

SENATE, No. 302

By Mr. Berry, a petition (accompanied by bill, Senate, No. 302) of Frederick E. Berry, Bradley H. Jones, Jr., Joyce A. Spiliotis, Mary E. Grant and other members of the General Court for legislation to establish the Essex North Shore Agricultural and technical school district. Education

The Commonwealth of Massachusetts



In the Year Two Thousand and Five.

AN ACT ESTABLISHING THE ESSEX NORTH SHORE AGRICULTURAL AND TECHNICAL SCHOOL DISTRICT

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

SECTION 1.

Chapter 74A of the General Laws is hereby repealed.

SECTION 2. As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:

“Commissioner”, the commissioner of education.

“District”, the Essex North Shore agricultural and technical school district established in section 3.

“Division”, the division of capital asset management and maintenance.

“Member municipality”, a city or town which has elected membership in the district, or which has

been admitted to membership in accordance with the district's by-laws.

"School committee", the school committee established in section 3.

SECTION 3. The Essex North Shore agricultural and technical school district is hereby established as a body politic and corporate, with all powers and duties conferred by law upon regional school districts to the extent that those powers and duties are not inconsistent with this act.

SECTION 4. Any city or town which is a member of the North Shore vocational regional school district, or the city of Peabody may elect to become a member municipality of the district by vote of the city council or town meeting. A certified copy of the vote shall be sent by the city or town clerk to the commissioner. Upon the election by cities and towns representing at least 75 per cent of the October 1, 2002, foundation enrollment of the North Shore vocational regional school district, the commissioner shall certify the local adoption of this chapter to the secretary of the commonwealth. Additional elections may be made subsequent to the date of the certification, but before the July 1 preceding the opening of the Essex North Shore agricultural and technical school. On or after that date, the admission of additional member municipalities shall be governed by the district's by-laws.

SECTION 5. There shall be an Essex North Shore agricultural and technical district school committee. The powers, duties and liabilities of the district shall be vested and exercised by the school committee in accordance with this chapter. The school committee shall consist of 20 members as follows: 3 members to be appointed by the commissioner of agriculture, with the approval of the governor; 16 members to be selected by the member communities of the North Shore regional vocational district in accordance with procedures in place before the establishment of the district; and 1 additional member from the city of Peabody selected by mayor of the city. Members shall serve 3-year terms with the initial terms structured so as to provide for staggered terms.

In any committee vote or election, each member of the school committee shall be entitled to cast 1 vote. In addition, those members representing member municipalities shall be entitled to cast 1 additional vote for each 50 students, or major portion thereof, who are residents of the member's

municipality and who are enrolled as full-time students in grades 9 to 12, inclusive, in any school operated by the district as of October 1 of the preceding calendar year. During the initial year of operation, the additional votes shall be based on enrollment at the Essex agricultural and technical high school, the North Shore vocational technical school district, and vocational programs at Peabody school district.

The school committee shall adopt by-laws governing the election of a chairman and other officers; the scheduling of annual and other meetings; the establishment of and delegation of powers to sub-committees; the admission of new member municipalities and the withdrawal of existing member municipalities; the calculation and payment of assessments and tuition; and such other items as are not inconsistent with this chapter or other laws. The by-laws shall be adopted or amended by a two-thirds vote of the school committee.

SECTION 6. The school committee shall have exclusive use of the property occupied by the Essex agricultural and technical high school as of July 1, 2004 at no cost for so long as it remains in use for the purpose of public education, and shall keep all buildings and improvements thereto in good repair. Title to the property shall remain with the commonwealth; but, notwithstanding any general or special law to the contrary, the division, acting on behalf of the commonwealth, may enter into a lease with the district for such term of years and upon conditions as the division and the district determine necessary to carry out the purpose. The school committee, with the approval of the commissioner of the division, may lease portions of the property for periods not to exceed 3 years; if the leases are for agricultural or educational purposes or are otherwise related to the district's mission.

