

By Mr. Brennan, a petition (accompanied by bill, Senate, No. 1049) of John A. Brennan, Jr., for legislation to provide for state aid for joint provision of services by local units of government. Local Affairs.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR STATE AID FOR JOINT PROVISION OF SERVICES BY LOCAL UNITS OF GOVERNMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 40B of the General Laws as last amended by Chapter 41
2 of the Acts of 1980 is hereby amended by inserting after section 29
3 under the caption Inter-Local Services Aid the following sections:

4 Section 30. The following words and terms as used in these
5 sections shall have the following meanings, except where the con-
6 text clearly indicates otherwise:

7 a. "Governing Body" means the committee, council, commis-
8 sion, board or body by whatever name known having charge of the
9 finances of a local unit. In the case of counties it means the board of
10 County Commissioners.

11 b. "Local Unit" means any city, town, or county in the state.

12 c. "Program" or "Joint Program" means a service, undertaking
13 or operation to be provided or performed in accordance with this
14 act by more than one local unit, whether it is to be performed
15 through a joint meeting, by one of the local units for another on a
16 contract basis, or in any other manner authorized by law.

17 d. "Quasi-governmental agency" or "paragovernmental agency"
18 means any local authority or district, or other agency, whether a
19 public agency or a private nonprofit agency or institution, whether
20 or not supported in whole or in part by public funds, which
21 performs a public function or service in any of the following areas:
22 fire protection, first aid, welfare, social services, community devel-
23 opment, community or regional planning, or public health.

24 e. "Chief executive officer" means the mayor of a municipal
25 government formed under Plan A, B, C, F of chapter 43, the city
26 manager of a municipal government formed under Plan D, E, of
27 Chapter 43 or the Chairman of the Board of Selectmen in a Town.

28 Section 31. The funds appropriated pursuant to this act shall be
29 made available to qualified applicants for the following purposes:

30 a. to provide a service which, based on the evidence submitted
31 pursuant to section 34 of this chapter can only be provided ade-
32 quately on a joint basis;

33 b. to provide a service which is currently not being provided at all
34 of which, based on the evidence submitted pursuant to section 6 of
35 this act, is being provided at a level substantially below the min-
36 imum needs of the recipients;

37 c. to promote consolidation of existing service systems to
38 achieve efficiency and economy.

39 Subject to the availability of funds, reservation of funds shall be
40 made for any request or application filed pursuant to said sections
41 and such request or application shall have a first claim on such
42 funds which have not been expended or committed at the time of
43 the receipt by the Secretary of Communities and Development of
44 the request or application.

45 Section 32. a. Any local unit may apply for a grant to provide
46 any or all of the services specified in section 33 jointly with any
47 other local unit or units, or for the consolidation of two or more
48 municipalities. A quasi-government or paragonovernmental agency
49 may also apply to participate in a joint program and receive aid
50 under this act; but such application shall be made through the local
51 unit or units served by or supporting such agency, and all grants to
52 such agency shall be made through such local unit or units.

53 b. The local units applying for aid may provide the service or
54 services in any manner authorized by law.

55 Section 33. Application for joint service program grants may be
56 made covering any or all of the following areas of governmental
57 service:

58 a. joint assessment and collection of taxes;

59 b. joint maintenance of municipal records and statistics and
60 electronic data processing;

61 c. joint building, housing and plumbing code inspection and
62 enforcement;

- 63 d. joint solid waste collection and disposal;
- 64 e. joint air pollution control inspection and enforcement;
- 65 f. joint welfare and social service programs;
- 66 g. joint maintenance and administration of parks and recrea-
- 67 tional and cultural facilities;
- 68 h. joint maintenance of roads, public works and beaches.

69 Section 34. a. No grant under this act shall be made to any joint
70 program which has not submitted an approved plan of operations
71 based on a feasibility study of the project conducted pursuant to
72 this section. Such feasibility study shall be conducted by or under
73 the supervision of the Department of Communities and Develop-
74 ment either (1) by the Department of Communities and Develop-
75 ment or by an agency or agencies of the Commonwealth of Massa-
76 chusetts approved by the Secretary of Communities and Develop-
77 ment, or (2) by a qualified third party approved by the Department
78 of Communities and Development and by the principal executive
79 officer of any principal executive department of state government
80 whose approval of such feasibility study is required by subsection
81 b. of this section and by a majority of 2/3 or more of the applicant
82 local units. Such plan of operations shall constitute the final ele-
83 ment of the feasibility study when approved by the Secretary of
84 Communities and Development and by any and every principal
85 executive officer of a principal executive department of state
86 government which exercises jurisdiction over the performance of
87 the services to be provided jointly under the proposed program.

88 b. Any local units eligible for aid as defined in sections 31 and 32
89 shall be eligible to apply for funds to conduct a feasibility study
90 under the auspices of the Department of Communities and Develop-
91 opment. Application for such shall include: the names of the
92 proposed participants; certified copies of a resolution or substan-
93 tially similar resolutions passed by the governing bodies of the
94 participating units authorizing such application; the services for
95 which joint programs are contemplated, and the expected benefits
96 of such a joint program. The application shall be in such form and
97 shall also contain such other information as may be required by the
98 Secretary of Communities and Development.

99 All grants for feasibility studies shall require the joint approval
100 of the Secretary of Communities and Development and the princi-
101 pal executive officer of any and every principal executive depart-

102 ment of the state government which exercises jurisdiction over the
103 performance of the services to be provided jointly under the pro-
104 posed program.

