

HOUSE No. 3822

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, December 23, 2013.

The committee on Ways and Means to whom was referred the Bill to promote municipal collaboration and regionalization throughout the Commonwealth (House, No. 3658), reports recommending that the same ought to pass with an amendment substituting a bill with the same title (House, No. 3822).

For the committee,

BRIAN S. DEMPSEY.

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The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to promote municipal collaboration and regionalization throughout the Commonwealth.

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 40 of the General Laws is hereby amended by inserting after
2 section 4A the following section:-

3 Section 4A½. (a) For purposes of this section, the following words shall, unless the
4 context requires otherwise, have the following meanings:-

5 “Governmental unit”, a city, town or a regional school district, a district as defined in
6 section 1A, a regional planning commission, however constituted, a regional transit authority
7 established under chapter 161B, a water and sewer commission established under chapter 40N or
8 by special law, a county, or a state agency as defined in section 1 of chapter 6A.

9 “Joint powers agreement”, a contract specifying the terms and conditions of the joint
10 exercise of powers and duties entered into by participating governmental units pursuant to the
11 laws governing any such unit and the provisions of this section.

12 “Region”, any geographically-designated area within which the powers and duties
13 provided in a joint powers agreement shall be exercised.

14 (b) The chief executive officer of a city or town, or a board, committee or officer
15 authorized by law to execute a contract in the name of a governmental unit may, on behalf of the
16 unit, enter into a joint powers agreement with another governmental unit for the joint exercise of
17 any of their common powers and duties within a designated region. The joint powers agreement
18 shall be authorized by the parties thereto in the following manner: in a city by the city council
19 with the approval of the mayor, in a town by the board of selectmen and in a district by the
20 prudential committee. A decision to enter into a joint powers agreement under this section, or to
21 join an existing region, shall not be subject to bargaining under chapter 150E.

22 (c) The joint powers agreement shall specify the following:

23 (1) its purpose and the method by which the purpose sought shall be accomplished;

24 (2) the services, activities or undertakings to be jointly performed within the region;

25 (3) the specific organization, composition and nature of the entity created thereby to
26 perform the services, activities or undertakings within the region, and the specific powers and
27 duties delegated thereto; provided, however, that such entity shall be a body politic and corporate
28 created pursuant to subsection (d) whose funds shall be subject to an annual audit and a copy of
29 such audit shall be provided to the member governmental units and to the division of local
30 services;

31 (4) the manner of financing the joint services, activities or undertakings within the region,
32 of establishing and maintaining a budget therefore and of authorizing borrowing under
33 subsection (e), including any limitations on the purposes, terms and amounts of debt the entity
34 may incur to perform such services, activities or undertakings;

35 (5) any procedures related to the termination of the joint powers agreement, the
36 withdrawal of any participating governmental unit and the addition of any new governmental
37 units; and

38 (6) its duration.

39 (d) An entity established by a joint powers agreement shall be a body politic and
40 corporate with the power to:

41 (1) sue and be sued;

42 (2) make and execute contracts and other instruments necessary for the exercise of the
43 powers of the region;

44 (3) make and from time to time amend and repeal policies and procedures relative to the
45 operation of the region;

46 (4) receive and expend funds;

47 (5) apply for and receive grants from the commonwealth, the federal government and
48 from other grantors;

49 (6) submit an annual report to each member governmental unit, which shall contain a
50 detailed financial statement and a statement showing the method by which the annual charges
51 assessed against each governmental unit were computed; and

52 (7) any such other powers as are necessary to properly carry out its powers as a body
53 politic and corporate.

54 (e) An entity created pursuant to this section shall be governed by a board of directors
55 comprised of at least one member representing each participating governmental unit. Each
56 member of the board of directors shall be entitled to a vote. No member of the board of directors
57 shall receive an additional salary or stipend for their service as a board member. The board of
58 directors shall coordinate the activities of the region and may establish any policies and
59 procedures necessary to do so. The board of directors shall establish and manage a fund to which
60 all monies contributed by the participating governmental units, and all grants and gifts from the
61 federal or state government or any other source shall be deposited. The board of directors shall
62 appoint a treasurer who may be a treasurer of one of the participating governmental units. No
63 member of the board of directors or other employee of the entity shall be eligible to serve
64 concurrently as treasurer. The treasurer, subject to the direction and approval of the board of
65 directors, shall be authorized to receive, invest and disburse all funds of the region without
66 further appropriation. The treasurer shall give bond for the faithful performance of his duties in a
67 form and amount as fixed by the board of directors. The treasurer may make appropriate
68 investments of the funds of the region consistent with section 55B of chapter 44.

69 The board shall appoint a business officer or employee who may be a city auditor, town
70 accountant or officer with similar duties of one of the participating governmental units. The
71 business officer shall have the duties and responsibilities of an auditor or accountant under
72 sections 52 and 56 of chapter 41 and shall not be eligible to hold the office of treasurer.

73 The board of directors may borrow money, enter into long or short-term loan agreements
74 or mortgages and apply for state, federal or corporate grants or contracts to obtain funds
75 necessary to carry out the purposes of the region. The borrowing, loans or mortgages shall be
76 consistent with the joint powers agreement, standard lending practices and with sections 16 to
77 28, inclusive, of chapter 44. The board of directors may, subject to chapter 30B, enter into
78 contracts for the purchase of supplies, materials and services and for the purchase or lease of
79 land, buildings and equipment as considered necessary by the board of directors.

