

**HOUSE . . . . . No. 3409**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Anne M. Gobi*

*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 adoption of the accompanying bill:

An Act relative to the financial condition of the Spencer-East Brookfield Regional School District.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Anne M. Gobi</i>	<i>5th Worcester</i>	
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>3/27/2013</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>	<i>3/21/2013</i>

**HOUSE . . . . . No. 3409**

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By Ms. Gobi of Spencer, a petition (subject to Joint Rule 12) of Anne M. Gobi, Stephen M. Brewer and Peter J. Durant for legislation to authorize the Spencer-East Brookfield Regional School District to borrow certain funds. Education.

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act relative to the financial condition of the Spencer-East Brookfield Regional School District.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to protect the resources required for the education of students enrolled in the Spencer-East Brookfield regional school district, 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:*

1           SECTION 1. As used in this act, the following words shall, unless the context clearly  
2 requires otherwise, have the following meanings:

3           Commissioner: the commissioner of the department of elementary and secondary  
4 education, or his designee.

5           Director: the director of accounts in the department of revenue, or his designee.

6           District: the Spencer-East Brookfield regional school district.

7           School committee: the Spencer-East Brookfield regional school committee.

8           Secretary: the secretary of administration and finance, or his designee.

9           SECTION 2. (a) Notwithstanding any general or special law or the regional school  
10 district agreement to the contrary, the Spencer-East Brookfield regional school district, by  
11 majority vote of the school committee and with the approval of the commissioner in consultation  
12 with the director, may borrow up to \$3,000,000 for the purpose of funding deficits in the  
13 district’s fiscal year 2013 budget. The commissioner may limit the amount to be borrowed to

14 amounts less than approved by the school committee. Notwithstanding chapters 44 and 44A of  
15 the General Laws, bonds or notes issued for the purposes of this act shall be for such terms, not  
16 to exceed ten years, as are approved by the commissioner in consultation with the director.  
17 Bonds or notes issued for the purposes of this act shall be backed by the full faith and credit of  
18 the district and may be issued as qualified bonds or notes. Indebtedness incurred under this act  
19 shall otherwise be subject to said chapter 44.

20 (b) The maturities of each issue of bonds or notes authorized under this act, including any  
21 refunding bonds, may, if approved by the regional school district officers authorized to issue and  
22 approve these bonds or notes and by the commissioner, in consultation with the director, be  
23 arranged so that for each issue the amounts payable in the several years for principal and interest  
24 combined are as nearly equal as is practicable in the opinion of the officers authorized to issue  
25 and approve the bonds or notes or, in the alternative, in accordance with a schedule providing for  
26 a more rapid amortization of principal.

27 (c) All proceeds of bonds or notes issued pursuant to this act exclusive of any costs of  
28 preparing, issuing and marketing such bonds or notes shall be deposited in the general fund of  
29 the district.

30 SECTION 3. (a) Notwithstanding any general or special law or the regional school  
31 district agreement to the contrary, at any time while debt issued under this act is outstanding, the  
32 superintendent of schools and other officials of the district shall promptly provide such  
33 information and reports as may be requested by the commissioner. The following actions shall be  
34 subject to the written approval of the commissioner: (i) adoption or reconsideration of the district  
35 budget; (ii) transfer of budgetary authority between line items; (iii) encumbrance or expenditure  
36 of funds not included in the general fund budget; (iv) borrowing; (v) execution of new or  
37 amended collective bargaining agreements; (vi) execution of new contracts or amendments to  
38 existing contracts with a value of \$25,000 or more; and (vii) establishment, increase, or decrease  
39 of user fees.

40 (b) At any time while debt issued under this act is outstanding, the commissioner may  
41 impound any unencumbered funds for such period of time as he determines and may undertake  
42 any initiatives that he deems necessary to secure the financial stability of the district. The  
43 commissioner may require the district to employ a fiscal overseer, whose appointment shall be  
44 subject to the commissioner's approval. The fiscal overseer shall: (i) supervise all financial  
45 services and activities of the district; (ii) assist in the development and preparation of the budget;  
46 (iii) monitor the expenditure of all funds; (iv) make recommendations to the commissioner  
47 regarding the actions set forth in subsection (a); (v) assess and monitor the ability of the district  
48 to manage its finances; and (vi) report at least monthly to the commissioner.

