

By Mr. Walker of Salisbury, petition of Henry A. Walker that cities and towns be authorized to establish coastal zone commissions. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Six.

AN ACT AUTHORIZING CITIES AND TOWNS TO ESTABLISH COASTAL ZONE COMMISSIONS.

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 40 of the General Laws is hereby
2 amended by inserting after section 8H of said chapter 40 the
3 following new section:—

4 *Section 8I.* coastal zone commissions; establishment; powers
5 and duties. A city or town which accepts this section may
6 establish a coastal zone commission, hereinafter called the
7 commission, for the maintenance of coastal zone programs and
8 for the economic utilization and environmental protection of
9 coastal zone resources of said city or town. Such commission
10 shall conduct researches and surveys into its local coastal zone
11 areas and shall seek to coordinate the activities of unofficial
12 bodies organized for similar purposes, and may advertise,
13 prepare, print and distribute books, maps, charts, plans and
14 pamphlets which in its judgment it deems necessary for its work.
15 Among such plans may be a coastal zone economic utilization
16 and environmental protection plan which shall be, as far as
17 possible, consistent with the city or town master plan, any state
18 coastal zone plan and any regional plans relating to the same
19 areas. The commission may, from time to time, amend such plan.
20 Such plan shall show city and town coastal zone areas
21 recommended as suitable for coastal zone projects and any other
22 matters which may be necessary to promote, establish and
23 maintain adequate and economically feasible coastal zone
24 programs in cooperation with other city or town boards,

25 commissions or departments. Such plans shall show other areas
26 which public necessity requires to be acquired and retained for
27 future coastal zone programs. It shall keep accurate records of its
28 meetings and actions and shall file an annual report which shall
29 be printed in the city or town annual report. The commission may
30 appoint a director, clerks, consultants and other employees, and
31 may contract for materials and services within available funds
32 insofar as the same are not supplied by other departments. The
33 commission shall consist of not less than seven nor more than
34 eleven members: *One* shall be a member of the board of selectmen
35 or of the city council, as the case may be, *one* shall be the
36 chairman of the city or town conservation commission, if any;
37 *one* shall be the chairman of the city or town planning board, if
38 any; *one* shall be the chairman of the city or town industrial
39 development commission, if any; and the remaining members
40 shall, so far as is practicable, be experienced public persons who
41 may be qualified to represent such diverse groups or interests as
42 organized labor, commercial fisheries, public utilities, manufac-
43 turing or other commercial interests. The member representing
44 the board of selectmen or the city council, as the case may be,
45 shall serve as chairman. In cities the members shall be appointed
46 by the mayor, subject to the provisions of the city charter, except
47 that in cities having or operating under a Plan D or Plan E Form
48 of city charter, said appointments shall be by the city manager,
49 subject to the provisions of the charter; and in towns they shall be
50 appointed by the selectmen, excepting towns having a manager
51 form of government, in which towns appointments shall be
52 made by the town manager, subject to the approval of the
53 selectmen. When a commission is first established, the terms of
54 the members shall be for one, two or three years, and so arranged
55 that the terms of approximately one third of the members will
56 expire each year, and their successors shall be appointed for terms
57 of three years each. Any member of a commission so appointed
58 may, after a public hearing, if requested, be removed for cause by
59 the appointing authority. A vacancy occurring otherwise than by
60 expiration of a term shall be filled for the unexpired term in the
61 same manner as an original appointment.

62 (b) Said commission may establish a fee or fees and adopt
63 regulations for the management of coastal zone areas under its

64 charge subject to the approval of the city council in a city or the
65 selectmen in a town. Said fees and any funds from any related
66 source shall be paid into the treasury of the city or town and shall
67 be used solely for the expenses of maintenance and operation
68 incurred by said commission.

69 Said commission may receive gifts, bequests or devises of
70 personal property or interests in real property of the kinds
71 mentioned below in the name of the city or town, subject to the
72 approval of the city council in a city or of the selectmen in a town.
73 It may purchase interests in such land with sums available to it. If
74 insufficient funds are available or other reasons so require, a city
75 council or a town meeting may raise or transfer funds so that the
76 commission may acquire in the name of the city or town by
77 option, purchase, lease, or otherwise the fee in coastal zone areas
78 or conservation restrictions, easements or other contractual rights
79 including conveyances on conditions or with limitations or
80 reversion, as may be necessary to acquire, maintain, improve,
81 protect, limit the future use of or otherwise conserve and properly
82 utilize coastal zone areas within its city or town, and it shall
83 manage and control the same. Said commission may acquire by
84 gift, purchase grant, bequest, devise, lease or otherwise the fee in
85 coastal zone areas or any lesser interest, development right,
86 easement, covenant, or other contractual right including
87 conveyances on conditions or with limitations or reversions, as
88 may be necessary to acquire, maintain, improve, protect, limit the
89 future use of or otherwise conserve and properly utilize coastal
90 zone areas within their city or town, and shall manage and
91 control the same. For the purposes of this section a city or town
92 may, upon the written request of the commission, take by
93 eminent domain under chapter seventy-nine, the fee or any lesser
94 interest in any coastal zone land, or water area located in such
95 city or town, provided such taking has first been approved by a
96 two-thirds vote of the city council or a two-thirds vote of an
97 annual or special town meeting, which coastal zone area shall
98 thereupon be under the jurisdiction and control of the
99 commission. Upon a like vote, a city or town may expend monies
100 in the fund, if any, established under the provisions of clause 69 of
101 section five for the purpose of paying, in whole or in part, any
102 damages for which such city or town may be liable by reason of
103 any such taking.

104 The commission may adopt rules and regulations governing the
105 use of coastal zone areas under its control, and prescribe
106 penalties, not exceeding a fine of one hundred dollars, for any
107 violation thereof. No action taken under this section shall affect
108 the powers and duties of the state reclamation board or any
109 mosquito control or other project operating under or authorized
110 by chapter two hundred and fifty-two, or restrict any established
111 public access. Lands used for farming or agriculture, as defined in
112 section one A of chapter one hundred and twenty-eight, shall not
113 be taken by eminent domain under the authority of this section.

1 SECTION 2. Chapter 40, Section 5 of the General Laws is
2 hereby amended by inserting after clause 68 of said Section 5 the
3 following new clause: —

4 69. For the Maintenance of a coastal zone commission. In
5 addition a city or town may appropriate money in any year to a
6 coastal zone commission fund of which the treasurer shall be
7 custodian. He may deposit or invest the proceeds of said fund in
8 savings banks, trust companies incorporated under the laws of
9 the commonwealth, banking companies incorporated under the
10 laws of the commonwealth which are members of the Federal
11 Deposit Insurance Corporation, or national banks, or invest it in
12 paid up shares and accounts of and in cooperative banks or in
13 shares of savings and loan association or in shares of federal
14 savings and loan associations doing business in the com-
15 monwealth, and any income therefrom shall be credited to the
16 fund. Monies in the fund may be expended by said commission
17 for any purpose, other than a taking by eminent domain,
18 authorized by section eight H.