80 (f) The entity shall be deemed to be a public employer and the board of directors may
81 employ personnel to carry out the purposes of the joint powers agreement and establish the
82 duties, compensation and other terms and conditions of employment of personnel.

83 (g) A participating governmental unit shall not be liable for the acts or omission of
84 another participating government unit or the region or any entity created by the joint powers
85 agreement, unless the participating governmental unit has agreed otherwise in the joint powers
86 agreement.

87 SECTION 2. Said chapter 40, as so appearing, is hereby amended by striking out section
88 44A and inserting in place thereof the following section:- Section 44A. A city or town, by vote
89 of the council in the case of a city and by vote of the board of selectmen in the case of a town,
90 may create a special unpaid committee to be known as a regional refuse disposal planning

91 committee consisting of 3 persons to be appointed by the board of selectmen in a town and by
92 the mayor in a city.

93 SECTION 3. Said chapter 40, as so appearing, is hereby further amended by striking out
94 section 44E and inserting in place thereof the following section:- Section 44E. The selectmen of
95 each of the several towns, upon receipt of a recommendation that a regional refuse disposal
96 district be established, shall vote on accepting such plan. The mayors of the several cities, upon
97 receipt of a recommendation that a regional refuse disposal district be established, shall submit
98 the question of accepting such plan to the city council within sixty days after receipt of the
99 recommendation. If a majority of the members of each city council voting on the question and
100 the board of selectmen in each town shall vote in the affirmative, the proposed regional refuse
101 disposal district shall be deemed to be established forthwith in accordance with the terms of the
102 proposed agreement.

103 SECTION 4. Section 44F of said chapter 40, as so appearing, is hereby amended by
104 striking out, in lines 27 to 29, inclusive, the words “a majority of the voters present and voting on
105 the matter at a town meeting called for the purpose of expressing such disapproval” and inserting
106 in place thereof the following words:- the board of selectmen.

107 SECTION 5. Section 2 of chapter 40D of the General Laws, as appearing in the 2010
108 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words “a town at an
109 annual meeting or a special meeting called for the purpose” and inserting in place thereof the
110 following words:- by the board of selectmen, in a town.

111 SECTION 6. Said section 2 of said chapter 40D, as so appearing, is hereby amended by
112 striking out, in line 34 , the words “at an annual or special town meeting” and inserting in place
113 thereof the following words:- its board of selectmen.

114 SECTION 7. Section 30B of chapter 41 of the General Laws, as so appearing, is hereby
115 amended by striking out, in lines 2 and 3, the words “by vote of their legislative bodies” and
116 inserting in place thereof the following words:- by vote of the city council with the approval of
117 the mayor, in a city, and by vote of the board of selectmen, in a town.

118 SECTION 8. Section 27A of chapter 111 of the General Laws, as so appearing, is hereby
119 amended by striking out, in line 1, the word “each” and inserting in place thereof the following
120 words:- their respective boards of health and, in a city having a Plan E charter by the affirmative
121 vote of a majority of all members of the city council, in other cities by a vote of the city council
122 and approval of the mayor, and in a town by a vote of the board of selectmen

123 SECTION 9. Section 27B of chapter 111 of the General Laws, as so appearing, is hereby
124 amended by striking out, in lines 4 and 5, the words “and by vote of a town at a regular annual
125 town meeting” and inserting in place thereof the following words:- and by a vote of the board of
126 selectmen.

127 SECTION 10. Said section 27B of said chapter 111, as so appearing, is hereby amended
128 by striking out, in line 30, the words “at a town meeting” and inserting in place thereof the
129 following:- by vote of the board of selectmen.

130 SECTION 11. Section 3 of chapter 121C of the General Laws, as so appearing, is hereby
131 amended by striking out, in lines 8 and 9, the words “a town at an annual town meeting or a
132 special town meeting called for the purpose” and inserting in place thereof the following words:-
133 by the board of selectmen in a town.

134 SECTION 12. Notwithstanding any general or special law to the contrary, each secretary
135 of an executive office shall evaluate all grant, loan, and technical assistance programs
136 administered under their office for opportunities to promote, facilitate and implement inter-
137 municipal cooperation, collaboration, and regional service delivery at the local level. On or
138 before December 31, 2014, each secretary shall provide to the executive office for administration
139 and finance the results of their evaluation identifying opportunities to leverage state resources to
140 promote regional, efficient solutions to common problems.

141 SECTION 13. Notwithstanding any general or special law to the contrary, any executive
142 agency which administers a program through which funding may be provided to municipalities,
143 where regionalization may be feasible, shall encourage municipal efficiencies by prioritizing
144 those applications for funds which come from municipalities that have developed a method by
145 which to jointly and more efficiently utilize such funding.

146 SECTION 14. The operational services division shall review applicable procurement
147 policies and regulations to facilitate the execution of contracts, where appropriate, between
148 regional planning agencies and any executive office, department, agency, office, division, board,
149 commission or institution within the executive branch to provide or receive services, facilities,
150 staff assistance or money payments.