

HOUSE No. 5068

The Commonwealth of Massachusetts

PRESENTED BY:

Natalie M. Blais and Adam G. Hinds

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 "West County Senior Services District".

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>6/23/2022</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>6/23/2022</i>

HOUSE No. 5068

By Representative Blais of Sunderland and Senator Hinds, a joint petition (subject to Joint Rule 12) of Natalie M. Blais and Adam G. Hinds for legislation to authorize the town of Ashfield to enter into an agreement to establish the West County Senior Services District. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act establishing the "West County Senior Services 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 terms hereof having been duly approved by the respective town
2 meetings of the towns of Ashfield, Buckland and Shelburne, it is hereby declared essential for
3 the benefit of the people of the towns of Ashfield, Buckland and Shelburne, in order to sustain
4 and protect the welfare, prosperity and the living conditions of their senior populations, that the
5 towns establish a Senior Services District upon the acceptance hereof by their select boards; that
6 accurate, appropriate, and sustaining assessments, fees and charges for said services be
7 established; that said supplementary services for said towns be operated in an efficient and
8 financially sustaining manner to further encourage the availability and soundness of senior
9 programing and resources all to the public benefit and good, and to the extent and in the manner
10 provided herein.

11 SECTION 2. For the purposes specified in section 1, Ashfield, Buckland and Shelburne
12 may create a Senior Services District to be known as the "West County Senior Services

13 District”, hereinafter referred to as “the district”, which upon its creation shall be a body politic
14 and corporate and a public instrumentality. Except as set forth in Section 2A hereof, the district
15 shall be created when: (a) this act has been accepted by the select board of each of the
16 aforementioned Towns, which in their capacities as members of the district shall be referred to
17 herein separately as a “member town” and collectively as the “member towns;” and (b) the
18 member towns’ execution of an agreement terminating the agreement known as and entitled
19 “The Senior Center Consortium Agreement Among the Towns of Ashfield, Buckland and
20 Shelburne,” as amended as of January 8, 2019 (the “Consortium Agreement”). Upon its
21 creation, the district shall have, any general or special law notwithstanding, as hereinafter
22 provided and in accordance with this act, the authority to provide senior services and programs,
23 construct, operate, and maintain a shared senior center within the geographical boundaries of a
24 member town.

25 If any member town, once having accepted this act in accordance with the provisions of
26 this section, desires, upon town meeting vote, to withdraw from the district, it may do so with
27 prior written notice to the board of managers, as herein defined, which withdrawal shall become
28 effective one year from the July 1 next following the delivery of such timely written notice, and
29 in the same manner provided for acceptance of this act; provided, however, that such
30 withdrawing town shall be obligated to pay as follows its annual shares of operational costs and
31 debt costs, respectively and as defined in sections six and seven hereof: (1) the withdrawing
32 town shall continue to accrue and be obligated to pay its assessed share of operational costs
33 through the conclusion of the fiscal year next commencing following the withdrawing town’s
34 delivery of timely written notice as set forth above; and (2) in addition, the withdrawing town
35 shall continue to accrue and be obligated to pay its assessed share of principal and interest costs

36 that such town had approved to be incurred by or on behalf of the district, for so long as said
37 debt costs are due and owing. Upon the effective date of its withdrawal the membership of the
38 board of managers shall be reduced to reflect the termination of such withdrawing town's seats.

39 The board of managers may, in its discretion, establish requirements in the By Laws
40 relating to the admission into the district of any additional municipality, including without
41 limitation with respect to the allocation of charges to be assessed to such municipalities.
42 Addition of member towns shall be by select board approval of all member towns.

43 SECTION 2A. For purposes of providing for the transition from the terms of the
44 Consortium Agreement to the terms of this act, the board of managers shall be deemed created
45 and authorized to act upon acceptance of this Section 2A by the elect board of each of the
46 aforementioned Towns. Prior to the termination of the Consortium Agreement the board of
47 managers shall present a transition plan to the select boards of the aforementioned towns for
48 each select board's approval.

