

*Be it enacted, etc., as follows:*

The first paragraph of section 173A of chapter 140 of the General Laws is hereby amended by striking out the fourth sentence, as amended by chapter 526 of the acts of 1971, and inserting in place thereof the following sentence: — Notwithstanding the foregoing procedure and schedule of fines and subject, however, to all of the other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines; provided, however, that no new schedule of fines shall contain a fine in excess of twenty-five dollars.

*Approved August 13, 1973.*

**Chap. 628.** AN ACT ESTABLISHING THE MUMFORD RIVER VALLEY REGIONAL REFUSE DISPOSAL DISTRICT.

*Be it enacted, etc., as follows:*

SECTION 1. The towns of Douglas, Blackstone, Millville, Mendon, Hopedale, Northbridge, Sutton and Uxbridge, by vote in a town meeting, may, subject to conditions hereinafter enumerated, create a regional refuse disposal district which shall be a body corporate and be known as the Mumford River Valley Regional Refuse Disposal District, hereinafter called the district. There shall be no limit of time upon the date of acceptance of the provisions of this act.

After the initial organization of the board as set out in section two, additional eligible members shall require a majority vote of the board in order to become participating members.

SECTION 2. The district shall be under the management and control of a board which is hereby created and shall be known as the Mumford River Valley Regional Refuse Disposal Board, hereinafter called the board.

The board shall consist of members from and representing each town that has voted to accept the provisions of this act and is a member of the district. Membership shall be determined on the basis of population as follows: one board member for each five thousand inhabitants, or fraction thereof exceeding two thousand five hundred inhabitants, according to the most recent federal census. Official actions shall require an affirmative vote of at least three fourths of the board members.

The members of the board shall be appointed by the board of selectmen in accordance with each community's applicable provisions of law. Members appointed to the board shall be residents of the area which they represent and may be municipal employees. Members of the board shall be appointed by the legal appointing authorities as follows: the first representative from any member community will be appointed for a term of three years, the second, if required, for a term of two years, the third, if required, for a term of one year. Additional representatives, if required, will be

appointed for terms of three years. Each member shall serve until the qualification of a successor.

SECTION 3. The board shall appoint and determine the compensation of an engineer director who shall administer the affairs and direct the engineering work of the district as approved by the board. The board shall set forth the powers and duties of the engineer director in its by-laws. The engineer director may, upon approval of the board, enter into contracts for professional or construction services to be provided to the district by private contractors. The engineer director shall be skilled in sanitary engineering practice and a registered professional engineer, as defined by section eighty-one D of chapter one hundred and twelve of the General Laws; provided, however, that a person eligible for registration under the provisions of said section eighty-one D may be appointed acting engineer director and may serve in that capacity.

SECTION 4. The district shall have a seal consisting of a circular die bearing the words "Commonwealth of Massachusetts, Mumford River Valley Regional Refuse Disposal District, 19—", which seal may be used whenever deemed advisable by the board on papers and documents issued or executed by the board or by any officer or employee designated by the board.

SECTION 5. The board shall prepare and adopt by-laws describing and stipulating its organization and operations. The board members shall meet annually in the month of April and select a chairman, vice chairman, and secretary from among the membership who shall act as an executive committee. The chairman, vice chairman and secretary of the board may receive compensation from the district, which shall not exceed five hundred dollars per year. Board members may be reimbursed for actual expenses incurred in performance of their duties on approval of the board.

The board may appoint and may at its pleasure remove a treasurer and a clerk, who shall not be members of the board. Both offices, if the board deems it advisable, may be held by the same person. The treasurer shall give to the board a bond payable to the district with a surety company authorized to transact business within the commonwealth and satisfactory to the board as surety in such sums as the board may prescribe and conditioned on the faithful performance of his duties. The duties of the treasurer and clerk shall be those usually appertaining to said offices, respectively, and in addition such as may from time to time be prescribed by the board. The compensation of the treasurer and of the clerk shall be determined by the board. The board may retain legal counsel for any and all appropriate purposes.

The engineer director, with the approval of the board, shall from time to time appoint or employ such other engineers and such experts, agents, officers, clerks, and other employees as he deems necessary and shall determine their duties. The salaries or compensation of all persons appointed or employed under authority of this section shall be determined by the board and together with other

expenses shall be paid by the district and shall be considered a part of the expense of maintenance of the district.

The board shall establish an office in which its business may be conducted and at which maps, plans, documents, records, and other paper relating to its business, land and other works and property in its charge shall be kept.

It shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall be open at all times to inspection by the towns who are members of the district or by any officer or duly appointed agent of the commonwealth.

The board shall make a report each year of its activities for the preceding year and shall, prior to February first, submit a copy to the state auditor and to the participating towns. The report shall also be submitted to the department of public health and the Central Massachusetts Regional Planning Commission.

