

SENATE No. 895

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act creating A Metro West public health district .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ms. Spilka	Second Middlesex and Norfolk
Carolyn Dykema	8th Middlesex
Tom Sannicandro	7th Middlesex
David P. Linsky	5th Middlesex
Scott P. Brown	Norfolk, Bristol and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT CREATING A METRO WEST PUBLIC HEALTH 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.** As used in this act, unless the context clearly indicates otherwise, the
2 following words and phrases shall have the following meanings:

3 “Board of Health”, shall include any body politic or political subdivision of the commonwealth
4 that acts as a board of health, public health commission or a health department for a
5 municipality.

6 “District”, the Metro West Public Health District created by Section 2.

7 **SECTION 2.**

8 (a) There is hereby created a body politic and corporate and a public instrumentality to be known
9 as the Metro West Public Health District, which shall be an independent public authority not
10 subject to the supervision or control of the executive office of public health or department of
11 environmental protection or any other executive office, department, commission, board, bureau,
12 agency or political subdivision of the commonwealth except to the extent and in the manner
13 provided in this act. The exercise by the District of the powers conferred by this act shall be
14 deemed to be the performance of an essential public function.

15 (b) Two or more municipalities may, by vote of their respective boards of health and, in a city
16 having a Plan E charter by the affirmative vote of a majority of all members of the city council,
17 in other cities by vote of the city council and approval of the mayor, and by vote of the board of
18 selectmen in a town, join the Metro West Public Health District, which shall consist of a regional
19 board of health, a director of health and staff thereof. The District may have all the powers and
20 may perform all the duties conferred upon, or exercised by, the boards of health and health
21 departments of the constituent municipalities under any law or ordinance pertaining thereto,
22 except in so far as the District may, by majority vote, delegate certain powers and duties to the
23 constituent municipalities. Notwithstanding the foregoing, a constituent municipality shall retain
24 its legal authority under chapter 111 and section 6 of Article 2 of the Amendments to the
25 Massachusetts Constitution, unless and until a municipality votes, by vote of its board of health
26 and, in a city having a Plan E charter by the affirmative vote of a majority of all members of the
27 city council, and in other cities by vote of the city council and approval of the mayor, and by
28 vote of the board of selectmen in a town, to delegate part or all of its legal authority to the
29 regional board of health.

30 The regional board of health, hereinafter referred to as the board, shall be comprised of at least 1
31 representative from each constituent municipality. Unless the board votes otherwise, each
32 constituent municipality having a population greater than 25,000 shall have 1 additional
33 representative to the board. Representatives of towns shall be nominated by the board of health,
34 subject to approval and appointment by the selectmen. In cities, such representatives shall be
35 appointed by the mayor with the approval of the city council, or in cities having Plan E charters
36 by the city manager, unless a definite mode of appointment is otherwise provided by the city
37 charter. Each representative shall serve for a period of 3 years, except that at its initial

38 organization the board shall decide the term of years for the first representatives who shall be
39 elected or appointed to the board, so that thereafter approximately one-third of the
40 representatives will be elected or appointed each year. Such representatives shall serve without
41 compensation. Representatives to the board may be re-elected or reappointed for a maximum of
42 2 terms. The board shall meet annually and at such other times as it shall determine by its rules
43 or when requested by the chairman of the board or the director of health.

44 The board may make and adopt reasonable rules and regulations for the promotion of general
45 health within the District not in conflict with law, ordinance, by-law or any fire, health or safety
46 regulation. The powers of each District shall include, but not be limited to, the power to: (1) sue
47 and be sued; (2) make and execute contracts and other instruments necessary or convenient to the
48 exercise of the powers of the health district; (3) make and from time to time amend and repeal
49 rules and regulations relative to the operation of the district; (4) receive and expend funds; (5)
50 apply for and receive grants from the commonwealth, the federal government and from other
51 grantors, if the purpose of the grant is to improve public health; and (6) have such other powers
52 as are necessary to properly carry out its powers as an independent entity of government.

