

By Mr. Webber, a petition (accompanied by bill, Senate, No. 1150) of Peter C. Webber and Christopher J. Hodgkins for legislation to establish the southern Berkshire solid waste management district. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT ESTABLISHING THE SOUTHERN BERKSHIRE SOLID WASTE MANAGEMENT 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. (a) There is hereby established the Southern
2 Berkshire Solid Waste Management District, a public body pol-
3 itic and corporate, hereinafter referred to as the district, said
4 entity to function as a Refuse Disposal District in accordance
5 with all statutory authority conferred by Massachusetts General
6 Laws including but not limited to Chapter 40, Sections 44A-
7 44K inclusive, and Chapter 59, Section 20B.

8 (b) Purpose. The district is created and shall exist for the
9 purpose of providing solid waste disposal services for its member
10 municipalities and the residents thereof and for others with whom
11 the district may want to contract in accordance with any
12 agreements reached by member municipalities.

13 In addition, since there are generated within the district or
14 within municipalities contracting with the district wastes such as
15 municipal and industrial sludges which, when combined properly
16 with certain solid wastes, may be processed in such a manner that
17 enhances the ability to recover both as a usable product known
18 as compost, the district shall have as a purpose to design, establish
19 and operate a facility, or contract for such a facility and service,
20 and offer at an appropriate fee, such disposal service for municipal
21 and industrial sludges.

22 (c) Composition. The district is composed of and includes all
23 of the lands and residents within the towns of Alford, Becket,
24 Egremont, Great Barrington, Lee, Lenox, Monterey, Mount
25 Washington, New Marlborough, Otis, Sandisfield, Sheffield,
26 Stockbridge, and West Stockbridge which, by vote at an annual
27 or special town meeting accept this act and hereby agree to
28 participate in its creation and such other municipalities as are
29 subsequently admitted to the district, except for those
30 municipalities which may withdraw as provided in the agreement.
31 The municipalities composing the district shall constitute its
32 membership and are herein designated as member communities.
33 Acceptance of the provisions of this act shall be in accordance
34 with the terms of the agreement reached among the individual
35 municipalities at the time of formation of the district.

36 (d) Proposed Agreement. A regional planning board, consisting
37 of the selectmen of the towns named in (c) or their designated
38 representatives shall draw up a proposed agreement. The said
39 agreement shall contain provisions describing the sharing of
40 construction and operation costs, the number, method of
41 selection, and the terms of office of the members of the district
42 board of commissioners, the method of filling a vacancy on the
43 board, the dates, frequency and procedure for calling organiza-
44 tional, regular and special meetings of the board, voting
45 procedures including vote-weighting, and quorum, the general
46 area in which the refuse disposal facility will be constructed, the
47 terms by which another municipality may be admitted to the
48 district or any member town may withdraw therefrom, the method
49 by which the agreement may be amended, the procedure for the
50 preparation and adoption of the annual budget, and any other
51 matters not incompatible with the law which said board may deem
52 advisable. Included shall be the method by which the district may
53 be dissolved.

54 (e) Recommendations. The regional planning board shall report
55 its findings and recommendations to the board of selectmen in
56 each town comprising the board. If the board recommends that
57 a regional solid waste management district be established, a copy
58 of the proposed agreement shall accompany the report to each
59 town.

60 (f) Acceptance. This act may be submitted for approval at any
61 annual or special town meeting of the towns eligible for
62 membership as provided in Section 1. The question placed on the
63 warrant of such meeting shall be: "An Act Establishing the
64 Southern Berkshire Solid Waste Management District — Shall
65 the [town] accept the provisions of this act providing for the
66 establishment of a regional solid waste management district in
67 accordance with the provisions of the agreement [title] placed
68 before the voters of the town concurrently?"

69 If a majority of the members of the town meetings of at least
70 two of said towns shall vote in the affirmative, the southern
71 berkshire solid waste management district shall be deemed to be
72 established. The remainder of said towns may by such affirmative
73 vote join as members within ninety days of the establishment of
74 the district. The initial meeting of the board of commissioners
75 shall take place within one hundred twenty days after the
76 establishment of the district. If the board does not meet and
77 organize itself within one hundred twenty days from the
78 establishment of the district, the action of any town meeting
79 accepting the provisions of this act is null and void.

1 SECTION 2. Powers. Except as otherwise provided or limited
2 herein, the district shall have the following powers:

3 (a) Operate, cause to be operated, and/or contract for the
4 operation of any and all facilities for the transportation, recycling,
5 recovery, and disposal of solid wastes and to determine and make
6 proper charges for such services.

7 (b) To purchase, sell, lease, own, acquire, convey, mortgage,
8 improve, and use real and personal property in connection with
9 the purposes of the district, and accept land by gift.

10 (c) To sue and be sued.

11 (d) To enter into contracts for any term up to thirty years.

12 (e) To contract with architects, engineers, financial and legal
13 consultants, and other experts for services.

14 (f) To contract with individuals, corporations, associations,
15 authorities, and municipalities for services.

16 (g) To contract to pay for solid waste with payment based on
17 the basis of guaranteed amounts of solid waste with payment

18 based on guaranteed amounts whether actually disposed of or not,
19 which payments may be variable and may be determined by
20 formulae expressed in such contracts, provided, however that said
21 contract shall be approved by an affirmative vote of two-thirds
22 of the board of commissioners and by a majority vote, as defined
23 in Chapter 44, section 1, of two-thirds of the member
24 communities.

25 (h) To contract with the Commonwealth of Massachusetts or
26 the United States of America, or any agency, department, or
27 subdivision thereof for services.