SECTION 6. Said board, acting for and on behalf of said district, may take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise, any lands, property, rights-of-way or easements, public or private in said district, necessary for accomplishing any of the purposes of this act.

The board, acting for the district, shall purchase, construct, maintain and operate such incinerators, sanitary landfills, necessary equipment or any other facilities as may be required for disposing of refuse and other solid wastes of said towns. For such purposes the board may make such contracts or requirements as it may deem necessary. No works shall be constructed until plans have been approved by the local board of health, under the provisions of section one hundred and fifty A of chapter one hundred and eleven of the General Laws. Any construction, reconstruction, or extension of disposal facilities and other works shall be referred to the Central Massachusetts Regional Planning Commission for an advisory opinion as to the proposed facilities relationship to regional and intercommunity consideration and to its coordination with existing local and regional proposals.

No land may be purchased or otherwise acquired as a site for the disposal of refuse and other solid wastes without the approval of the local board of health and the department of public health.

The board may sell by negotiation to the participating members of the district any property, including land, acquired by it hereunder and which in its opinion is no longer needed in the performance of the powers and duties conferred and imposed on it by this act; provided however, that any land is first made available to the town in which it is located, and in the case of machinery, members shall have a priority of bid purchase at a reasonable price. The board also may from time to time lease any property which in its opinion is not then needed by it for the purposes of this act. The board may enter upon any lands for the purposes of making surveys, borings, and may take by eminent domain under said chapter seventy-nine, or acquire by purchase or otherwise, the right

to occupy any land necessary for the carrying out of the said purposes.

SECTION 7. The board shall prevent the discharge into the disposal facilities of substances which may damage or interfere with its maintenance or operation. The board shall, for the proper and reasonable operation of its works, make regulations as to the quantity and character of any refuse or other solid wastes discharged into any disposal facility under its control. The board may prohibit discharge into facilities under its control of certain unique industrial refuse and solid wastes if the board determines such refuse and solid wastes may interfere or damage the disposal facility or interfere with its maintenance or operation. The responsibility for disposal of such unique wastes or for their modification to allow disposal in district facilities shall rest with the producers thereof.

SECTION 8. No lands, rights-of-way or other easements, property, structures, or rights acquired by the district, as herein provided, and located in any town included in the district shall be assessed or taxed by the municipality if yielding no rent, but the district shall annually on July first pay to the town an amount equal to the tax it would receive upon the fair value of the land in the current year, which shall not include buildings or structures, for each year of district ownership, the value for each year being reduced by all abatements thereon. In the event there is a general re-evaluation of the assessed valuation of real property in any town of the district, the fair value of the land determined above shall be increased or decreased in the same proportion that the aggregate value of all assessed real properties in the town are increased or decreased.

SECTION 9. The district by vote of the board, in accordance with section two, is authorized to issue, from time to time, general obligation serial bonds or notes of the district to pay for the costs of capital outlays in connection with the disposing of refuse and other solid wastes of its members including the construction, acquisition and major rehabilitation of incinerators, sanitary landfills, necessary equipment, and such other facilities as may be required and including land damages and costs of demolition of existing structures on land so acquired.

Said bonds to be issued in such amount or amounts as the district acting by and through the board may determine, and the district may refund any such bonds or notes. Such serial bonds or notes may be callable with or without premium and shall contain such terms and conditions, bear such rate or rates of interest, be sold in such manner, at public or private sale, and mature at such times and in such amounts as the board shall determine; provided that each issue of such bonds or notes shall be payable in annual installments, the first of which shall be payable not later than two years after its date and the last of which shall be payable not later than thirty years from said date.

If the board votes to issue serial bonds or notes, said board may authorize the issuance, in the name of the district, of general obli-

gation temporary notes for a period of not more than two years in anticipation of the money to be received from the sale of such serial bonds or notes. The time within which such serial notes or bonds shall be payable shall not be extended by reason of the making of such temporary loans beyond the time fixed in the order authorizing such serial bonds or notes.

For the purpose of paying expenses of operation, including, without limitations any principal or interest due or about to become due on any bond or note issued by the district for which funds are not available, the board, in the name of the district is authorized to issue, from time to time, general obligation temporary notes of the district in anticipation of assessments levied against the members of said district in the year which such notes are issued.

Temporary notes in anticipation of assessments shall be payable not more than one year from their dates and shall not exceed in principal amount at any one time outstanding the amount of the assessments in anticipation of which they are issued.

Temporary notes issued under this section for a shorter period than the maximum permitted may be renewed by the issuance of other temporary notes maturing within the required period; provided that the period from the date of issue of the original temporary note to the date of maturity of the renewal note shall not exceed the maximum period for which the original temporary note may have been issued. Such temporary notes or renewal notes may be sold at discount or with interest payable at or before maturity.