SECTION 7. The district shall offer, in addition to its other vocational technical programs, comprehensive vocational technical agriculture programs in grades 9 to 12, inclusive. The vocational technical agriculture programs shall be under the supervision of a full-time coordinator. Admission to the vocational technical agriculture programs shall be open to all students in the commonwealth regardless of residence; but, the district may establish, with the approval of the commissioner, admissions criteria unrelated to residency. The vocational technical agriculture programs shall have a

minimum full-time combined enrollment of 300 students unless a lesser number is approved by the commissioner. Section 12B of chapter 76 of the General Laws shall not apply to the admission of students to the programs. Tuition for all non-resident students in the vocational technical agriculture programs shall be established and paid pursuant to section 7C of chapter 74 of the General Laws. In approving the tuition rates, the commissioner shall take into account the specialized nature of vocational technical agriculture programs, and shall also include capital and debt service costs attributable to the programs.

SECTION 8. The district's annual budget shall be prepared and approved pursuant to section 16B of chapter 71 of the General Laws. District operating and capital expenses in excess of the required local contributions as established under chapter 70 of the General Laws shall be apportioned to the member municipalities on the basis of their respective pupil enrollment in the district; but, for the purpose of the apportionment each member municipality shall be considered to have at least 5 full time students. During the initial year of operation, any budgets and assessments approved before the July 1 preceding the opening of the Essex North Shore agricultural and technical school, pursuant to the North Shore vocational regional school district agreement or chapter 74A of the General Laws, shall have full force and effect. The district shall make appropriate provisions for the initial year of operation with regard to vocational programs transferred from the Peabody school district.

SECTION 9. Notwithstanding any general or special law to the contrary, the district shall be considered an eligible institution for financing assistance provided by the health and educational facilities authority established under chapter 614 of the acts of 1968. The school committee shall establish and maintain a capital reserve fund for the purpose of financing necessary facility maintenance and capital improvements. The capital reserve fund shall be subject to the limits on stabilization funds in section 16G½ of chapter 71 of the General Laws. Except as provided in this section, the General Laws regulating borrowing by regional districts and limitations on borrowing by regional districts, including but not limited to chapter 70B of the General Laws and clauses (d), (e), (g), and (n) of section 16 of chapter 71 of the General Laws, shall apply to the district.

SECTION 10. The district shall be responsible for the transportation of its students in accordance with sections 7A and 16C of chapter 71 of the General Laws and may contract with municipalities for the provision of transportation services; but, the responsibility for non-resident students enrolled in the agricultural vocational programs shall be limited to students residing in municipalities within a 10 mile radius of the district, as determined by the commissioner.

SECTION 11. Employees of the district shall be eligible to participate in all group insurance programs and benefits administered by the group insurance commission pursuant to section 16 of chapter 34B of the General Laws; but, the district shall reimburse the commonwealth for costs of group insurance and benefits attributable to the district. Employees of the district shall become members of the city of Salem contributory retirement system, except that educators certified under section 38G of chapter 71 of the General Laws who are employed by said district shall be members of the teachers' retirement system under chapter 32. Employees of the district shall be considered public employees for purposes of tort liability under chapter 258 of the General Laws, and the school committee shall be considered the public employer for purposes of tort liability under said chapter 258.

SECTION 12. Notwithstanding this act, or any other general or special law to the contrary, the governing entities in place for the North Shore vocational regional school and the Essex agricultural and technical high shall remain in place and shall continue to exercise their powers, duties, and responsibilities until the beginning of the first fiscal year of operation of the Essex North Shore agricultural and technical school. These entities shall cease to exist upon the commencement of operation of such school. Ten members of the existing governing entities of the North Shore vocational regional school and the Essex agricultural and technical high shall be appointed to serve as a temporary oversight board for the purpose of directing all aspects of the building, planning and development of the new school in conjunction with division of capital asset management. The temporary oversight board shall report to, and be appointed from, said existing governing entities in accordance with the following ratios: 5 members shall be from the North Shore vocational regional