49 SECTION 3. The management and control of all property acquired by, and the exercise
50 of all powers, privileges and duties conferred upon, the district pursuant to the provisions of this
51 act shall be vested in and exercised by a board of managers, which shall consist of two members
52 each from Ashfield, Buckland and Shelburne and any future member municipalities appointed by
53 their respective select boards. The board of managers shall annually elect from its members a
54 chairperson, vice chairperson and secretary, provided that no member town may have more than
55 one representative serving as an officer contemporaneously. The district shall be deemed a
56 governmental body pursuant to chapter 30B of the General Laws. Notwithstanding any general
57 or special law to the contrary, the administrators of the district who are procurement officers for

58 said district shall participate in the Massachusetts public purchasing official certification
59 program conducted by the office of the inspector general in order to earn a Massachusetts public
60 purchasing official certificate or shall hire a certified procurement officer for purchases subject
61 to chapter 30B. Of the two representatives of each member town on the board of managers, one
62 member shall serve for a term of two years, and the other shall serve for a term of three years; at
63 least one member shall be appointed from the town's Council on Aging or such Council's
64 designee duly appointed by the select board. Members of the board of managers may be
65 removed for cause by their appointing authority. Members of the board of managers, together
66 with the board's agents, employees, and professional staff shall be indemnified against personal
67 liability by the district in accordance with, and subject to the limitations set forth in, chapter 258
68 of the General Laws. The district shall be deemed a public employer pursuant to chapter 258 of
69 the General Laws. The district acting through its initial board of managers shall promptly adopt
70 by-laws describing by whom and how meetings of the board may be called, notified and
71 conducted; establish rules and regulations for the management of its affairs not inconsistent with
72 this act or any other provision of law; shall appoint for such term as it may determine, a
73 treasurer of the district, and such other officers and employees not specifically provided for in
74 this act as it may deem necessary and proper, and shall fix their compensation and benefits. The
75 treasurer shall not be a member of the board of managers, and shall give bond to the district in
76 such an amount as may be approved by said board with a surety company authorized to transact
77 business in the commonwealth as a surety. The district may contract with any of its member
78 towns or other qualified entities for treasurer services. A majority of appointed managers shall
79 constitute a quorum of the board of managers. Unless otherwise specified herein, the board of
80 managers may act by a majority vote, provided that no vote pertaining to the district's budget or

81 debt issuances may be deemed approved unless at least one representative from each member
82 town has voted affirmatively thereon. Vacancies occurring in the membership of the board of
83 managers from any cause may be filled for the remainder of the unexpired term by the
84 appointing authority. No vacancy occurring in the membership of the board of managers shall
85 disqualify the board of managers from taking any action authorized by this act. The Board of
86 Managers shall annually prepare and provide to the select boards of the member towns, a written
87 report of the operations and programing, the actions of the board of managers, and receipts and
88 expenditures of the district for the preceding fiscal year.

89 SECTION 4. The district, acting by and through its board of managers, shall have all the
90 rights and powers necessary or convenient to carry out and effectuate the purposes of this act
91 including, but without limiting the generality of the foregoing, the following rights and powers:

92 (a) to adopt the by-laws for the regulation of its affairs and the conduct of its business, to
93 promulgate rules, regulations and procedures in connection with the performance of its functions
94 and duties, and to fix, enforce, and collect penalties for the violations thereof;

95 (b) to adopt an official seal and alter the same at its pleasure;

96 (c) to maintain an office at such place or places as it may determine;

97 (d) to apply for, receive, accept, administer, expend, and comply with the conditions,
98 obligations and requirements respecting any grant, gift, loan, including without limitation any
99 grant, gift or loan from agencies of local, state, and federal governments, donation or
100 appropriation of any property or money in aid of the purposes of the district, and to accept
101 contributions of money, property, labor, or other things of value;

102 (e) To incur debt for the purpose of acquiring land and constructing, reconstructing,
103 adding to and equipping buildings or for the purpose of remodeling and making extraordinary
104 repairs to buildings and for the construction or reconstruction of any an all facilities incidental or
105 related thereto, and for the purpose of purchasing department equipment; or for the purpose of
106 any other public work or improvement of a permanent nature required by the district; or for the
107 purpose of any planning, architectural or engineering costs relating to any of the above
108 purposes; provided, however, that such debt is incurred in accordance with Section 7. Debt
109 incurred under this section shall be payable within 30 years, but no such debt shall be issued for
110 a period longer than the maximum useful life of the project being financed as determined in
111 accordance with guidelines established by the director of accounts pursuant to section 38 of
112 chapter 44;