Notes or bonds authorized by this section shall be signed by the treasurer and countersigned by the chairman of the board and serial notes and bonds shall have the district seal affixed. Sections sixteen B and sixteen C of chapter forty-four of the General Laws shall be applicable to such bonds and notes.

Indebtedness incurred under this section shall not be included in computing the limit of indebtedness of any town included in the district.

**SECTION 10.** The cost of original construction of existing incinerators, sanitary landfills, necessary equipment and associated facilities, including principal payments and interest on the bonds issued for construction thereof shall be apportioned among the participating member towns in the ratio of their particular populations to the total population of the district according to the latest federal census.

The cost of construction of additional incinerators, sanitary landfills, necessary equipment, or any other works as may be required, including principal payments and interest on the bonds issued for construction thereof, shall be apportioned among the participating member towns as calculated by formulas and standards established by the board. These costs shall be prepared by the district with the assistance of the towns and the Central Massachusetts Regional Planning District Commission. Upon

acceptance of the provisions of this act by an eligible town not previously a member, the outstanding costs of construction shall be recalculated and proper adjustments shall be made to the account of each member.

The cost of the maintenance and operation of the district and its works, exclusive of principal payments and interest on bonds and notes issued for construction purposes shall, until such time as the refuse disposal facilities shall have been in regular operation for a period of three calendar years, be apportioned among the member towns in the ratio of their particular populations to the total population of the district according to the latest federal census.

After the refuse disposal facilities shall have been in regular operation for a period of the three calendar years, the board shall apportion costs of maintenance and operation to the member towns on the basis of the weighed volume of the previous year entering the district's refuse disposal facilities from each member. Upon acceptance of this act by an eligible town not previously a member and until said town shall have participated in the district's refuse disposal facility for a period of three calendar years, the allocation of its maintenance and operation costs shall be calculated on the basis of population in the manner described in this section, the remaining cost then being allocated to the remaining members on the basis of weighed volume in the manner also described in this section. Cost calculations for periods of less than a full year shall be prorated in accordance with the number of calendar days for which they are applicable.

**SECTION 11.** The board shall annually determine the amounts required for the payment of principal and interest on such bonds and notes issued or to be renewed by the district which will be due during the ensuing calendar year and shall apportion the amounts as determined among the several members of the district in accordance with the provisions of this act, and shall also annually determine the amounts necessary to be raised to maintain and operate the district during the said year, including capital outlay items, the cost of which is not to be funded, and for all other matters of which the district is required to raise money and shall apportion among the several members of the district the amounts so determined in accordance with the provisions of this act. Each amount so apportioned for each member shall, prior to December thirty-first in each year be certified by the board of assessors of each member of such district. The assessors of each member town shall without further vote include each amount as certified in those amounts to be annually raised by taxes under section twenty-three of chapter fifty-nine of the General Laws. The town treasurer shall pay the amount so certified to the treasurer of the district on or before July first of the then taxable year.

A town which has been assessed shall raise all or a portion of the amounts certified annually by the district to the assessors of each town, as provided in this act, through equitable and proportional charges against inhabitants, corporations and other users of the

service rendered by the district in each town.

Nothing in the procedure for arbitration authorized in section eleven A shall relieve any treasurer of each town from making timely payments to the treasurer of the district of the full amounts assessed.

SECTION 11A. In the event that within ninety days of the receipt by the board of assessors of each town, of any assessment as determined and apportioned above, the appropriate legislative body of any town, by resolution, may question any fact used in the formula for determination of the total amount to be apportioned or the apportionment thereof to the town and request a review thereof by the board.

The board shall forthwith cause a review of such apportionment and shall publish its findings no later than thirty calendar days from the receipt of such request.

The board or the aggrieved town may by resolution adopted no later than ninety calendar days from the receipt of such findings, submit the questions raised to a fact finding arbitration of three persons, not residents of the district, one to be appointed by the aggrieved member, one to be appointed by the board, and one to be appointed by the state auditor. The three persons so appointed shall consider all pertinent data, make such audits, examinations, inquiries and surveys as they deem necessary, and shall submit a finding, which shall be binding on all parties. The cost of such arbitration, if any, shall be paid by the district as an expense of the then current year and assessed to the district and the aggrieved member in a proportion to be determined by the finding. If such finding shall result in an adjustment of the apportionment of the assessment to the town, such adjustment shall be made by the board in the next annual apportionment to be certified to the respective board of assessors.

SECTION 12. To meet the cost of construction, maintenance, and operation of the works authorized by this act, the district may file application for, or accept and use, any federal or state funds or any federal or state law, or accept and use any funds from other sources.

