

**HOUSE . . . . . No. 5932**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, May 4, 1977.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, House, No. 3781) of John E. Murphy, Jr., relative to amending the law establishing the South Essex Solid Waste Disposal District, report recommending that the accompanying bill (House, No. 5932) ought to pass.

For the committee,

RICHARD J. DWINELL.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Seven.

**AN ACT ESTABLISHING THE SOUTH ESSEX SOLID WASTE DISPOSAL 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. Chapter 770 of the acts of 1975 is hereby amended  
2 by striking out section 1 and inserting in place thereof the following  
3 section:—

4 *Section 1.* In order to eliminate the nuisances attendant upon the  
5 disposal of solid waste in the cities and the towns who are members  
6 in good standing of the Southern Essex Solid Waste Council there  
7 is hereby created a body politic and corporate to be known as the  
8 South Essex Solid Waste Disposal District, hereinafter called the  
9 district. Members in good standing (hereinafter referred to as  
10 Southern Essex Solid Waste Council member municipalities) shall  
11 mean all cities and towns who on the effective date of this act have  
12 paid all outstanding per capita assessments for the Southern Essex  
13 Solid Waste Council for support of the administrative and  
14 professional services related to the structuring of a workable solid  
15 waste management program to be implemented by the district. The  
16 Director of the Southern Essex Solid Waste Council shall file with  
17 the State Secretary a certificate noting the members in good  
18 standing of the Southern Essex Solid Waste Council on the  
19 effective date of this act as provided herein.

20 Said district shall be composed of the cities and towns which  
21 accept the provisions of this act as herein provided. Said district is  
22 hereby constituted a public instrumentality; and the performance  
23 by it of the duties imposed and the exercise by it of the powers  
24 conferred by this act shall be deemed and held to be the  
25 performances of essential governmental functions. Said district  
26 shall be deemed to be an instrumentality within the meaning of  
27 chapter one hundred and eighteen C of the General Laws but  
28 chapter thirty-one of the General Laws and rules made thereunder  
29 shall not apply to any officer, agent or employee of said district.

1 SECTION 2. Chapter 770 of the acts of 1975 is hereby amended  
2 by striking out section 2 and inserting in place thereof the following  
3 section: —

4 *Section 2.* Any of the Southern Essex Solid Waste Council  
5 member municipalities, whether contiguous or noncontiguous,  
6 shall become a member of the district, provided that it accepts the  
7 provisions of this act prior to December thirty-first, nineteen  
8 hundred and seventy-seven by a vote of the town meeting in a  
9 town, or by a vote of the city council in a city, and provided further  
10 that such vote of acceptance specifies the minimum number of tons  
11 of solid waste per year for the processing of which such city or town  
12 will be obligated to pay, whether such amount is delivered or not.  
13 Any city or town accepting the provisions of this act as provided in  
14 this section which certifies less than five-tenths of one ton per  
15 inhabitant of such city or town per year according to the most  
16 recent federal or state census shall, if so voted by the district  
17 council, be obligated to pay a penalty, in an amount to be  
18 determined by the district council not to exceed ten percent of the  
19 then current service charge per ton, for each ton of waste delivered  
20 in any year in excess of the tonnage certified; provided, however,  
21 that any city or town may deliver in the first full year of operation  
22 of a district facility one hundred and ten percent of the minimum  
23 amount of waste certified by it and in each year thereafter one  
24 hundred and one percent of the amount of waste delivered by it in  
25 the next prior year without being subject to such penalty. The vote  
26 of acceptance of this act and the amount of tons certified by each  
27 city and town shall be certified to the state secretary by the town  
28 clerk or city clerk, as the case may be, forthwith after the  
29 acceptance of this act.

30 By the procedure set forth above, any other municipality in  
31 Essex, Middlesex or Suffolk county, except the City of Boston,  
32 may become a member of the district prior to December thirty-  
33 first, nineteen hundred and seventy-seven provided that no such  
34 other municipality may be admitted to membership during such  
35 period after the state secretary has received certification from any  
36 such other municipality which when added to previously received  
37 certifications from such other municipalities, exceeds an amount  
38 of waste which is equal to two hundred seventy-five thousand tons  
39 per year minus an amount equal to five-tenths of one ton per year  
40 multiplied by the population of the Southern Essex Solid Waste



