HOUSE DOCKET, NO. 243 FILED ON: 1/9/2013

HOUSE . . . . . No. 826

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz and Byron Rushing

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 protecting sunlight in certain public parks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	*8th Suffolk*
Byron Rushing	*9th Suffolk*
Aaron Michlewitz	*3rd Suffolk*
Denise Provost	*27th Middlesex*

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By Representatives Walz of Boston and Rushing of Boston, a petition (accompanied by bill, House, No. 826) of Martha M. Walz and others for legislation to regulate the construction of buildings and structures that would cast shadows on certain public parks . Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1169* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act protecting sunlight in certain public parks.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the public's access to sunlight in certain public parks, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 1 of chapter 362 of the acts of 1990 is hereby amended by striking out the definition of “new shadow” and inserting in place thereof the following definition:-

“New shadow”, the casting of a shadow at any time of day on an area which is not cast in shadow at such time by a structure. New shadow shall not include a shadow cast (i) by a structure which exists; (ii) by a structure for which a building permit has been granted on the date upon which application is made to a permit-granting authority for a proposed structure; or (iii) by the proposed structure for which approval is being sought from a permit granting authority if such structure conforms to as-of-right height limits allowed by the Boston, Cambridge or Lynn Zoning Code, whichever is applicable, as in force on May 1, 1990. New shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign or other similar structure. If the proposed structure is proposed for a site that is or may be exempt from Boston zoning law or if the site has no as-of-right height limit, the height limit for the

purpose of determining new shadow shall be the height limit for the zoning district in which the site is located.

SECTION 2. Said section 1 of said chapter 362 of the acts of 1990 is hereby further amended, in the definition of "permit granting authority", by inserting after the words "authorized to grant permits or approvals pursuant to" the following words:- sections 61 to 62H, inclusive, of chapter 30.

SECTION 3. Said section 1 of said chapter 362 of the acts of 1990 is hereby further amended in the definition of "permit granting authority", by inserting after the words "the Inspectional Services Department in the city of Boston," the following words:- the Inspectional Services Department in the city of Cambridge,.

SECTION 4. Said section 1 of said chapter 362 of the acts of 1990 is hereby further amended, in the definition of "structure", by inserting after the words "and (ii) not located within the boundaries of the Boston Common or the Lynn Common" the following words:- or Charles River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square Park, Magazine Beach Park or Back Bay Fens.

SECTION 5. Said section 1 of said chapter 362 of the acts of 1990 is hereby further amended by inserting after the definition of "Article 40", the following 6 definitions:-

"Back Bay Fens", the land in the city of Boston bounded by The Fenway, Park Drive and Boylston Street.

"Charles River Esplanade", the land in the city of Boston bounded by the Charles River Dam, the Boston University Bridge, so called, the Charles River, Embankment Road and James Jackson Storrow Memorial Drive.

"Christopher Columbus Park", the land in the city of Boston bounded by Atlantic Avenue, the Boston Harbor, Long Wharf and Commercial Wharf.

"Commonwealth Avenue Mall", the land in the city of Boston bounded by Arlington Street, Kenmore Street, Commonwealth Avenue (westbound) and Commonwealth Avenue (eastbound).

"Copley Square Park", the land in the city of Boston bounded by Boylston Street, Clarendon Street, St. James Avenue and Dartmouth Street, excluding therefrom the land occupied by Trinity Church.

"Magazine Beach Park", the land in the city of Cambridge bounded by Memorial Drive, the Charles River, the Boston University Bridge, so called, and River Street.

SECTION 6. Said chapter 362 of the acts of 1990 is hereby amended by inserting after section 2 the following section:-

Section 3. Notwithstanding any provision of sections 61 to 62H, inclusive, of chapter 30; chapter 40A; chapter 121A; or chapter 121B of the General Laws; chapter 665 of the acts of 1956; or any other general or special law to the contrary, no permit granting authority shall take any action which would authorize the construction of any structure which would cast a new shadow on the Charles River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square Park, Magazine Beach Park or the Back Bay Fens; provided, however, that the provisions of this section shall not apply to actions authorizing any structure which casts a new shadow upon the aforementioned lands only during the first hour after sunrise or before 7 o'clock in the morning, whichever is later, or the last hour before sunset.

SECTION 7. Section 1 of chapter 384 of the acts of 1992 is hereby amended by striking the definition of "new shadow" and inserting in place thereof the following definition:-

"New shadow", the casting of a shadow at any time of day on an area which is not cast in shadow at such time by a structure. New shadow shall not include a shadow cast (i) by a structure which exists; (ii) by a structure for which a building permit has been granted on the date upon which application is made to a permit-granting authority for a proposed structure; or (iii) by the proposed structure for which approval is being sought from a permit granting authority if such structure conforms to as-of-right height limits allowed by the Boston, Cambridge or Lynn Zoning Code, whichever is applicable, as in force on May 1, 1990. New shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign or other similar structure. If the proposed structure is proposed for a site that is or may be exempt from Boston zoning law or if the site has no as-of-right height limit, the height limit for the purpose of determining new shadow shall be the height limit for the zoning district in which the site is located.