

# SENATE . . . . . No. 895

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act Creating A Metro West Public Health District ..

*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. As used in this act, unless the context clearly indicates otherwise, the  
2 following words and phrases shall have the following meanings:

3           “Board of Health”, shall include any body politic or political subdivision of the  
4 commonwealth that acts as a board of health, public health commission or a health department  
5 for a municipality. “District”, the Metro West Public Health District created by Section 2.

6           SECTION 2.

7           (a) There is hereby created a body politic and corporate and a public instrumentality to be  
8 known as the Metro West Public Health District, which shall be an independent public authority  
9 not subject to the supervision or control of the executive office of public health or department of  
10 environmental protection or any other executive office, department, commission, board, bureau,  
11 agency or political subdivision of the commonwealth except to the extent and in the manner  
12 provided in this act. The exercise by the District of the powers conferred by this act shall be  
13 deemed to be the performance of an essential public function.

(b) Two or more municipalities may, by vote of their respective boards of health and, in a city having a Plan E charter by the affirmative vote of a majority of all members of the city council, in other cities by vote of the city council and approval of the mayor, and by vote of the board of selectmen in a town, join the Metro West Public Health District, which shall consist of a regional board of health, a director of health and staff thereof. The District may have all the powers and may perform all the duties conferred upon, or exercised by, the boards of health and health departments of the constituent municipalities under any law or ordinance pertaining thereto, except in so far as the District may, by majority vote, delegate certain powers and duties to the constituent municipalities. Notwithstanding the foregoing, a constituent municipality shall retain its legal authority under chapter 111 and section 6 of Article 2 of the Amendments to the Massachusetts Constitution, unless and until a municipality votes, by vote of its board of health and, in a city having a Plan E charter by the affirmative vote of a majority of all members of the city council, and in other cities by vote of the city council and approval of the mayor, and by vote of the board of selectmen in a town, to delegate part or all of its legal authority to the regional board of health. The regional board of health, hereinafter referred to as the board, shall be comprised of at least 1 representative from each constituent municipality. Unless the board votes otherwise, each constituent municipality having a population greater than 25,000 shall have 1 additional representative to the board. Representatives of towns shall be nominated by the board of health, subject to approval and appointment by the selectmen. In cities, such representatives shall be appointed by the mayor with the approval of the city council, or in cities having Plan E charters by the city manager, unless a definite mode of appointment is otherwise provided by the city charter. Each representative shall serve for a period of 3 years, except that at its initial organization the board shall decide the term of years for the first representatives who

shall be elected or appointed to the board, so that thereafter approximately one-third of the representatives will be elected or appointed each year. Such representatives shall serve without compensation. Representatives to the board may be re-elected or reappointed for a maximum of 2 terms. The board shall meet annually and at such other times as it shall determine by its rules or when requested by the chairman of the board or the director of health. The board may make and adopt reasonable rules and regulations for the promotion of general health within the District not in conflict with law, ordinance, by-law or any fire, health or safety regulation. The powers of each District shall include, but not be limited to, the power to: (1) sue and be sued; (2) make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the health district; (3) make and from time to time amend and repeal rules and regulations relative to the operation of the district; (4) receive and expend funds; (5) apply for and receive grants from the commonwealth, the federal government and from other grantors, if the purpose of the grant is to improve public health; and (6) have such other powers as are necessary to properly carry out its powers as an independent entity of government. Any constituent municipality that has been a member of the District for at least 3 years may withdraw from the District, by vote of its board of health and in a town by its board of selectmen and in a city by its mayor with the approval of the city council, or if cities having Plan E charters by the city manager, passed prior to July first in any year, and the withdrawal shall be effective January first of the following year. In the event of the withdrawal of a town or city from the District, or in the event of dissolution of any district, the employees thereof, if originally employed by a municipality, shall automatically become employees in the same as they held in such municipality's board of health.

The board shall select a treasurer, who may be the treasurer of 1 of the constituent municipalities or such other treasurer as designated by the board, to act as treasurer for the district. For the faithful performance of his duties, the treasurer shall give bond, with a surety company authorized to transact business in the commonwealth, in such sums and upon such conditions as the board may require. The board shall, annually, in the month of December: (a) estimate the amount of money required to pay the cost and expense of the district for the following year; (b) fix and determine by a majority vote the proportion of such costs and expenses to be paid by the individual municipalities thereof during such year; and (c) certify the amount so determined for each municipality to the assessors thereof, who shall include such in the tax levies of each year, and each municipality shall appropriate such sum for the District. In apportioning the costs, the board, by a majority vote, may use any of the following formulae as a basis for its apportionment: (a) valuation, according to the latest state valuation, establishing the basis of apportionment of state and county taxes; (b) population, as determined by the most recent estimate by the state secretary, exclusive of universities and federal, state and county institutions; (c) a combined formula of valuation according to the latest state valuation and population as determined by the most recent estimate by the state secretary, exclusive of universities and federal, state and county institutions; or (d) any other method decided by majority vote of the board. Upon order of the board, the treasurer of each constituent municipality thereof shall, from time to time, subject to section 52 of chapter 41, pay to the treasurer of the District the amount certified by the board as the municipality's share of the cost and expenses of the District. The treasurer of the District shall disburse the money so received upon warrant approved by the director of health and signed by the chairman or vice-chairman of the board. The accounts of each district shall be audited annually by the bureau of accounts of

the department of corporations and taxation, under sections 35, 40 and 41 of chapter 44. The board shall appoint, and may reappoint, for a term of 3 years, a director of health, hereinafter referred to as the director. The board may remove the director for cause after proper notice and a public hearing. The director shall serve as secretary of the board, but shall have no vote. He shall be the executive and administrative head of the District and, may, with the approval of the board, designate 1 or more deputies and may appoint and employ, with like approval, such assistants as may be provided for in the budget. The director shall prepare and present annually to the board a report and a budget for its approval, together with such recommendations as he deems proper.

