

HOUSE No. 5077

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 establishing the Tri-Town Water District.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>5/11/2020</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>5/11/2020</i>
<i>Ronald Mariano</i>	<i>3rd Norfolk</i>	<i>5/11/2020</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>5/11/2020</i>

HOUSE No. 5077

By Mr. Cusack of Braintree, a petition (subject to Joint Rule 12) of Mark J. Cusack and others for legislation to establish the Tri-Town Water District in the towns of Braintree, Holbrook and Randolph. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act establishing the Tri-Town Water District.

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 establishment of the Tri-Town Water District, hereinafter referred to as
2 the District passed by votes of the legally authorized authorities in the towns of Braintree,
3 Holbrook and Randolph in 2019 and in accordance with a Joint Powers Agreement among said
4 towns for the establishment of the District, hereinafter referred to as the Agreement, and all
5 actions heretofore taken by the District Board of Directors which were not inconsistent with this
6 act or with the terms of the Agreement, are hereby validated, ratified and confirmed in all
7 respects. The Agreement shall be effective and binding upon approval by the parties in the
8 following manner: (a) in Braintree and Randolph, by their respective town councils, and with the
9 approval of the mayor in Braintree; and (b) in Holbrook, by the board of selectmen.

10 The purpose of the District shall be to provide for the supply, treatment and distribution
11 of water to the member towns. The said District for the purposes aforesaid, in the manner herein
12 provided, may take, by purchase or otherwise, and hold and convey to and into the said towns,

13 from some one convenient point, or through a common conduit, the waters of the Great Pond
14 Reservoir System, including Great Pond, Richardi Reservoir, Farm River, Norroway Brook and
15 the Cochato River in the towns of Braintree and Randolph and the waters which flow into and
16 from the same, or any part thereof; and may also take, by purchase or otherwise, and hold any
17 water rights connected therewith, and also all lands, rights of way and easements necessary for
18 holding and preserving such water, and for conveying the same to any part of said towns, and
19 may erect on the land thus taken or held proper dams, buildings, fixtures and other structures,
20 and may make excavations, procure and operate machinery and provide such other means and
21 appliances as may be necessary for the establishment and maintenance of complete and effective
22 water works, and may construct and lay down conduits, pipes and other works, under or over any
23 lands, water courses, railroads, or public or private ways, and along any such way, in such
24 manner as not unnecessarily to obstruct the same; and for the purpose of constructing,
25 maintaining and repairing such conduits, pipes and other works, and for all proper purposes of
26 this act, said District, may dig up any such lands, and may enter upon and dig up any ways in
27 said towns, in such manner as to cause the least hinderance to public travel on such ways.

28 This Act shall, in the manner and on the terms set forth in the Agreement, supersede in
29 their entirety, and fully repeal, Chapter 217 of the Acts of 1885 and Chapter 269 of the Acts of
30 1886.

31 SECTION 2. The powers, duties and liabilities of the District shall be vested in and
32 exercised by a District board of directors, hereinafter referred to as the board, organized in
33 accordance with this section and the Agreement. Each member of the board shall be entitled to a
34 vote. The board shall choose a chairman and secretary by ballot from its membership. The board
35 shall coordinate the activities of the District and may establish any policies or procedures

36 necessary to do so. The board shall establish and manage a fund to which all monies contributed
37 by the participating towns, and all grants and gifts from the federal or state government or any
38 other source, shall be deposited. The board shall appoint a treasurer who may be a treasurer of 1
39 of the participating governmental units. No member of the board or other employee of the
40 District shall be eligible to serve concurrently as treasurer. The treasurer, subject to the direction
41 and approval of the board, shall be authorized to receive, invest and disburse all funds of the
42 District without further appropriation. The treasurer may, by vote of said board, be compensated
43 for his services. The treasurer of the District shall be subject to sections 35, 52 and 109A of
44 chapter 41 of the General Laws, to the extent applicable. The treasurer may make appropriate
45 investments of the funds of the District consistent with section 55B of chapter 44.

46 The board shall appoint a business officer who may be a city auditor, town accountant or
47 officer with similar duties, of 1 of the participating governmental units. The business officer shall
48 have the duties and responsibilities of an auditor or accountant pursuant to sections 52 and 56 of
49 chapter 41 and shall not be eligible to hold the office of treasurer.

50 The District shall be subject to an annual audit and a copy of such audit shall be provided
51 to the member towns and to the division of local services of the department of revenue.

52 Each of the member towns' legally authorized authorities shall appoint 1 board member,
53 for a total of 3 members.

54 SECTION 3. The District shall be a body politic and corporate and political subdivision
55 of the commonwealth and shall have the following powers and duties:

56 (1) To adopt a name and a corporate seal, and the engraved or printed facsimile of such
57 seal appearing on a bond or note of the District shall have the same legal effect as such seal
58 would have if it were impressed thereon.

59 (2) To sue and be sued, but only to the same extent and upon the same conditions that a
60 city or town may be sued. The members and officers of the District shall be deemed to be public
61 employees within the meaning of chapter two hundred and fifty-eight.

