

ACTS, 1989. - Chap. 41.

SECTION 1. Notwithstanding the provisions of chapter forty-four of the General Laws, or any other general or special law to the contrary, the maturities of bonds or notes issued by the town of Southbridge for acquisition and establishment of a water supply system and related facilities and other costs incidental to such acquisition and establishment shall either be arranged so that for each issue the annual combined payments of principal and interest payable in each year shall be as nearly equal as practicable in the opinion of the town treasurer, or be arranged in accordance with a schedule providing for a more rapid amortization of principal; provided, however, that the first annual payment may be deferred to the extent permitted by section nineteen of said chapter forty-four. Project costs to be financed by the issue of the bonds or notes may include interest incurred, including interest incurred on any bonds or notes issued prior to the effective date of this act, for a period of up to twelve months after the date of the original borrowing or, if later, twelve months after the town's acquisition of the property of the Southbridge Water Supply Company. Any net earnings derived from investment of the proceeds of the bonds or notes may be expended by the town treasurer to pay interest on the bonds or notes but otherwise shall be used only for construction, equipping, operation or maintenance of the town's water supply system and related facilities. Except as otherwise provided in this act, indebtedness incurred by the town for the project shall be subject to the applicable provisions of said chapter forty-four. User charges shall be set at a level sufficient with other water system revenues to pay all the costs of water system operations and debt service.

SECTION 2. The town of Southbridge is hereby authorized to enter into an agreement or agreements with any public or private entity for the management and operation of all or a portion of the water supply system of said town, the sewer system of said town and related facilities. Any such agreement shall provide for a term not to exceed three years, but may be renewed from time to time.

SECTION 3. This act shall take effect upon its passage.

Approved April 27, 1989.

Chapter 41. AN ACT ESTABLISHING THE BAKER HILL ROAD DISTRICT IN THE TOWN OF LANESBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established within the town of Lanesborough, hereinafter referred to as the town, the Baker Hill Road District, hereinafter referred to as the District, bounded and described as follows:

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A. The District shall consist of two parcels of land in the town of Lanesborough, lying westerly of state highway Route 8, northerly of the town line between the town of Lanesborough and the city of Pittsfield, Massachusetts, and easterly of state highway Route 7 and more particularly bounded and described as follows:

PARCEL ONE

Beginning at an iron pipe on the easterly side of Route 7, said iron pipe being southerly along said sideline a distance of 683.03 feet from a Massachusetts Highway Bound in the easterly sideline of Route 7; thence the following two courses along land of Baker Farm Associates S89°24'04"E a distance of 717.00 feet to a point, easterly on a curve to the left of radius 1960.00 feet an arc length of 242.64 feet to a point; thence the following twelve courses through land of Berkshire Mall Group, S89°24'04"E a distance of 238.28 feet to a point, easterly on a curve to the right of radius 755.00 feet an arc length of 208.34 feet to a point, S73°35'25"E a distance of 99.97 feet to a point, easterly and northeasterly on a curve to the left of radius 495.00 feet an arc length of 280.76 feet to a point, N73°54'44"E a distance of 140.97 feet to a point, northeasterly on a curve to the right of radius 1305.00 feet an arc length of 551.57 feet to a point, easterly on a curve to the right of radius 2555.00 feet an arc length of 429.27 feet to a point, southeasterly on a curve to the right of radius 1305.00 feet an arc length of 498.09 feet to a point, S50°22'37"E a distance of 147.75 feet to a point, southeasterly and northeasterly on a curve to the left of radius 895.00 feet an arc length of 977.69 feet to a point, N67°02'00"E a distance of 205.14 feet to a point, easterly and southeasterly on a curve to the right of radius 630.00 feet an arc length of 773.29 feet to a point; thence through land of Berkshire Mall Group and land now or formerly of Basil A. Petricca S42°38'20"E a distance of 1652.08 feet to a point on the westerly sideline of Partridge Road, an 1860 County Way; thence along said westerly sideline of Partridge Road S17°04'29"W a distance of 127.39 feet to a point; thence through land now or formerly of said Petricca and Berkshire Mall Group N42°38'20"W a distance of 1716.33 feet to a point; thence the following twelve courses along land of Berkshire Mall Group, northwesterly and westerly on a curve to the left of radius 520.00 feet an arc length 638.27 feet to a point, S67°02'00"W a distance of 205.14 feet to a point, southwesterly and northwesterly on a curve to the right of radius 1005.00 feet an arc length of 1097.86 feet to a point, N50°22'37"W a distance of 147.75 feet to a point, northwesterly on a curve to the left of radius 1195.00 feet an arc length of 456.10 feet to a point, westerly on a curve to the left of radius 2445.00 feet an arc length of 410.79 feet to a point, southwesterly on a curve to the left of radius 1195.00 feet an arc length of 505.07 feet to a point, S73°54'44"W a distance of 140.97 feet to a point, southwesterly and westerly on a curve to the right of radius 605.00 feet an arc length of 343.15 feet to a point, N73°35'25"W a distance of 99.97 feet to a point, westerly on a curve to the left of radius 645.00 feet

