

**HOUSE . . . . . No. 4307**

**[LOCAL APPROVAL RECEIVED.]**

**The Commonwealth of Massachusetts**

PRESENTED BY:

**F. Jay Barrows, James E. Timilty**

*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 passage of the accompanying bill:  
**An Act Establishing a Regional Wastewater District for the Towns of Mansfield, Foxborough, and Norton.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
F. Jay Barrows	1st Bristol
James E. Timilty	Bristol and Norfolk
Steven J. D'Amico	4th Bristol
Louis L. Kafka	8th Norfolk
Elizabeth Poirier	14th Bristol

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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## An Act Establishing a Regional Wastewater District for the Towns of Mansfield, Foxborough, and Norton.

*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 establishment of the MFN Regional Wastewater District, hereinafter referred to as the district, pursuant to section 25 of chapter 40N of the General Laws by votes of the towns of Foxboro, Mansfield and Norton passed at town meetings in 2008 and in accordance with the agreement among said towns for the establishment of the district approved pursuant to said votes, hereinafter referred to as the agreement, and all actions heretofore taken by the district commission which were not inconsistent with this act or with the terms of the agreement, are hereby validated, ratified and confirmed in all respects, notwithstanding any failure to comply with the procedural requirements of said section 25. The purpose of the district shall be to manage and control the sewer treatment plant, interceptors, effluent recharge and reuse system and appurtenances, to act as a Regional Wastewater District and to provide for the collection, treatment, recharge and reuse of effluent for the member towns.

**SECTION 2.** (a) The powers, duties and liabilities of the district shall be vested in and exercised by a district commission organized in accordance with this section and the agreement. The commission shall choose a chairman and secretary by ballot from its membership. It shall appoint a treasurer, who shall not be a member of said commission. The treasurer shall receive and take charge of all money belonging to the district and shall pay any bill of the district which shall have been approved by the commission. The treasurer may, by vote of said commission, be compensated for his services. The treasurer of the district shall be subject to sections 35, 52 and 109A of chapter 41 of the General Laws, to the extent applicable.

(b) Foxboro and Norton shall appoint 2 commission members. Mansfield shall appoint 3 members. The Foxboro and Norton members shall be appointed by the board having the authority of Water & Sewer Commissioners. One of the Norton members shall be appointed by the board of selectmen and the other by the board having the authority of Water & Sewer Commission.

**SECTION 3.** The district shall be a body politic and corporate and political subdivision of the commonwealth and, notwithstanding the last sentence of section 25 of chapter 40N of the General Laws, shall have the following powers and duties:

