

# SENATE . . . . . No. 963

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Richard T. Moore***

*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 to promote municipal collaboration and regionalization throughout the commonwealth.

PETITION OF:

NAME:

*Richard T. Moore*  
*Jason M. Lewis*

DISTRICT/ADDRESS:

*Worcester and Norfolk*  
*Fifth Middlesex*

# SENATE . . . . . No. 963

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By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 963) of Richard T. Moore and Jason M. Lewis for legislation to promote municipal efficiency and innovation through regional collaboration. Municipalities and Regional Government.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1046 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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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. The following terms shall have the following meanings:

2           “Regional Planning Agencies”, all planning commissions in the commonwealth,  
3 specifically: “Berkshire Regional Planning Commission”, established under section 3 of chapter  
4 40B of the General Laws; “Cape Cod Commission”, established under chapter 716 of the acts of  
5 1989; “Central Massachusetts Regional Planning Commission”, established under section 3 of  
6 said chapter 40B; “Franklin Regional Council of Governments”, established under section 567 of  
7 chapter 151 of the acts of 1996, and as amended by chapter 344 of the acts of 1998; “Martha’s  
8 Vineyard Commission”, established under chapter 831 of the acts of 1977, and as amended by  
9 chapter 317 of the acts of 1979; “Merrimack Valley Planning Commission”, established under  
10 section 3 of said chapter 40B; “Metropolitan Area Planning Council”, established under section  
11 26 of said chapter 40B; “Montachusett Regional Planning Commission”, established under  
12 section 3 of said chapter 40B; “Nantucket Planning and Economic Development Commission”,  
13 established under chapter 561 of the acts of 1973, and as amended by chapter 98 of the acts of  
14 1981 and chapter 458 of the acts of 1991; “Northern Middlesex Council of Governments”,  
15 established under section 3 of said chapter 40B, and as amended by chapter 357 of the acts of  
16 1972, chapter 14 of the acts of 1974 and chapter 420 of the acts of 1989; “Old Colony Planning  
17 Council”, established under chapter 332 of the acts of 1967, and as amended by chapter 663 of

the acts of 1973; “Pioneer Valley Planning Commission”, established under section 3 of said chapter 40B, and “Southeastern Regional Planning and Economic Development District”, established under section 9 of said chapter 40B.

SECTION 2. Notwithstanding any special or general law to the contrary, the governor shall direct all executive branch agencies, commissions and departments to evaluate all grant, loan, and technical assistance programs administered by such for opportunities to promote, facilitate and implement inter-municipal cooperation, collaboration, and regional service delivery at the local level.

Each department, agency, and commission within the executive branch shall provide evaluation results to the governor within 90 days, with the goal to identify opportunities to leverage state resources to promote regional, efficient solutions to common problems. Independent agencies and commissions are encouraged to undertake similar evaluations of any grant, loan, or technical assistance program administered by them.

SECTION 3. Notwithstanding any special or general law to the contrary, the governor shall direct the chairman of the municipal affairs coordinating cabinet to evaluate departmental programs for opportunities to increase collaboration between communities, and make recommendations to the governor on the most promising opportunities that would achieve the aforementioned aims of efficient and enhanced local government service delivery.

SECTION 4. Notwithstanding any special or general law to the contrary, any executive agency which administers a program through which funding may be provided to a municipality, shall encourage municipal efficiencies by prioritizing those applications for funds which come from cities or towns that have developed a method by which to jointly and more efficiently utilize such funding.

SECTION 5. Section 22A of chapter 7 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the words “the state purchasing agent subject to such rules, regulations and procedures as may be established from time to time by the purchasing agent” and inserting in place thereof the following words:- “the state purchasing agent or a regional planning agency established pursuant to chapter 40B of the General Laws or special act, subject to such rules, regulations and procedures as may be established from time to time by said purchasing agent or regional planning agency.”

SECTION 6. Notwithstanding any special or general law to the contrary, the governor shall direct the executive office of administration and finance to amend 801 C.M.R. 21.00 to state that contracts between regional planning agencies and any executive office, department, agency, office, division, board, commission or institution within the executive branch to provide or to receive services, facilities, staff assistance or money payments shall be the equivalent of interdepartmental service agreements and exempt from the provisions of 801 C.M.R. 21.00.

SECTION 7. Section 5 of chapter 40B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the second paragraph the following paragraphs:-

Notwithstanding the provisions of any other section in this chapter, planning commissions established hereunder may administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. Planning commissions may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services.

Regional services provided to member municipalities shall be determined by each planning commission's executive committee, and may include any service which may be provided by the municipality or any other public entity in the commonwealth. In the event that an executive committee has not been established, such services shall be determined by the district planning commission.