SECTION 13. At any time not less than eight years after the acceptance of this act by a member, said member may, after approval by two thirds of the qualified voters present and voting at any annual or special town meeting, notify the board of its desire to withdraw from the district. Such withdrawal shall become effective in not less than two years after receipt of such notice by the board. In the event of such withdrawal, the withdrawing member shall:

1. continue to pay annually to the district its share of the debt outstanding at the time of withdrawal, at the rate prevailing at the time of withdrawal, until its share of such debt shall be paid in full;

2. be allowed to purchase from the district such facilities as it may desire and which the board by majority vote may agree to sell; and

3. be reimbursed by the district for the fair value of the land used for such facilities as will remain under the jurisdiction of the district. Such reimbursement may be made in equal installments, with interest at three per cent, annually over the remaining life of the bonded debt outstanding at the time of withdrawal.

Value of any facilities involved in such purchase or reimbursement shall be determined in accordance with methods described in chapter seventy-nine of the General Laws.

SECTION 14. Upon the establishment of the district all employees of the participating towns whose employment is directly related to projects to be taken over by the district may be transferred to the district and shall continue to perform the same duties at a salary not less than theretofore and every employee so transferred who immediately prior to such transfer was subject to section nine A of chapter thirty or to chapter thirty-one of the General Laws under a permanent appointment and who has served a probationary period shall continue to serve subject to the provisions of said section nine A of said chapter thirty or to sections forty-three and forty-five of said chapter thirty-one, as the case may be, whether or not thereafter reclassified, and shall retain all rights to holidays, sick leave and vacations in effect on the effective date of this act; provided, that any person transferred who was not subject to said section nine A of said chapter thirty or said chapter thirty-one and persons who are appointed after the effective date of this act shall not be subject to said section nine A of said chapter thirty or to any provisions of said chapter thirty-one.

Every employee who upon transfer to the district is covered by the group insurance provided by chapter thirty-two A of the General Laws shall continue in uninterrupted coverage and all other employees of the district are hereby likewise made eligible for said group insurance to the same extent as if they were employees of the commonwealth; provided that the share of the cost of such insurance shall, with respect to the employees of the district, be borne by said district. The district shall forward its contribution, together with all amounts withheld from the salaries or wages of its employees as provided in paragraph (a) of section eight of said chapter thirty-two A and all amounts paid by an employee as provided in paragraph (b) of said section eight, to the state employees group insurance commission at such time and in such manner as said commission may prescribe.

Every employee who immediately prior to being transferred to the district by this section is a member of the retirement system of their town shall have their retirement rights transferred into the state retirement system. All other employees of the district shall be required to become members of the state retirement system in the same manner and subject to the same laws, rules and regulations as persons entering the employ of the commonwealth. The district shall deduct from the wages of its employees and pay over to the state retirement board such sums as the commonwealth or towns would deduct and pay over if such persons were an employee

of the commonwealth or city or town; and at such times as the commissioner of insurance shall from time to time prescribe, the district shall pay to the state retirement board such sums as said commissioner shall from time to time determine the town would be obliged to pay if such person were its employee, including accruals for prior service and accidental disability.

The district shall reimburse the commonwealth its proportionate share of any amounts expended by the commonwealth under the provisions of chapter thirty-two of the General Laws for retirement allowances to or on account of its employees.

Every person who immediately prior to being transferred to the district was subject to the provisions of sections fifty-six to sixty, inclusive, of chapter thirty-two of the General Laws shall continue subject to the provisions of said sections; provided, however, that the words "retiring authority", as used in said sections shall mean the board of said district; and provided further, that the amount of all retirement allowances payable under said sections by virtue of this act shall be paid by the district, and the town shall reimburse the district for its proportionate share of the amounts as paid. Upon the retirement of any such person under said sections fifty-six to sixty, inclusive, the town shall refund to the person so retired the amount of his accumulated deductions.

SECTION 15. This act may be submitted for approval at any annual or special town meeting of the towns eligible for membership as provided in section one. The question placed on the warrant of such meeting shall be in the form of the following question: — "Shall an act passed by the General Court in the year nineteen hundred and seventy-three entitled 'An Act establishing the Mumford River Valley Regional Refuse Disposal District', be accepted?" Such a vote shall be a standing vote of at least a majority of those present and voting. The provisions of this act may be adopted by a majority vote of those present in the affirmative.

The provisions of this act shall not take effect until acceptance by at least two towns. Additional towns may by the acceptance of the provisions of this act join as members of the Mumford River Valley Regional Refuse Disposal District as provided in section one.

The initial organization of the board representing the Mumford River Valley Regional Refuse Disposal District shall take place within one hundred and eighty days after said required acceptance. If the board does not organize itself and form the district within one hundred and eighty days, the action of any town meeting accepting the provisions of this act shall be null and void.

SECTION 16. Nothing contained in this act shall be interpreted to authorize the board to construct, operate or maintain the local refuse collection system of each town in the district.

*Approved August 14, 1973.*