

By Mr. Demers of Chicopee, petition of Richard H. Demers, O. Roland Orlandi and another that cities and towns be authorized to establish resource recovery commissions. Local Affairs.

The Commonwealth of Massachusetts

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

AN ACT AUTHORIZING CITIES AND TOWNS TO ESTABLISH RESOURCE RECOVERY 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 8E of said chapter 40 the
3 following new section:—

4 *Section 8EE.* A city or town which accepts this section may
5 establish a resource recovery commission, hereinafter called the
6 commission, for the promotion and development of resource
7 recovery programs and for the economic utilization of reclaimed
8 resources of said city or town. Such commission shall conduct
9 researches into its local resource recovery areas and products
10 and shall seek to coordinate the activities of unofficial bodies
11 organized for similar purposes, and may advertise, prepare,
12 print and distribute books, maps, charts, plans and pamphlets
13 which in its judgment it deems necessary for its work. Among
14 such plans may be a resource recovery utilization plan which
15 shall be, as far as possible, consistent with the city or town
16 master plan, the state solid waste plan and any regional plans
17 relating to the same area. The commission may, from time to
18 time, amend such plan. Such plan shall show schedules for
19 resource recovery efforts, city and town land areas recommend-
20 ed as suitable for resource recovery projects, including but not
21 limited to, resource recycling, resource transfer stations,
22 resource recovery installations and energy conservation plans

23 and projects and any other matters which may be necessary to
24 promote, establish and maintain adequate and economically
25 feasible resource recovery programs in cooperation with other
26 city or town boards, commissions or departments. Such plans
27 shall show other areas which public necessity requires to be
28 acquired and retained for future resource recovery programs. It
29 shall keep accurate records of its meetings and actions and shall
30 file an annual report which shall be printed in the city or town
31 annual report. The commission may appoint a director, clerks,
32 consultants and other employees, and may contract for materials
33 and services within available funds insofar as the same are not
34 supplied by other departments. The commission shall consist of
35 not less than three nor more than seven members. In cities the
36 members shall be appointed by the mayor, subject to the
37 provisions of the city charter, except that in cities having or
38 operating under a Plan D or Plan E form of city charter, said
39 appointments shall be by the city manager, subject to the
40 provisions of the charter; and in town they shall be appointed by
41 the selectmen, excepting towns having a manager form of
42 government, in which towns appointments shall be made by the
43 town manager, subject to the approval of the selectmen. When a
44 commission is first established, the terms of the members shall
45 be for one, two or three years, and so arranged that the terms of
46 approximately one third of the members will expire each year,
47 and their successors shall be appointed for terms of three years
48 each. Any member of a commission so appointed may, after a
49 public hearing, if requested be removed for cause by the
50 appointing authority. A vacancy occurring otherwise than by
51 expiration of a term shall in a city be filled for the unexpired
52 term in the same manner as an original appointment, and in a
53 town in the manner provided in section eleven of chapter forty-
54 one. Said commission may receive gifts, bequests or devises of
55 personal property or interests in real property of the kinds
56 mentioned below in the name of the city or town, subject to the
57 approval of the city council in a city or of the selectmen in a
58 town. It may purchase interests in such land with sums available
59 to it. If insufficient funds are available or other reasons so
60 require, a city council or a town meeting may raise or transfer

61 funds so that the commission may acquire in the name of the
62 city or town by option, purchase, lease or otherwise the fee in
63 such land or conservation restrictions, easements or other
64 contractual rights including conveyances on conditions or with
65 limitations or reversions, as may be necessary to acquire,
66 maintain, improve, protect, limit the future use of or otherwise
67 conserve and properly utilize land areas within its city or town,
68 and it shall manage and control the same. Said commission may
69 acquire by gift, purchase, grant, bequest, devise, lease or
70 otherwise the fee in such land or any lesser interest, development
71 right, easement, covenant, or other contractual right including
72 conveyances on conditions or with limitations or reversions, as
73 may be necessary to acquire, maintain, improve, protect, limit
74 the future use of or otherwise conserve and properly utilize land
75 areas within their city or town, and shall manage and control the
76 same. For the purposes of this section a city or town may, upon
77 the written request of the commission, take by eminent domain
78 under chapter seventy-nine, the fee or any lesser interest in any
79 land located in such city or town, provided such taking has first
80 been approved by a two-thirds vote of the city council or a two-
81 thirds vote of an annual or special town meeting, which land
82 shall thereupon be under the jurisdiction and control of the
83 commission. Upon a like vote, a city or town may expend
84 monies in the fund, if any, established under the provisions of
85 clause 66 of section five for the purpose of paying, in whole or in
86 part; any damages for which such city or town may be liable by
87 reason of any such taking. The commission may adopt rules and
88 regulations governing the use of land under its control, and
89 prescribe penalties, not exceeding a fine of one hundred dollars,
90 for any violation thereof. No action taken under this section
91 shall affect the powers and duties of the state reclamation board
92 or any mosquito control or other project operating under or
93 authorized by chapter two hundred and fifty-two, or restrict any
94 established public access. Lands used for farming or agriculture,
95 as defined in section one A of chapter one hundred and twenty-
96 eight, shall not be taken by eminent domain under the authority
97 of this section.

1 SECTION 2. Chapter 40, Section 5 of the General Laws is
2 hereby amended by inserting after clause (65) of said Section 5
3 the following new clause:—

4 (66) For the maintenance of a resource recovery commission.
5 In addition a city or town may appropriate money in any year to
6 a resource recovery 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 Corporation, or national banks, or invest it in paid up
12 shares and accounts of and in cooperative banks or in shares of
13 savings and loan associations or in shares of federal savings and
14 loan associations doing business in the commonwealth, and any
15 income therefrom shall be credited to the fund. Monies in the
16 fund may be expended by said commission for any purpose,
17 other than a taking by eminent domain, authorized by section
18 eightEE.