

By Mr. Manning of Milton, petition of M. Joseph Manning that the Commonwealth be authorized to indemnify cities and towns in certain tort actions. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT AUTHORIZING THE COMMONWEALTH TO INDEMNIFY CITIES AND TOWNS IN CERTAIN TORT ACTIONS.

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

1 Chapter 258 of the General Laws, as appearing in the 1986
2 Official Edition, is hereby amended by inserting after section 13,
3 the following section: —

4 Section 14. There is established and set up on the books of the
5 Commonwealth a separate fund, consisting of monies appropri-
6 ated by the General Court and from other sources as from time
7 to time may come into it or be allocated thereto, known as the
8 Municipal Tort Liability Indemnification Fund. The purpose of
9 the fund shall be to maintain a reserve which shall be used only
10 for the purposes set forth in this section.

11 Whenever any city or town shall be found liable by a court of
12 competent jurisdiction and after a final judgment rendered in any
13 tort action, or after a written agreement or settlement is reached
14 by all of the parties involved, the executive officer of a public
15 employer may make written application to the secretary of
16 administration, upon such form as he may prescribe, who may
17 make an allocation from the fund in accordance with the following
18 procedure and conditions: —

19 1) The secretary shall forthwith refer said application together
20 with such supporting documentation as he may require, to the
21 attorney general for his informal opinion in the matter.

22 2) The secretary shall set forth, in such rules and regulations

23 as he deems necessary to carry out the provisions of this section,
24 standards and guidelines for the cities and towns in order to be
25 eligible for such allocations. Said regulations shall provide that
26 said allocation may pay for all or a portion of the judgment or
27 settlement agreement in the discretion of the said secretary in
28 accordance with the sums available in the said fund.

29 3) Said secretary may authorize a city or town to borrow, at
30 one time or from time to time, from the said fund for the purpose
31 of paying all or a portion of a judgment against said city or town,
32 or to pay for a settlement agreement involving said city or town.
33 Said loan may be repaid on such terms as the secretary shall
34 determine, but not for more than five years from its creation. The
35 amounts repaid annually shall be as nearly equal from year to year
36 as practicable in the opinion of the executive officer or officers
37 of the city or town, or shall be paid in accordance with a schedule
38 arranged by the said officials with the lending authority providing
39 for a more rapid amortization of the loan balance.

40 4) Said secretary shall make a determination, after consultation
41 with the attorney general, that the municipal tort liability was
42 incurred even though the municipality complied with all
43 reasonable standards of law and with due regard to constitutional
44 rights of claimants under the civil rights laws of the Common-
45 wealth or the federal government. Said secretary shall consider
46 the negligence or wrongful conduct of the municipality or public
47 employees involved which caused the personal injury, death or
48 property damages to make a written report thereon to said
49 municipality based upon the said consultation with the attorney
50 general. If the municipality or the public employees involved are
51 found to be grossly negligent and not in accordance with the
52 provisions of section two of this Chapter, no allocation shall be
53 made to said city or town from said fund. Said secretary may,
54 however, make an allocation to such city or town if it agrees in
55 writing with the Commonwealth, to take such corrective action
56 so that no similar incident may arise in the future. No allocations
57 shall be made from said fund until the said secretary in
58 consultation with the attorney general, is satisfied that the
59 corrective action set forth in the agreement has taken place or that
60 no similar incident will occur in the future.

61 5) The state treasurer shall deduct and withhold the amount
62 of principal due in any given year of the loan by reducing the
63 financial assistance which would otherwise be due to a city or town
64 under this section in accordance with the provisions of section
65 twenty-five A of Chapter fifty-eight of the General Laws.

The first of these is the fact that the
 government has been unable to raise
 the necessary funds to meet its
 obligations. This is due to a
 variety of causes, including the
 high cost of the war, the
 depreciation of the paper money
 issued, and the refusal of the
 public to purchase the new
 issues. The result has been a
 severe financial crisis, and the
 government has been forced to
 resort to extraordinary measures
 to meet its needs. These
 measures have included the
 suspension of the gold standard,
 the issue of new paper money,
 and the imposition of a
 tax on the sale of land.
 The government has also
 been forced to borrow money
 from foreign countries, and
 to suspend the payment of
 its foreign debts. These
 measures have had a
 disastrous effect on the
 economy, and have led to
 a general depression.
 The government has also
 been forced to suspend the
 writ of *habeas corpus*, and
 to suspend the rights of
 the press. These measures
 have been justified by the
 government as necessary to
 maintain order and to
 meet the needs of the
 country. However, they have
 also led to a general
 feeling of discontent and
 a loss of confidence in the
 government.