

HOUSE No. 4746

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark and 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 Pioneer Valley Regional School District.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>6/26/2018</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>6/26/2018</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>7/2/2018</i>

HOUSE No. 4746

By Representative Mark of Peru and Senator Gobi, a joint petition (subject to Joint Rule 12) of Paul W. Mark, Anne M. Gobi and Susannah M. Whipps relative to the financial condition of the Pioneer Valley Regional School District. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the financial condition of the Pioneer Valley 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 Pioneer Valley 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, or a
4 designee.

5 “Director”, the director of accounts in the department of revenue, or a designee.

6 “District”, the Pioneer Valley regional school district.

7 “School committee”, the Pioneer Valley regional school committee.

8 “Secretary”, the secretary of administration and finance, or a designee.

9 SECTION 2. (a) Notwithstanding any general or special law to the contrary, the Pioneer
10 Valley regional school district, by majority vote of the school committee and with the approval
11 of the commissioner, in consultation with the director, may borrow up to \$2,000,000 for the
12 purpose of funding deficits in the district's fiscal year 2018 and 2019 budgets. The commissioner
13 may limit the amount to be borrowed to amounts less than the amounts approved by the school
14 committee. Notwithstanding chapters 44 and 44A of the General Laws, bonds or notes issued for
15 the purposes of this act shall be for such terms as are approved by the commissioner, in
16 consultation with the director, but shall not exceed 10 years. Bonds or notes issued under this act
17 shall be backed by the full faith and credit of the district and may be issued as qualified bonds or
18 notes. Indebtedness incurred under this act shall otherwise be subject to said chapter 44.

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

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

29 SECTION 3. (a) Notwithstanding any general or special law to the contrary, at any time
30 while debt issued under this act is outstanding, the superintendent of schools and other district

31 officials shall promptly provide such information and reports as may be requested by the
32 commissioner. The following actions shall be subject to the written approval of the
33 commissioner: (i) adoption or reconsideration of the district budget; (ii) transfer of budgetary
34 authority between line items; (iii) encumbrance or expenditure of funds not included in the
35 general fund budget; (iv) borrowing; (v) execution of new or amended collective bargaining
36 agreements; (vi) execution of new contracts or amendments to existing contracts with a value of
37 \$25,000 or more; and (vii) establishment, increase or decrease of user fees.

38 (b) At any time while debt issued under this act is outstanding, the commissioner may
39 impound any unencumbered funds for such period of time as the commissioner determines and
40 may undertake any initiatives that the commissioner deems necessary to secure the financial
41 stability of the district. Notwithstanding the provisions of the regional school district agreement,
42 the commissioner may undertake a review that may result in the closing, reconfiguration or
43 consolidation of school buildings within the district. The commissioner shall require the district
44 to contract with a fiscal overseer, whose appointment shall be subject to the commissioner's
45 approval. The fiscal overseer shall: (i) supervise all financial services and activities of the
46 district; (ii) assist in the development and preparation of the budget; (iii) monitor the expenditure
47 of all funds; (iv) make recommendations to the commissioner regarding the actions set forth in
48 subsection (a); (v) assess and monitor the ability of the district to manage its finances; and (vi)
49 report at least monthly to the commissioner. While the fiscal overseer is contracted with the
50 district, the fiscal overseer is responsible to answer to the commissioner.

51 (c) In any fiscal year during which debt issued under this act is outstanding, the district
52 shall submit to the commissioner quarterly reports comparing the district budget to actual
53 revenues and expenditures. The reports shall be submitted within 30 days after the conclusion of

54 each fiscal quarter and shall be in a form and include the information and detail as prescribed by
55 the commissioner.

56 (d) At any time while the debt issued under this act is outstanding, section III(B) of the regional
57 agreement is suspended.

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

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

67 SECTION 4. (a) In fiscal year 2019 and any other year in which bonds or notes
68 authorized under this act remain outstanding, the commissioner, in consultation with the director,
69 shall ascertain whether the district budget for that fiscal year contains adequate revenues to meet
70 the appropriations set forth in that district budget and shall report the findings to the
71 superintendent and the school committee. If the commissioner determines that the district budget
72 does not contain adequate revenues to meet the expenditures set forth in that district budget for
73 the applicable fiscal year, the commissioner may recommend further action to achieve a balanced
74 budget. In such a case, the district's net assessment of the budget in such fiscal year to each of
75 the towns of Bernardston, Leyden, Northfield, and Warwick shall not be payable by each of the

76 towns unless and until the district has approved or taken action acceptable to the commissioner
77 to achieve a balanced budget.

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

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

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

88 SECTION 5. Notwithstanding any general or special law to the contrary, for fiscal year
89 2019 and for any subsequent fiscal year during which bonds or notes authorized under this act
90 remain outstanding, the towns of Bernardston, Leyden, Northfield, and Warwick, by majority
91 vote, are authorized to appropriate amounts held in any stabilization fund created under section
92 5C of chapter 40 of the General Laws to pay each town's allocable assessment of the district's
93 budget for the fiscal year.

