

HOUSE No. 3476

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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 provide 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 elementary and secondary education.

4 “Director”, the director of accounts in the department of revenue.

5 “District”, the Spencer-East Brookfield regional school district.

6 “School committee”, the Spencer-East Brookfield regional school committee.

7 “Secretary”, the secretary of administration and finance.

8 SECTION 2. (a) Notwithstanding any general or special law or regional school district
9 agreement to the contrary, the Spencer-East Brookfield regional school district, by majority vote
10 of the school committee and with the approval of the commissioner, in consultation with the
11 director, may borrow up to \$3,000,000 for the purpose of funding deficits in the district’s fiscal
12 year 2013 budget. The commissioner may limit the amount to be borrowed to amounts less than
13 approved by the school committee. Notwithstanding chapters 44 and 44A of the General Laws,
14 bonds or notes issued for the purposes of this act shall be for such terms, not to exceed 10 years,
15 as are approved by the commissioner in consultation with the director. Bonds or notes issued for

the purposes of this act shall be backed by the full faith and credit of the district and may be issued as qualified bonds or notes. Indebtedness incurred under this act shall otherwise be subject to the provisions of said chapter 44.

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

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

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

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

(c) In any fiscal year during which debt issued under this act is outstanding, the district shall submit to the commissioner quarterly reports comparing the district budget to actual revenues and expenditures. The reports shall be submitted within 30 days after the conclusion of each fiscal quarter and shall be in such form and include such information and detail as the commissioner may prescribe.

(d) After a period of 3 years, while debt issued under this act is outstanding, if the commissioner, in consultation with the director, determines that the district has taken the necessary steps to achieve long-term sustainability and no longer requires active oversight, the commissioner may authorize the district to terminate the employment of the fiscal overseer.

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

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

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

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

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

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

87 SECTION 6. (a) Notwithstanding any general or special law or regional school district
88 agreement to the contrary, the district shall establish a special reserve fund for extraordinary and
89 unforeseen expenditures. This fund shall be separate from and in addition to any amounts
90 appropriated under section 16G½ of chapter 71 of the General Laws.

91 (b) Commencing with fiscal year 2014, the school committee shall designate in its
92 proposed budget that the following amounts be placed in the supplemental reserve fund: for
93 fiscal year 2014, an amount equal to 0.25 per cent of the gross amount of the regional district
94 budget for the prior fiscal year as determined by the commissioner; for fiscal year 2015, an
95 amount equal to 0.50 per cent of the gross amount of the regional district budget for the prior
96 fiscal year as determined by the commissioner; for fiscal year 2016, an amount equal to 0.75 per
97 cent of the gross amount of the regional district budget for the prior fiscal year as determined by
98 the commissioner; for fiscal year 2017, an amount equal to 1 per cent of the gross amount of the
99 regional district budget for the prior fiscal year as determined by the commissioner; and for fiscal
100 year 2018, and each subsequent fiscal year, an amount equal to 1.5 per cent of the gross amount
101 of the regional district budget for the prior fiscal year as determined by the commissioner.

102 (c) In each year the amount required to be included in the budget for the supplemental
103 reserve fund may be reduced by the amount, if any, remaining in the supplemental reserve fund
104 established for the preceding year after all expenditures have been made from it as authorized in
105 this act, and this remaining amount shall be retained in the supplemental reserve fund for the
106 current fiscal year.

107 (d) Transfers or expenditures may be authorized from the supplemental reserve fund of
108 any fiscal year during that fiscal year only, and then only by the school committee with the
109 approval of the commissioner. Requests for transfers or expenditures shall be made by the
110 superintendent and shall be accompanied by a written statement detailing the amount and the
111 reason for the transfer or expenditure. Except for transfers or expenditures that are authorized in
112 this act, there shall be no other transfers or reductions in the amount of this fund.

113 (e) All amounts required by this act to be included in the district budget for each fiscal
114 year shall be included in the calculation of assessments to the member towns by the regional
115 school district treasurer.

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

122 (b) An official who intentionally violates this section shall be personally liable to the
123 district for any amounts expended in excess of an appropriation which the district does not

124 recover from the persons to whom the amounts were paid. The superior court or a single justice
125 of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the district
126 under this act and to order such other relief as the court finds appropriate to prevent further
127 violations of this section. A violation of this section shall be considered sufficient cause for
128 removal of an official.

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

135 SECTION 8. (a) If a finance control board is established by the secretary pursuant to
136 section 3 of this act, it shall consist of 5 members: the secretary or a designee, the commissioner
137 of revenue or a designee, the deputy commissioner of the division of local services of the
138 department of revenue or a designee, the commissioner or a designee, and the chairman of the
139 school committee or a designee. Members of the board who are employees or officers of the
140 commonwealth or the district shall serve without compensation. The board shall initiate and
141 assure the implementation of appropriate initiatives to secure the financial stability of the school
142 district. Until the board ceases to exist, no appropriation, borrowing authorization or transfer
143 within the district budget shall take effect until approved by the board..

144 (b) Notwithstanding any general or special law or regional school district agreement to
145 the contrary, the board shall have the following authority:

146 (i) The authority, by majority vote, to amend at any time any appropriation, borrowing
147 authority, transfer, or other spending authority. The authority to amend, under this section, shall
148 include the power to increase or decrease an existing appropriation, borrowing authorization,
149 transfer or spending authority; the authority to eliminate an existing appropriation, borrowing
150 authorization, transfer or spending authority; and the power to create an appropriation, transfer or
151 spending authority. In exercising its authority under this clause, the board may act with respect to
152 district spending purposes that are not the subject of separately identified appropriations;

153 (ii) Notwithstanding section 16B of chapter 71 of the General Laws, or any other general
154 or special law to the contrary, if there is no annual budget lawfully established for a fiscal year
155 by the first day of that fiscal year, the authority, by majority vote, to establish a budget for that
156 fiscal year that it considers appropriate and to amend, as provided for above, the appropriations
157 during that fiscal year;

158 (iii) The authority, by majority vote, to encumber or impound, at any time, any
159 unexpended or unencumbered appropriation or spending authority of any kind notwithstanding
160 the prior approval of the board of that appropriation or spending authority. To the extent that

funds previously encumbered or impounded remain encumbered or impounded at the conclusion of the fiscal year, these amounts shall revert to the district's excess and deficiency account; and

(iv) In addition to and without limitation of the other authority in this section, the independent authority, by majority vote, to establish, set, raise or lower any fee or charge, for any service or other district activity, otherwise within the authority of the district to establish, set, raise or lower. No fee or charge shall be established, set, raised or lowered without written notice to the school committee and superintendent at least 45 days before the effective date of such action.

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

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

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

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

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

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