

HOUSE No. 816

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

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 dam repair, removal and replacement.

PETITION OF:

NAME:

William M. Straus

DISTRICT/ADDRESS:

10th Bristol

HOUSE No. 816

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 816) of William M. Straus relative to dam repair, removal and replacement environmental concerns. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE

□ □ HOUSE
□ , NO. 265 OF 2011-2012.]

The Commonwealth of Massachusetts

An Act relative to dam repair, removal and replacement.

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, as appearing in the 2010 Official Edition,
2 is hereby amended by adding the following section:

3 Section 61.

4 (a) Any city or town which accepts the provisions of this section may elect to acquire
5 by gift, purchase, eminent domain or otherwise, any dam, as defined by section 44 of chapter 253
6 of the General Laws, located within the town, including any real property appurtenant thereto, if
7 such dam and any appurtenant real property is not at the time of such acquisition owned or held
8 in trust by the commonwealth. In connection with such an acquisition the town may, subject to
9 appropriation, repair, reconstruct and make improvements to a town-owned dam as may be
10 necessary, in the judgment of the board of selectmen, or the town council, each manager in a city
11 having a Plan D or Plan E form of charter or the mayor, with the approval of the city council or
12 board of aldermen in any other city, to maintain, repair or improve such dam, and to accept and
13 expend grants or gifts for such purposes in accordance with section 53A of chapter 44 upon
14 approval of the board of selectmen without further appropriation.

15 (b) Upon a two-thirds vote of the voters present and voting at a meeting duly called,
16 the municipality or public authority may borrow funds for the purposes authorized in this
17 section. Any such borrowing shall be repaid within 40 years of its date of issue, and shall be

18 outside the limit of indebtedness prescribed in section 10 of chapter 44. Except as provided in
19 this act, any borrowing pursuant hereto shall be subject to the requirements of said chapter 44.

20 (c) Any dam owned by the municipality or public authority shall constitute public
21 improvements for purposes of chapter 80 and, subject to the approval of the town, the selectmen,
22 or the town council, each manager in a city having a Plan D or Plan E form of charter or the
23 mayor, with the approval of the city council or board of aldermen in any other city, may assess
24 betterments to pay any and all costs, of or relating to, acquiring, owning, maintaining or
25 improving any such dam. Such betterments may be assessed upon properties benefiting from the
26 acquisition, ownership, repair, maintenance or improvement of such a dam and in such amounts
27 as the authorized board or official shall determine. Except as otherwise provided by this act,
28 any betterment so assessed shall be subject to said chapter 80. Any betterment assessed
29 pursuant to this act may be apportioned for a maximum term of 40 years.

30 (d) Notwithstanding any general or special law to the contrary, the municipality or
31 public authority shall have no liability for or related to the presence, release or threat of release
32 of oil or any hazardous material with respect to any dam or dams acquired by the town in
33 accordance with section that occurred prior to the date any such dam or dams were acquired by
34 the town.