28 (i) To contract with any member municipality for the services
29 of any property, officers; or employees of that municipality that
30 are useful to the district.

31 (j) To promote cooperative arrangements and coordinated
32 actions among its members.

33 (k) To make recommendations for review and action to its
34 member municipalities and the other public agencies that perform
35 functions within the region in which its member municipalities are
36 located.

37 (l) To exercise any other powers which are exercised or are
38 capable of exercise by any of its member municipalities and which
39 are necessary or desirable for dealing with solid waste problems
40 of mutual concern.

41 (m) To borrow money and issue evidence of indebtedness as
42 provided herein in accordance with Chapter 40, section 44K,
43 provided, however, that said issuance of debt shall be approved
44 by an affirmative vote of two-thirds of the board of commissioners
45 and by a majority vote, as defined in Chapter 44, section 1, of
46 two-thirds of the member communities.

47 (1) Short term borrowing. The board may borrow money
48 through the issuance of note of the district in accordance with
49 Massachusetts General Laws. Such notes, however, must mature
50 within the fiscal year in which they were issued. The board may
51 also borrow money in anticipation of revenues for each such year
52 and may issue notes of the district which must mature within the
53 fiscal year in which they were issued.

54 (2) Long term indebtedness and long term borrowings.
55 Indebtedness incurred by the district for regional disposal facilities
56 shall be subject to the applicable provisions of Chapter 44 of the

57 General Laws, except that the maturities of bonds or notes issued
58 by said district either shall be arranged so that for each issue of
59 the annual combined payments the principal and interest payable
60 in each year shall be as nearly equal as practical in the opinion
61 of the board of commissioners, or shall be arranged in accordance
62 with a schedule providing for a more rapid amortization of
63 principle, provided that such annual payments need not
64 commence earlier than one year after the date of commencing
65 regular use of the facilities, as projected or determined by the
66 board of commissioners. Project costs to be financed by the
67 issuance of bonds or notes may include interest on such borrowing
68 including interest on notes in anticipation of federal or state aid
69 for a period of up to six months after the date so projected or
70 determined for commencement of regular use of the facilities
71 financed by the bonds or notes.

72 (n) To adopt a budget and to assess and require payment by
73 the member municipalities for the expense of the district, as
74 provided in Chapter 40, section 44H.

75 (o) To appropriate and expend monies.

76 (p) To establish capital reserve funds for public improvements
77 in furtherance of its purposes.

78 (q) To regulate the transportation, recycling, resource recovery,
79 and disposal of solid wastes within the district and to require that
80 acceptable wastes generated within the district and any member
81 municipality therein shall be disposed of only in and upon facilities
82 operated by and on behalf of the district and to prevent the
83 discharge into disposal facilities of substances which may damage
84 or interfere with its maintenance or operation. The district may
85 for the proper and reasonable operation of its works, make
86 regulations as to the quality of character of any refuse or other
87 solid waste discharged into any disposal facility under its control.
88 The district may prohibit discharge into facilities in its control of
89 any waste if the commission determines that such waste may
90 interfere with or damage the disposal facility or interfere with its
91 maintenance or operation or not be in compliance with DEQE
92 and EPA regulations. The responsibility for disposal of such
93 wastes or their modification to allow disposal in district facilities
94 shall rest with the producer thereof.

95 (r) To sell to the participating members of the district any
96 property, including land, acquired by the district hereunder which,
97 in its opinion is no longer needed in the performance of the powers
98 and duties conferred and imposed on it by this act; provided,
99 however, that any land is first made available to the town in which
100 the land is located and, in the case of machinery, member
101 municipalities shall have a priority of bid purchase at a reasonable
102 price.

103 (s) To enter upon lands for the purpose of making surveys,
104 borings, and to acquire by purchase or otherwise the right to
105 occupy any land necessary for carrying out of the said purpose.
106 Nothing in this shall be construed as granting the district the
107 power of eminent domain. A municipality may, however, enter
108 into a contract with the district in which it does exercise its power
109 of eminent domain for the purpose of the district.

110 (t) To enact and enforce any and all necessary or desirable
111 regulations for carrying out the purposes of the district.

112 (u) To accept and administer gifts, grants, and bequests in trust
113 or otherwise for the purposes of the district.

114 (v) To exercise all powers incident to a public corporation.

1 SECTION 3. Authority. The legislative power and authority
2 of the Southern Berkshire Solid Waste Management District and
3 the administration and general supervision of all fiscal, prudential,
4 and governmental affairs thereof shall be vested in a governing
5 body known as the board of commissioners, except as specifically
6 provided otherwise in the agreement under Section 1(d) of this
7 act.

1 SECTION 4. Accountability. The board of commissioners
2 shall be accountable to the participating municipalities through
3 maintenance of adequate records, documents, and other exhibits.
4 The board of commissioners shall make a report each year to the
5 participating municipalities.

1 SECTION 5. This act shall take effect upon its passage.

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The following is a list of the names of the persons who were members of the committee on the subject of the proposed amendment to the constitution of the State of New York, which was passed by the Legislature in 1914, and which was submitted to the people at the general election in 1915.

The names of the members of the committee are as follows:

Chairman: [Name]

Members: [List of names]

The committee was organized on [Date] and held its first meeting on [Date]. It held several other meetings during the course of its work, and on [Date] it reported to the Legislature its findings and recommendations.

The committee's report was published in [Year] and is available for public inspection. It contains a full and complete statement of the facts and circumstances which led to the proposed amendment, and a full and complete statement of the committee's findings and recommendations.

The committee's report is a valuable document, and it is hoped that it will be read by all those who are interested in the proposed amendment to the constitution of the State of New York.