HOUSE . . . . . No. 2661

By Mr. Natsios of Holliston, petition of Andrew S. Natsios and others relative to establishing a municipal qualified bond act. Local Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT ESTABLISHING THE QUALIFIED BOND ACT.

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

1 The General Laws are hereby amended by inserting after chapter
2 44 the following chapter: —

3 **CHAPTER 44A**
4 **QUALIFIED BOND ACT**

5 *Section 1.* For the purposes of this chapter, unless the context
6 clearly requires a different meaning:
7 a. "Board" means the Qualified Bond Board established in sec-
8 tion 2.
9 b. "Debt service" means and includes payments of principal and
10 interest upon qualified bonds issued pursuant to the terms of this
11 chapter.
12 c. "Paying agent" means any bank, trust company or national
13 banking association having the power to accept and administer
14 trusts, named or designated in any qualified bond of a city or trusts,
15 named or designated in any qualified bond of a city or town as the
16 agent for the payment of the principal of and interest thereon.
17 d. "Qualified bonds" means those bonds of a city or town author-
18 ized and issued in conformity with the provisions of this chapter.
19 e. "State local aid payments" means those funds distributed by
20 the Commonwealth to cities and towns out of commonwealth
21 revenue.

22 *Section 2.* There shall be a qualified bond board consisting of
23 the Secretary of Administration and Finance or his designee, the
24 secretary of the department of communities and development or
25 his designee, and one person with experience in municipal affairs
26 appointed by the Governor for a term of three years. The Governor
27 shall fill any vacancy in the latter position by appointment.
28 The board shall be subject to the call of the Secretary of Admin-
29 istration and Finance or his designee. The votes of at least two
30 members of the board shall be required for the board to take any
31 action specified in this chapter.
32 The member appointed by the Governor shall serve without
33 compensation, but shall receive his necessary expenses incurred in
34 the discharge of his official duties.
35 *Section 3.* Bonds issued by any city or town pursuant to provi-
36 sions of this chapter shall be "qualified bonds" and shall be entitled
37 to the benefit of the provisions of this chapter.
38 *Section 4.* Whenever a city or town authorizes the issuance of
39 bonds to finance any capital improvement or purchase property
40 which it may lawfully make or acquire, the chief administrative
41 officer may file an application and a certified copy of the authoriza-
42 tion with the board to qualify the bonds pursuant to the provisions
43 of this chapter.
44 *Section 5.* Upon receipt of any such application, the board shall
45 cause an investigation to be made. It shall consider such factors as
46 the need for the facilities to be financed from the proceeds of the
47 proposed qualified bonds, the ability of the city or town to supply
48 other essential public improvements and services and during the
49 ensuing 10 years to pay punctually the principal and interest on its
50 debts, the reasonableness of the amounts to be expended for each
51 of the purposes or improvements to be financed pursuant to such
52 bonds, the amount of state local aid payments likely to be made to
53 the city or town in comparison with the payments to be made on
54 the proposed bonds, and such other factors as the board may deem
55 necessary.
56 *Section 6.* If such investigation shows to the satisfaction of the
57 board that the city or town should be entitled to issue qualified
58 bonds pursuant to the provisions of this chapter, the board by
59 resolution may determine that the city or town is entitled to issue
60 qualified bonds. In considering any request submitted to it and
61 before endorsing its consent thereon, the board may require any
62 city or town to adopt resolutions restricting or limiting any future

63 proceedings with respect to the authorization of bonds or other
64 matters the board finds may affect any estimate made or to be
65 made by it in accordance with Section 5. Every resolution so
66 adopted shall constitute a valid and binding obligation of the city
67 or town running to and enforceable by, and releasable by the
68 board.

69 *Section 7.* Within 60 days after the submission to it of an appli-
70 cation under Section 5, the board shall authorize the issuance of
71 qualified bonds, if it is satisfied that the issuance of qualified bonds
72 is appropriate. The authorization shall be recorded in a resolution
73 adopted by the board. If the board is not so satisfied, it shall so
74 indicate by the adoption within this 60 day period of a resolution
75 stating its disapproval of the request. Failure to adopt an authoriz-
76 ing resolution within this 60 day period shall be a denial of the
77 application.

78 *Section 8.* If the city or town determines by resolution that a
79 maturity schedule for its qualified bonds other than the maturity
80 schedule approved by the board is in the best interest of the city or
81 town, it may file an application to the board setting forth such
82 belief and the grounds therefor and requesting approval of the
83 schedule of maturities for such qualified bonds set forth in the
84 application. Within 60 days after submission to the board of such
85 application, the board shall cause its approval to be endorsed on
86 the application if it shall be satisfied, and shall record by resolution
87 its findings that the issuance of the bonds pursuant to the revised
88 maturity schedule in such application would not materially impair
89 the credit of the city or town or substantially reduce its ability
90 during the ensuing 10 years, to pay punctually the principal of and
91 interest on its debts and supply essential public improvements and
92 services. If the board is not so satisfied, it shall cause its disapproval
93 to be endorsed on the application within said period of 60 days.
94 Failure to record the board's endorsement by resolution within the
95 60 day period shall be deemed a denial of application for revision.