Notwithstanding the provisions of any other section in this chapter, any city or town which is a member of the planning commission may enter into a cooperative agreement with said commission to perform jointly or for the other or in cooperation with other member cities and towns, any service, activity or undertaking which such city or town is authorized by law to perform.

All cooperative agreements entered into pursuant to this section by member cities and towns are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

Notwithstanding the provisions of any other section in this chapter, planning commissions are authorized to enter into contracts and agreements with any department, agency or subdivision of the federal or state government and any individual, corporation, association or public authority to provide or receive services, facilities, staff assistance or money payments in connection with the work of planning commissions, and planning commissions may contribute or receive services, facilities, staff assistance or money payments as consideration such contracts and agreements.

SECTION 8. Section 14 of said chapter 40B, as so appearing, is hereby amended by inserting after subsection (o) the following subsections:-

(p) notwithstanding the provisions of any other section in this chapter, to administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. The commission may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services. Regional services provided to member municipalities shall be determined by

the executive committee and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

(q) notwithstanding the provisions of any other section in this chapter, any city or town which is a member of the district may enter into a cooperative agreement with the commission to perform jointly or for the other or in cooperation with other member cities and towns, any service, activity or undertaking which such city or town is authorized by law to perform.

(r) all cooperative agreements entered into pursuant to subsection (p) or (q) of this section by member cities and towns are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

SECTION 9. Said chapter 40B is hereby further amended by inserting after the final paragraph of section 29 the following sections:-

Section 29A. Notwithstanding the provisions of any other section in this chapter, the council is authorized to administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. The council may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services.

Regional services provided to member municipalities shall be determined by the executive committee and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

Section 29B. Notwithstanding the provisions of any other section in this chapter, any city or town which is a member of the council may enter into a cooperative agreement with said council to perform jointly or for the other or in cooperation with other member cities and towns, any service, activity or undertaking which such city or town is authorized by law to perform.

Section 29C. All cooperative agreements entered into by member cities and towns pursuant to section 29A or section 29B are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

SECTION 10. Section 4 of chapter 716 of the acts of 1989 is hereby amended by inserting after subsection (a)(27) the following subsections:-

(28) Notwithstanding the provisions of any other section of this chapter, to administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. The commission may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services. Regional services provided to member municipalities shall be determined by the commission and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

(29) Notwithstanding the provisions of any other section in this chapter, any city or town which is a member of the commission may enter into a cooperative agreement with said commission to perform jointly or for the other or in cooperation with other member cities and towns, any service, activity or undertaking which such city or town is authorized by law to perform.

(30) All cooperative agreements entered into by member cities and towns pursuant to subsections (28) and (29) of this section are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

(31) Notwithstanding the provisions of any other section in this chapter, the commission is authorized to: enter into contracts and agreements with any department, agency or subdivision of the federal or state government and any individual, corporation, association or public authority to provide or receive services, facilities, staff assistance or money payments in connection with the work of the commission, and the commission may contribute or receive services, facilities, staff assistance or money payments as consideration such contracts and agreements.

SECTION 11. Section 3 of chapter 831 of the acts of 1977 is hereby amended by inserting after the fourth paragraph the following section:-

Section 3A. Notwithstanding the provisions of any other section of this chapter, the commission may administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. The commission may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services.

Regional services provided to member municipalities shall be determined by the commission and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

Notwithstanding the provisions of any other section in this chapter, any city or town which is a member of the commission may enter into a cooperative agreement with said commission to perform jointly or for the other or in cooperation with other member cities and towns, any service, activity or undertaking which such city or town is authorized by law to perform.

All cooperative agreements entered into by member cities and towns pursuant to section 3A are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

Notwithstanding the provisions of any other section in this chapter, the commission is authorized to enter into contracts and agreements with any department, agency or subdivision of

the federal or state government and any individual, corporation, association or public authority to provide or receive services, facilities, staff assistance or money payments in connection with the work of the commission, and the commission may contribute or receive services, facilities, staff assistance or money payments as consideration such contracts and agreements.

SECTION 12. Section 2 of chapter 561 of the acts of 1973 is hereby amended by inserting after the first paragraph the following paragraphs:-

Notwithstanding the provisions of any other section in this chapter, the commission may administer and provide regional services to the county and town. The commission may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services.

Regional services provided to the county and town shall be determined by the commission and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

Notwithstanding the provisions of any other section in this chapter, the county and town which is a member of the commission may enter into a cooperative agreement with said commission to perform jointly any service, activity or undertaking which such county or town is authorized by law to perform.

All agreements entered into by the county or town pursuant to this section are voluntary, and notwithstanding any other law, require authorization by the board of selectmen.

