HOUSE DOCKET, NO. 2405 FILED ON: 1/20/2011

HOUSE . . . . . No. 2588

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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:

An Act relative to prohibiting pay-to-play schemes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bradley H. Jones, Jr.	*20th Middlesex*
Donald F. Humason, Jr.	*4th Hampden*
F. Jay Barrows	*1st Bristol*
Shaunna O'Connell	*3rd Bristol*
Todd M. Smola	*1st Hampden*
Sheila C. Harrington	*1st Middlesex*
Paul K. Frost	*7th Worcester*
George N. Peterson, Jr.	*9th Worcester*
Elizabeth A. Poirier	*14th Bristol*
Viriato Manuel deMacedo	*1st Plymouth*

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By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2588) of Bradley H. Jones, Jr. and others relative to political contributions. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

An Act relative to prohibiting pay-to-play schemes.

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

SECTION 1. Chapter 55 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after 16B the following new section:

“Section 16C. (a) For the purposes of this section:

"Contribution", shall mean any gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing any election for federal, state or local office, payment of debt incurred in connection with any such election or transition or inaugural expenses of the successful candidate for State or local office.

"Executive officer", shall mean the president, any vice president in charge of a principal business unit, division or function, any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, for the investment adviser.

"Government entity", shall mean any state or political subdivision of a state, including any agency, authority, or instrumentality of the state or political subdivision, plan or pools of assets controlled by the state or political subdivision or any agency, authority or instrumentality thereof; and officers, agents, or employees of the state or political subdivision or any agency, authority or instrumentality thereof, acting in their official capacity.

“Investment adviser”, shall include any investment adviser to a private investment company providing investment advisory services to the government entity.

"Official", shall mean any person including any election committee for the person who was, at the time of the contribution, an incumbent, candidate or successful candidate for an elective office of a government entity, if the office is directly or indirectly responsible for, or can influence the outcome of, the use of an investment adviser by a government entity; or for any

22 elective office of a government entity, if the office has authority to appoint any person who is
23 directly or indirectly responsible for, or can influence the outcome of, the use of an investment
24 adviser.

25 "Private investment company", shall mean a company that would be an investment
26 company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) but for
27 the exceptions to that definition in sections 3(c)(1) and 3(c)(7) of the Investment Company Act
28 (15 U.S.C. 80a-3(c)(1)).

29 "Solicitor", shall mean any person who, directly or indirectly, solicits any client for, or
30 refers any client to, an investment adviser.

31 (b) It shall be unlawful:

32 (1) For any investment adviser to provide investment advisory services for compensation
33 to a government entity within two years after a contribution to an official of the government
34 entity is made by the investment adviser, any partner, executive officer or solicitor of the
35 investment adviser, including any person who becomes a partner, executive officer or solicitor
36 within two years after the contribution is made; or any political action committee controlled by
37 the investment adviser or by any partner, executive officer or solicitor of the investment adviser;
38 and

39 (2) For any investment adviser, or any of its partners, executive officers or solicitor to
40 solicit any person or political action committee to make, or coordinate, any contribution to an
41 official of a government entity to which the investment adviser is providing or seeking to provide
42 investment advisory services; or to do anything indirectly which, if done directly, would result in
43 a violation of this section.

44 (3) For any government official to solicit or accept campaign contributions from an
45 investment advisor and subsequently award that same adviser, his partners, executive officers, or
46 solicitors a contract for investment advisory services.

47 (c) Subdivision (1) of subsection (b) does not apply to contributions made by a partner,
48 executive officer or solicitor to officials for whom the partner, executive officer or solicitor was
49 entitled to vote at the time of the contributions and which in the aggregate do not exceed $350 to
50 any one official for which that person may vote or $150 to any one official for which that person
51 is unable to cast a vote, per election.

52 (d) The office of campaign and political finance, upon application, may conditionally or
53 unconditionally exempt an investment adviser from the prohibition under subdivision (1) of
54 subsection (b). In determining whether to grant an exemption, the office of campaign and
55 political finance shall consider, among other factors, whether the exemption is consistent with
56 the purposes of this section; whether the investment adviser, before the contribution resulting in

57 the prohibition was made, developed and instituted procedures reasonably designed to ensure
58 compliance with this section and had no actual knowledge of the contribution; and the
59 investment adviser has taken all available steps to obtain a return of the contribution or
60 contributions and has taken other remedial or preventive measures as may be appropriate under
61 the circumstances.

62 (e) A violation of this section shall be punished by a fine of not more than $1,000 or by
63 imprisonment for not more than 6 months or both such fine and imprisonment for both the
64 investment advisor and the government official involved. Each such violation shall constitute a
65 separate offense."