

POST-COUNSEL REVIEW

To see if the Town will vote to petition the General Court to enact a special act for the Towns of Ashfield, Buckland and Shelburne as follows or take any other action thereto:

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:

SECTION 1. The terms hereof having been duly approved by the respective town meetings of the towns of Ashfield, Buckland and Shelburne, it is hereby declared essential for the benefit of the people of the towns of Ashfield, Buckland and Shelburne, in order to sustain and protect the welfare, prosperity and the living conditions of their senior populations, that the towns establish a Senior Services District upon the acceptance hereof by their select boards; that accurate, appropriate, and sustaining assessments, fees and charges for said services be established; that said supplementary services for said towns be operated in an efficient and financially sustaining manner to further encourage the availability and soundness of senior programing and resources all to the public benefit and good, and to the extent and in the manner provided herein.

SECTION 2. For the purposes specified in section 1, Ashfield, Buckland and Shelburne may create a Senior Services District to be known as the “West County Senior Services District”, hereinafter referred to as “the district”, which upon its creation shall be a body politic and corporate and a public instrumentality. Except as set forth in Section 2A hereof, the district shall be created when: (a) this act has been accepted by the select board of each of the aforementioned Towns, which in their capacities as members of the district shall be referred to herein separately as a ”member town” and collectively as the “member towns;” and (b) the member

towns' execution of an agreement terminating the agreement known as and entitled "The Senior Center Consortium Agreement Among the Towns of Ashfield, Buckland and Shelburne," as amended as of January 8, 2019 (the "Consortium Agreement"). Upon its creation, the district shall have, any general or special law notwithstanding, as hereinafter provided and in accordance with this act, the authority to provide senior services and programs, construct, operate, and maintain a shared senior center within the geographical boundaries of a member town.

If any member town, once having accepted this act in accordance with the provisions of this section, desires, upon town meeting vote, to withdraw from the district, it may do so with prior written notice to the board of managers, as herein defined, which withdrawal shall become effective one year from the July 1 next following the delivery of such timely written notice, and in the same manner provided for acceptance of this act; provided, however, that such withdrawing town shall be obligated to pay as follows its annual shares of operational costs and debt costs, respectively and as defined in sections six and seven hereof: (1) the withdrawing town shall continue to accrue and be obligated to pay its assessed share of operational costs through the conclusion of the fiscal year next commencing following the withdrawing town's delivery of timely written notice as set forth above; and (2) in addition, the withdrawing town shall continue to accrue and be obligated to pay its assessed share of principal and interest costs that such town had approved to be incurred by or on behalf of the district, for so long as said debt costs are due and owing. Upon the effective date of its withdrawal the membership of the board of managers shall be reduced to reflect the termination of such withdrawing town's seats.

The board of managers may, in its discretion, establish requirements relating to the admission into the district of any additional municipality, including without limitation with respect to the allocation of charges to be assessed to such municipalities.

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

SECTION 3. The management and control of all property acquired by, and the exercise of all powers, privileges and duties conferred upon, the district pursuant to the provisions of this act shall be vested in and exercised by a board of managers,

which shall consist of two members each from Ashfield, Buckland and Shelburne appointed by their respective select boards. The board of managers shall annually elect from its members a chairperson, vice chairperson and secretary, provided that no member town may have more than one representative serving as an officer contemporaneously. The district shall be deemed a governmental body pursuant to chapter 30B of the General Laws. Notwithstanding any general or special law to the contrary, the administrators of the district who are procurement officers for said district shall participate in the Massachusetts public purchasing official certification program conducted by the office of the inspector general in order to earn a Massachusetts public purchasing official certificate or shall hire a certified procurement officer for purchases over \$35,000. Of the two representatives of each member town on the board of managers, one member shall serve for a term of two years, and the other shall serve for a term of three years; at least one member shall be appointed from the town's Council on Aging or such Council's designee duly appointed by the select board. Members of the board of managers shall not be compensated. Members of the board of managers may be removed for cause by their appointing authority. Members of the board of managers, together with the board's agents, employees, and professional staff shall be indemnified against personal liability by the district in accordance with, and subject to the limitations set forth in, Chapter 258 of the General Laws. The district shall be deemed a public employer pursuant to chapter 258 of the General Laws. The district acting through its initial board of managers shall promptly adopt by-laws describing by whom and how meetings of the board may be called, notified and conducted; establish rules and regulations for the management of its affairs not inconsistent with this act or any other provision of law; shall appoint for such term as it may determine, a treasurer of the district, and such other officers and employees not specifically provided for in this act as it may deem necessary and proper, and shall fix their compensation and benefits. The treasurer shall not be a member of the board of managers, and shall give bond to the district in such an amount as may be approved by said board with a surety company authorized to transact business in the commonwealth as a surety. The district may contract with any of its member towns or other qualified entities for treasurer services. A majority of appointed managers shall constitute a quorum of the board of managers. Unless otherwise specified herein, the board of managers may act by a majority vote, provided that no vote pertaining to the district's budget or debt issuances may be deemed approved unless at least one representative from each member town has voted affirmatively thereon. Vacancies occurring in the membership of the board of managers from any cause may be filled for the remainder of the unexpired term by the appointing authority. No vacancy occurring

in the membership of the board of managers shall disqualify the board of managers from taking any action authorized by this act.

The Board of Managers shall annually prepare and provide to the select boards of the member towns, a written report of the operations and programming, the actions of the board of managers, and receipts and expenditures of the district for the preceding fiscal year.

