

Substituted by the House, on motion of Mr. Murphy of Peabody, for a bill with the same title (House, No. 2885). June 13.

**The Commonwealth of Massachusetts**

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

**AN ACT CONTROLLING EXECUTIVE IMPOUNDMENT OF APPROPRIATED FUNDS.**

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

1     *Whereas*, The deferred operation of this act would tend to defeat  
2 its purposes, which are to ensure the proper separation of powers  
3 between the executive and legislative branches of government, to  
4 ensure that the executive branch fully uses appropriations to carry  
5 out the purposes for which the appropriations were enacted, to  
6 prevent the executive branch from impounding appropriations in  
7 ways which obstruct or hinder achieving the purposes for which  
8 the appropriations were enacted, and to establish certain express  
9 procedures whereby reductions may be made in the expenditure of  
10 moneys out of sums appropriated by the general court, therefore it  
11 is hereby declared to be an emergency law, necessary for the  
12 immediate preservation of the public convenience.

*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 29 of the General Laws is hereby  
2 amended by inserting after section 14 the following section:

3     *Section 14A.* (a) All sums appropriated in any item of any act of  
4 appropriation shall, except as provided in subsection (e), be  
5 expended in full by the head of every executive office, department,  
6 agency or other undertaking, and by every other executive officer  
7 or employee of the commonwealth who, as such head, officer or  
8 employee, has responsibility for the expenditure of sums so

9 appropriated in any such item; provided, however, that no such  
10 sums shall be expended from any such item of appropriation for  
11 any purpose other than the purposes for which such item of  
12 appropriation has been appropriated.

13 (b) Whenever the governor makes a reasonable determination  
14 that all or part of any appropriation enacted by the general court  
15 will not be required to carry out the full purposes, objectives and  
16 programs for which it has been enacted, he shall, within fifteen  
17 days thereafter, notify the commissioner of administration who  
18 shall forthwith file with the clerk of the house of representatives  
19 and with the clerk of the senate a detailed report specifying:

20 (1) the line item number of the designated appropriation, the  
21 amount of the original appropriation and the year or years for  
22 which the appropriation was made;

23 (2) the amount of the appropriation which the governor intends  
24 not to expend;

25 (3) the secretariat, department, agency or other office which  
26 administers the appropriation;

27 (4) the governmental purposes, objectives and programs which  
28 the appropriation was enacted to achieve or implement;

29 (5) the then-current status of realization or implementation of  
30 the purposes, objectives and programs for which the appropriation  
31 was enacted;

32 (6) the reasons the governor believes that the full purposes,  
33 objectives and programs for which the appropriation has been  
34 enacted can be met without expending that part of the  
35 appropriation which he intends not to expend, and which report  
36 shall have appended thereto a detailed written statement by the  
37 head of the department, agency or undertaking or by other officer  
38 or employee who has responsibility for the expenditure of such  
39 appropriation regarding the effects that such person believes such  
40 reduction in expenditure would have on achieving the full  
41 purposes, objectives und programs for which the appropriation  
42 has been enacted; provided however, that before any such head of a  
43 department, agency or undertaking that is within any of the  
44 executive offices established by chapters six A and seven shall  
45 make such statement, it shall first be submitted to the secretary

46 having charge of such executive office, who shall review the same  
47 and append thereto his own statement of like kind, if any, and if  
48 there be none, he shall so signify in writing.

49 (c) The commissioner of administration shall distribute copies  
50 of his report referred to in subsection (b) on the same day to the  
51 speaker of the house of representatives and president of the senate  
52 unless the general court is not in session. Such report shall be  
53 printed as an official document of the general court and be  
54 distributed forthwith to all members thereof.

55 (d) If any information contained in a report transmitted under  
56 subsection (b) is subsequently revised, the commissioner of  
57 administration shall transmit a supplementary report, stating and  
58 explaining such revision, to the house of representatives and the  
59 senate in accordance with the procedures described in subsections  
60 (b) and (c).

