
61 accordance with generally accepted auditing standards and shall include accompanying financial  
62 statements.

63 (c) In any year during which bonds, notes or an amortization amount authorized under  
64 this act remain outstanding, the town shall submit to the director quarterly reports presenting a  
65 budget to actual comparison of revenues and expenditures. The written reports shall be submitted  
66 within 30 days after the conclusion of each month and shall be in such form and include such  
67 information and detail as the director may prescribe.

68 (d) In any year during which bonds, notes or an amortization amount authorized by this  
69 act remain outstanding, the town shall not issue any bond, note or other form of indebtedness  
70 without written notification to, and the approval of, the director.

71 (e) In any year during which bonds, notes or an amortization amount authorized by this  
72 act remain outstanding, the town shall submit to the director a balance sheet, and have its free  
73 cash certified prior to the setting of the annual tax rate.

74 (f) Notwithstanding section 23 of chapter 59 of the General Laws, or any other general or  
75 special law to the contrary, the town of Winchendon shall use all free cash certified by the  
76 director of accounts as available on July 1 of each fiscal year that exceeds the debt service  
77 payable on bonds or notes issued, or amortization amount required, under this act for that year as  
78 a continuing appropriation during that year to reduce the principal owed on the bonds or notes  
79 issued under this act; provided, however, that if the town demonstrates to the satisfaction of the  
80 director of accounts that the use of free cash will be necessary to balance the budget in any fiscal  
81 year, the director may authorize use of the same for such purposes, subject to appropriation by  
82 town meeting.

83 (g) In any year in which bonds, notes or an amortization amount authorized under this act  
84 remain outstanding and the director determines it is appropriate to effectuate the purposes of this  
85 act, the director may waive any reporting, filing or approval requirements contained in this  
86 section.

87 SECTION 4. (a) The town accountant, or other official with responsibility for  
88 accounting matters, of the town of Winchendon shall have the powers and duties vested in this  
89 office by general or special law and in addition, the powers and duties provided in this act. To  
90 the extent not otherwise inconsistent with this act, the office of the town accountant shall also  
91 have the powers and duties provided by town charter and local by-law.

92 (b) The town accountant shall, in addition to his other duties, provide, at the written  
93 request of the town manager or upon majority vote and at the written request of either the board  
94 of selectmen or the finance committee, within a reasonable time period from such request, an  
95 oral or written assessment, or both, as the manager, selectmen or finance committee may request,  
96 of the current and future financial impact of the cost of any proposed appropriation, lease or  
97 contract arrangement for a term including more than 1 fiscal year, collective bargaining  
98 agreement or borrowing authorization, particularly, but not limited to, as such cost item would  
99 relate to the continuous provision of the existing level of municipal services. To the extent  
100 reasonable, this assessment shall include an analysis or other information of a financial nature as  
101 is specifically requested by the manager, selectmen or the finance committee. The assessment  
102 and analysis shall be provided by the town accountant as his professional opinion.

103 (c ) In any year during which bonds, notes or an amortization amount authorized under  
104 this act remain outstanding, and notwithstanding any general or special law, town charter  
105 provision or bylaw to the contrary, (1) prior to making an appointment to the position of town  
106 accountant, the board of selectmen shall consult with the town manager who shall provide a  
107 recommendation with respect to such appointment; provided, however, that while such board  
108 shall not make an appointment without the manager's recommendation, the same shall not be  
109 binding on said board; and, (2) the town manager shall also manage the daily reporting and  
110 supervision of the town accountant.

111 SECTION 5. (a) Notwithstanding any general or special law, town charter provision or  
112 local by-law to the contrary, but subject to section 21C of chapter 59 of the General Laws, the  
113 town of Winchendon shall establish a special reserve fund for extraordinary and unforeseen  
114 expenditures, which fund shall be called the Supplemental Reserve Fund to Ensure Fiscal  
115 Stability. This fund shall be separate and in addition to any amounts appropriated pursuant to  
116 section 6 of chapter 40 of the General Laws.

117 (b) Commencing with fiscal year 2016 and for all fiscal years thereafter, before the date  
118 when the tax rate is fixed, the board of assessors shall include in the amounts to be raised  
119 pursuant to section 23 of chapter 59 of the General Laws for such fiscal year an amount, the  
120 supplemental reserve fund sum, as determined under this section, such amount to be certified to  
121 the board of assessors by the town accountant.