94 SECTION 6. (a) Notwithstanding any general or special law to the contrary, the district
95 shall establish a special reserve fund for extraordinary and unforeseen expenditures, which shall
96 be called the supplemental reserve fund. This fund shall be separate from and in addition to any
97 amounts appropriated under section 16G½ of chapter 71 of the General Laws.

98 (b) Commencing with fiscal year 2019, the school committee shall designate in its
99 proposed budget that the following amounts be placed in the supplemental reserve fund: for
100 fiscal year 2019, an amount equal to 0.25 per cent of the gross amount of the regional district
101 budget for the prior fiscal year as determined by the commissioner; for fiscal year 2020, an
102 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; for fiscal year 2021, an amount equal to 0.75 per
104 cent of the gross amount of the regional district budget for the prior fiscal year as determined by
105 the commissioner; for fiscal year 2022, an amount equal to 1 per cent of the gross amount of the
106 regional district budget for the prior fiscal year as determined by the commissioner; and for fiscal
107 year 2023, and each subsequent fiscal year, an amount equal to 1.5 per cent of the gross amount
108 of the regional district budget for the prior fiscal year as determined by the commissioner.

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

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

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

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

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

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

141 SECTION 8. (a) If a finance control board is established by the secretary under section 3,
142 it shall consist of 5 members: the secretary or a designee, the commissioner of revenue or a
143 designee, the deputy commissioner of local services of the department of revenue or a designee,
144 the commissioner or a designee and the chairperson of the school committee or a designee.
145 Members of the board who are employees or officers of the commonwealth or the district shall
146 serve without compensation. The board shall initiate and assure the implementation of
147 appropriate initiatives to secure the financial stability of the school district. Until the board
148 ceases to exist, no appropriation, borrowing authorization or transfer within the district budget
149 shall take effect until approved by the board.

150 (b) Notwithstanding any general or special law to the contrary, the board may amend at
151 any time, by majority vote, any appropriation, borrowing authority, transfer or other spending
152 authority. The authority to amend shall include: (i) the power to increase or decrease an existing
153 appropriation, borrowing authorization, transfer or spending authority; (ii) the authority to
154 eliminate an existing appropriation, borrowing authorization, transfer or spending authority; and
155 (iii) the power to create an appropriation, transfer or spending authority. In exercising its
156 authority under this subsection, the board may act with respect to district spending purposes that
157 are not the subject of separately identified appropriations.

158 (c) Notwithstanding section 16B of chapter 71 of the General Laws or any other general
159 or special law to the contrary, if there is no annual budget lawfully established for a fiscal year
160 by the first day of that fiscal year, the board may, by majority vote, establish a budget for that
161 fiscal year that it considers appropriate and to amend the appropriations during that fiscal year as
162 provided in subsection (b).

163 (d) Notwithstanding any general or special law to the contrary, the board may, by
164 majority vote, encumber or impound, at any time, any unexpended or unencumbered
165 appropriation or spending authority of any kind notwithstanding the prior approval of the board
166 of that appropriation or spending authority. To the extent that funds previously encumbered or
167 impounded remain encumbered or impounded at the conclusion of the fiscal year, these amounts
168 shall revert to the district's excess and deficiency account.

169 (e) Notwithstanding any general or special law to the contrary, in addition to and without
170 limitation of the other authority in this section, the board may, by majority vote, establish, set,
171 raise or lower any fee or charge, for any service or other district activity, otherwise within the
172 authority of the district to establish, set, raise or lower. No fee or charge shall be established, set,
173 raised or lowered without written notice to the school committee and superintendent at least 45
174 days before the effective date of such action.

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

178 (g) In each fiscal year during which the board continues in existence, the superintendent
179 shall, at the same time as the annual budget is submitted to the school committee, provide to the
180 board a copy of the proposed annual budget, together with a supporting revenue and expenditure
181 statement in such detail as the board may prescribe. The board shall review this budgetary
182 information and may issue a report of its findings. In order to promote and ensure the fiscal
183 stability of the district, the board may also require the filing of a detailed annual work plan by
184 each district official with the power to make contracts or incur liabilities on behalf of the district,

185 setting forth certain actions which may be implemented by each official to ensure greater
186 efficiency in the delivery of services by the district. Each work plan shall be in such detail as the
187 board may prescribe, and may include, but not be limited to: (i) a plan for improved financial and
188 spending controls; (ii) budget guidelines and objectives for the fiscal year; (iii) a professional and
189 nonprofessional staffing plan; and (iv) a plan for other proposed savings to be implemented. Any
190 work plan submitted by a district official shall be approved by the superintendent and the school
191 committee prior to submission to the board. During the course of each fiscal year in which the
192 board is in existence, the board may require that status reports be filed with the board by these
193 district officials on a quarterly basis. The board shall have full authority to waive any reporting
194 or filing requirements contained in this section. The board may prepare reports of its findings and
195 issue recommendations for further action to the superintendent and the school committee.

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

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

203 SECTION 9. The commissioner of revenue may distribute state aid payments payable to
204 the district on or before June 30, 2019 for fiscal year 2019, as may be recommended by the
205 commissioner and the director.