

## EXPANSION COMMITTEE AND BOARD OF DIRECTORS DRAFT 1-5-22

### PRE 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.** 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; that accurate, appropriate, and sustaining assessments, fees and charges for said services be established; that said supplementary services for said municipalities be operated in an efficient and financially sustaining manner to further encourage the availability and soundness of senior programming 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”, as created in accordance with this section, shall be a body politic and corporate and a public instrumentality, hereinafter referred to as “the district.” The district shall be created when this act has been accepted by the Selectboard of each Town. Upon creation, the district shall have, any general or special law notwithstanding, as hereinafter provided and in accordance with this act, the power and 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 municipal entity, 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 prior to March 1 in any given year for withdrawal one year from July 1 following the notice, and in the same manner provided for acceptance of this act; provided, however, that such withdrawing municipal entity shall be obligated to pay its pro rata share of the municipal entity's obligations for the next fiscal year following its withdrawal notice together with its pro rata share on all bonds or notes which have been approved prior to the date upon which such municipal entity gives notice of its intention to withdraw from the district, for so long as said bonds or notes are due and owing.

If any additional municipal entity wishes to join the district, they will do so as set forth by the Board of Managers in the District Bylaws providing for the allowance of additional municipal units. Any fees charged to additional municipal units after expenses are deducted, shall be used to reduce the assessments to the original towns proportionately.

**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 Selectboard. 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 \$25,000. Of the two representatives of each town, 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. Members of the Board of Managers shall not be compensated. Members may be removed for cause by their appointing authority. Members of the Board of Managers, together with its agents, employees, and professional staff shall be indemnified against personal liability by the district. 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 corporate 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 the municipal entities for treasurer services upon terms mutually agreeable to the district and the municipal entity. A majority of appointed managers shall constitute a quorum of the Board of Managers. 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 Selectboards of the member towns and to each resident of member towns who requests the same, 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 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. Ownership of equity in any real property for each town shall be held by the towns in the Equity by member towns shall be determined by three parts, half in accordance with the proportional five-year average usage of the total amount of services supplied by the district. and one quarter by the equalized property and one quarter by the income values (EQV) provided by the Mass Department of Revenue or its successor for each such municipal entity.

(f) 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;

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

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

(i) 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;

(j) 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;

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

(l) to hire an Executive Director for the District and employ personnel

(m) 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

(n) 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.

**SECTION 5.** 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 therefore, 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 overlay funds, 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 to be funded as current expenses; and all other amounts which the district may be obligated to pay or provide for by law or by contract. Notwithstanding any general or special law to the contrary, the Board of Managers may establish rates, including differential rates, rents, assessments, fees and other charges authorized by this act.

**SECTION 6.** The District, for the purpose of paying expenses, providing services and operation shall prepare a 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 expenses of the District not covered by fees charged 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 municipal entity of the services being supplied by the districts.

The Board of Managers shall hold at least one public hearing on the proposed annual budget after such notice to the member municipalities and 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 (15<sup>th</sup>) day of December.

Within one week of its adoption, the Board of Managers shall cause the proposed annual budget and proposed assessment to be mailed to the Select Board and Finance Committee in each member municipality.

The Board of Managers shall receive comments from the member municipalities until the following January 31<sup>st</sup>. After the final day for the municipal comment and prior to March 1, the Board of Managers shall, by majority vote, adopt an annual budget, with or without amendment, and shall

notify the member municipalities of the same by mail as aforesaid in the case of the 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 annual assessment MUST be approved by each member municipality by a majority vote of its Legislative Body at a Town Meeting held prior to the commencement of the fiscal year to which the budget pertains. The annual budget shall then become final and effective for the following fiscal year upon the adoption of each member towns assessment.

If the assessment is not approved, the Board of Managers may from time to time resubmit it or may submit a revised assessment for municipal consideration in the manner described above, but without need for a proposed annual budget or 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 operate with the budget for the previous year on a month to month basis until a new annual budget becomes effective.

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

**SECTION 7.** The district, for the purpose of paying necessary expenses and liabilities incurred under this act, other than expenses and operation, may, any other general or special law notwithstanding, and with this section and the approval of ALL member towns, from time to time borrow such additional sums as may be necessary, and issue bonds or notes therefore which shall bear on their face the words "West County Senior Services District Loan Act" and such other distinguishing designation as may be determined by the Board of Managers, and each authorized issue shall constitute a separate loan and such loans shall be payable in not more than 30 years from their dates, notwithstanding any other provision of law. The district may borrow from time to time such funds as may be necessary for the purposes of this act in anticipation of revenue without the necessity of complying with this section. Indebtedness incurred under this act shall, except as otherwise provided herein, be subject to chapter 44 of the General Laws.

Prior to the issuance of such bonds or notes, other than borrowings in anticipation of revenue, the Board of Managers shall apportion the cost of repayment of each bond or note, which cost shall be apportioned to each municipal entity which has accepted this act pursuant to Section 2.

The member towns share of a borrowing shall occur at the time of appropriation. Shares by member towns shall be determined by three parts, half in accordance with the proportional five-year average usage of the total amount of services supplied by the district, and one quarter by the equalized property and one quarter by the income values (EQV) provided by the Mass Department of Revenue or its successor for each such municipal entity. Upon determining such amounts, the Board of Managers shall certify, to the Selectboard in each town who shall have accepted this act in accordance with section 2, that the Board of Managers shall propose the issuance of such bonds or notes, and the amount to be assessed against each member unit therefore. The Selectboard of each municipal entity, shall cause to be placed in the warrant for the next available special or 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 therefore against each municipal agency. Upon approval by each member town meeting of such municipal entities, the district may issue such bonds or notes as have been approved. **Such bonds or notes shall be issued upon the full faith and credit of the district, and of all municipal entities that have accepted this act in accordance with section 2, notwithstanding any other provision of law.** The indebtedness on bonds or notes issued by the district and the municipal entities 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 Selectboard of each municipal entity which has accepted this act in accordance with section 2. Each municipal entity 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 municipal entities which have accepted this act 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.

In the event the Board of Managers desires to amend the district agreement it shall be done in the same manner in which the agreement was created.

**SECTION 9.** Transition Period. The "Consortium Agreement" shall cease to exist upon the vote of all member Selectboards.

**SECTION 10.** 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 11.** This act shall take effect upon its passage.