

SENATE No. 2938

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

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 adoption of the accompanying bill:

An Act authorizing the town of Northfield to establish the Grandin Water District.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>6/16/2022</i>

SENATE No. 2938

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 2938) of Joanne M. Comerford and Susannah M. Whipps (by vote of the town) for legislation to authorize the town of Northfield to establish the Grandin Water District. Municipalities and Regional Government. [Local approval received]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act authorizing the town of Northfield to establish the Grandin Water 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. There is hereby established within the town of Northfield, herein referred to
2 as the Town, a political subdivision to be known as the Grandin Water District, herein referred to
3 as the District, which shall be comprised of all real and personal property that the District may
4 acquire from time to time for the purpose of this act only.

5 SECTION 2. The purpose of the District shall be the obtaining, treating, and distributing
6 of water for fair consideration for domestic use and extinguishing of fires and other purposes.
7 The District shall have all the rights and powers necessary or convenient to carry out and
8 effectuate its purpose as described herein, including making such payments and incurring such
9 obligations as may be deemed necessary to obtain the water supply and distribution system
10 described in section 1.

11 SECTION 3. The powers conferred upon the District by this act shall be exercised by a
12 Water District Commission, herein the Commission of the District or Commission, consisting of
13 3 members who shall be residents of the Town, one of whom shall be appointed by the
14 selectboard of the Town, and may be a member of said board, one of whom shall be appointed
15 by the largest water user in the District and one of whom shall be elected by the owners of the
16 property located in the District. When the District is first established, the three members shall be
17 appointed as follows: 1 member to a 2-year term shall be appointed by the selectboard of the
18 Town; 1 member to a 1-year term shall be appointed by the selectboard of the Town and said
19 term shall expire upon the election of a Commissioner at the next Town election at which the
20 seat shall be for a 3-year term, the remaining member shall be appointed by the largest water user
21 in the District to a 3-year term. The successors to the original members shall serve for terms of 3
22 years each. Vacancies on the Commission shall be filled in the same manner as their appointment
23 and a person appointed to fill a vacancy shall serve until the expiration of the term of the vacant
24 seat. Any commissioner may be removed prior to the expiration of their term upon good cause
25 by the appointing authority.

26 SECTION 4. The Commission shall be responsible for the expenditure and shall expend
27 the money raised and borrowed by the District, and shall annually prepare and approve a budget.
28 Approval of the budget shall be deemed to constitute an appropriation for the expenses
29 enumerated therein. The Commission shall have the same powers and duties relative to the
30 assessment, collection and abatement or granting of exemptions relative to money voted by the
31 District as provided by the General Laws. The District shall, at the request of the Town, include
32 in each budget compensation to the Town for any services rendered and expenses incurred by

33 Town officers with respect to the District. The fiscal year of the District shall be the same fiscal
34 year established by the General Laws or otherwise for the Town.

35 SECTION 5. The District and all of its revenue, income, and real property shall be
36 exempt from taxation and from betterments and special assessments, and the District shall not be
37 required to pay any tax, excise, or assessment to or for the Commonwealth or any of its political
38 subdivisions. Bonds issued by the District and their transfer and the income therefrom, including
39 any profit made on the sale thereof, shall be exempt from taxation within the Commonwealth.

40 SECTION 6. As used in this act, the following words shall, unless the context requires
41 otherwise, have the following meanings:-

42 "Bonds" or "bond", general obligation bonds, notes or other obligations or evidences of
43 indebtedness that the Commission of the District has authorized or issued to finance the
44 acquisition, of and improvements to, any water works system that is or shall be operated and
45 managed by the District prior to the effective date of this act, or that the Commission authorizes
46 and issues after said effective date by a two-thirds vote, to pay for capital costs of the District,
47 including land acquisition within the District service area, which shall be issued for a term not to
48 exceed 50 years, and which shall otherwise be issued in accordance with the provisions of
49 chapter 44 of the General Laws. A bond issued in accordance with this act shall be arranged so
50 that the amounts payable over a term of years for principal and interest combined shall be as
51 equal as practicable in the opinion of the officers authorized to issue the bonds or, in the
52 alternative, in accordance with a schedule that provides a more rapid amortization of the
53 principal.

