

**SENATE . . . . . No. 790**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Bruce E. Tarr**

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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 municipal management**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	First Essex and Middlesex
Susan C. Tucker	Second Essex and Middlesex
Richard R. Tisei	Middlesex and Essex
Michael R. Knapik	Second Hampden and Hampshire
Robert L. Hedlund	Plymouth and Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO MUNICIPAL MANAGEMENT.

*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 71 of the General Laws is hereby amended by striking Section  
2 37M and replacing it with the following:-

3           “Section 37M. (a) Notwithstanding the provisions of chapter forty-one or chapter seventy-one or  
4 any other special or general law to the contrary, any city or town which accepts the provisions of  
5 this section may consolidate administrative functions, including but not limited to financial,  
6 personnel, and maintenance functions, of the school committee with those of the city or town;  
7 provided, however, that such consolidation may occur only upon a majority vote of the local  
8 appropriating authority.

9           (b) Notwithstanding any general or special law to the contrary, a decision to consolidate  
10 functions pursuant to paragraph (a) of this section may be revoked by a majority vote of the local  
11 appropriating authority”.

12           **SECTION 2.** There is hereby established a special commission for the purpose of  
13 investigating potential options for the modification of the means by which municipal entities are

14 permitted to join the State Group Insurance Commission, the impacts of such options, the  
15 feasibility of such options, and their relative advantages and disadvantages.

16 Such commission shall consist of the Secretary of Administration and Finance or a designee who  
17 shall chair the commission, the executive director of the Group Insurance Commission, three  
18 representatives of municipal governments currently serving in an elected or appointed capacity  
19 and selected from a list provided by the Massachusetts Municipal Association by the governor,  
20 three representatives of public employee unions appointed by the governor, one member  
21 appointed by the governor, with actuarial experience in health insurance and three additional  
22 members appointed by the governor, one of whom shall represent the Massachusetts Taxpayers  
23 Foundation and two of whom shall represent the citizens of the Commonwealth.

24 Said Commission shall report its findings, together with legislative recommendations for changes  
25 and/or modifications, to the clerks of the House and Senate not later than six months following  
26 the passage of this act.

27 **SECTION 3.** (a) Methodology - Notwithstanding any general or special law to the  
28 contrary, the Secretary of Health and Human Services is hereby authorized and directed to, in  
29 consultation with the University of Massachusetts, change the methodology by which the  
30 Commonwealth seeks reimbursement from the federal Medicaid program for students educated  
31 pursuant to Chapter 71B of the General Laws from the current “per diem” format, so-called, to a  
32 “fee-for-service” format, so-called.

33 (b) Certification of Increased Reimbursement – Not later than thirty days following the initial  
34 receipt of funds pursuant to the “fee-for-service” methodology and in periods of not more than  
35 ninety days thereafter, the Secretary shall certify the amount by which reimbursement received

36 using this methodology exceeds the amount which would have otherwise been received, taking  
37 into account inflation and any other relevant factors. Such excess amount shall be deposited into  
38 the Special Education Assistance Fund established herein.

39 (c) There shall be established and set up on the books of the Commonwealth the Special  
40 Education Assistance Fund, into which shall be deposited sums resulting from federal Medicaid  
41 reimbursement pursuant to subsection (b) of this section.

42 Not less than sixty percent of the total amount in said fund shall be appropriated annually  
43 for the purposes of assisting municipalities and regional school districts with the cost of  
44 transportation of students provided pursuant to Chapter 71B of the General Laws. Said  
45 appropriation shall be made in a form designed to ensure equity among students and local  
46 educational authorities by utilizing a methodology based on a uniform percentage of eligible  
47 transportation costs to be compensated.

48 The remainder of said fund shall be available for appropriation in the form of grants of  
49 assistance to private institutions providing educational services pursuant to Chapter 766 of the  
50 Acts of 1972 and its implementing regulations.

51 (d) The Secretary of Health and Human Services, the Secretary of Administration and finance  
52 and the Commissioner of the Department of Education, in consultation with the University of  
53 Massachusetts, shall develop a system of acquiring from municipalities and regional school  
54 districts the information necessary to utilize a fee-for-service method of reimbursement from the  
55 federal Medicaid system following the passage of this act and prior to a request for a change in  
56 reimbursement methodology to the federal government.

57 Said system shall be designed to maximize efficiency and minimize the cost and burden  
58 of compliance for municipalities and regional school districts.

59 **SECTION 4.** Section 44A of Chapter 149 of the General Laws is hereby amended by  
60 striking Section 2 and replacing it with the following:-

61 “(2)(A) Every contract for the construction, reconstruction, installation, demolition, maintenance  
62 or repair of any building by a public agency estimated to cost less than \$5,000 shall conform to  
63 sound business practices.

64 (B) Every contract for the construction, reconstruction, installation, demolition, maintenance or  
65 repair of any building by a public agency estimated to cost not less than \$5,000 but not more  
66 than \$10,000 shall be awarded to the responsible person offering to perform the contract at the  
67 lowest price quotation; provided, however, that the public agency shall seek written price  
68 quotations from no fewer than 3 persons customarily providing the work for which the contract  
69 is being made available. When seeking written quotations the public agency shall make and keep  
70 a record of the names and addresses of all persons from whom price quotations were sought, the  
71 names of the persons submitting price quotations and the date and amount of each price  
72 quotation.

