

HOUSE No. 861

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey N. Roy

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 assist municipal and district ratepayers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>Norman J. Orrall</i>	<i>12th Bristol</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>

HOUSE No. 861

By Mr. Roy of Franklin, a petition (accompanied by bill, House, No. 861) of Jeffrey N. Roy and others that the Executive Office of Energy and Environmental Affairs examine and consider costs associated with municipal and district water, wastewater and stormwater system improvements. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to assist municipal and district ratepayers.

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. Whereas, water, wastewater and stormwater systems are in need of major
2 improvements in order to continue to protect public health, safety and the environment; and

3 Whereas, the costs for these improvements are significant and increasing each year; and

4 Whereas, local ratepayers and taxpayers bear the majority of costs associated with
5 making these improvements as the Federal and State governments have reduced their level of
6 funding assistance to cities, towns and districts; and

7 Whereas, many of the costs associated with water, wastewater, and stormwater
8 improvements are due to regulatory demands by Federal and State agencies; and

9 Whereas, these regulatory demands on cities, towns and districts currently do not
10 consider compliance costs or assess the value of the benefits derived; and

11 Whereas, it is in the public interest to spend ratepayer and taxpayer funds wisely, and to
12 ensure the maximum benefits are derived for each dollar expended.

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

15 Notwithstanding the provisions of section 27C of chapter 29 of the General Laws, or any
16 other general or special law to the contrary, any proposal initiated by the Executive Office of
17 Energy and Environmental Affairs and its subordinate agencies, commissions, or boards
18 (collectively EOEEA) in the form of a rule, regulation or so-called guidance document or policy
19 resulting in the imposition of additional cost to a city or town shall be termed a “local mandate”.
20 Local mandates shall include but not be limited to any EOEEA initiated rule, regulation or so-
21 called guidance document or policy that: (1.) requires any city or town to undertake any service
22 or direct or indirect cost obligation, or to establish, expand or modify any existing activity in
23 such a way that results in the expenditure of funds or resources, or results in the diversion of
24 funds or resources from any existing activity. For the purposes of this section, the term “existing
25 activity” shall include any program or service lawfully undertaken by any city or town under the
26 authority of any law, special law, administrative rule or regulation or city or town charter, or; (2.)
27 relieves the state or a county from providing a service or program so that any city or town instead
28 incurs the direct or indirect cost of such service or program.

29 SECTION 2. No proposal initiated by the EOEEA in the form of a rule or regulation, or
30 so-called guidance document or policy, which pertains to water, wastewater, and/or stormwater,
31 shall become effective until a regulatory impact statement has been completed, made public
32 during the hearing process described in chapter 30A of the General Laws and filed with the

33 secretary of state. The regulatory impact statement shall: (a) identify the problem, issue or
34 deficiency addressed by the proposal; (b) identify the methodology or approach, including
35 identification of expert information and analysis used to address the problem, issue or deficiency;
36 (c) identify stakeholders who will be affected and to what extent by the proposal; (d) identify
37 when such proposal will become effective, when such proposal will be changed, if known, and
38 how and when the proposal will be reviewed in the future, if at all; (e) identify and describe the
39 immediate and long term financial impacts of the proposal on all stakeholders, including the
40 entity issuing the proposal, any affected private party or entity, the state, the cities and towns,
41 and the general public. Such financial impact statement shall consider administrative costs,
42 permitting costs, enforcement costs, capital costs, internal compliance costs, and indirect costs, if
43 any; (f) identify the fiscal effect on the public and private sectors for the first and second year of
44 the proposal's existence, and provide a projection of fiscal impact over the first five years of the
45 proposal's existence or, in the case of proposals affecting permits issued by the EOEEA, the term
46 of the permit; and (g) identify and describe, specifically, the benefits of the proposal including,
47 where possible, the financial value of these benefits. The secretary of administration and finance
48 shall adopt regulations to further define and implement the use of regulatory impact statements
49 by the EOEEA.

50 SECTION 3. The EOEEA shall maintain a list of stakeholders who have requested
51 preliminary notification of proposals made by said executive office and subordinate agencies;
52 such request may be renewed annually by persons or groups in December. No later than thirty
53 days prior to the notice of hearing described above, the EOEEA shall send a preliminary
54 notification of the proposal to each stakeholder on the list and to the Joint Legislative Committee
55 on Natural Resources, the Joint Legislative Committee on Local Affairs, the House and Senate

56 Committees on Ways & Means, the Office of the State Auditor and the Massachusetts Municipal
57 Association. The preliminary notification of the proposal shall (a) identify the proposal to be
58 noticed for hearing and the scope of the proposal, (b) provide the statutory authority for such
59 proposal, and (c) identify the person within the EOEEA responsible for the proposal and who can
60 be contacted for more information.

61 SECTION 4. No proposal initiated by the EOEEA in the form of a rule, regulation, or so
62 called guidance document or policy, which pertains to water, wastewater, and/or stormwater,
63 shall become effective until the EOEEA has complied with the provisions of Massachusetts
64 Administrative Procedures Act established under the provisions of Chapter 30A of the General
65 Laws. Any entity claiming to be aggrieved by lack of compliance with said chapter shall be
66 permitted to file a petition for relief with the superior court.