

SENATE No. 682

The Commonwealth of Massachusetts

PRESENTED BY:

Adam G. Hinds

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 establishing a public bank of Massachusetts.

PETITION OF:

NAME:

Adam G. Hinds

DISTRICT/ADDRESS:

Berkshire, Hampshire, Franklin and Hampden

SENATE No. 682

By Mr. Hinds, a petition (accompanied by bill, Senate, No. 682) of Adam G. Hinds for legislation to establish a public bank of Massachusetts. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act establishing a public bank of Massachusetts.

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. The General Laws are hereby amended by inserting after Chapter 40W the
2 following chapter:-

3 Chapter 40X: BANK OF MASSACHUSETTS

4 Section 1. For the purposes of this chapter the following words and terms shall, except
5 where the context clearly indicates otherwise, have the following meanings:

6 "CAPITAL PARTICPATION INSTRUMENTS", purchase of stock, both common and
7 preferred, convertible securities, warrants, subscriptions, options to acquire, capital loans, and
8 working capital or inventory loans, royalties, and other lawful derivations of the foregoing.

9 "Public Bank" or "Bank" or , the "Bank of Massachusetts "a state-chartered financial
10 institution able to make loans and float bond issues to protect and expand the quality of life and
11 economic prosperity of all Massachusetts residents, as defined in section 3.

12 “EQUITY INSTRUMENTS”, any of the following types of investment activity: (a) a
13 purchase of stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability
14 company membership interest; or (d) a loan made on such terms that it has sufficient
15 characteristics of equity.

16 “FINANCIAL PRODUCTS”, loans, equity investments and other similar financing
17 activities including, but not limited to, the purchase of loans, the provision of loan guarantees, or
18 the provision of surety bond guarantees.

19 “SMALL BUSINESS” a business entity, including its affiliates, that (a) is independently
20 owned and operated; (b) has a principal place of business in the commonwealth; and (c) would
21 be defined as a "small business" under applicable federal law, as established in the United States
22 Code and promulgated from time to time by the United States Small Business Administration.

23 “INFRASTRUCTURE” includes financing activities related to capital projects; public
24 buildings, structures, and public spaces and land; local roadways, bike paths, and pedestrian
25 walkways; public services such as police, fire, emergency health and disaster-related systems;
26 adaptation and resiliency in the face of climate change; farmland preservation; public land
27 management; modifications of public buildings and spaces for differently-abled residents; public
28 digital infrastructure inclusive of data, software and mechanisms including but not restricted to
29 wireless broadband infrastructure; wired broadband infrastructure; broadband infrastructure to
30 support other technologies, including telehealth, telemedicine, e-government, and educational
31 opportunities at home; unless clearly indicated otherwise or as defined by the Board of directors.

32 Section 2. The Bank shall foster economic development by providing capital access to
33 underbanked populations, industries, small-business, public-private partnerships or local

34 governments for development of infrastructure and business, incorporating broader public
35 benefits in the climate, equity, health, clean water, education.

36 The Bank will deliver outcomes to achieve the aforementioned goals including but not
37 restricted to the following specific outcomes:

38 To expand credit, liquidity and the supply of money, increasing local lending within
39 Massachusetts communities and regions that are expanding local businesses;

40 To reduce costs paid by Massachusetts towns, municipalities and counties for access to
41 capital;

42 To create and expand socially responsible enterprises that work toward Massachusetts
43 community needs and goals;

44 To offer Massachusetts INFRASTRUCTURE including but not restricted to financing for
45 communities' water, sewer, transportation, road, rail, bridge, electrical, cable, broadband,
46 telephone conduit and public utility loans;

47 To lessen stress on those who have to pay college loans by offering college debt
48 refinancing at lower rates for Massachusetts residents;

49 To provide growth capital for strategic, underfunded new industries in Massachusetts,

50 To reduce the tax burden of debt service costs in local towns and municipalities in
51 Massachusetts to pay for capital improvements by issuing and refinancing debt at lower interest
52 rates;

53 To lower inequality in the concentration of wealth in Massachusetts;

54 To provide affordable financial services and guidance to small businesses to convert to
55 inclusive employee ownership models;

56 To capitalize solar energy, wind energy and other renewable energy projects that reduce
57 carbon emissions in Massachusetts;

58 To provide higher returns than commercial banks on investments of taxpayer funds in
59 Massachusetts;

60 To provide programs to develop commercial and industrial enterprises that do not harm
61 the environment, raise carbon emissions or increase the rate of climate change in Massachusetts;

62 To provide greater income opportunities and affordable housing availability to enable
63 Massachusetts residents to obtain shelter to reduce homelessness.

64 Section 3. (a) The Bank shall be led by a Chief Executive Officer (CEO) and Chief
65 Operating Officer (COO), which shall be appointed by a majority vote of the Governor,
66 Massachusetts State Treasurer, and Secretary of the Commonwealth from a list of names
67 submitted by the Board of Directors as established in section 4.