The department of public health, in consultation with the department of environmental protection shall adopt regulations to set minimum qualifications for directors of health hired pursuant to this section. The board shall adopt reasonable rules and regulations, for which notice and public hearing shall be given in the same manner and extent as required by section 37 of chapter 30 and section 2 of chapter 30A. The board shall also: (a) take evidence in appeals; (b) consider plans and appointments required by law; (c) hold hearings; and (d) discharge such other duties required by law, but the board shall have no administrative or executive functions. The board may delegate the holding of hearings to the director or his deputies. The board may elect an executive committee consisting of its chairman, vice-chairman, secretary and such other members as its rules may determine. The executive committee shall have the authority to act for the board when the board is not in session. All full-time and part-time incumbents of any office or position brought under the District at the time of its formation shall be transferred thereto without loss of civil service, retirement or other rights. Any transferred employee's compensation shall be fixed by the board at not less than the amount received by the employee during the fiscal year preceding the date such employee was transferred to the District. Any person hired pursuant to

105 this section shall be hired in accordance with the merit system, personnel policies and  
106 compensation plans approved by the board and such employee shall meet the qualifications for  
107 his position as may be established by regulation of the department of public health and the  
108 department of environmental protection. Any employee whose employment was governed by  
109 chapter 31 shall be transferred to the District with duties comparable to those previously  
110 performed by him and shall have all rights and privileges accruing to him from his previous  
111 position. Any employee whose employment was not governed by said chapter 31 shall be  
112 transferred to the District in a comparable position. The employee shall have all rights and  
113 privileges accruing to him from his previous position. If a new position is governed by said  
114 chapter 31 such employee shall be classified in the competitive civil service without  
115 examination. All positions and offices of the District, including the director, but excluding  
116 representatives to the board, shall be subject to the provisions of chapter 32. Ninety days after the  
117 organizational meeting of the board, all district positions and offices, except the director and the  
118 representatives to the board, not subject to chapter 31 at the time of the formation of the regional  
119 board of health, shall be placed within the civil service in the manner provided by said chapter 31  
120 and the rules and regulations promulgated thereunder, and all positions and offices subsequently  
121 established by the board shall be subject to said chapter 31 and the rules and regulations thereof,  
122 unless the board by a majority vote within 90 days after its organizational meeting votes not to  
123 extend said chapter 31 to any or all of such eligible positions and offices. At any time after such  
124 a vote to exclude, the board may, by a majority vote, bring within said chapter 31 any or all  
125 positions and offices, in the manner set forth therein, except the director and the representatives  
126 to the board, which were excluded but which are still subject to the jurisdiction of the board. The  
127 wages and salaries of all offices and positions, including those subject to chapter 31, shall be

determined by the board. The department of public health, in consultation with the department of environmental protection, shall establish by regulation minimum performance standards, including standards for inspection and enforcement, for basic programs of public health administration, personal health, laboratory services, health resources and other preventive health programs not inconsistent with law, as it finds necessary or desirable for the protection of public health. SECTION 3.

(1) The District shall be entitled to reimbursement from the commonwealth, subject to appropriation, for expenditures incurred by it for initial capital outlays, including the acquisition, construction, improvement or renovation of any buildings or premises for the use of the District and any original furnishings and equipment therefore, but excluding the costs of supplies, salaries and other expenses for the ordinary maintenance and operation of the District. The department of public health shall establish, by regulation, a formula for allocating state funds for initial capital outlays to the District. In order to qualify for such reimbursement, the District shall, before incurring any expenses reimbursable under this section, submit to the commissioner of public health, an itemized statement of all proposed expenditures for such purposes. The commissioner shall examine such statement and shall notify such board to what extent, in his opinion, the proposed expenditures are reasonably necessary for the purposes of the District and reimbursable hereunder, and the probable amount of reimbursement therefor. Within 3 months after the date of final payment for such capital outlays the board shall submit to the commissioner a certified statement of its actual expenditures for such purposes. If satisfied that the expenditures so certified are reimbursable and not unreasonable or excessive, the commissioner shall certify to the comptroller and the treasurer shall forthwith pay to the District, from any amounts appropriated therefor, the amount of such approved reimbursement.(2) A

151 formula shall be established, subject to appropriation, for allocating state funds for operating  
152 expenses to the District. This formula shall include the requirement of municipal matching funds  
153 on a basis to be determined from the annual tax receipts of each participating city or town. To  
154 qualify for the receipt of state funds, the District shall meet the performance standards and  
155 personnel qualifications adopted by the department of public health pursuant to Section 2. The  
156 District may use additional funds, which it may secure from other sources. In the event that a city  
157 or town fails to appropriate its required matching funds from the annual tax receipts, such city or  
158 town shall be removed from the District. SECTION 4. The department of public health, in  
159 consultation with the department of environmental protection, may adopt regulations to establish  
160 minimum qualifications for directors of health hired pursuant to Section 2.