Notwithstanding the provisions of any other section in this chapter, the commission is authorized to enter into contracts and agreements with any department, agency or subdivision of the federal or state government and any individual, corporation, association or public authority to provide or receive services, facilities, staff assistance or money payments in connection with the work of the commission, and the commission may contribute or receive services, facilities, staff assistance or money payments as consideration such contracts and agreements.

SECTION 13. Section 2 of chapter 332 of the acts of 1967 is hereby amended by inserting after the seventh paragraph the following section:-

Section 2A. Notwithstanding the provisions of any other section in this chapter, the council may administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. The council may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services.

Regional services provided to member municipalities shall be determined by the council and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

Notwithstanding the provisions of any other section in this chapter, any city or town which is a member of the council may enter into a cooperative agreement with said council to perform jointly or for the other or in cooperation with other member cities and towns, any service, activity or undertaking which such city or town is authorized by law to perform.

All agreements entered into by member cities and towns pursuant to this section are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

SECTION 14. Subsection (U) of section 567 of chapter 151 of the acts of 1996 is hereby amended by inserting after the first paragraph the following paragraphs:-

Notwithstanding the provisions of this chapter, the Franklin Council of Governments may administer and provide regional services to member cities and towns and may delegate such authority to subregional groups of such cities and towns. The Council of Governments may enter into cooperative agreements with other planning commissions or regional councils of government to provide such regional services.

Regional services provided to member municipalities shall be determined by the Council of Governments Committee and may include any service which may be provided by the municipality or any other public entity in the commonwealth.

All agreements entered into by member cities and towns pursuant to this section are voluntary, and notwithstanding any other law, require authorization by the relevant board of selectmen or city council, with the approval of the mayor.

Notwithstanding the provisions of any other section in this chapter, the Franklin Council of Governments is authorized to enter into contracts and agreements with any department, agency or subdivision of the federal or state government and any individual, corporation, association or public authority to provide or receive services, facilities, staff assistance or money payments in connection with the work of the commission, and the commission may contribute or receive services, facilities, staff assistance or money payments as consideration such contracts and agreements.

SECTION 15. Section 2 of chapter 40D of the General Laws is hereby amended by striking out, in the first paragraph, the words "a town at an annual meeting or a special meeting called for the purpose" and inserting in place thereof the following words:- "by the board of selectmen, in a town."

SECTION 16. Said section 2 of said chapter 40D of the General Laws is hereby amended by striking out, in the third paragraph, the words "at an annual or special town meeting" and inserting in place thereof the following words:- "its board of selectmen."



SECTION 17. Section 3 of chapter 121C of the General Laws is hereby amended by striking out the words “a town at an annual town meeting or a special town meeting called for the purpose” and inserting in place thereof the following words:- “by the board of selectmen in a town.”

SECTION 18. Section 30B of chapter 41, as amended by section 26 of chapter 188 of the acts of 2010, is hereby amended by striking out the words “by vote of their legislative bodies” and inserting in place thereof the following words:- “by vote of the city council with the approval of the mayor, in a city, and by vote of the board of selectmen, in a town.”

SECTION 19. Section 27B of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out the words “and by vote of a town at a regular annual town meeting” and inserting in place thereof the following words:- “and by a vote of the board of selectmen.”

SECTION 20. Said section 27B of said chapter 111 of the General Laws, as so appearing, is hereby amended by striking the words “at a town meeting” and inserting in place thereof the following:- “by vote of the board of selectmen.”

SECTION 21. Section 44A of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out the words “a town meeting” and inserting thereof the following words:- the board of selectmen.

SECTION 22. Said section 44A of said chapter 40, is hereby amended by striking the word “moderator” and inserting in place thereof the following words:- board of selectmen.

SECTION 23. Said section 44A of said chapter 40, is hereby amended by striking Section 44E and inserting in place thereof the following section:-

Section 44E. The selectmen of each of the several towns, upon receipt of a recommendation that a regional refuse disposal district be established, shall vote on accepting such plan. The mayors of the several cities, upon receipt of a recommendation that a regional refuse disposal district be established, shall submit the question of accepting such plan to the city council within sixty days after receipt of the recommendation.

If a majority of the members of each city council voting on the question and the board of selectmen in each town shall vote in the affirmative, the proposed regional refuse disposal district shall be deemed to be established forthwith in accordance with the terms of the proposed agreement.”

SECTION 24. Subsection subsection (f) of said section 44 of said chapter is hereby amended by striking the words “a majority of the voters present and voting on the matter at a town meeting called for the purpose of expressing such disapproval” and inserting in place thereof the following words:- the board of selectmen.

