

SENATE No. 2349

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of Senate amendment (Senator Timilty), to the House Bill establishing a Regional Wastewater District for the Towns of Mansfield, Foxborough, and Norton H4307.

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. There shall be a regional wastewater district for the towns of Mansfield,
2 Foxborough and Norton, to be known as the MFN Regional Wastewater District, which shall be
3 a body politic and corporate and political subdivision of the commonwealth. Notwithstanding
4 the procedural requirements of section 25 of chapter 40N, or sections 28 to 33, inclusive of
5 chapter 21 of the General Laws all actions taken by the towns of Mansfield, Foxborough and
6 Norton and the district commission which are not inconsistent with this act are hereby validated,
7 ratified and confirmed in all respects. The purpose of the district shall be to manage and control
8 the wastewater treatment plant, interceptors, effluent recharge and reuse system and
9 appurtenances, to act as a regional wastewater district and to provide for the collection,
10 treatment, discharge, recharge and reuse of effluent for the member towns.

11 SECTION 2. For the purposes of this act, “district” shall mean the MFN Regional
12 Wastewater District established in section 1 and “agreement” shall mean the agreement among

13 the towns of Mansfield, Foxborough and Norton passed at the town meetings of those towns in
14 2008 as may be supplemented and amended by those towns in accordance with section 7.

15 SECTION 3. (a) The powers, duties and liabilities of the district shall be vested in and
16 exercised by a district commission organized in accordance with this section and the agreement.
17 The commission shall choose a chairman and secretary by ballot from its membership. It shall
18 appoint a treasurer, who shall not be a member of the commission. The treasurer shall receive
19 and take charge of all money belonging to the district and shall pay any bill of the district which
20 shall have been approved by the commission. The treasurer may, by vote of the commission, be
21 compensated for services. The treasurer of the district shall be subject to sections 35, 52 and
22 109A of chapter 41 of the General Laws, provided that in applying said sections to said treasurer,
23 the word “district” shall be substituted for “town” and “district commission” shall be substituted
24 for “selectmen”.

25 (b) Foxborough and Norton shall appoint 2 commission members. Mansfield shall
26 appoint 3 members. The Mansfield and Foxborough members shall be appointed by the board
27 having the authority of water & sewer commissioners. One of the Norton members shall be
28 appointed by the board of selectmen and the other by the board having the authority of water &
29 sewer commissioners.

30 SECTION 4. Notwithstanding the last sentence of section 25 of chapter 40N of the
31 General Laws, the district shall have the following powers and duties:

32 to adopt a name and a corporate seal, and the engraved or printed facsimile of such seal
33 appearing on a bond or note of the district shall have the same legal effect as such seal would
34 have if it were impressed on the bond or note;

35 to sue and be sued, but only to the same extent and upon the same conditions that a city
36 or town may be sued, and to plead and be impleaded;

37 to purchase, take by eminent domain under chapter 79 of the General Laws or otherwise
38 acquire land within the member towns, or an interest in land within those towns, for the purposes
39 of the district to construct, reconstruct, replace, rehabilitate, repair, equip, operate and maintain
40 wastewater treatment, pumping and collection and effluent recharge and reuse facilities for the
41 benefit of said towns, or any other facilities necessary to carry out the purposes of the district;
42 and to make any necessary contracts in relation to those purposes; provided, however, that at
43 least 2 commission members from the town in which the land is located must vote in the
44 affirmative; and provided, further, that land may be taken by eminent domain only if the district
45 first requests, in writing, that the town take such land and the town does not take such land
46 within 120 days after the district has requested;

47 to purchase or otherwise acquire land outside the member towns for the purposes stated
48 in subsection (3), but only if the district first obtains approval, in writing, of the board of
49 selectmen for each town in which the land is located or from the mayor and city council,
50 aldermen or equivalent for each city in which the land is located;

51 to incur debt for the purpose of acquiring land, or an interest in land, and constructing,
52 reconstructing, replacing, rehabilitating, repairing and equipping wastewater treatment, pumping,
53 collection and effluent recharge and reuse facilities and any other facilities necessary to carry out
54 the purposes of the district, including debt for the purposes of designing and otherwise planning
55 any such improvements, for a term not exceeding 30 years; but written notice of the amount of
56 the debt and of the general purposes for which it was authorized shall be given to the board of

57 selectmen of each town comprising the district and to each town's board exercising the powers
58 of sewer commissioners not later than 10 business days after the date on which said debt was
59 authorized by the district commission, and no debt shall be incurred until the expiration of 45
60 days from the date said debt was authorized by the district commission;