- (1) To adopt a name and a corporate seal, and the engraved or printed facsimile of such seal appearing on a bond or note of the district shall have the same legal effect as such seal would have if it were impressed thereon.
- (2) To sue and be sued, but only to the same extent and upon the same conditions that a city or town may be sued.
- (3) To purchase, take by eminent domain under chapter 79 of the General Laws or otherwise acquire land within the member towns, or any interests therein, for the purposes of the district to construct, reconstruct, replace, rehabilitate, repair, equip, operate and maintain sewer treatment, pumping and collection and effluent recharge and reuse facilities for the benefit of said towns, and any other facilities necessary to carry out the purposes of the district; and to make any necessary contracts in relation thereto; provided that at least 2 commission members from the community in which the land is located must vote in the affirmative; and provided further that land may be taken by eminent domain only if the district first requests the town to take such land and the town does not take such land within 120 days after request by the district.
- (4) To purchase or otherwise acquire land outside the member towns for the purposes stated in subparagraph (3) above, but only if the district first obtains approval of the board of selectmen for each town in which the land is located or from the mayor and city council, Aldermen or equivalent for each city in which the land is located.
- (5) To incur debt for the purpose of acquiring land, or any interests therein, and constructing, reconstruction, replacing, rehabilitating, repairing and equipping wastewater treatment, pumping, connection and effluent reuse and recharge facilities and any other facilities necessary to carry out the purposes of the district, including debt for the purposes of designing and otherwise planning any such improvements, for a term not exceeding thirty years; but written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the board of selectmen of each town, comprising the district not later than 10 business days after the date on which said debt was authorized by the district commission, and no debt shall be incurred until the expiration of 45 days from the date said debt was authorized by the district commission.
- (6) To issue bonds and notes in the name and upon the full faith and credit of said district; said bonds or notes shall be signed by the chairman and the treasurer of the district commission, except that said chairman by a writing bearing his written signature and filed in the office of said treasurer, which writing shall be open to public inspection, may authorize said treasurer to cause to be engraved or printed on said bonds or notes a facsimile of said chairman's signature, and such facsimile signature so engraved or printed shall have the same validity and effect as said chairman's written signature, and each issue of bonds or notes shall be a separate loan.
- (7) To receive and disburse funds for any district purpose, and to invest funds in any investments legally permitted for cities and towns.
- (8) To incur temporary debt in anticipation of revenue to be received from the member towns or from any other source.
- (9) To assess member towns for any expenses of the district.
- (10) To maintain a reserve fund, and to carry over the remaining balance of such fund into the ensuing fiscal year, subject to the limitations in section 4 of this act.
- (11) To apply to receive and expend or hold any grants or gifts for the purposes of the district.
- (12) To engage legal counsel, financial advisors, engineers, accountants, consultants, agents and other advisors.

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

(14) To employ an executive director and such other employees as it considers necessary to operate such district.

(15) To enter into contracts with any persons, including but not limited to non-member cities and towns, other bodies politic and the United States of America, that are necessary or convenient to carrying out the powers of the district, including but not limited to contracts for the purchase, contracts for the operation and management of the sewer, wastewater treatment plant, collection, treatment, reuse and recharge facilities of the district.

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

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

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

**SECTION 4.** The district commission shall annually determine the amounts necessary to be raised to maintain and operate the district during the ensuing fiscal year, plus a reserve fund not to exceed 15 percent of annual budget for said year, and shall apportion the amounts so determined among the several member towns in accordance with the terms of the agreement. The amounts for the upcoming fiscal year so apportioned for each town shall, prior to February first in each year, be certified by the district treasurer to the treasurers of the member towns and to each town's sewer commissioners or board exercising the powers of sewer commissioners. Except to the extent that the district treasurer's certification provides a credit from sewer system revenues and other sources, the sewer commissioners of board exercising the powers of sewer commissioners of each member town shall without further vote include each amount so certified in the amounts to be assessed annually in such town upon sewer users and others assessable pursuant to sections 14 through 24, inclusive, of chapter 83 and section 23 of chapter 59 of the General Laws, and, with or without an appropriation therefore, the town treasurer shall pay to the district the amounts so apportioned at the times specified in the agreement. The amounts apportioned or to be apportioned pursuant to the agreement shall not be included in the statutory levy limit or limit of indebtedness of any town. The amounts certified by the district treasurer shall be deemed to be for services customarily provided locally or subscribed to at local option and shall not be subject to the limitation of section 20B of chapter 59.

**SECTION 5.** Notwithstanding chapter 44 of the General Laws to the contrary, only sections 16 to 28, inclusive, of said chapter 44, so far as apt, shall apply to the district; provided, however, that section 16 of said chapter 44 relating to the countersigning of bonds and notes and section 24 of said chapter 44 relating to the countersigning and approval of notes and the certificates of the clerk relating thereto shall not apply to the district; and provided further that, notwithstanding section 19 of said chapter 44 to the contrary, the maturities of each issue of bonds and notes of the district shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the treasurer or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal. Any debt incurred by the district shall not be subject to the limit of

indebtedness prescribed in section 10 of said chapter 44. Nothing in this act shall prevent the individual towns from establishing and maintaining a sewer enterprise fund pursuant to section 53F ½ of chapter 44 as the mechanism for assessing, collecting and paying the amounts certified by the district treasurer pursuant to section 4 and 7 of this act.