49 (c) In any fiscal year during which debt issued under this act is outstanding, the district  
50 shall submit to the commissioner quarterly reports presenting a budget to actual comparison of

51 revenues and expenditures. The written reports shall be submitted within 30 days after the  
52 conclusion of each fiscal quarter and shall be in such form and include such information and  
53 detail as the commissioner may prescribe.

54 (d) The commissioner may waive any reporting or filing requirements contained in this  
55 act.

56 (e) At any time while debt issued under this act is outstanding, if the commissioner  
57 determines that the district has taken necessary steps to achieve long-term sustainability and no  
58 longer requires active oversight, the commissioner may authorize the district to terminate the  
59 employment of the fiscal overseer.

60 (f) If at any time the commissioner believes that a finance control board should be  
61 established, the commissioner, in consultation with the director, may recommend that the  
62 secretary establish such a board. The secretary may, upon receipt of such recommendation,  
63 establish such a board in accordance with section 8 of this act. Upon the establishment of such a  
64 board, the position of fiscal overseer shall be terminated.

65 SECTION 4. (a) With respect to fiscal year 2014 and any other year in which bonds or  
66 notes authorized under this act remain outstanding, the commissioner, in consultation with the  
67 director, shall ascertain whether the district budget for that fiscal year contains adequate revenues  
68 to meet the appropriations set forth therein and shall report his findings to the superintendent and  
69 the school committee. If the commissioner determines that the district budget does not contain  
70 adequate revenues to meet the expenditures set forth therein for the applicable fiscal year, the  
71 commissioner may recommend further action to achieve a balanced budget. In such a case, the  
72 district's net assessment of the budget in such fiscal year to each of the towns of Spencer and  
73 East Brookfield shall not be payable by each of such towns unless and until the district has  
74 approved or taken action acceptable to the commissioner to achieve a balanced budget.

75 (b) In any fiscal year during which bonds or notes authorized in this act remain  
76 outstanding, the director shall not certify the excess and deficiency fund of the district until an  
77 audit report for the preceding fiscal year has been received and accepted. The audit report shall  
78 be prepared by a certified public accountant in accordance with generally accepted auditing  
79 standards and shall include accompanying financial statements.

80 (c) In any fiscal year during which bonds or notes authorized in this act remain  
81 outstanding, the district shall not issue any bond or note without written notification to, and the  
82 prior approval of, the director .

83 (d) Nothing in this act shall abrogate the commissioner's authority to establish a budget  
84 and order assessments for the district pursuant to section 16B of chapter 71 of the General Laws.

85 SECTION 5. Notwithstanding any general or special law to the contrary, for fiscal year  
86 2014 and for any subsequent fiscal year during which bonds or notes authorized in this act  
87 remain outstanding, the towns of Spencer and East Brookfield, by majority vote, are authorized  
88 to appropriate amounts held in any stabilization fund created in accordance with section 5C of  
89 chapter 40 of the General Laws to pay each such town's allocable assessment of the district's  
90 budget for such fiscal year.

91 SECTION 6. (a) Notwithstanding any general or special law or the regional school  
92 district agreement to the contrary, the district shall establish a special reserve fund for  
93 extraordinary and unforeseen expenditures, which fund shall be called the Supplemental Reserve  
94 Fund to Ensure Fiscal Stability. This fund shall be separate from and in addition to any amounts  
95 appropriated under section 16G½ of chapter 71 of the General Laws.

96 (b) Commencing with fiscal year 2014 and for all following fiscal years, the school  
97 committee shall include in its proposed budget a supplemental reserve fund sum, as determined  
98 under this act.