113 (f) To incur temporary debt in anticipation of revenue to be received from any source;

114 (g) to acquire by purchase, lease, lease purchase, sale and lease back, gift, or devise, or
115 to obtain options for the acquisition of, any property, real or personal, easements, or any interest
116 therein, in the exercise of its powers and the performance of its duties in compliance with the
117 District Bylaws and this Act;

118 (h) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or grant options
119 for any such purposes with respect to, any property, real or personal, tangible or intangible, or
120 any interest therein in compliance with the District Bylaws and this Act, and, with regard to real
121 property, subject to approval by the town meetings of each of the member towns;

122 (i) to fix, revise, charge, collect and abate fees, rates, rents, and other charges for
123 services, facilities, and commodities furnished or supplied by it;

124 (j) to construct, improve, extend, enlarge, maintain, and repair the senior facilities
125 located within the geographical jurisdiction of the district;

126 (k) to make contracts of every name and nature, and to execute and deliver all
127 instruments necessary or convenient for carrying out any of its purposes;

128 (l) to sue and be sued and to prosecute and defend actions relating to its properties and
129 affairs, provided that only property of the district other than revenues pledged to the payment of
130 bonds or notes shall be subject to attachment or levied upon execution or otherwise;

131 (m) to engage architectural, engineering, accounting, management, legal, financial, and
132 environmental consulting and other professional services;

133 (n) to employ an Executive Director and personnel

134 (o) to charge a programming and use fee to senior clients who are or are not residents of
135 the member towns, and seek to use the services and resources of the district in a manner as the
136 Board of Managers may determine; and

137 (p) to do all things necessary, convenient or desirable for carrying out the purposes of
138 this act for the purposes expressly granted or necessarily implied in this act;

139 (q) and all other powers expressly conferred upon the district under this act

140 SECTION 5. Notwithstanding any general or special law to the contrary, and subject to
141 the terms set forth in this act, fees, rates, rents, assessments, and other charges for resources and
142 services, facilities, and commodities furnished or supplied by the district shall be fixed and
143 adjusted by the board of managers so as to provide funds at least sufficient in each fiscal year,
144 together with other revenues and funds of the district, if any, available therefor, to pay the full

145 cost of operation of the district for that fiscal year, including all current expenses; all debt
146 service on

147 bonds or notes of the district; all costs of maintenance, repair and replacement, including
148 the establishment of reasonable stabilization funds, replacement reserves, and other similar
149 funds in accordance with generally accepted accounting principles, as determined by the board
150 of managers to be necessary or desirable; and all other amounts which the district may be
151 obligated to pay or provide for by law or by contract.

152 SECTION 6. The District, for the purpose of paying annual operating expenses (the
153 “operational costs,” which shall include all costs not requiring the issuance of debt) shall prepare
154 a preliminary proposed annual budget for each fiscal year by November 30, of the preceding
155 year. The board of managers shall determine what assessment is necessary to pay for that
156 portion of the operational costs not covered by fees or other receipts in accordance with section
157 5, and shall apportion such amount in accordance with the proportional five-year average usage
158 formula by each member town of the services being supplied by the district, as follows: each
159 member town shall be assessed that portion of the operational costs that represents the same
160 percentage of the total operational costs (the “Operations Assessment Percentage”) that such
161 member town’s residents’ total usage over the immediately preceding five year period bears
162 relative to the total usage during such span (each as reported to the Massachusetts Executive
163 Office of Elder Affairs annually via Form __).

164 The board of managers shall hold a public hearing on the draft proposed annual budget
165 after notice to the member towns and such notice to the public as it shall determine and shall

166 adopt such proposed annual budget, with or without amendment, after the public hearing but not
167 later than the fifteenth (15th) day of December.

168 Within one week of its adoption, the board of managers shall cause the proposed annual
169 budget and proposed assessment to be delivered to the select board and finance committee in
170 each member town.

171 The board of managers shall receive comments from the member towns until the next
172 following January 31st. After the final day for the towns' comment and prior to the March 1st
173 next following, the board of managers shall, by majority vote, adopt an annual budget, with or
174 without amendment to the proposed annual budget, and shall notify the member towns of the
175 same by mail in the same manner and within the same time frame as is required above with
176 respect to a proposed annual budget and assessment.

