

HOUSE No. 806

By Ms. Polito of Shrewsbury, a petition (accompanied by bill, House, No. 806) of Karyn E. Polito and others relative to certain costs imposed upon cities and towns by the Department of Environmental Protection, Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PRESENTED BY:

Karyn E. Polito

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to certain municipal costs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karyn E. Polito	11th Worcester
Paul K. Frost	7th Worcester
John J. Binienda	17th Worcester
John F. Quinn	9th Bristol
Todd M. Smola	1st Hampden
Scott P. Brown	Norfolk, Bristol and Middlesex
Michael R. Knapik	Second Hampden and Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CERTAIN MUNICIPAL COSTS.

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

- 1 1. Notwithstanding the provisions of section 27C of chapter 29 of the
2 General Laws as most recently amended by section 24 of chapter 71 of the Acts
3 of 1993, or any other general or special law to the contrary, any proposal initiated
4 by the Department of Environmental Protection in the form of a rule, regulation or
5 so-called guidance document or policy resulting in the imposition of additional
6 cost to a city or town shall be termed a "local mandate". Local mandates shall
7 include but not be limited to any Department of Environmental Protection
8 initiated rule, regulation or so-called guidance document or policy that: (1.)
9 requires any city or town to undertake any service or direct or indirect cost
10 obligation, or to establish, expand or modify any existing activity in such a way
11 that results in the expenditure of funds or resources, or results in the diversion of
12 funds or resources from any existing activity. For the purposes of this section, the
13 term "existing activity" shall include any program or service lawfully undertaken
14 by any city or town under the authority of any law, special law, administrative
15 rule or regulation or city or town charter, or; (2.) relieves the state or a county
16 from providing a service or program so that any city or town instead incurs the
17 direct or indirect cost of such service or program.
- 18 2. Section 2. No proposal initiated by the Department of Environmental Protection
19 in the form of a rule or regulation, or any so-called guidance document or policy,
20 shall become effective until a regulatory impact statement has been completed,
21 made public during the hearing process described in chapter 30A of the General
22 Laws and filed with the secretary of state. The regulatory impact statement shall:
23 (a) identify the problem, issue or deficiency addressed by the proposal; (b)
24 identify the methodology or approach, including identification of expert
25 information and analysis used to address the problem, issue or deficiency; (c)

26 identify stakeholders who will be affected and to what extent by the proposal; (d)
27 identify when such proposal will become effective, when such proposal will be
28 changed, if known, and how and when the proposal will be reviewed in the future,
29 if at all; (e) identify and describe the immediate and long term financial impacts
30 of the proposal on all stakeholders, including the agency or entity issuing the
31 proposal, any affected private party or entity, the state, the cities and towns, and
32 the general public. Such financial impact statement shall consider permitting
33 costs, internal compliance costs, and indirect costs, if any; (f) identify the fiscal
34 effect on the public and private sectors for the first and second year of the
35 proposal's existence, and provide a projection of fiscal impact over the first five
36 years of the proposal's existence; and (g) identify and describe, specifically, the
37 benefits of the proposal. The secretary of administration and finance shall adopt
38 regulations to further define and implement the use of regulatory impact
39 statements in said executive offices' and agency's rulemaking.

40 3. Section 3. The Department of Environmental Protection shall maintain a
41 notification list of stakeholders in their proposals and who may request
42 preliminary notification of such proposals, such request renewed annually by
43 persons or groups in December. No later than thirty days prior to the notice of
44 hearing described above the agency shall send a preliminary notification of the
45 proposal to each stakeholder who has requested preliminary notification of the
46 proposal and to the Joint Legislative Committee on Natural Resources, the Joint
47 Legislative Committee on Local Affairs, the House and Senate Committees on
48 Ways & Means, the Office of the State Auditor and the Massachusetts Municipal
49 Association.

50 4. The preliminary notification of the proposal shall (a) identify the proposal to be
51 noticed for hearing and the scope of the proposal, (b) provide the statutory
52 authority for such proposal, and (c) identify the person within said executive
53 office or agency responsible for the proposal and who can be contacted for more
54 information.

55 5. Section 4. No proposal initiated the by the Department of Environmental
56 Protection in the form of a rule, regulation, so-called guidance document or policy
57 shall become effective until said executive office and agency have complied with
58 the provisions of Massachusetts Administrative Procedures Act established under
59 the provisions of Chapter 30A of the General Laws. Any entity claiming to be
60 aggrieved by lack of compliance with said chapter by said executive office or
61 agency shall be permitted to file a petition for relief with the superior court.