122 (c) The supplemental reserve fund sum for fiscal year 2016 shall be an amount equal to  
123 0.25 per cent of the gross amount to be raised for the prior fiscal year as appearing on the town's  
124 tax rate recapitulation for that prior year; the supplemental reserve fund sum for fiscal year 2017  
125 shall be an amount equal to 0.50 per cent of the gross amount to be raised for the prior fiscal year  
126 as appearing on the town's tax rate recapitulation for that prior year; the supplemental reserve  
127 fund sum for fiscal year 2018 shall be an amount equal to 0.75 per cent of the gross amount to be  
128 raised for the prior fiscal year as appearing on the town's tax rate recapitulation for that prior  
129 year; the supplemental reserve fund sum for fiscal year 2019 shall be an amount equal to 1 per

130 cent of the gross amount to be raised for the prior fiscal year as appearing on the town's tax rate  
131 recapitulation for the prior year; and the supplemental reserve fund sum for fiscal year 2020 and  
132 each subsequent fiscal year during which bonds, notes or an amortization amount authorized  
133 under this act remain outstanding shall be an amount equal to 1.5 per cent of the gross amount to  
134 be raised for the prior fiscal year as appearing on the town's tax rate recapitulation for that prior  
135 year.

136 (d) In each year during which bonds, notes or an amortization amount authorized under  
137 this act remain outstanding the amount required to be raised for such supplemental reserve fund  
138 may be reduced by the amount, if any, remaining in the supplemental reserve fund established  
139 for the preceding year after all expenditures have been made therefrom as authorized in this act,  
140 and this remaining amount shall be retained in such supplemental reserve fund provided for the  
141 then current fiscal year.

142 (e) Transfers or expenditures may be made from the supplemental reserve fund of any  
143 fiscal year during that fiscal year only, and then only by town meeting upon the written request  
144 of the board of selectmen and town manager. Each such transfer or expenditure request by the  
145 selectmen and town manager shall be accompanied by a written statement detailing the amount  
146 and the reason for the transfer or expenditure. In any year during which bonds, notes or an  
147 amortization amount authorized under this act remain outstanding, except for such transfers or  
148 expenditures as are authorized in this act, there shall be no other transfers or reductions in the  
149 amount of this fund; provided further that beginning two years after the end of the fiscal year the  
150 bonds, notes or amortization authorized hereunder have been paid or completed, any funds  
151 remaining in said reserve fund shall be available for appropriation for any legal purpose.

152 (f) In any year in which bonds, notes or an amortization amount authorized under this act  
153 remain outstanding and the director determines it is appropriate to effectuate the purposes of this  
154 act, the director may waive in whole or in part the requirements of this section; and in any year  
155 during which bonds, notes or an amortization amount authorized under this act remain  
156 outstanding.

157 SECTION 6. No official of the town of Winchendon, except in the case of an emergency  
158 involving the health and safety of the people or their property, shall knowingly expend or cause  
159 to be expended in any fiscal year any sum in excess of that official's departmental or other  
160 governmental unit's appropriation duly made in accordance with the law, nor commit the town,  
161 nor cause it to be committed, to any obligation for the future payment of money in excess of that  
162 appropriation, with the exception of court judgments.

163 Any official who intentionally violates this section shall be personally liable to the town  
164 for any amounts expended in excess of an appropriation to the extent that the town does not  
165 recover these amounts from the person or persons to whom the amounts were paid. The superior  
166 court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims

167 brought by the town, or the attorney general, under this act and to order relief that the court finds  
168 appropriate to prevent further violations of this section. Notwithstanding any general or special  
169 law, town charter provision or bylaw to the contrary, any violation of this section shall be  
170 considered sufficient cause for removal by the school department or general government  
171 appointing authority.

172 SECTION 7. For the purposes of this act, the word "official" shall mean a permanent,  
173 temporary or acting town department head, including the members of the board of selectmen  
174 who recommend, authorize or approve the expenditure of funds, and the word "emergency" shall  
175 mean a major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake,  
176 storm or other catastrophe, whether natural or otherwise, which poses an unexpected and  
177 immediate threat to the health and safety of persons or property.

178 SECTION 8. At any time after July 1, 2017 and upon the request of the board of  
179 selectmen, if the director determines that the town of Winchendon has taken steps necessary to  
180 achieve long-term fiscal sustainability, the director, with notice to the commissioner of revenue,  
181 may terminate the financial reporting, filing and approval requirements contained in section 3  
182 and the supplemental reserve funding requirements and transfer or expenditure restrictions  
183 contained in section 5.

184 SECTION 9. Notwithstanding section 57C of chapter 59 of the General Laws in fiscal  
185 year 2015 an actual tax bill issued upon the establishment of the tax rate for the town of  
186 Winchendon for the fiscal year, after credit is given for a preliminary tax payment previously  
187 made, shall be due and payable in 2 installments. The first installment shall be due and payable  
188 on February 1, 2015, or 30 days after the actual real estate tax bills are mailed, whichever is later,  
189 and the second installment shall be due and payable on May 1, 2015, after which dates, if unpaid,  
190 they shall become delinquent.

191 SECTION 10. This act shall take effect upon its passage.