99 (c) The supplemental reserve fund sum for fiscal year 2014 shall be an amount equal to  
100 0.25 per cent of the gross amount of the regional district budget for the prior fiscal year as  
101 determined by the commissioner; the supplemental reserve fund sum for fiscal year 2015 shall be  
102 an amount equal to 0.50 per cent of the gross amount of the regional district budget for the prior  
103 fiscal year as determined by the commissioner; the supplemental reserve fund sum for fiscal year  
104 2016 shall be an amount equal to 0.75 per cent of the gross amount of the regional district budget  
105 for the prior fiscal year as determined by the commissioner; the supplemental reserve fund sum  
106 for fiscal year 2017 shall be an amount equal to 1 per cent of the gross amount of the regional  
107 district budget for the prior fiscal year as determined by the commissioner; and the supplemental  
108 reserve fund sum for fiscal year 2018 and each subsequent fiscal year shall be an amount equal  
109 to 1.5 per cent of the gross amount of the regional district budget for the prior fiscal year as  
110 determined by the commissioner.

111 (d) In each year the amount required to be included in the budget for the supplemental  
112 reserve fund may be reduced by the amount, if any, remaining in the supplemental reserve fund  
113 established for the preceding year after all expenditures have been made from it as authorized in  
114 this act, and this remaining amount shall be retained in the supplemental reserve fund for the  
115 current fiscal year.

116 (e) Transfers or expenditures may be authorized from the supplemental reserve fund of  
117 any fiscal year during that fiscal year only, and then only by the school committee with the  
118 approval of the commissioner. Requests for transfers or expenditures shall be made by the  
119 superintendent and shall be accompanied by a written statement detailing the amount and the  
120 reason for the transfer or expenditure. Except for transfers or expenditures that are authorized in  
121 this act, there shall be no other transfers or reductions in the amount of this fund.

122 (f) All amounts required by this act to be included in the district budget for each fiscal  
123 year shall be included in the calculation of assessments to the member towns by the regional  
124 school district treasurer.

125 SECTION 7. (a) No official of the district, except in the case of an emergency involving  
126 the health and safety of the people or their property, shall knowingly expend or cause to be  
127 expended in any fiscal year any sum in excess of that official's departmental or other  
128 appropriation duly made in accordance with the law, nor commit the district, nor cause it to be  
129 committed, to any obligation for the future payment of money in excess of that appropriation,  
130 with the exception of court judgments.

131 (b) An official who intentionally violates this section shall be personally liable to the  
132 district for any amounts expended in excess of an appropriation which the district does not  
133 recover from the persons to whom the amounts were paid. The superior court or a single justice  
134 of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the district  
135 under this act and to order such other relief as the court finds appropriate to prevent further  
136 violations of this section. A violation of this section shall be considered sufficient cause for  
137 removal of an official.

138 (c) For the purposes of this section, "official" shall mean a permanent, temporary or  
139 acting district department head; a member of the school committee; or any other district  
140 employee with authority to authorize or approve the expenditure of funds. For the purposes of  
141 this section, "emergency" shall mean a major disaster including, but not limited to, flood,  
142 drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise,  
143 which poses an unexpected and immediate threat to the health and safety of persons or property.

144 SECTION 8. (a) If a finance control board is established by the secretary pursuant to  
145 section 3 of this act, it shall consist of 5 members: the secretary or his designee, the  
146 commissioner of revenue or her designee, the deputy commissioner of the division of local  
147 services of the department of revenue or his designee, the commissioner or his designee, and the  
148 chairman of the school committee or his designee. Members of the board who are employees or  
149 officers of the commonwealth or the district shall serve without compensation. The board shall  
150 initiate and assure the implementation of appropriate initiatives to secure the financial stability of  
151 the school district. Until the board ceases to exist, no appropriation, borrowing authorization or  
152 transfer shall take effect until approved by the board. As used in this section, "appropriation"  
153 means each line item in the district budget, and "transfer" means adjustments between or among  
154 line items under the district's procedures.

