

SENATE No. 1391

The Commonwealth of Massachusetts

PRESENTED BY:

Mr. Baddour

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 Timely Decisions by Awarding Authorities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Steven A. Baddour	First Essex
Joseph F. Wagner	8th Hampden

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO TIMELY DECISIONS BY AWARDING AUTHORITIES.

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: Section 39P of Chapter 30 of the General Laws is hereby deleted and replaced with the
2 following new section:

3 Section 39P. Every contract subject to section thirty-nine M of this chapter or section forty-four
4 A of chapter one hundred forty-nine which requires the awarding authority, any official, its
5 architect or engineer to make a decision on interpretation of the specifications, approval of
6 equipment, material or any other approval, or progress of the work, shall require that the decision
7 be made promptly and, in any event, no later than fifteen days after the written submission for
8 decision; but if such decision requires extended investigation and study, the awarding authority,
9 the official, architect or engineer shall, within said fifteen days after the receipt of the
10 submission, give the party making the submission written notice of the reasons why the decision
11 cannot be made within the fifteen day period and the date by which the decision will be made.
12 The awarding authority shall designate an employee to be responsible for addressing inquiries
13 from aggrieved contractors regarding the status of such written submissions for decision and said
14 designee shall, upon written request, certify that all reasonable steps have been taken by the

15 awarding authority to expedite the decision and/or resolve the problem(s) which is (are) delaying
16 the work. Said certification shall be provided in writing within five business days of receiving
17 such written request from an aggrieved contractor. The awarding authority also shall implement
18 a reporting system which shall track such written submissions for decision and the awarding
19 authority's decision(s) thereon. The reporting system shall include the date each written
20 submission for decision was submitted, the date such decision was made and was provided to the
21 party submitting said written submission for decision, and the specific issue being addressed by
22 the decision. The reporting system shall also track the awarding authority's written notice(s)
23 providing reasons why a decision has not been made within the required fifteen days and shall
24 provide the final date such decision was made and provided to the party submitting said written
25 submission for decision. The awarding authority shall submit the reports pursuant to this section
26 on a quarterly basis, as well as a fiscal year end report not later than November 1 of each year, to
27 the clerks of the senate and house of representatives, the chairs of the house and senate
28 committees on ways and means, the senate and house chairs of the joint committees on
29 transportation and state administration and regulatory oversight, and the Inspector General. Said
30 Inspector General shall, pursuant to the powers granted by Chapter 12A, §9, make any
31 investigations, audits or reports regarding the information provided by said awarding authorities
32 as he or she deems necessary.