SECTION 25. Section 3 of chapter 115, is hereby amended by striking out the last sentence in the first paragraph and inserting in place thereof the following sentence:- Two or more municipalities may, by approval of the mayor or manager in a city or by vote of the board of selectmen in a town, appoint one person to serve as veterans' agent for such municipalities and may apportion the payment of compensation among such municipalities.

SECTION 26. Section 10 of said chapter 115, is hereby amended by striking out the first sentence of the second paragraph and inserting in place thereof the following sentence:- Two or more municipalities may, in a city by vote of the city council thereof, and in a town by vote of the selectmen thereof, form a district for the purposes set forth in the first paragraph of this section, including the appointment and compensation of a director of veterans' services, for the enforcement therein of such purposes and of such other provisions of law as it may be his duty to enforce.

SECTION 27. The General Laws are hereby amended by inserting after section 4A of chapter 40 the following section:-

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

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

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

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

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

(c) The joint powers agreement shall specify:

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

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

(3) the specific organization, composition and nature of any separate legal or administrative entity created thereby to perform the services, activities or undertakings within the region, and the specific powers and duties delegated thereto, provided such entity may be legally created. Such entity may include an independent entity created pursuant to subsection (d), a nonprofit corporation organized pursuant to chapter 180 whose membership is limited solely to the participating governmental units, a limited partnership organized pursuant to chapter 109 whose membership is limited solely to the participating governmental units, or a limited liability company organized under chapter 156C whose membership is limited solely to the participating governmental units. The funds of any such entity, corporation, limited partnership, or limited liability company shall be subject to audit in the manner provided by law for the auditing of public funds.

(4) the manner of financing the joint services, activities or undertakings within the region and of establishing and maintaining a budget therefore;

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

(6) its duration.

(d) A joint powers agreement may create a new independent entity for the purposes of carrying out the powers and duties of a region. The powers of an entity established pursuant to this subsection shall include, but not be limited to, the power to: (1) sue and be sued; (2) make and execute contracts and other instruments necessary for the exercise of the powers of the region; (3) make and from time to time amend and repeal policies and procedures relative to the operation of the region; (4) receive and expend funds; (5) apply for and receive grants from the commonwealth, the federal government and from other grantors; and (6) any such other powers as are necessary to properly carry out its powers as an independent entity.

Such entity shall be governed by a board of directors comprised of at least one member representing each participating governmental unit. The board of directors shall coordinate the activities of the region and may establish any policies and procedures necessary to do so.

The board of directors shall establish and manage a fund to which all monies contributed by the participating governmental units, and all grants and gifts from the federal or state government or any other source shall be deposited. The board of directors shall appoint a treasurer who may be a treasurer of one of the participating governmental units. The treasurer, subject to the direction and approval of the board of directors, shall be authorized to receive,

invest and disburse all funds of the region without further appropriation. The treasurer shall give bond for the faithful performance of his duties in a form and amount as fixed by the board of directors.

The board of directors may borrow money, enter into long or short-term loan agreements or mortgages and apply for state, federal or corporate grants or contracts to obtain funds necessary to carry out the purposes of the region. The board of directors may enter into contracts for the purchase of supplies, materials and services and for the purchase or lease of land, buildings and equipment as deemed necessary.

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

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

SECTION 28. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Regionalization Incentive and Implementation Fund. Amounts credited to the fund shall be administered by the division of local services within the department of revenue which shall determine that the funds are used for activities consistent with the purpose of this act and the Massachusetts management and accounting report system. The amounts shall be used, without further appropriation, solely for the administration and implementation of this section.

The fund shall be a separate and expendable trust fund administered by the division of local services within the department of revenue. There shall be credited to the fund, revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund and investment income earned on the fund's assets, and all other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund, and shall be allocated to the fund the following fiscal year.

One hundred percent of the monies deposited in the Regional Incentive and Implementation Fund, but not more than \$4,000,000.00 in the aggregate in any fiscal year, shall be used by the department of housing and community development within the executive office of housing and economic development to provide grants on a competitive basis to districts and municipalities, including councils of government and regional planning agencies that are applying on behalf of two or more municipal entities, to fund the regionalization of municipal services including, but not limited to, the areas of planning, implementation, transitional costs, staff, operations, equipment, hardware, facilities, the subsidization of salaries for positions to perform municipal functions jointly and projects to implement joint services, and related subject areas.

370           Grant applications shall be reviewed by a panel including the department of housing and  
371 community development, executive office of administration and finance and department of  
372 revenue division of local services.

373           The department of housing and community development shall promulgate rules and  
374 regulations for the administration of the Regionalization Incentive and Implementation Fund.