155 (b) Notwithstanding any general or special law or the regional school district agreement  
156 to the contrary, the board shall have the following authority: (i) The authority, by majority vote,  
157 to amend at any time any appropriation, borrowing authority, transfer, or other spending  
158 authority. The authority to amend, under this section, shall include the power to increase or

159 decrease an existing appropriation, borrowing authorization, transfer or spending authority; the  
160 authority to eliminate an existing appropriation, borrowing authorization, transfer or spending  
161 authority; and the power to create an appropriation, transfer or spending authority. In exercising  
162 its authority under this clause, the board may act with respect to district spending purposes that  
163 are not the subject of separately identified appropriations. (ii) Notwithstanding section 16B of  
164 chapter 71 of the General Laws, or any other general or special law to the contrary, if there is no  
165 annual budget lawfully established for a fiscal year by the first day of that fiscal year, the  
166 authority, by majority vote, to establish a budget for that fiscal year that it considers appropriate  
167 and to amend, as provided for above, the appropriations during that fiscal year. (iii) The  
168 authority, by majority vote, to encumber or impound, at any time, any unexpended or  
169 unencumbered appropriation or spending authority of any kind notwithstanding the prior  
170 approval of the board of that appropriation or spending authority. To the extent that funds  
171 previously encumbered or impounded remain encumbered or impounded at the conclusion of the  
172 fiscal year, these amounts shall revert to the district's excess and deficiency account. (iv) In  
173 addition to and without limitation of the other authority in this section, the independent authority,  
174 by majority vote, to establish, set, raise or lower any fee or charge, for any service or other  
175 district activity, otherwise within the authority of the district to establish, set, raise or lower. No  
176 fee or charge shall be established, set, raised or lowered without written notice to the school  
177 committee and superintendent at least 45 days before the effective date of such action.

178 (c) Action by the board, under authority of this act, shall in all respects constitute valid  
179 and lawful action by the district for purposes of chapters 44, 70 and 71 of the General Laws and  
180 for all school finance and other matters.

181 (d) In each fiscal year during which the board continues in existence, the superintendent  
182 shall, at the same time as the annual budget is submitted to the school committee, provide to the  
183 board a copy of the proposed annual budget, together with a supporting revenue and expenditure  
184 statement in such detail as the board may prescribe. The board shall review this budgetary  
185 information and may issue a report of its findings. In order to promote and ensure the fiscal  
186 stability of the district, the board may also require the filing of a detailed annual work plan by  
187 each district official with the power to make contracts or incur liabilities on behalf of the district,  
188 setting forth certain actions which may be implemented by each official to ensure greater  
189 efficiency in the delivery of services by the district. Each work plan shall be in such detail as the  
190 board may prescribe, and may include, but not be limited to: (i) a plan for improved financial and  
191 spending controls; (ii) budget guidelines and objectives for the fiscal year; (iii) a professional and  
192 nonprofessional staffing plan; and (iv) a plan for other proposed savings to be implemented. Any  
193 work plan submitted by a district official shall be approved by the superintendent and the school  
194 committee prior to submission to the board. During the course of each fiscal year in which the  
195 board is in existence, the board may require that status reports be filed with the board by these  
196 district officials on a quarterly basis. The board shall have full authority to waive any reporting

197 or filing requirements contained in this section. The board may prepare reports of its findings and  
198 issue recommendations for further action to the superintendent and the school committee.

199 (e) During such time as the board shall be in existence, the powers and authority assigned  
200 to the commissioner in sections 2, 3, 4, and 6 of this act shall be transferred to and exercised by  
201 the board.

202 (f) At the end of each fiscal year, the board may, by majority vote, elect to continue in  
203 operation for the succeeding fiscal year. Prior to taking such vote, the board shall provide the  
204 school committee with the opportunity to comment. If the board does not elect to continue in  
205 operation for the succeeding fiscal year, its existence shall end as of the last day of the fiscal  
206 year.

207 SECTION 9. The commissioner of revenue may distribute state aid payments payable to  
208 the district on June 30, 2013, or such earlier date as may be recommended by the commissioner  
209 and the director.

210 SECTION 10. This act shall take effect upon its passage.