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an arc length of 177.99 feet to a point, N89°24'04"W a distance of 1197.30 feet to a point on the aforementioned easterly sideline of Route 7; thence along said easterly sideline N00°35'55"E a distance of 95.00 feet to the point of beginning.

PARCEL TWO

Beginning at a point on the town line between Lanesborough, Mass., and Pittsfield, Mass., said point being S76°56'28"E a distance of 479.72 feet from a town line bound on the westerly side of Partridge Road, an 1860 County Way; thence through land now or formerly of Basil A. Petricca N42°38'20"W a distance of 479.01 feet to a point in the easterly sideline of said Partridge Road; thence along the easterly sideline of said Partridge Road N17°04'29"E a distance of 328.13 feet to a point; thence the following four courses through land now or formerly of said Petricca, S53°56'56"E a distance of 84.93 feet to a point, S42°38'20"E a distance of 500.00 feet to a point, N73°55'34"E a distance of 223.61 feet to a point, S69°58'22"E a distance of 33.09 feet to a point at land of Berkshire Mall Group; thence along land now or formerly of said Petricca, through land of Berkshire Mall Group, and along land now or formerly of said Petricca N13°03'32"E a distance of 1362.84 feet to a point; thence along land now or formerly of said Petricca N53°59'09"E a distance of 1748.64 feet to a point on the westerly sideline of Gulf Road, a 1794 County Way; thence the following eleven courses along said westerly sideline of Gulf Road, S18°10'06"E a distance of 169.28 feet to a point, S22°35'39"E a distance of 141.81 feet to a point, S11°57'59"E a distance of 246.90 feet to a point, S04°31'39"E a distance of 191.43 feet to a point, S03°15'21"W a distance of 309.43 feet to a point, southeasterly on a curve to the left of radius 163.79 feet an arc length of 105.80 feet to a point, S03°15'21"W a distance of 83.56 feet to a point, S48°36'09"E a distance of 77.87 feet to a point, N44°27'02"E a distance of 33.05 feet to a point, N44°27'02"E a distance of 21.15 feet to a point, S65°23'57"E a distance of 235.42 feet to a point on the westerly sideline of land of the Boston and Maine Railroad, the last nine courses also being along Old State Road, a 1911 Layout/a 1930 Discontinuance; thence the following four courses along land of the Boston and Maine Railroad, S24°26'42"W a distance of 380.96 feet to a point, southwesterly on a curve to the left of radius 3869.33 feet an arc length of 228.34 feet to a point, southerly on a curve to the left of radius 1918.06 feet an arc length of 1108.18 feet to a point, S12°02'22"E a distance of 65.39 feet to a point; thence through land of the Boston and Maine Railroad S76°56'28"E a distance of 91.10 feet to a point; thence the following three courses along the easterly sideline of the Boston and Maine Railroad, N12°02'22"W a distance of 104.03 feet to a point, northerly on a curve to the right of radius 1835.56 feet an arc length of 387.67 feet to a point, N11°06'06"E a distance of 79.60 feet to a point on the westerly sideline of Route 8, a 1956 Mass. State Highway Relocation; thence the

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following two courses along said Route 8, southeasterly on a curve to the left of radius 1050.00 feet an arc length of 468.60 feet to a point, S23°31'19"E a distance of 329.16 feet to a point on said town line between Lanesborough and Pittsfield; thence along said town line N76°56'28"W a distance of 2646.67 feet to the point of beginning.