68 (b)The CEO shall have an indefinite tenure and the COO shall be appointed for a ten (10)
69 year period, with the potential to be renewed once.

70 (c)The CEO and COO may only be removed from by vote of 2/3 of the members of the
71 Board of Directors, subject to providing “legitimate business grounds” at the least, in writing by
72 said authority including, but not limited to, insubordination, neglect of responsibilities, and lack
73 of productivity.

74 (d) The CEO shall also have the power to appoint or delegate the appointment of all other
75 Bank company employees.

76 (e) The Bank shall have a Chief Financial Officer (CFO), who shall be appointed by the
77 CEO subject to approval by the Bank Board of Directors. The CFO may only be removed only
78 by the CEO for just cause.

79 Section 4. (a) The Bank shall be governed and its corporate powers exercised by a Board
80 of Directors, which shall consist of 10 members, 1 of whom shall be the Massachusetts State
81 Treasurer & Receiver General who shall serve as chair, and 9 of whom shall be appointed by the
82 majority vote of a committee consisting of the governor, the senate president, the speaker of the
83 house of representatives, who will ensure 1 of each appointment from a major organization
84 representing the following groups: Minorities, Women, Low-income populations, Historically
85 Under-funded Towns or Municipalities, Emerging Industries, Institutions of Higher-learning and
86 Thought-leadership in Banking and ESG investment.

87 (b) Each member shall serve a term of 5 years, except that in making initial appointments
88 the committee shall appoint 2 members to serve for a term of 1 year, 2 members to serve for a
89 term of 2 years, 1 member to serve for a term of 3 years, 2 members to serve for a term of 4
90 years and 2 members to serve for a term of 5 years.

91 (c) A person appointed to fill a vacancy in the office of a member shall be appointed in a
92 like manner and shall serve for only the unexpired term. A member shall not be eligible for
93 reappointment. A member may only be removed from the member's appointment by the
94 governor for good cause. The members shall annually elect 1 director as vice-chair and designate
95 a secretary-treasurer who need not be a member. The secretary-treasurer shall keep a record of

96 the proceedings of the Bank and shall be the custodian of all books, documents and papers filed
97 with the bank, the minute books of the Bank and of its official seal.

98 (d) A minimum of 5 of the members of the Board shall constitute a quorum and 5
99 affirmative votes shall be necessary for the transaction of business or the exercise of a power or
100 function of the Board. Each member shall be entitled to reimbursement for the director's actual
101 and necessary expenses incurred in the performance of the director's official duties.

102 (e) The bank, its Board, officers and employees shall be subject to sections 1 to 4,
103 inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow from,
104 loan to, contract with or otherwise deal with a person in which a member of the Board of
105 Directors is interested or involved; provided, however, that such interest or involvement is
106 disclosed in advance to the Board and recorded in the minutes of the Board; provided, further,
107 that no member having such an interest or involvement may participate in a decision of the
108 Board relating to such person. Employment by the commonwealth or service in an agency of the
109 commonwealth shall not be deemed to be such an interest or involvement.

110 (f) The Board of Directors shall meet at least quarterly. Meetings shall be open to the
111 public and meeting minutes shall be posted publicly.

112 Section 5. The Bank shall operate as a capital support system . This capital support shall
113 in general, provide “CAPITAL PARTICPATION INSTRUMENTS”, “EQUITY
114 INSTRUMENTS”, “INFRASTRUCTURE” and “FINANCIAL PRODUCTS” .

115 The Bank shall provide support for underbanked populations, industries or local
116 governments for development of infrastructure and business, incorporating broader public
117 benefits in the climate, equity, health, clean water, education

118 The Bank shall establish Pledge and Credit Facilities.

119 The Bank shall have the authority to pledge its loans to the discount window of the Board
120 of Governors of the Federal Reserve System.

121 The Secretary may, subject to amounts provided in advance by appropriation Acts,
122 purchase obligations issued by Bank in the same manner and under the same requirements that
123 the Secretary purchases obligations under Federal Home Loan Mortgage Corporation Act.

124 The Bank shall ensure prudent leverage limitation and seek to maintain risk-based capital
125 at no less than ten (10) percent.

126 The Bank may also:

127 (i) Purchase interests in state-based participation loans made or held by other banks, other
128 financial institutions or other entities that meet underwriting standards accepted by state or
129 federal financial regulatory agencies; and

130 (ii) Make participation loans to qualified entities doing business in this State when the
131 loan originator is a private financial institution.

132 (iii) Buy and sell securities the Bank has issued or guaranteed or in which it has invested.

133 (iv) Guarantee securities in which it has invested in order to facilitate their sale.

134 The Bank shall invest its funds in conformity with the policies of the Board and
135 investment standards outline in Section 8 and Section 9.

136 Section 6. (a) The Bank shall upon its incorporation have such capital structure as the
137 Board shall deem adequate. Such capital structure may vary by the Board based on the
138 application and business plan submitted.

139 (b) The commonwealth or its agencies may capitalize the Bank with an initial investment
140 of capital in the range of \$2,000,000,000 as an equity investment from the pension fund or from
141 a direct legislative appropriation.