61 to issue bonds and notes in the name and upon the full faith and credit of the district and
62 each issue of bonds or notes shall be a separate loan; said bonds or notes shall be signed by the
63 chairman and the treasurer of the district commission; provided, however that the chairman
64 authorize the treasurer to cause to be engraved or printed on said bonds or notes a facsimile of
65 the chairman's signature; provided, further that the chairman's authorization must be in writing,
66 bearing the chairman's written signature, filed in the office of the treasurer, and open to public
67 inspection;

68 to receive and disburse funds for a district purpose, and to invest funds in an investment
69 legally permitted for a city or town;

70 to incur temporary debt in anticipation of revenue to be received from the member towns
71 or from any other source;

72 to assess member towns for any expenses of the district;

73 to maintain a reserve fund, and to carry over the remaining balance of such fund into the
74 ensuing fiscal year, subject to the limitations in section 5;

75 to apply to receive and expend or hold a grant or gift for the purposes of the district;

76 to engage legal counsel, financial advisors, engineers, accountants, consultants, agents
77 and other advisors;

78 to submit an annual report to each of the member towns, containing a detailed financial
79 statement and a statement showing the method by which the annual charges assessed against
80 each town were computed;

81 to employ an executive director and such other employees as necessary to operate the
82 district;

83 to enter into contracts with any persons, including, but not limited to, non-member cities
84 and towns, other bodies politic and the United States of America, that are necessary or
85 convenient to carrying out the powers of the district, including, but not limited to, contracts for
86 the purchase or for the operation and management of the sewer, wastewater treatment plant,
87 collection, treatment, reuse and recharge facilities of the district;

88 to enact by-laws and rules concerning the management and regulation of its affairs and
89 the use of its facilities and the provision of its services;

90 to convey, sell, lease or otherwise dispose of any district real or personal property, or
91 interests in such property, no longer needed for district purposes; and

92 to do any and all other things necessary and convenient to carry out the powers and
93 purposes of the district, and all other things incidental and related to the powers of the district.

94 An engraved or printed facsimile signature under subsection 6 shall have the same
95 validity and effect as the chairman's written signature so long as it complies with all
96 requirements of that subsection.

97 SECTION 5. The district commission shall annually determine the amounts necessary to
98 be raised to maintain and operate the district during the ensuing fiscal year, plus a reserve fund

99 not to exceed 15 per cent of the annual budget for the ensuing year, and shall apportion the
100 amounts so determined among the several member towns in accordance with the terms of the
101 agreement. The amounts for the upcoming fiscal year so apportioned for each town shall, prior
102 to February 1 in each year, be certified by the district treasurer to the treasurers of the member
103 towns and to each town's sewer commissioners or board exercising the powers of sewer
104 commissioners. Except to the extent that the district treasurer's certification provides a credit
105 from sewer system revenues and other sources, the sewer commissioners or board exercising the
106 powers of sewer commissioners of each member town shall without further vote include each
107 amount so certified in the amounts to be assessed annually in such town upon sewer users and
108 others assessable under sections 14 to 24, inclusive, of chapter 83 of the General Laws and
109 section 23 of chapter 59 of the General Laws, and with or without a town appropriation the town
110 treasurer shall pay to the district the amounts so apportioned at the times specified in the
111 agreement. The amounts apportioned or to be apportioned under the agreement shall not be
112 included in calculating total taxes assessed in paragraph (a) of section 21C of said chapter 59, or
113 the maximum levy limit in paragraph (f), of said section 21C of said chapter 59. The amounts
114 certified by the district treasurer shall be deemed to be for services customarily provided locally
115 or subscribed to at local option and shall not be subject to the limitation of section 20B of said
116 chapter 59.

117 SECTION 6. Notwithstanding chapter 44 of the General Laws, only sections 16 to 28,
118 inclusive, of said chapter 44, shall apply to the district; provided, however, that section 16 of said
119 chapter 44 relating to the countersigning of bonds and notes and section 24 of said chapter 44
120 relating to the countersigning and approval of notes and the certificates of the clerk relating to
121 notes shall not apply to the district; and provided, further, that notwithstanding section 19 of said

122 chapter 44 to the contrary, the maturities of each issue of bonds and notes of the district shall be
123 arranged so that for each issue the amounts payable in the several years for principal and interest
124 combined shall be as nearly equal as practicable, in the opinion of the treasurer, or in the
125 alternative, in accordance with a schedule providing for a more rapid amortization of principal.
126 Any debt incurred by the district shall not be subject to the limit of indebtedness prescribed in
127 section 10 of said chapter 44. Nothing in this act shall prevent the individual towns from
128 establishing and maintaining a sewer enterprise fund under section 53F ½ of said chapter 44 as
129 the mechanism for assessing, collecting and paying the amounts certified by the district treasurer
130 under sections 5 and 8 of this act.

