

SENATE No. 1077

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 promoting municipal collaboration and regionalization throughout the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>

SENATE No. 1077

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1077) of James B. Eldridge, Jennifer E. Benson, Denise Provost, Jason M. Lewis and other members of the General Court for legislation to promote municipal collaboration and regionalization throughout the Commonwealth. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3822 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act promoting 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, the Hampshire council of
7 governments, a regional transit authority established under chapter 161B, a water and sewer
8 commission established under chapter 40N or by special law, a county, or a state agency as
9 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) 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 the following:

(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 the entity created thereby to perform the services, activities or undertakings within the region, and the specific powers and duties delegated thereto; provided, however, that such entity shall be a body politic and corporate created pursuant to subsection (d) whose funds shall be subject to an annual audit and a copy of

such audit shall be provided to the member governmental units and to the division of local services;

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

(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; and

(6) its duration.

(d) An entity established by a joint powers agreement shall be a body politic and corporate with 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;

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

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

(e) An entity created pursuant to this section shall be governed by a board of directors comprised of at least one member representing each participating governmental unit. Each member of the board of directors shall be entitled to a vote. No member of the board of directors shall receive an additional salary or stipend for their service as a board member. 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. No member of the board of directors or other employee of the entity shall be eligible to serve concurrently as treasurer. 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 treasurer may make appropriate investments of the funds of the region consistent with section 55B of chapter 44.

The board shall appoint a business officer or employee who may be a city auditor, town accountant or officer with similar duties of one of the participating governmental units. The

business officer shall have the duties and responsibilities of an auditor or accountant under sections 52 and 56 of chapter 41 and shall not be eligible to hold the office of treasurer.

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 borrowing, loans or mortgages shall be consistent with the joint powers agreement, standard lending practices and with sections 16 to 28, inclusive, of chapter 44. The board of directors may, subject to chapter 30B, enter into contracts for the purchase of supplies, materials and services and for the purchase or lease of land, buildings and equipment as considered necessary by the board of directors.

(f) 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.

(g) A participating governmental unit shall not be 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.

(h) A regional school district, superintendency union, educational collaborative, charter school or commonwealth virtual school may only be formed as provided in the applicable provisions of the General Laws, and no joint powers agreement under this section may, in substance, create such a district, union, collaborative, charter school or virtual school, irrespective of how the entity created under a joint powers agreement may be characterized or

93 named. A joint powers agreement relating to public schools may only be entered into by the
94 school committee, or other governing board, as applicable.

95 SECTION 2. Said chapter 40, as so appearing, is hereby amended by striking out section
96 44A and inserting in place thereof the following section:- Section 44A. A city or town, by vote
97 of the council in the case of a city and by vote of the board of selectmen in the case of a town,
98 may create a special unpaid committee to be known as a regional refuse disposal planning
99 committee consisting of 3 persons to be appointed by the board of selectmen in a town and by
100 the mayor in a city.

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

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

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

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

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

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

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

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

SECTION 11. Section 3 of chapter 121C of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, 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 12. Notwithstanding any general or special law to the contrary, each secretary of an executive office shall evaluate all grant, loan, and technical assistance programs administered under their office for opportunities to promote, facilitate and implement inter-municipal cooperation, collaboration, and regional service delivery at the local level. On or before December 31, 2014, each secretary shall provide to the executive office for administration and finance the results of their evaluation identifying opportunities to leverage state resources to promote regional, efficient solutions to common problems.

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

SECTION 14. The operational services division shall review applicable procurement policies and regulations to facilitate the execution of contracts, where appropriate, between regional planning agencies and any executive office, department, agency, office, division, board,

157 commission or institution within the executive branch to provide or receive services, facilities,
158 staff assistance or money payments.