73 (C) Every contract for the construction, reconstruction, installation, demolition, maintenance or  
74 repair of any building estimated to cost more than \$10,000 but not more than \$25,000 shall be  
75 awarded to the responsible person offering to perform the contract at the lowest price. The public  
76 agency shall make public notification of the contract and shall seek written responses from  
77 persons who customarily perform such work. The public notification shall include a scope of  
78 work statement that defines the work to be performed and provides potential responders with

79 sufficient information regarding the objectives and requirements of the public agency and the  
80 time period within which the work is to be completed. For purposes of this subsection “public  
81 notification” shall include, but not necessarily be limited to, posting, no less than 2 weeks before  
82 the time specified in the notification for the receipt of responses, the contract and scope of work  
83 statement on the website of the public agency, on the COMPASS system, so-called, or in the  
84 central register established under section 20A of chapter 9, and in a conspicuous place in or near  
85 the primary office of the public agency.

86 (D) Every contract for the construction, reconstruction, installation, demolition, maintenance or  
87 repair of any building by a public agency estimated to cost more than \$25,000 but not more than  
88 \$100,000, except for a pumping station to be constructed as an integral part of a sewer  
89 construction or water construction project bid under the provisions of section 39M of chapter 30,  
90 shall be awarded to the lowest responsible and eligible bidder on the basis of competitive bids  
91 publicly opened and read in accordance with the procedure set forth in said section 39M of said  
92 chapter 30. The term “pumping station” as used in this section shall mean a building or other  
93 structure which houses solely pumps and appurtenant electrical and plumbing fixtures.

94 (E) Every contract for the construction, reconstruction, installation, demolition, maintenance or  
95 repair of any building by a public agency estimated to cost more than \$100,000, except for a  
96 pumping station to be constructed as an integral part of a sewer construction or water  
97 construction project bid under the provisions of section 39M of chapter 30, shall be awarded to  
98 the lowest responsible and eligible general bidder on the basis of competitive bids in accordance  
99 with the procedure set forth in section 44A to 44H, inclusive.

100 (F) When the general court has approved the use of an alternative mode of procurement of  
101 construction for a project pursuant to section 7E of chapter 29, the awarding authority  
102 responsible for procuring construction services for the project shall follow the policies and  
103 procedures of this section and of section 44B to 44H, inclusive, to the extent compatible with the  
104 mode of construction procurement selected.

105 (G) Notwithstanding paragraph (E), a public agency may undertake the procurement of modular  
106 buildings, in accordance with section 44E. A public agency may procure site work for modular  
107 buildings, including but not limited to, construction of foundations, installations, and attachment  
108 to external utilities, or any portion of site work, either in combination with the procurement of  
109 modular buildings pursuant to section 44E or on the basis of competitive bids pursuant to the  
110 paragraph (E). Notwithstanding the paragraph (E), a public agency may procure energy  
111 management services in accordance with section 11C of chapter 25A and regulations  
112 promulgated thereunder.”

113 **SECTION 7.** (a) Section 2 of Chapter 30B of the General Laws, as so appearing, is  
114 hereby amended, after line 36 by inserting the following:-

115 "Electric bidding", the electronic solicitation and receipt of offers to contract for supplies  
116 and services. Offers may be accepted and contracts may be entered by use of electronic bidding.

117 (b) Section 2 of Chapter 30B of the General Laws, as 50 appearing, is hereby amended, after line  
118 90 by inserting the following:-

119 "Reverse auction", a competitive online solicitation process for supplies and services in  
120 which vendors compete against each other online in real time in an open and interactive  
121 environment.

122 (c) Chapter 30B of the General Laws, as so appearing, is hereby amended by adding after  
123 Section 6 the following new section:-

124 “6A. (a) A chief procurement officer may enter into procurement contracts in the amount  
125 of \$25,000 or more utilizing reverse auctions for the acquisition of supplies and services. The  
126 reverse auction process shall include a specification of an opening date and time when real-time  
127 electronic bids may be accepted, and provide that the procedure shall remain open until the  
128 designated closing date and time.

129 (b) All bids on reverse auctions shall be posted electronically on the Internet, updated on  
130 a real-time basis, and shall allow registered bidders to lower the price of their bid below the  
131 lowest bid on the Internet.

132 (c) The chief procurement officer shall require vendors to register before the reverse  
133 auction opening date and time, and as part of the registration, agree to any terms and conditions  
134 and other requirements of the solicitation. The chief procurement officer may require vendors to  
135 be pre-qualified prior to placing bids in a reverse auction. The pre-qualification criteria shall  
136 include, but not be limited to statements of vendors: financial stability, past performances and  
137 professional references. The statement of qualifications shall be signed under pains and penalties  
138 of perjury.”

139 (d) Any mechanism, including but not limited to software, developed by the Operational  
140 Services Division for the purpose of conducting reverse auctions by the Commonwealth, shall  
141 provide for the utilization of such mechanism by municipalities.

142 (e) The Operational Services Division may assess any municipality utilizing such reverse auction  
143 mechanism a reasonable fee, calculated to compensate for any increased cost attributable to such  
144 utilization, which shall be credited to the general fund.