96 *Section 9.* All qualified bonds when issued shall contain a recital
97 to the effect that they are issued pursuant to Chapter 44A and are
98 entitled to the benefits of the provisions of this chapter. Qualified
99 bonds shall mature not later than 30 years from their date of
100 issuance without regard to any limitation as to maturities or

amounts of annual installments for bonds provided in any other law.

Section 10. The proceedings of the city or town authorizing the issuance of qualified bonds may contain such covenants and provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants restricting the issuance of additional qualified bonds.

Section 11. Any city or town which has authorized qualified bonds may issue bond anticipation notes, hereinafter called "notes", in anticipation of the issuance of permanent qualified bonds to the extent permitted by law, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the board to insure that funds are borrowed only as needed to meet required payments for construction, reconstruction, development, extension, improvement, or acquisition of the facilities or improvements to be financed by the issuance of permanent qualified bonds.

Section 12. Each city or town which issues qualified bonds shall certify to the State Treasurer the name and address of the paying agent, the maturity schedule, interest rate and dates of payment of debt service on such qualified bonds within 10 days after the date of issuance of such qualified bonds.

Section 13. After receipt of such certificate, the State Treasurer shall withhold from state local aid payments payable to that city or town an amount sufficient to pay the debt service on such qualified bonds as the same shall mature and become due. The State Treasurer shall, on or before each principal and interest payment date, forward such withheld amounts to the paying agent for such qualified bonds for deposit to the account established with such paying agent for the purpose of paying the debt service on such qualified bonds.

Section 14. From the time withheld by the State Treasurer all such state and local aid payments withheld and paid or to be paid to and held by the paying agent shall be exempt from being levied upon, taken sequestered or applied toward paying the debts of the city or town other than for payment of debt service on such qualified bonds. From the time withheld by the State Treasurer the

139 state and local aid payments withheld and paid or to be paid to the
140 paying agent shall be deemed to be held in trust for the sole purpose
141 of paying the debt service on such qualified bonds.
142 *Section 15.* The Commonwealth hereby covenants with the pur-
143 chasers, holders and owners, from time to time, of qualified bonds
144 that it will not repeal, revoke, rescind, modify or amend the provi-
145 sions of sections 12-14 so as to create any lien or charge on or
146 pledge, assignment, diversion, withholding payment or other use
147 of or deduction from any state local aid payment to be apportioned
148 and paid to any paying agent or qualified bonds which is prior in
149 time or superior in right to the payment required by sections 12-14
150 of this section. However, nothing herein contained shall be deemed
151 or construed to require the commonwealth to continue to make
152 state local aid payments or to limit or prohibit the commonwealth
153 from repealing or amending any law heretofore or hereinafter
154 enacted for the payment or apportionment of local aid of the
155 manner, time, or amount thereof.
156 *Section 16.* The certification to the State Treasurer as to amount
157 payable in any year for debt service on such qualified bonds shall
158 be fully conclusive as to such qualified bonds from and after the
159 time of issuance of such qualified bonds notwithstanding any
160 irregularity, omission or failure as to compliance with any of the
161 provisions of this chapter with respect to such qualified bonds,
162 provided that such qualified bonds contain a recital to the effect
163 that they are entitled to the benefits of the provisions of this
164 chapter. All persons shall be forever estopped from denying that
165 such qualified bonds are entitled to the benefits of the provisions of
166 this chapter.
167 *Section 17.* Nothing contained in this chapter shall be construed
168 to relieve any city or town of the obligation imposed on it by law to
169 include in its annual budget amounts necessary to pay, in each
170 year, the principal and interest maturing and becoming due on any
171 qualified bonds issued by such city or town. To the extent of the
172 amounts withheld from state local aid payments payable to such
173 city or town and forwarded to the paying agent for such qualified
174 bonds pursuant to Section 13, such budgeted amounts, to the
175 extent not needed to pay debt service on such qualified bonds, may
176 be applied to the payment of the operating expenses of such city or

177 town for such year. In any year in which state local aid payments
178 are not appropriated or such appropriation is insufficient to pay
179 the debt service maturing and becoming due during that year, such
180 budgeted amounts shall be used to pay all of or the portion not paid
181 by the State Treasurer of the debt service maturing and becoming
182 due in such year on such qualified bonds of the city or town.
183 *Section 18.* The provisions of this chapter shall not be construed
184 to prohibit any city or town from applying for authorization to
185 issue qualified bonds pursuant to the terms of this chapter in
186 connection with the construction, reconstruction, development,
187 extension, improvement or acquisition of any capital improvement
188 or property notwithstanding that the construction, reconstruction,
189 development, extension, improvement or acquisition was author-
190 ized, approved or commenced prior to the effective date of this
191 act. The board shall consider the probable capacity of the city or
192 town to pay at maturity the qualified refunding bonds proposed to
193 be issued and all other obligations thereof then outstanding, taking
194 into consideration the assessed and true valuation of taxable prop-
195 erty in the city or town, the equitable distribution of the burden of
196 interest and debt redemption charges in connection with such
197 qualified refunding bonds, and the obligations theretofore out-
198 standing or which may necessarily thereafter be incurred.
199 *Section 19.* Nothing in this chapter shall be construed to pledge
200 the credit and assets of the commonwealth to the support of bonds
201 issued pursuant to this chapter or to guarantee payment or stand as
202 surety for the payment of bonds issued pursuant to this chapter.