105 c. The feasibility study shall include such detailed surveys of
106 present service standards in the area to be served by the joint
107 program as may be required to establish substantial evidence that a
108 joint program would either enable provision of a needed service
109 which could not otherwise be provided, or remedy existing levels of
110 service provision, or otherwise produce better services at a rela-
111 tively lower unit costs or with more efficient administration, and
112 that such joint programs would not adversely affect neighboring
113 local units, and that no neighboring local units which might benefit
114 is being excluded from the program; provided that any such local
115 unit claiming exclusion had expressed a desire to be included in the
116 feasibility study by giving written notice of such desire to the
117 Secretary of Communities and Development within 30 days from
118 the date on which the Commissioner made public announcement
119 of the feasibility study grant.

120 d. Within 1 month of the completion of the feasibility study, the
121 Office of Communities and Development shall hold a public hear-
122 ing in each local unit to be included in the proposed joint program.
123 After such hearings and upon submission and approval of a plan
124 based thereon as provided in subsection a. of this section, the joint
125 program shall be eligible for aid under this act. No joint program
126 shall receive aid unless the governing bodies of all participating
127 local units have passed identically worded resolutions ratifying the
128 grant contract between the State and the participating local units.

129 If the feasibility study shall contain recommendations for estab-
130 lishing a joint service program, within 6 months from the date of
131 the last public hearing on the feasibility study, the governing body
132 of each local unit which participated in the study shall communi-
133 cate in writing to the Secretary of Communities and Development
134 stating their intentions of implementing or their specific and
135 detailed objections to implementing each recommendation made
136 in the feasibility study for establishing a joint service plan.

137 e. The Secretary of Communities and Development shall, upon
138 formal request by the governing body or chief executive officer of
139 any local unit, cause to be made a preliminary survey as to the
140 eligibility of such local unit and any other local units for State aid

141 under this act with respect to any joint arrangements for provision
142 of services specified or suggested in such request. Such preliminary
143 survey shall be of sufficient scope and detail to enable the Secretary
144 to advise all local units concerned in the projected joint arrange-
145 ment whether the circumstances warrant detailed feasibility study
146 pursuant to subsections a., b., c., and d. of this section; and the
147 Secretary shall transmit formal notice of the findings and conclu-
148 sions of such preliminary survey to all the said local units
149 concerned.

150 Section 35. a. Local units in joint programs qualifying for aid
151 for the implementation of joint programs under this act shall
152 receive the following aid for 4 years:

153 (1) if the service provided under this joint agreement is one which
154 the local unit has previously provided, an amount to cover all
155 extraordinary administrative and operating costs incurred by the
156 local unit as a result of implementation of the joint program;

157 (2) if the service provided under the joint agreement is one which
158 the local unit has not previously provided, an amount equal to 10%
159 of the total costs incurred by the local unit as a result of implemen-
160 tation of the joint program.

161 b. (1) In those areas in which the approved feasibility study
162 indicates that previous service provided in any participating local
163 unit was at such a low level that minimum adequacy can be
164 obtained only by substantial upgrading, the Secretary of Commu-
165 nities and Development is hereby authorized to provide for aid on
166 behalf of that unit in accordance with paragraph (2) of subsection
167 a. of this section rather than paragraph (1).

168 (2) In the event that a local unit currently providing a service at
169 or above minimum levels as determined by the approved feasibility
170 study enters into a joint agreement with a unit or units eligible for
171 aid under paragraph (2) of subsection a. of this section or under
172 paragraph (1) of this subsection, aid to joint program on behalf of
173 each local unit participating may be given as if all local units had
174 qualified for aid under paragraph (2) of subsection a. of this section
175 or under paragraph (1) of this subsection.

176 c. Aid payable under this act shall be subject to availability of
177 state appropriations and to a budget estimate approved in advance
178 by the Secretary of Communities and Development. The local
179 units shall receive such payment for a period not to exceed 4 years

180 from the date of inception of the joint program.

181 d. (1) For the purpose of this act, "extraordinary operating and
182 administrative costs" shall be deemed to be those operating and
183 administrative costs incurred by a local unit for a service provided
184 through a joint agreement which exceed the operating and admin-
185 istrative costs which it would have incurred for the provision of
186 such service had such joint agreement not been implemented.

187 (2) For the purposes of this act, "operating and administrative
188 costs" shall not include costs which are considered capital costs;
189 except that the Secretary of Communities and Development may
190 declare as eligible for aid under this act such costs as in his judg-
191 ment could reasonably be included within an operating budget
192 notwithstanding the fact that they may be bondable.

193 (3) The amounts expended for extraordinary operating and
194 administrative costs by each local unit receiving aid pursuant to
195 paragraph (1) of subsection a. of this section, and the amounts
196 expended for total operating and administrative costs by each
197 other local unit receiving aid under this act, as the case may be,
198 shall be certified each year by each local unit participating in a joint
199 program, and approved by the Secretary of Communities and
200 Development subject to a performance audit performed by or
201 under the auspices of the Office of Communities and Development.

202 Section 36. Payments of aid moneys shall be made on a quar-
203 terly basis by the State Treasurer to the Chief Financial Officer of
204 the local unit or joint meeting charged under the program as
205 approved for aid pursuant to section 34 of this chapter with provid-
206 ing the services for which the grant is made.

207 Section 37. The Secretary of Communities and Development
208 may issue such rules and regulations as are necessary to effectuate
209 the purposes of this Act.

210 Section 38. There is hereby appropriated for the purposes of
211 this act such sums as may be included in any annual or supplemen-
212 tal appropriation act for such purposes.

213 Section 39. This act shall take effect immediately.

STATE OF ... No. 1086

IN SENATE, ...

AN ACT TO ...

Enacted by the Senate and Assembly of the State of ...

SECTION 1. ...

SECTION 2. ...

SECTION 3. ...