61 (e) The full amount of every appropriation enacted by the  
62 general court for any year or years shall be expended by the head of  
63 every executive office, department, agency or other undertaking,  
64 and by every other executive officer or employee of the  
65 Commonwealth in accordance with such act of appropriation in  
66 the year or years for which it was appropriated unless the  
67 commissioner of administration shall have submitted a report to  
68 both branches of the general court in accordance with the  
69 provisions of subsections (b) and (c), and, a supplementary report,  
70 when required, in accordance with subsection (d), of this section  
71 with respect to any such appropriation or part thereof. If such a  
72 report has been submitted, and, revised when necessary pursuant  
73 to subsection (d), any such head, officer or employee need not  
74 expend such appropriation or part thereof which the governor has  
75 reasonably determined to be unnecessary to achieve the full  
76 purposes, objectives and programs for which the appropriation  
77 was enacted and as to which an appropriate report or appropriate  
78 reports have been submitted to the general court in accordance  
79 with subsections (b), (c) and (d).

80 (f) If the comptroller has information that the governor,  
81 commissioner of administration, any head of an executive office,  
82 department or undertaking has ordered, approved or permitted

83 not fully expending an appropriation and the commissioner of  
84 administration has failed to transmit an appropriate report or  
85 appropriate reports in accordance with the procedures described in  
86 subsections (b), (c) and (d), the comptroller shall file a report of  
87 such information, within two weeks of his securing it, with the  
88 clerk of the house of representatives and the clerk of the senate.  
89 Such report shall be printed as an official document of the general  
90 court and be distributed forthwith to all members thereof.

91 (g) Within forty-five days after the commencement of each  
92 fiscal year, the head of every executive office, department, and  
93 undertaking to which the provisions of section nine B apply shall  
94 submit to the commissioner of administration a spending plan for  
95 such fiscal year, which spending plan shall set forth, on a month-  
96 by-month basis, the rate of expenditure, out of the sums made  
97 available to it by appropriation or otherwise, required to carry out  
98 the purposes, objectives and programs for which such sums have  
99 been made available; provided, that such spending plan and any  
100 amendments thereto shall provide for the expenditure of sums  
101 equal to but not in excess of such sums so made available except to  
102 the extent, and only to the extent, that reductions in any such  
103 expenditures shall have been made pursuant to subsection (e).  
104 Such plan may be amended from time to time by the appropriate  
105 head of any executive office, department or undertaking and, if so  
106 amended, shall be submitted to the commissioner of administra-  
107 tion as aforesaid. Every allotment required to be made pursuant to  
108 section nine B shall be made in conformity with the applicable  
109 spending plan as amended from time to time, and every such  
110 allotment shall be made consistent with the purpose of giving effect  
111 to this subsection (g).

112 (h) Any person may file a civil action in the supreme judicial  
113 court or the superior court to enforce any provision of this section  
114 and such person may join in such action claims with respect to any  
115 violation of this section. The court shall enter in such civil action,  
116 against the appropriate officers, employees, departments or  
117 agencies of the Commonwealth or both such officers, employees,  
118 departments and agencies, any decree, judgment or order which  
119 may be necessary or appropriate to ensure that the provisions of

120 this section are fully complied with, notwithstanding any law to the  
121 contrary which may provide for the reversion of unexpended  
122 appropriations at the end of a fiscal year or that may otherwise  
123 restrict the expenditure of appropriations.

124 (i) Anything in the foregoing to the contrary notwithstanding,  
125 the provisions of this section and of section nine B shall not apply  
126 to any governing board of institutions of higher education or to  
127 any such institution under the jurisdiction of any such board.

1 SECTION 2. Chapter 29 of the General Laws is hereby  
2 amended by striking out section 9C, inserted by section 3F of  
3 chapter 283 of the acts of 1976, and inserting in place thereof the  
4 following section:

5 *Section 9C.* Whenever, in the opinion of the commissioner of  
6 administration, available revenues as determined by him from time  
7 to time during any fiscal year under the provisions of section five B  
8 will be insufficient to meet all of the expenditures authorized to be  
9 made from any fund, whether by appropriation or distribution, he  
10 shall immediately notify the governor and the house and senate  
11 committees on ways and means of the amount of such probable  
12 deficiency of revenue and the governor within fifteen days of such  
13 notification, shall submit to the general court specific proposals to  
14 raise additional revenues by a total amount equal to such  
15 deficiency; provided, however, that nothing contained in this  
16 section shall be deemed to prevent the governor from recommen-  
17 ding to the general court that any existing act of appropriation be  
18 reduced or otherwise amended.