school, appointed by the Chairman of the School Committee, 3 members shall be from the Essex agricultural and technical high school, appointed by the Chairman of the Board of Trustees. In addition, 1 member of the board shall be a resident of the city of Peabody appointed by the mayor of the city, and 1 member shall be a resident of Danvers appointed by the town manager for a total of Ten members. Any required votes of the temporary oversight board shall be by simple majority with no weighted vote. The Temporary Oversight Board shall cease to exist when Authority is assumed by the North Shore Agricultural and Technical School District as stated in paragraph 13 below.

SECTION 13. Commencing on the July 1 preceding the opening of the Essex North Shore agricultural and technical school, the Essex North Shore agricultural and technical school district shall be the successor agency to the Essex agricultural and technical high school and the North Shore vocational regional school district, and shall assume all assets, liabilities, and obligations of those entities except as provided by this act. Employees of the Essex agricultural and technical high school, employees of the North Shore vocational regional school district, and any employees of Peabody school district who become employees of Essex North Shore agricultural and technical school shall suffer no impairment of employment rights held immediately before that date. The employees shall suffer no interruption of service; no impairment of seniority, retirement, civil service or other rights; no reduction in rate of compensation or salary grade; and no change in union representation. All employees shall continue their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered public employees within the meaning of section 1 of said chapter 150E, subject to the definitions set forth therein. The school committee of the Essex North Shore agricultural and technical school district shall serve as the public employer for purposes of said chapter 150E and shall be responsible for the negotiation of all necessary collective bargaining agreements. Rights and obligations under collective bargaining agreements covering the employees that are in effect immediately before that date shall be assumed by and imposed upon the school committee as of that date. Employees who are subject to collective bargaining agreements shall continue to be represented by the employee organizations that are parties to the agreements until those employees elect to alter the representation in accordance with said chapter 150E.

SECTION 14. Notwithstanding any general or special law to the contrary, the district shall sell any real or personal property owned by the district when the property is no longer needed for the district's agricultural or educational programs. The town of Middleton shall have the option to purchase the real property at fair market value as determined by an independent appraisal. The district shall have the option to purchase any equipment or other personal property at book value, net of depreciation, as determined by the commissioner. The proceeds from the sales shall be used to reduce any outstanding long-term indebtedness of the North Shore vocational regional school district and to make any required repayments to the commonwealth pursuant to chapter 70B of the General Laws. Any remaining proceeds shall be distributed to the former member municipalities of the North Shore vocational regional school district in accordance with the capital cost allocation provisions of said district's regional agreement.

SECTION 15. Notwithstanding any general or special law to the contrary, any member municipality of the North Shore vocational regional school district which does not elect membership in the Essex North Shore agricultural and technical school district shall remain liable for any unpaid prior year assessments and for its share of the outstanding indebtedness of the North Shore vocational regional school district, including interest thereon. Notwithstanding section 7 of chapter 74B of the General Laws, those cities or towns shall pay tuition for any students enrolled in the district pursuant to section 7C of chapter 74 of the General Laws.

SECTION 16. The department of education, in consultation with the board of trustees of Essex agricultural and technical school, the school committee of North Shore vocational regional school district, and the city of Peabody shall examine the conditions necessary or convenient to facilitate the opening of the Essex North Shore agricultural and technical school, including but not limited to capital needs of the schools. The department shall report its findings, along with any recommended legislation, to the secretary of administration and finance, the joint committee on education, arts, and humanities, and the house and senate committees on ways and means not later than March 1, 2005.

SECTION 17. The Essex North Shore agricultural and technical school shall not be an independent

agricultural and technical school pursuant to chapter 74A of the General Laws.

SECTION 18. Upon the opening of the Essex North Shore agricultural and technical school, the North Shore vocational regional school district shall be dissolved.

SECTION 19. Section 1 shall take effect on July 1, 2009.