62 (3) To purchase, take by eminent domain under chapter 79 of the General Laws or
63 otherwise acquire property within the member towns, or any interests therein, for the purposes of
64 the District, including the protection of the water supply; to construct, reconstruct, replace,
65 rehabilitate, repair, equip, operate and maintain water supply, treatment and distribution facilities
66 for the benefit of said towns, and any other facilities necessary to carry out the purposes of the
67 District; and to make any necessary contracts in relation thereto. The board may exercise its
68 power to take property by eminent domain only upon a unanimous vote of the full board,

69 (4) To borrow money and apply for state, federal or corporate grants or contracts to
70 obtain funds necessary to carry out the purposes of the District. Any borrowing shall undertaken
71 in accordance with sections 16 to 28, inclusive, of chapter 44. The board may, subject to chapter
72 30B, enter into contracts for the purchase of supplies, materials and services and for the purchase
73 or lease of land, buildings and equipment, as considered necessary by the Board.

74 (5) To incur debt, in accordance with the Agreement, for the purpose of acquiring land, or
75 any interests therein, and constructing, reconstruction, replacing, rehabilitating, repairing and
76 equipping water supply, treatment and distribution facilities and any other facilities necessary to
77 carry out the purposes of the District, including debt for the purposes of designing and otherwise

78 planning any such improvements, for a term not exceeding 30 years. Alternatively, for the same
79 purposes, the board may, in lieu of incurring debt, allow each of the District's member
80 municipalities to incur debt for the benefit of the District.

81 (6) To issue bonds and notes in the name and upon the full faith and credit of said
82 District; said bonds or notes shall be signed by the chairman and the treasurer of the board,
83 except that said chairman by a writing bearing his written signature and filed in the office of said
84 treasurer, which writing shall be open to public inspection, may authorize said treasurer to cause
85 to be engraved or printed on said bonds or notes a facsimile of said chairman's signature, and
86 such facsimile signature so engraved or printed shall have the same validity and effect as said
87 chairman's written signature, and each issue of bonds or notes shall be a separate loan.

88 (7) To receive and disburse funds for any District purpose, and to invest funds in any
89 investments legally permitted for cities and towns.

90 (8) To incur temporary debt in anticipation of revenue to be received from the member
91 towns or from any other source.

92 (9) To assess member towns for any expenses of the District.

93 (10) To maintain a reserve fund, and to carry over the remaining balance of such fund
94 into the ensuing fiscal year, subject to the limitations in section 4 of this Act.

95 (11) To apply to receive and expend or hold any grants or gifts from the commonwealth,
96 the federal government and other grantors for the purposes of the District.

97 (12) To engage legal counsel, financial advisors, engineers, accountants, consultants,
98 agents and other advisors.

99 (13) To submit an annual report to each of the member towns, containing a detailed
100 financial statement, and a statement showing the method by which the annual charges assessed
101 against each town were computed.

102 (14) To employ such employees as it considers necessary to operate such district.

103 (15) To enter into contracts with any persons, including but not limited to non-member
104 cities and towns, other bodies politic and the United States of America, that are necessary or
105 convenient to carrying out the powers of the District, including but not limited to contracts for
106 the purchase, supply, treatment and distribution of water and contracts for the operation and
107 management of the water facilities of the District.

108 (16) To enact by-laws and rules concerning the management and regulation of its affairs
109 and the use of its facilities and the provision of its services.

110 (17) To convey, sell, lease or otherwise dispose of any District real or personal property,
111 or interests therein, no longer needed for District purposes.

112 (18) To do any and all other things necessary and convenient to carrying out the powers
113 and purposes of the District, and all other things incidental and related thereto.

114 SECTION 4. The board shall by unanimous vote annually determine the amounts
115 necessary to be raised to maintain and operate the District during the ensuing fiscal year, plus a
116 reserve fund not to exceed 15 per cent of the maintenance and operating budget, and the amounts
117 required for payment of debt and interest incurred by the District which will be due in said year,
118 and shall apportion the amounts so determined among the several member towns in accordance
119 with the terms of the Agreement, namely such that operating costs shall be apportioned to each

120 member town on a flow-proportionate basis, based upon the average daily usage as measured at
121 the District flow meters, and capital costs shall be apportioned among the member towns in the
122 following proportions: Braintree shall pay 50%, Randolph shall pay 34% and Holbrook shall pay
123 16%. The amounts so apportioned for each town shall, prior to February first in each year, be
124 certified by the District treasurer to the treasurers of the several towns. Except to the extent
125 provided for from water system revenues and other sources, the obligation of each member town
126 to pay apportionments pursuant to the Agreement shall be included in the amounts to be assessed
127 annually in each such town under section 23 of chapter 59 of the General Laws, and, with or
128 without an appropriation therefore, the town treasurer shall pay to the District the amounts so
129 apportioned at the times specified in the Agreement. The amounts apportioned or to be
130 apportioned pursuant to the Agreement shall not be included in the statutory limit of
131 indebtedness of any town. Each of said towns shall transfer all or any portion of the amounts
132 appropriated for capital costs to the District only upon receipt by the treasurer of the town from
133 the District of copies of invoices or other evidence satisfactory to the treasurer that the project
134 costs for which said amounts are being transferred have been incurred by the District and are due
135 and payable.

136 SECTION 5. Notwithstanding chapter 44 of the General Laws to the contrary, only
137 sections 16 to 28, inclusive, of said chapter 44, so far as apt, shall apply to the District; provided,
138 however, that section 16 of said chapter 44 relating to the countersigning of bonds and notes and
139 section 24 of said chapter 44 relating to the countersigning and approval of notes and the
140 certificates of the clerk relating thereto shall not apply to the District. Any debt incurred by the
141 District shall not be subject to the limit of indebtedness prescribed in section 10 of said chapter
142 44.

143 SECTION 6. The member towns may from time to time amend the Agreement if the
144 Agreement as so amended is not inconsistent with this act.