53 Any constituent municipality that has been a member of the District for at least 3 years may
54 withdraw from the District, by vote of its board of health and in a town by its board of selectmen
55 and in a city by its mayor with the approval of the city council, or if cities having Plan E charters
56 by the city manager, passed prior to July first in any year, and the withdrawal shall be effective
57 January first of the following year. In the event of the withdrawal of a town or city from the
58 District, or in the event of dissolution of any district, the employees thereof, if originally
59 employed by a municipality, shall automatically become employees in the same as they held in
60 such municipality's board of health.

61 The board shall select a treasurer, who may be the treasurer of 1 of the constituent municipalities
62 or such other treasurer as designated by the board, to act as treasurer for the district. For the
63 faithful performance of his duties, the treasurer shall give bond, with a surety company
64 authorized to transact business in the commonwealth, in such sums and upon such conditions as
65 the board may require. The board shall, annually, in the month of December: (a) estimate the
66 amount of money required to pay the cost and expense of the district for the following year; (b)
67 fix and determine by a majority vote the proportion of such costs and expenses to be paid by the
68 individual municipalities thereof during such year; and (c) certify the amount so determined for
69 each municipality to the assessors thereof, who shall include such in the tax levies of each year,
70 and each municipality shall appropriate such sum for the District. In apportioning the costs, the
71 board, by a majority vote, may use any of the following formulae as a basis for its
72 apportionment: (a) valuation, according to the latest state valuation, establishing the basis of
73 apportionment of state and county taxes; (b) population, as determined by the most recent
74 estimate by the state secretary, exclusive of universities and federal, state and county institutions;
75 (c) a combined formula of valuation according to the latest state valuation and population as
76 determined by the most recent estimate by the state secretary, exclusive of universities and
77 federal, state and county institutions; or (d) any other method decided by majority vote of the
78 board. Upon order of the board, the treasurer of each constituent municipality thereof shall, from
79 time to time, subject to section 52 of chapter 41, pay to the treasurer of the District the amount
80 certified by the board as the municipality's share of the cost and expenses of the District. The
81 treasurer of the District shall disburse the money so received upon warrant approved by the
82 director of health and signed by the chairman or vice-chairman of the board. The accounts of
83 each district shall be audited annually by the bureau of accounts of the department of

84 corporations and taxation, under sections 35, 40 and 41 of chapter 44.

85 The board shall appoint, and may reappoint, for a term of 3 years, a director of health, hereinafter
86 referred to as the director. The board may remove the director for cause after proper notice and a
87 public hearing. The director shall serve as secretary of the board, but shall have no vote. He shall
88 be the executive and administrative head of the District and, may, with the approval of the board,
89 designate 1 or more deputies and may appoint and employ, with like approval, such assistants as
90 may be provided for in the budget. The director shall prepare and present annually to the board a
91 report and a budget for its approval, together with such recommendations as he deems proper.

92 The department of public health, in consultation with the department of environmental protection
93 shall adopt regulations to set minimum qualifications for directors of health hired pursuant to this
94 section.

95 The board shall adopt reasonable rules and regulations, for which notice and public hearing shall
96 be given in the same manner and extent as required by section 37 of chapter 30 and section 2 of
97 chapter 30A. The board shall also: (a) take evidence in appeals; (b) consider plans and
98 appointments required by law; (c) hold hearings; and (d) discharge such other duties required by
99 law, but the board shall have no administrative or executive functions. The board may delegate
100 the holding of hearings to the director or his deputies. The board may elect an executive
101 committee consisting of its chairman, vice-chairman, secretary and such other members as its
102 rules may determine. The executive committee shall have the authority to act for the board when
103 the board is not in session.