131 SECTION 7. The member towns shall adopt an agreement consistent with this act prior
132 to organization of the district commission under section 2 and may from time to time amend the
133 agreement so long as the amended agreement is consistent with this act.

134 SECTION 8. Notwithstanding section 5 or the terms of the agreement or any general or
135 special law to the contrary, each member town's share of the costs of the district's wastewater
136 treatment facility improvements and expansion shall be based on each town's share of overall
137 expansion and each member town's share of the costs of plant upgrade shall be based on each
138 town's overall allocation of flow capacity as further detailed in the agreement.

139 Each of the member towns shall pay its share of such costs upon receipt by the treasurer
140 of the town of the certification of the costs allocated to that town under the agreement by the
141 district treasurer, in accordance with the due date and payment instructions set by the district
142 treasurer. Except to the extent that the district treasurer's certification provides a credit from
143 sewer system revenues and other sources, the sewer commissioners or board exercising the

144 powers of sewer commissioners of each member town shall without further vote include each
145 amount so certified in the amounts to be assessed annually in such town upon sewer users and
146 others assessable under sections 14 to 24, inclusive, of chapter 83 of the General Laws and
147 section 23 of chapter 59 of the General Laws, and, with or without a town appropriation, the
148 town treasurer shall pay to the district the amounts so apportioned at the times specified in the
149 agreement. The amounts apportioned or to be apportioned under the agreement shall not be
150 included in calculating total taxes assessed in paragraph (a) of section 21C of said chapter 59, or
151 the maximum levy limit in paragraph (f), of said section 21C of said chapter 59. The amounts
152 certified by the district treasurer shall be deemed to be for services customarily provided locally
153 or subscribed to at local option and shall not be subject to the limitation of section 20B of said
154 chapter 59.

155 SECTION 9. In the event that a member town, which has received a certification of the
156 district's charges, shall fail to pay the same to the district when due after demand by the district,
157 the district may, not less than 60 days after such demand and without any requirement of election
158 of remedy provided that there is no duplication of recovery: (i) certify to the state treasurer the
159 amount owing to the district by the member town, whereupon the state treasurer shall promptly
160 pay over to the district any amount otherwise certified to the state treasurer for payment to the
161 member town as unrestricted general government aid and any other amount for local
162 reimbursement, grant or assistance programs entitled to be received by the member town until
163 such time as any deficiency in the member town's payment of charges to the district shall be set
164 off by such payments from the state treasurer; and (ii) recover from the member town in an
165 action in superior court the amount of such unpaid charges together with such lost interest and
166 other actual damages the district shall have sustained from the failure or refusal of the member

167 town to pay over said amount. Any amount paid to the district by the state treasurer as a set off
168 under this section which is later determined, upon audit, to be in excess of the actual amount of
169 charges, interest and damages due to the district, shall, upon demand of the member town, be
170 repaid by the district to the member town.

171 SECTION 10. The district shall adopt such by-laws as may be necessary and proper for
172 the effective functioning of the district and its operations, capital improvements and finances,
173 including, but not limited to, by-law provisions as put forth in the agreement. The by-laws may
174 also provide for appointment of alternate members and such other matters relative to the business
175 and affairs of the district as may be appropriate to exercise all powers necessary, convenient or
176 incidental to the purposes for which the district was formed.

177 SECTION 11. The district may, from time to time, prescribe rules and regulations
178 regarding the use of common sewers to prevent the entrance or discharge in the sewers of any
179 substance which may tend to interfere with the flow of sewage or the proper operation of the
180 sewerage system and the treatment and disposal works, for the connection of estates and
181 buildings with sewers, for the construction, alteration and use of all connections entering into
182 such sewers, and for the inspection of all materials used in the sewers; and may prescribe civil
183 penalties, not exceeding \$5,000 per violation for each day of violation of any such rule or
184 regulation. The rules and regulations shall be published once in a newspaper of general
185 circulation within each of the member towns, and shall include a notice that the rules and
186 regulations shall be available for inspection by the public, and shall not take effect until such
187 publication has been made. The rules and regulations shall conform with federal and state laws.