54 A bond issued by the District shall not be included in any debt or other limitation of the
55 Town pursuant to any general or special law. A bond issued in accordance with this act not paid
56 by the District as it becomes due and payable shall constitute a pledge of the full faith and credit
57 of the District and a debt of the District within the meaning of section 23 of chapter 59 of the
58 General Laws. A bond issued pursuant to this act shall be signed by a majority of the
59 commission.

60 “Capital costs”, costs of acquisition, extension, improvement or enlargement of the water
61 works system of the District or any other project of the District financed under this act; all or any
62 part of the cost of acquisition, construction, reconstruction, alteration or remodeling of such
63 works including, but not limited to, the costs of labor, materials, machinery, equipment, and
64 supplies, demolition removal or relocation of any public utilities facilities, or advance training of
65 operating personnel; the acquisition of interests in land, structures and rights of any kind in real
66 and personal property; financing charges and expenses; interest prior to, during and for a period
67 not to exceed 6 months after completion of such work; reserves for debt service and other capital
68 and current expenses; costs of architectural, engineering, financial, legal, environmental, or
69 consulting services, including costs of plans, specifications, appraisals, surveys, inspections,
70 analysis, or financial and feasibility studies; administrative and operational expenses incurred
71 prior to the commencement of and during such work; and other expenses of completing and
72 commencing operation of such work, working capital, and other necessary or incidental expenses
73 related to the acquisition, construction, financing and placing in operation of such work.

74 “Commission”, the members of the Grandin Water District or, if the Commission shall
75 terminate, the succeeding person, board, body or commission to whom the powers given by this
76 act shall have been transferred by law.

77 “Current expenses”, the District's current expenses, whether or not annually recurring, for
78 maintaining, repairing and operating the water works system and any other properties of the
79 district including, but not limited to, administrative costs; debt service on bonds; payroll and
80 employee benefits; engineering expenses for maintenance, operation and repairs; legal, financial
81 and auditing expenses; insurance and surety bond premiums; fees and expenses of trustees and
82 paying agents; payments to others for services rendered to the district; taxes or fees which may
83 be lawfully imposed upon the District or its income or operations or property under its control;
84 and other current expenses required or permitted by law to be paid by the District, including the
85 funding of reasonable reserves for maintenance, repair, replacements or operations.

86 “District service area”, the area as described in Section 1 and shown on the map of the
87 District and service recipients entitled ‘Water District Parcels Designation Plan, East Northfield
88 Water District’ dated XXXXX, which is on file in the Northfield Town Clerk's Office and
89 recorded in the Franklin County Registry of Deeds in book ___, page ___, as such map may be
90 amended by a majority vote of the Commission, and the Town by majority vote of its Town
91 Meeting.

92 “Revenues”, all revenues, rates, fees, charges, rents and other receipts derived from the
93 operation of the water works system and the other properties of the District including, but not
94 limited to, proceeds of bonds, proceeds of any grant or loan to the District, investment earnings
95 and the proceeds of insurance, condemnation, sale or other disposition of properties.

96 “Water works system”, the water treatment and distribution system in the District service
97 area and under the jurisdiction, ownership, control and regulation of the District including, but
98 not limited to, the plants, works, instrumentalities or parts thereof; lands, easements, rights in

99 land, water and flowage rights, approaches, water courses, rights of way, contract rights,
100 franchises and privileges, all connections, dams, wells, reservoirs, water mains and pipe lines,
101 equipment, buildings, structures, pressure boosting components, vehicles, standpipes, tanks,
102 conduits, meters, hydrants, fire connections and fixtures of the system; purification, filtration and
103 treatment works and other adjuncts thereto; other real or personal property interests incidental to
104 and included in the system; and all facilities, betterment, extensions, improvements and
105 enlargements thereto and to or for the system hereafter constructed or acquired.

106 SECTION 7. Except as provided herein, the installation, ownership, operation, and
107 maintenance of all real and personal property of the District shall be subject to the state and local
108 laws and regulations.

109 SECTION 8. The Commission of the District is hereby constituted and shall exercise the
110 powers conferred by this act, which shall be deemed to be the performance of an essential public
111 function. The Commission shall not be subject to the supervision of the Town or of any
112 department, commission, board, bureau, or agency of the Town except as provided in this act.

113 The Commission shall be a public body subject to the provisions of the Massachusetts
114 Open Meeting Law and the Massachusetts Public Records Law, as may be amended from time to
115 time.