104 All full-time and part-time incumbents of any office or position brought under the District at the
105 time of its formation shall be transferred thereto without loss of civil service, retirement or other
106 rights. Any transferred employee's compensation shall be fixed by the board at not less than the

107 amount received by the employee during the fiscal year preceding the date such employee was
108 transferred to the District. Any person hired pursuant to this section shall be hired in accordance
109 with the merit system, personnel policies and compensation plans approved by the board and
110 such employee shall meet the qualifications for his position as may be established by regulation
111 of the department of public health and the department of environmental protection. Any
112 employee whose employment was governed by chapter 31 shall be transferred to the District
113 with duties comparable to those previously performed by him and shall have all rights and
114 privileges accruing to him from his previous position. Any employee whose employment was not
115 governed by said chapter 31 shall be transferred to the District in a comparable position. The
116 employee shall have all rights and privileges accruing to him from his previous position. If a new
117 position is governed by said chapter 31 such employee shall be classified in the competitive civil
118 service without examination. All positions and offices of the District, including the director, but
119 excluding representatives to the board, shall be subject to the provisions of chapter 32. Ninety
120 days after the organizational meeting of the board, all district positions and offices, except the
121 director and the representatives to the board, not subject to chapter 31 at the time of the
122 formation of the regional board of health, shall be placed within the civil service in the manner
123 provided by said chapter 31 and the rules and regulations promulgated thereunder, and all
124 positions and offices subsequently established by the board shall be subject to said chapter 31
125 and the rules and regulations thereof, unless the board by a majority vote within 90 days after its
126 organizational meeting votes not to extend said chapter 31 to any or all of such eligible positions
127 and offices. At any time after such a vote to exclude, the board may, by a majority vote, bring
128 within said chapter 31 any or all positions and offices, in the manner set forth therein, except the
129 director and the representatives to the board, which were excluded but which are still subject to

130 the jurisdiction of the board. The wages and salaries of all offices and positions, including those
131 subject to chapter 31, shall be determined by the board. The department of public health, in
132 consultation with the department of environmental protection, shall establish by regulation
133 minimum performance standards, including standards for inspection and enforcement, for basic
134 programs of public health administration, personal health, laboratory services, health resources
135 and other preventive health programs not inconsistent with law, as it finds necessary or desirable
136 for the protection of public health.

137 **SECTION 3.**

138 (1) The District shall be entitled to reimbursement from the commonwealth, subject to
139 appropriation, for expenditures incurred by it for initial capital outlays, including the acquisition,
140 construction, improvement or renovation of any buildings or premises for the use of the District
141 and any original furnishings and equipment therefore, but excluding the costs of supplies,
142 salaries and other expenses for the ordinary maintenance and operation of the District. The
143 department of public health shall establish, by regulation, a formula for allocating state funds for
144 initial capital outlays to the District. In order to qualify for such reimbursement, the District
145 shall, before incurring any expenses reimbursable under this section, submit to the commissioner
146 of public health, an itemized statement of all proposed expenditures for such purposes. The
147 commissioner shall examine such statement and shall notify such board to what extent, in his
148 opinion, the proposed expenditures are reasonably necessary for the purposes of the District and
149 reimbursable hereunder, and the probable amount of reimbursement therefor. Within 3 months
150 after the date of final payment for such capital outlays the board shall submit to the
151 commissioner a certified statement of its actual expenditures for such purposes. If satisfied that
152 the expenditures so certified are reimbursable and not unreasonable or excessive, the

153 commissioner shall certify to the comptroller and the treasurer shall forthwith pay to the District,
154 from any amounts appropriated therefor, the amount of such approved reimbursement.

155 (2) A formula shall be established, subject to appropriation, for allocating state funds for
156 operating expenses to the District. This formula shall include the requirement of municipal
157 matching funds on a basis to be determined from the annual tax receipts of each participating city
158 or town. To qualify for the receipt of state funds, the District shall meet the performance
159 standards and personnel qualifications adopted by the department of public health pursuant to
160 Section 2. The District may use additional funds, which it may secure from other sources. In the
161 event that a city or town fails to appropriate its required matching funds from the annual tax
162 receipts, such city or town shall be removed from the District.

163 **SECTION 4.** The department of public health, in consultation with the department of
164 environmental protection, may adopt regulations to establish minimum qualifications for
165 directors of health hired pursuant to Section 2.