

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Tolman, Steven (SEN)

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 emergency contracts.

PETITION OF:

NAME:

Tolman, Steven (SEN)

DISTRICT/ADDRESS:

Second Suffolk and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01911 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO EMERGENCY CONTRACTS.

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 149 of the General Laws](#) is hereby amended in section 44A by striking
2 paragraph (4) and inserting in place thereof the following:-
3 (4) In cases of extreme emergency, the awarding authority may, with the prior approval of the auditor,
4 award a contract for that portion of the work necessary to preserve the health or safety of persons or
5 property on the basis of such competitive bids or proposals as it can obtain in the time to care for the
6 extreme emergency and without public opening of the bids or proposals. In no case shall such a contract
7 be approved pursuant to this paragraph for any work that the auditor determines could have been
8 avoided through regular maintenance. All contracts awarded pursuant to this paragraph shall be to
9 remedy the immediate emergency only. Upon executing a contract pursuant to this paragraph the
10 awarding authority shall forward a copy of said contract to the auditor. The auditor shall cause a list of
11 such contracts to be published monthly in the central register. Said list shall include the awarding
12 authority and a brief description of the work covered by the contract.

13 Where the nature of the emergency prevents the awarding authority from obtaining the prior approval
14 of the author, the awarding authority may contract for the necessary work without said prior approval;
15 provided, however, that the approval of the auditor shall still be sought at the earliest possible time; and
16 provided, further, that if the auditor at that time fails to approve the emergency determination the
17 awarding authority shall promptly cease all work for which the emergency determination was denied. In
18 such cases, the contractor shall be entitled to payment for the fair value of the labor and materials
19 furnished prior to cessation of the work.

20 The auditor shall maintain a record of all contracts awarded pursuant to this subsection, containing a
21 description of the circumstances and the reasons for the Commissioner's determination.