116 The Commission shall annually elect one of its members to be its chair. The Commission
117 may establish a reasonable annual compensation for its members, subject to applicable law.

118 The Commission may reimburse any member for the reasonable and necessary expenses
119 incurred in the discharge of the member's official duties as approved by the Commission.

120 The District shall be deemed to be a public employer and its members, officers and
121 employees shall be deemed to be public employees as defined in section 1 of chapter 258 of the
122 General Laws and section 1 of chapter 268A of the General Laws.

123 SECTION 9. The Commission may appoint, employ and determine the compensation,
124 duties and conditions of employment of or contract for a superintendent or entity providing
125 operational and management functions for the District, who shall not be a member of the
126 Commission or an entity controlled by any member of the Commission, and who shall serve at
127 the pleasure of the Commission.

128 The Commission may designate a superintendent to be the chief operating officer of the
129 District to administer and direct its affairs as authorized or approved by the Commission and
130 who may have and execute the powers and duties of the Commission as the Commission may
131 have delegated to the superintendent and not recalled.

132 The clerk of the Commission shall keep a record of the proceedings of the Commission
133 and shall be custodian of the books, documents and papers filed with the District. The
134 superintendent or any member or person designated by the Commission as clerk may cause
135 copies to be made of the minutes and other records and documents of the District and may certify
136 that such copies are true copies and a person dealing with the District may rely upon such
137 certification.

138 The Commission may hire, contract with, or otherwise appoint or employ legal counsel,
139 financial advisors and other experts, engineers, agents, accountants, clerks, consultants,
140 operators, and employees as it deems necessary, and may indemnify its members, officers,
141 employees, or agents against liability.

142 The Commission may purchase insurance for itself or a member, officer, employee, or
143 agent against liability that may arise out of an individual's status as such, whether or not the
144 Commission would have the power to indemnify such member, officer, employee, or agent
145 against such liability.

146 SECTION 10. The District may, through its Commissioners, contract with a
147 municipality, water company, water district, or other entity for the purchase, acquisition by other
148 means or sale or whatever water or waterworks that may be required, furnish or purchase the
149 same and enter into such contracts as may be necessary to effectuate the purposes of this Act,
150 including, without limitation, collection of revenue, data processing, and other means of
151 management, administration, and operation, all subject to the District's financial means.

152 SECTION 11. The Commission shall have all the rights and powers necessary or
153 convenient to carry out and implement this Act, including, but not limited to, the rights and
154 powers:

155 to adopt by-laws regulating the call of District meetings and administrative procedures to
156 operate the Commission;

157 to adopt rules, regulations, and procedures in connection with the performance of its
158 functions and duties;

159 to provide by regulation for civil penalties not to exceed \$300 per day, which shall inure
160 to the District, for the violation of its rule, order, or regulation and to assess fines for violation of
161 its rules and regulations;

162 to maintain an office in the Town;

163 on behalf of the District apply for, receive, accept, administer, expend or comply with the
164 conditions, obligations or requirements of, a grant, gift or loan, including without limitation a
165 grant, gift or loan from local, state or federal government agencies, donation or appropriation of
166 property or money to support the purposes of the Commission or contributions of money,
167 property, labor or other things of value;

168 to acquire, in the name of the District, by purchase, lease, lease-purchase, sale and
169 leaseback, gift or devise, or to obtain options for the acquisition of any property or any interest
170 therein, in the exercise of its powers and the performance of its duties;

171 to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for
172 any such purpose relative to, any property held by it, including real or personal, tangible or
173 intangible property, or any interest therein, consistent with the General Laws;

174 to enter onto any land within the District service area to make surveys, borings,
175 soundings and examinations thereon, provided that the Commission shall make reimbursements
176 for any injury or actual damage resulting to such lands and premises or caused by any act of its
177 authorized agents or employees and shall, so far as possible, restore the land to its condition prior
178 to making such surveys, borings, soundings or examinations;

179 to acquire, in the name of the District, by purchase, lease, lease-purchase, sale and
180 leaseback, gift or devise, or by the exercise of eminent domain upon unanimous vote of the
181 Commission, any interest in real property within the District service area in the name of the
182 Commission for purposes of the District, including the protection of the water distribution
183 system, in accordance with chapters 79 and 80A of the General Laws or any alternative method
184 provided by law;