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

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

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

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

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

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

- (f) To incur temporary debt in anticipation of revenue to be received from any source;
- (g) to acquire by purchase, lease, lease purchase, sale and lease back, gift, or devise, or to obtain options for the acquisition of, any property, real or personal, easements, or any interest therein, in the exercise of its powers and the performance of its duties in compliance with the District Bylaws and this Act;
- (h) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or grant options for any such purposes with respect to, any property, real or personal, tangible or intangible, or any interest therein in compliance with the District Bylaws and this Act, and, with regard to real property, subject to approval by the town meetings of each of the member towns;
- (i) to fix, revise, charge, collect and abate fees, rates, rents, and other charges for services, facilities, and commodities furnished or supplied by it;
- (j) to construct, improve, extend, enlarge, maintain, and repair the senior facilities located within the geographical jurisdiction of the district;
- (k) to make contracts of every name and nature, and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes;
- (l) to sue and be sued and to prosecute and defend actions relating to its properties and affairs, provided that only property of the district other than revenues pledged to the payment of bonds or notes shall be subject to attachment or levied upon execution or otherwise;
- (m) to engage architectural, engineering, accounting, management, legal, financial, and environmental consulting and other professional services;
- (n) to employ an Executive Director and personnel
- (o) to charge a programming and use fee to senior clients who are or are not residents of the member towns, and seek to use the services and resources of the district in a manner as the Board of Managers may determine; and
- (p) to do all things necessary, convenient or desirable for carrying out the purposes of this act for the purposes expressly granted or necessarily implied in this act;
- (q) and all other powers expressly conferred upon the district under this act

SECTION 5. Notwithstanding any general or special law to the contrary, and subject to the terms set forth in this act, fees, rates, rents, assessments, and other charges for resources and services, facilities, and commodities furnished or

supplied by the district shall be fixed and adjusted by the board of managers so as to provide funds at least sufficient in each fiscal year, together with other revenues and funds of the district, if any, available therefor, to pay the full cost of operation of the district for that fiscal year, including all current expenses; all debt service on bonds or notes of the district; all costs of maintenance, repair and replacement, including the establishment of reasonable stabilization funds, replacement reserves, and other similar funds in accordance with generally accepted accounting principles, as determined by the board of managers to be necessary or desirable; and all other amounts which the district may be obligated to pay or provide for by law or by contract.

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

The board of managers shall hold a public hearing on the draft proposed annual budget after notice to the member towns and such notice to the public as it shall determine and shall adopt such proposed annual budget, with or without amendment, after the public hearing but not later than the fifteenth (15th) day of December.

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

The board of managers shall receive comments from the member towns until the next following January 31st. After the final day for the towns’ comment and prior to the March 1st next following, the board of managers shall, by majority vote, adopt an annual budget, with or without amendment to the proposed annual budget, and shall notify the member towns of the same by mail in the same manner

and within the same time frame as is required above with respect to a proposed annual budget and assessment.

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

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

If the annual assessment is not approved, the board of managers may from time to time resubmit it or may submit a revised budget and assessment for consideration in the manner described above, but without need for an additional public hearing, and if no annual budget has been adopted prior to the commencement of the fiscal year to which it pertains, the District shall, on a month to month basis until a new annual budget and assessment become effective, operate with the budget and assessment used for the previous fiscal year.

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

SECTION 7.

Each member town's share of debt costs (the "Debt Cost Share") shall be calculated as follows with respect to each debt issuance, with each component calculated for the most recent fully completed fiscal year immediately preceding the date of notice of such proposed debt issuance: (1) 50% shall be divided among the members in the amounts of their respective Operations Assessment Percentages; (2) 25% shall be divided among the member towns based upon their equalized property values relative to one another, as reported by the Massachusetts Department of Revenue (such that if a member town's equalized property value amounts to 50% of the total sum of the member towns' collective equalized property value, such member town would be responsible for at least 12.5% of the debt costs); and (3) 25% shall be divided among the member towns based upon

their equalized income values relative to one another, as reported by the Massachusetts Department of Revenue (such that if a member town's equalized income value amounts to 50% of the total sum of the member towns' collective equalized income value, such member town would be responsible for at least 12.5% of the debt costs). Upon determining each member town's debt cost share, which shall remain static and binding upon each of the member towns until the District has fully paid the underlying debt, the board of managers shall certify, to the select board in each member town, that the board of managers shall propose the issuance of such bonds or notes, either in the name of the district or one or more of the member towns, and the amount to be assessed against each member unit therefor, provided that the decision as to whether the district or one or more member towns shall incur the underlying debt shall be subject to a majority approval by the select board of each member town. Upon such approval by each such select board, the select board of each member town, shall cause to be placed in the warrant for the next available annual town meeting, an article in the form specified by the board of managers, seeking authorization from each member town meeting for the district to issue such bonds or notes, and the amount to be assessed therefor against each member town. Upon approval by each member town's town meeting by a two-thirds vote at an annual town meeting, the district may issue such bonds or notes as have been so approved. The indebtedness on bonds or notes issued by the district and the member towns pursuant to this act shall not be subject to section 10 of chapter 44, and sums assessed by the district to repay such bonds or notes shall not be subject to sections 20A, 20B and 21C of chapter 59 of the General Laws.

The fiscal year of the district shall commence July 1 and end June 30.

SECTION 8. In the event that the board of managers desires to terminate the district and dispose of its assets, a majority of the board of managers then existing shall first vote to do so, and give notice of such vote, in writing, to the select board of each member town. Each member town shall thereafter provide, at its next regular or special town meeting a warrant article to dissolve in the same manner in which the district was created, the warrant article shall contain the question "Shall the West County Senior Services District be dissolved, and its assets disposed of in accordance with the vote of its board of managers?" If all member towns vote in the affirmative, the district shall be dissolved, but not otherwise. In the event of such affirmative vote, the board of managers shall be empowered to dispose of the assets of the district in accordance with the General Laws.

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

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