142 (c) The Massachusetts State Treasurer shall have oversight and supervisory authority
143 over the Bank in order to ensure the safe and sound operation of the PBANK. The Massachusetts
144 State Treasurer shall oversee and supervise the issuance of bonds by the PBANK, in order to
145 ensure the safe and sound financing of the PBANK. The Massachusetts State Treasurer may
146 consult with the Massachusetts Division of Banks and other state AGENCIES as deemed
147 appropriate.

148 (d) To meet the expenditures necessary in carrying out section 5, the State Treasurer
149 shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to
150 be specified by the governor from time to time but not exceeding, in the aggregate,
151 \$2,000,000,000. All such bonds issued by the commonwealth shall be designated on their face,
152 “An Act Establishing a Public Bank of Massachusetts” Bank and shall be issued for a maximum
153 term of years, not exceeding 10 years, as the governor may recommend to the general court
154 under section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.
155 The bonds shall be payable not later than DATE. All interest and payments on account of
156 principal on these obligations shall be payable from the General Fund. Bonds and interest

157 thereon issued under this section shall, notwithstanding any other provision of this act, be general
158 obligations of the commonwealth.

159 (e) The Bank may accept deposits of government assets and funds from any state public
160 institution. The Bank may pay interest on deposits of public funds and may offer other financial
161 products to the State Treasurer and other public institutions.

162 (f) The Bank shall receive as deposits all funds or property escheated to or subject to the
163 custodial taking of that state, which have been surrendered to the State Treasurer under
164 provisions of chapter 200A .

165 (g) The Bank may raise funds through a common stock offering or debt issuance to the
166 general public for the capitalization of the Bank or to facilitate continued growth.

167 (h) The Bank may receive any loan, grant, or award provided by federal or state
168 government programs, for the capitalization of Bank banking, investment activities or to
169 facilitate continued growth.

170 Section 7. (a) The Bank shall Undertake No Commercial or Investment Banking
171 Activities and shall not accept customer deposits nor engage in financial or investment banking
172 activities such as trust management or underwriting securities.

173 (b) The Bank may not merge with any privately owned enterprise or institution;

174 (c) The Bank may not capitalize projects whose borrowers have histories of human rights
175 abuse or other malfeasance.

176 Section 8. Within 180 days of enactment, the Board of Directors shall establish bylaws,
177 policies, and procedures governing the operations of Bank not addressed specifically by the
178 legislation.

179 Section 9. (a) The state auditor shall conduct an annual audit of the Bank in accordance
180 with generally accepted government auditing standards. The state auditor shall audit annually or
181 contract for an annual audit of the separate programs and funds administered by the PBANK.

182 (b) The auditor shall prepare an audit report that includes financial statements presented
183 in accordance with the audit and accounting guide for banks and savings institutions issued by
184 the American institute of certified public accountants. The auditor also shall prepare audited
185 financial statements for inclusion in the comprehensive annual financial report for the state. The
186 auditor shall report the results of the audit to the State Treasurer and to the legislative assembly.
187 The Bank shall pay the costs of the audit.

188 (c) The Commissioner of Banks, shall examine the Bank at least once each 24 months
189 and conduct any investigation of the Bank which may be necessary. The Commissioner shall
190 report the examination results, and the results of any necessary investigation, to the State
191 Treasurer as soon as practicable and to the General Court.

192 (d) In addition to its purposes under as a business corporation, the Bank shall have the
193 purpose of creating general public benefit that achieve the identified goals of the Bank in section
194 2. The Board will identify benefits that it is the purpose of the Bank to create in addition to its
195 purpose as a business corporation. The Board shall adopt a written benefit policy that includes
196 reporting metrics as well as procedures and file a copy of that policy with the Massachusetts
197 State Treasurer's office within 30 days after its adoption. Whenever a Board changes its benefit

198 policy, it shall file a copy of the new policy with the Massachusetts State Treasurer's office
199 within 30 days.

200 (e) The benefit policy shall include a statement that material, relevant, and decision-
201 useful sustainability factors related to the goals of the Bank have been or are regularly
202 considered by the PBANK, within the bounds of financial and fiduciary prudence, in evaluating
203 investment decisions. Such factors will be derived from industry accepted public benefit
204 guidelines such as United Nations Sustainable Development Goals and Sustainability
205 Accounting Standards Board (SASB) standards for impact.

206 (f) The Bank shall report to the Governor and the Legislature on the financial condition
207 and performance of the Bank and provide an analysis of the bank's effect on the State to ensure
208 that it is consistent with the bank's purposes set forth in section 1, particularly the bank's effect
209 on the public benefit goals derived from goals of the PBANK.

210 Section 10. Notwithstanding any other provision of law, transactions, funds and property
211 of the Bank are exempt from taxation within the State.

212 Section 11. The earnings and reserves of the Bank shall be the sole property of the
213 Bank and may not be construed to be Government funds, public funds, or appropriated money.