185 to order the removal or relocation of any conduits, pipes, wires, poles, structures or other
186 property, located in a public way or place or in or upon private lands, which it deems to interfere
187 with the laying out, construction or operation of any water system project and such order, to the
188 extent specified therein, shall be deemed a revocation of the right or license to maintain such
189 tracks, pipes, conduits, wires, poles, structures or other property in such public ways or places; to
190 insure that the proper authorities grant a new location for the structure so removed or relocated;
191 to compensate the owner of such property for the reasonable costs of the removal or relocation;

192 to discontinue, remove such tracks, conduits, pipes, wires, poles, structures or other
193 property and to charge the owner the cost of such discontinuance, removal or relocation. If an
194 owner fails to comply with an order of the Commission relating to any such structure within a
195 reasonable time to be fixed in the order, the Commission may discontinue and remove the tracks,
196 conduits, pipes, wires, poles or other property, and may relocate them, and the cost of the
197 discontinuance, removal or relocation shall be repaid to the Commission by the owner. No
198 discontinuance, removal or relocation shall entitle the owner of the affected property to any
199 damages on account thereof, except for reimbursement of costs as provided in this section. This
200 section shall not apply to facilities on property of the Town or Commonwealth under the control
201 of the department of highways or the department of conservation and recreation or installed
202 under licenses or permits granted by those departments, except with the department's approval;

203 to contract for and purchase water supply, treatment and distribution services, and to
204 provide such services to, a person, a private or public corporation or a public instrumentality
205 within the District service area or to another town, as the Commission shall determine to be in
206 the best interests of the District, or to the Commonwealth or to the federal government when
207 necessary or convenient for the operation of the water system;

208 to construct, improve, extend, enlarge, maintain or repair the water works system and to
209 occupy and operate, extend, enlarge, maintain or repair any portion of the water works system
210 owned by the District within the District service area, upon the terms and conditions determined
211 by the Commission;

212 to use monies borrowed or appropriated by the District for the purposes of this act;

213 to make contracts for purchase of supplies, materials, and services, and for the purchase
214 or lease of land, buildings and equipment, as considered necessary by the Commission, and to
215 execute and deliver all instruments necessary or convenient for carrying out any of its purposes;

216 to create an overall water policy and plan for the District;

217 to do all things necessary, convenient or desirable for carrying out the purposes of this act
218 or the powers expressly granted or necessarily implied in this act;

219 consistent with the constitution and laws of the Commonwealth, to have other powers as
220 may be necessary for or incident to carrying out the foregoing powers and to accomplish the
221 purposes of this act, except that nothing in this act shall impose a duty on the Commission to
222 maintain groundwater levels within or without the boundaries of the District; and

223 to enter into one or more intermunicipal agreements with the Town and other
224 governmental entities for the provision of water services, in accordance with section 4A of
225 chapter 40 of the General Laws.

226 SECTION 12. In addition to the powers of the Commission otherwise provided in this
227 act, the Commission shall have the following powers and shall be subject to the following
228 limitations:

229 (a) The Commission may fix, revise, charge, collect and abate fees, rates, rents,
230 assessments, delinquency charges, lien, or other charges for water supply, treatment, and
231 distribution and other services, facilities and commodities it furnishes or supplies. Subject to
232 clause (c), fees, rates, rents, assessments, delinquency charges and other charges of general
233 application shall be adopted and, as necessary, revised by the Commission at least annually in
234 accordance with procedures to be established by the Commission for ensuring that interested
235 persons are afforded notice and an opportunity to present data, views and arguments. The
236 Commission shall hold at least 1 public hearing on its schedule of fees, rates and charges or any
237 revision thereof prior to its adoption, notice of which shall be delivered to the selectboard of the
238 Town and published on the Town's municipal website and in a newspaper of general circulation
239 in the Town at least 10 days in advance of the hearing. Not later than the date of such hearing,
240 the Commission shall make the proposed schedule available to the public. The Commission may
241 combine its fees, rates and other charges for services provided by it in a single schedule. Fees,
242 rates, rents, assessments, abatements, and other charges established by the Commission shall not
243 be subject to supervision of or regulation by any department, division, commission, board,
244 bureau, or agency of the Town or Commonwealth or any political subdivision. In order to
245 provide for the collection and enforcement of any charges for fees, rates and other charges, the
246 Commission shall have the benefit, without further acceptance of sections 42A to 42F, inclusive,
247 of chapter 40 of the General Laws or filing of any certificate relating thereto, of liens for unpaid
248 fees, rates, rents, assessments and other charges as provided in sections 42A and 42B of said
249 chapter 40 to the extent applicable and consistent with this act. The Commission shall certify to
250 the Town tax collector any fee, rate or charge for which a lien has arisen, and the Assessors shall
251 add them to the property tax assessed on the property to which it relates when the annual