177 The annual budget shall include all revenue receipts, expenses, capital costs and other
178 financial information to sufficiently inform the towns of the costs of operating the District.

179 The budget shall not be deemed effective and binding unless the annual assessment has
180 been approved by each member town by a majority vote of its town meeting held prior to the
181 commencement of the fiscal year to which the budget pertains. The annual budget and annual
182 assessment shall then become final and effective for the next following fiscal year upon the
183 adoption of each member town's assessment.

184 If the annual assessment is not approved, the board of managers may from time to time
185 resubmit it or may submit a revised budget and assessment for consideration in the manner
186 described above, but without need for an additional public hearing, and if no annual budget has

187 been adopted prior to the commencement of the fiscal year to which it pertains, the District
188 shall, on a month to month basis until a new

189 annual budget and assessment become effective, operate with the budget and assessment
190 used for the previous fiscal year.

191 Any sums assessed by the district and raised and appropriated by a municipality in
192 accordance with this section shall not be subject to sections 20A, 20B and 21C of chapter 59 of
193 the General Laws.

194 SECTION 7.

195 Each member town's share of debt costs (the "Debt Cost Share") shall be calculated as
196 follows with respect to each debt issuance, with each component calculated for the most recent
197 fully completed fiscal year immediately preceding the date of notice of such proposed debt
198 issuance: (1) 50% shall be divided among the members in the amounts of their respective
199 Operations Assessment Percentages; (2) 25% shall be divided among the member towns based
200 upon their equalized property values relative to one another, as reported by the Massachusetts
201 Department of Revenue (such that if a member town's equalized property value amounts to 50%
202 of the total sum of the member towns' collective equalized property value, such member town
203 would be responsible for at least 12.5% of the debt costs); and (3) 25% shall be divided among
204 the member towns based upon their equalized income values relative to one another, as reported
205 by the Massachusetts Department of Revenue (such that if a member town's equalized income
206 value amounts to 50% of the total sum of the member towns' collective equalized income value,
207 such member town would be responsible for at least 12.5% of the debt costs). Upon determining
208 each member town's debt cost share, which shall remain static and binding upon each of the

209 member towns until the District has fully paid the underlying debt, the board of managers shall
210 certify, to the select board in each member town, that the board of managers shall propose the
211 issuance of such bonds or notes, either in the name of the district or one or more of the member
212 towns, and the amount to be assessed against each member unit therefor, provided that the
213 decision as to whether the district or one or more member towns shall incur the underlying debt
214 shall be subject to a majority approval by the select board of each member town. Upon such
215 approval by each such select board, the select board of each member town, shall cause to be
216 placed in the warrant for the next available annual town meeting, an article in the form specified
217 by the board of managers, seeking authorization from each member town meeting for the
218 district to issue such bonds or notes, and the amount to be assessed therefor against each
219 member town. Upon approval by each member town's town meeting by a two-thirds vote at an
220 annual town meeting, the district may issue such bonds or notes as have been so approved. The
221 indebtedness on bonds or notes issued by the district and the member towns pursuant to this act
222 shall not be subject to section 10 of chapter 44, and sums assessed by the district to repay such
223 bonds or notes shall not be subject to sections 20A, 20B and 21C of chapter 59 of the General
224 Laws. The fiscal year of the district shall commence July 1 and end June 30.

225 SECTION 8. In the event that the board of managers desires to terminate the district and
226 dispose of its assets, a majority of the board of managers then existing shall first vote to do so,
227 and give notice of such vote, in writing, to the select board of each member town. Each member
228 town shall thereafter provide, at its next regular or special town meeting a warrant article to
229 dissolve in the same manner in which the district was created, the warrant article shall contain
230 the question "Shall the West County Senior Services District be dissolved, and its assets
231 disposed of in accordance with the vote of its board of managers?" If all member towns vote in

232 the affirmative, the district shall be dissolved, but not otherwise. In the event of such affirmative
233 vote, the board of managers shall be empowered to dispose of the assets of the district in
234 accordance with the General Laws.

235 SECTION 9. If the district authorized by section 2 is not created in the manner described
236 in said section 2 within ten years from the effective date of this act, then this act shall be without
237 further legal effect.

238 SECTION 10. This act shall take effect upon its passage.