41 Council member municipalities according to the most recent  
42 federal or state census.

43 After December thirty-first nineteen hundred and seventy-seven  
44 any municipality in either of the two categories named above may  
45 become a member of the district under the procedures set forth  
46 above provided that no municipality may be admitted to the  
47 district after the state secretary has received certification from a  
48 municipality which when added to all previously received  
49 certifications of municipalities makes the total tonnage so certified  
50 in excess of two hundred seventy-five thousand tons per year.  
51 When the state secretary shall have received certifications from  
52 cities and towns certifying at least two hundred seventy-five  
53 thousand tons per year, said state secretary shall issue a certificate  
54 of organization to the district stating the member cities and towns  
55 and the tonnage certified by each such member which certificate  
56 shall be conclusive as to the lawful and valid creation of the district.  
57 Thereafter no municipality may be admitted as a member of the  
58 district unless admitted by a vote of the district council. If a  
59 certificate of organization is not issued before January 2, 1980,  
60 then this act shall become void.

1 SECTION 3. Section 6(t) of said chapter 770 is hereby further  
2 amended by striking out, in line 5, the word "ten" and inserting in  
3 place thereof the word: — twenty.

1 SECTION 4. Section 6(u) of said chapter 770 is hereby further  
2 amended by inserting after the word "reconstructing" in line 2, the  
3 words: — sanitary landfills and improvements thereto.

1 SECTION 5. Section 6 of said chapter 770 is hereby amended  
2 by adding at the end thereof an additional subsection (v) which  
3 provides as follows:

4 *Section 6(v).* To credit to or refund to (i) the member cities and  
5 towns of the Southern Essex Solid Waste Council who are  
6 members of the district, monies for planning and administrative  
7 costs of said Council paid by such member municipalities and  
8 incurred prior to the formation of the district, such credit or refund  
9 to be made from revenues provided for in subsection (t) to this  
10 section 6, and (ii) the member municipalities of the district, monies  
11 received as provided for in subsections (c) and (f) of this section 6,

12 such credits or refunds to be distributed in accordance with the  
13 percent usage of the facility in total tons delivered by district  
14 members calculated at the end of each month of any calendar year,  
15 and (iii) the member municipalities of the district, monies received  
16 as provided for in subsection (t) of this section 6, such credits or  
17 refunds to be distributed in accordance with the percent usage of  
18 the facility in total tons calculated at the end of each month of any  
19 calendar year, provided, however, that all claims under (i) above  
20 shall have been paid.

1 SECTION 6. Section 9 of said chapter 770 is hereby further  
2 amended by adding the following clause and sentence: —

3 ; provided the district shall grant a temporary or permanent  
4 reduction of or credit to the minimum commitment of any or all  
5 member cities and towns for any period during which the actual  
6 waste delivered to any facility exceeds the aggregate of the  
7 minimum commitments of all such member cities and towns. Any  
8 obligation of any city or town which has become a member of the  
9 district or which has contracted with the district to receive disposal  
10 services to pay for services provided by a private operator,  
11 including the obligation to pay for a minimum amount of tonnage  
12 as provided in this section, shall, unless otherwise provided in the  
13 contract between the district and such private operator, be  
14 absolute and unconditional so long as such services are provided,  
15 and the city or town treasurer shall pay to the district or the private  
16 operator, as the case may be, the amounts billed for such services  
17 or minimum tonnage at the times specified by vote of the district  
18 council or in the contract between the district and the private  
19 operator.

1 SECTION 7. Section 14 of said chapter 770 is hereby further  
2 amended by inserting after the word "filling", in line 7, the  
3 words: — preparation improvement.

1 SECTION 8. Section 16 of said chapter 770 is hereby further  
2 amended by striking out, in lines 1 through 7, the first two  
3 sentences thereof and inserting in place thereof the following two  
4 sentences: —

5 In order to accomplish any of its purposes as provided in section  
6 6 hereof, including the acquisition or construction of solid waste  
7 disposal facilities for lease or license to private operators or the  
8 making of loans to private parties for the cost of such facilities, the  
9 district may from time to time issue revenue bonds and notes in  
10 anticipation of such bonds. Loans to private parties for the cost of  
11 facilities may be made to refinance prior debt incurred or internal  
12 advances made by such private party for such cost, and the cost of a  
13 facility may include reimbursement to such private party for  
14 expenditures made for the facility prior to the time of the loan by  
15 the district.