252 assessment of Town property taxes is made. The Town tax collector shall act as collector for the
253 District and collect the rate, fee or charge as provided in section 42D of said chapter 40. The
254 collector or Town treasurer shall pay over to the District any amounts collected on account of
255 such rates, fees or charges.

256 (b) Subject to clause (e), the fees, rates, rents, assessments and other charges established
257 by the Commission in accordance with clause (a) shall be fixed and adjusted relative to the
258 aggregate thereof so as to provide revenues sufficient: (i) to pay the current expenses of the
259 Commission; (ii) to pay the principal, premium, and interest on bonds for costs as they become
260 due and payable; (iii) to create and maintain such reasonable reserves as may be reasonably
261 required by the Commission or by any trust agreement or resolution securing bonds issued by the
262 District on account of capital costs; (iv) to provide funds for paying the costs of all necessary
263 repairs, replacements and renewals of the water system; and (v) to pay or provide for any
264 amounts which the Commission may be obligated to pay or provide for by law or contract,
265 including a resolution or contract with or for the benefit of the holders of bonds issued for the
266 Commission. The Commission shall issue an annual operating budget and may allocate the use
267 of such amounts as it shall, in its sole discretion, determine.

268 (c) The Commission shall undertake a study and examination of its estimated expenses
269 and costs of constructing, maintaining, operating and improving the system, and shall, one year
270 after the effective date of this Act, promulgate, in accordance with clauses (a) and (b), a schedule
271 of fees, rents, rates and other charges. The schedule shall become effective upon promulgation
272 and shall provide for the metering, monitoring and other measuring of, and charging for, water
273 supply, treatment, and distribution services provided by the Commission to consumers of such
274 services in the District.

275 (d) The District may make special assessments under sections 42G, 42H, 42I and 42K of
276 chapter 40 of the General Laws by vote of the Commission. The Commission shall certify any
277 District special assessment or betterment to the town assessors, and the assessors shall commit
278 them to the Town tax collector as provided in chapter 80 of the General Laws. The Town tax
279 collector shall act as collector for the District and collect any betterments or special assessments
280 as provided in chapter 80. The collector shall include on municipal lien certificates of the Town
281 any District water rates, fees or charges that are liens, and shall issue certificates under section 12
282 of said chapter 80 to dissolve liens for special assessments or betterments of the District when
283 such assessments or betterments have been paid in full or abated.

284 (e) For purposes of operation of the water treatment and distribution system, the District
285 is hereby authorized upon majority vote of the Commission to establish and maintain (i) a
286 reserve fund, which may carry over the remaining balance of such fund into the ensuing fiscal
287 year; and (ii) an Enterprise Fund in accordance with the provisions of section 53F1/2 of chapter
288 44 of the General Laws.

289 (f) A water treatment and distribution system shall be subject to the applicable rules and
290 regulations of the Town and the applicable laws of the Commonwealth and shall comply with
291 any approval required thereunder.

292 SECTION 13. Notwithstanding the provisions of section 13 of chapter 80 of the General
293 Laws, or the provisions of any other general or special law to the contrary, an assessment on
294 account of a betterment project of the District may be apportioned into such number of equal
295 portions as may be determined by the District.

296 SECTION 14. Insofar as this act is inconsistent with a general or special law,
297 administrative order or regulation or law of the Town other than a rule or regulation of the Board
298 of Health, this act shall be controlling.

299 SECTION 15. This act, being necessary for the welfare of the Town and its inhabitants,
300 shall be liberally construed to effect its purposes.

301 SECTION 16. This act shall be construed in all respects so as to meet all constitutional
302 requirements. In carrying out the purposes and provisions of this act, all steps shall be taken
303 which are necessary to meet constitutional requirements whether or not such steps are required
304 by statute.

305 SECTION 17. This act shall take effect upon its passage.