**SECTION 6.** The member towns may from time to time amend the district agreement if the agreement as so amended is not inconsistent with this act.

**SECTION 7.** Notwithstanding section 4 of this act or the terms of the agreement or any general or special law to the contrary, the costs of the district's wastewater treatment facility improvements and expansion shall be based on each town's share of overall expansion and the costs of plant upgrade shall be based on each town's overall allocation of flow capacity as further detailed in the agreement.

Each of the member towns shall pay its share of such costs upon receipt by the treasurer of the town of the certification of the costs allocated to that town in accordance with the agreement by the district treasurer, in accordance with the due date and payment instructions set by the district treasurer. Except to the extent that the district treasurer's certification provides a credit from sewer system revenues and other sources, the sewer commissioners or board exercising the powers of sewer commissioners of each member town shall without further vote include each amount so certified in the amounts to be assessed annually in such town upon sewer users and others assessable pursuant to sections 14 through 24, inclusive of chapter 83 and section 23 of chapter 59 of the General Laws, and, with or without an appropriation therefore, the town treasurer shall pay to the district the amounts so apportioned at the times specified in the agreement. The amounts apportioned or to be apportioned pursuant to the agreement shall not be included in the statutory levy limit or limit of indebtedness of any town. The amounts certified by the district treasurer shall be deemed to be for services customarily provided locally or subscribed to at local option and shall not be subject to the assessment of section 20B of chapter 59.

**SECTION 8.** In the event any member city or town, which has received a certification of the district's charges, shall fail to pay the same to the district when due after demand by the district, the district may, not less than sixty days after such demand and without any requirement of election of remedy provided that there is no duplication of recovery, (i) certify to the state treasurer the amount owing to the district by said member city or town, whereupon the state treasurer shall promptly pay over to the district any amount otherwise certified to the state treasurer for payment to the member city or town as receipts, distributions, reimbursements and assistance under sections 18A, 18B, 18C and 18D of chapter 58 of the General Laws and any other amount for local reimbursement, grant or assistance programs entitled to be received by such member city or town until such time as any deficiency in the member city or town's payment of charges to the district shall be set off by such payments from the state treasurer, and (ii) recover from the member city or town in an action in superior court the amount of such unpaid amount together with such lost interest and other actual damages the district shall have sustained from the failure or refusal of the member city or town to pay over said amount. Any amount paid to the district by the state treasurer as a set off under the provisions of the next preceding sentence which is later determined, upon audit, to be in excess of the actual amount of

charges, interest and damages due to the district, shall, upon demand of the member city or town, be repaid by the district to the member city or town.

**SECTION 9.** The district shall adopt such bylaws as may be necessary and proper for the effective functioning of the district and its operations, capital improvements and finances, including but not limited to by-law provisions as put forth in the agreement. The by-laws may also provide for appointment of alternate members and such other matters relative to the business and affairs of the district as may be appropriate to exercise all powers necessary, convenient or incidental to the purposes for which the district was formed.

**SECTION 10.** The district may, from time to time, prescribe rules and regulations regarding the use of common sewers to prevent the entrance or discharge therein of any substance which may tend to interfere with the flow of sewage or the proper operation of the sewerage system and the treatment and disposal works, for the connection of estates and buildings with sewers, for the construction, alteration, and use of all connections entering into such sewers, and for the inspection of all materials used therein; and may prescribe civil penalties, not exceeding \$5,000 per violation for each day of violation of any such rule or regulation. Such rules and regulations shall be published once in a newspaper of general circulation within each of the member towns, and shall include a notice that said rules and regulations shall be available for inspection by the public, and shall not take effect until such publication has been made. Such rules and regulations shall be in conformance with federal and state laws.