B. The road referred to in this act shall consist of a two- and three-lane paved road running in a generally east-west direction, be constructed in accordance with specifications duly approved under applicable law and be situated on two parcels of land in the town of Lanesborough, lying easterly of state highway Route 7, northerly of the town line between the town of Lanesborough and the city of Pittsfield westerly of state highway Route 8 and more particularly bounded and described as follows:

PARCEL ONE

Beginning at an iron pipe on the easterly side of Route 7, said iron pipe being southerly along said sideline a distance of 683.03 feet from a Massachusetts Highway Bound in the easterly sideline of Route 7; thence along land of Baker Farm Associates S89°24'04"E a distance of 261.00 feet to a point; thence the following thirteen courses through land of Berkshire Mall Group: S00°35'56"W a distance of 10.00 feet to a point, S89°24'04"E a distance of 936.30 feet to a point, easterly on a curve to the right of radius 730.00 feet an arc length of 201.44 feet to a point, S73°35'25"E a distance of 99.97 feet to a point, easterly and northeasterly on a curve to the left of radius 520.00 feet an arc length of 294.94 feet to a point, N73°54'44"E a distance of 140.97 feet to a point, northeasterly on a curve to the right of radius 1280.00 feet an arc length of 541.00 feet to a point, northeasterly on a curve to the right of radius 2530.00 feet an arc length of 425.07 feet to a point, northeasterly on a curve to the right of radius 1280.00 feet an arc length of 488.54 feet to a point, S50°22'37"E a distance of 147.75 feet to a point, northeasterly on a curve to the left of radius 920.00 feet an arc length of 1005.00 feet to a point, N67°02'00"E a distance of 205.14 feet to a point, easterly on a curve to the right of radius 605.00 feet an arc length of 742.61 feet to a point; thence thru land of Berkshire Mall Group and land now or formerly of Basil A. Petricca S42°38'20"E a distance of 1666.68 to a point on the westerly sideline of Partridge Road, an 1860 County Way; thence along said westerly sideline of Partridge Road S17°04'29"W a distance of 69.48 feet to a point; thence thru land now or formerly of said Petricca and Berkshire Mall Group N42°38'20"W a distance of 1701.73 feet to a point; thence the following fourteen courses along land of Berkshire Mall Group, southwesterly and northwesterly on a curve to the left of radius 545.00 feet an arc length of 668.96 feet to a point, S67°02'00"W a distance of 205.14 feet to a point, northwesterly and southwesterly on a curve to the right of radius 980.00 feet an arc length of 1070.55 feet to a point, N50°22'37"W a distance of 147.75 feet to a point, southwesterly and northwesterly on a curve to left of radius 1220.00 feet an arc

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length of 465.64 feet to a point, northwesterly and westerly on a curve to the left of radius 2470.00 feet an arc length of 414.99 feet to a point, westerly on a curve to the left of radius 1220.00 feet an arc length of 515.64 feet to a point, S73°54'44"W a distance of 140.97 feet to a point, westerly on a curve to the right of radius 580.00 feet an arc length of 328.97 feet to a point, N73°35'25"W a distance of 99.97 feet to a point, westerly on a curve to the left of radius 670.00 feet an arc length of 184.89 feet to a point, N89°24'04"W a distance of 936.30 feet to a point, S00°35'56"W a distance of 10.00 feet to a point, N89°24'04"W a distance of 261.00 feet to a point on the aforementioned easterly sideline of Route 7; thence along said easterly sideline N00°35'55"E a distance of 80.00 feet to the point of beginning.

PARCEL TWO

Beginning at a point on the easterly sideline of Partridge Road, an 1860 County Way, said point being S42°38'20"E a distance of 76.42 feet crossing Partridge Road from the end of the fourteenth course in the above described parcel; thence through land now or formerly of Basil A Petricca S42°38'20"E a distance of 730.90 feet to a point; thence through land now or formerly of said Petricca and Berkshire Mall Group, southeasterly on a curve the left of radius 470.00 feet an arc length of 147.29 feet to a point; thence the following nine courses through land of Berkshire Mall Group, S76°56'28"E a distance of 814.67 feet to a point, northeasterly and on a curve to the left of radius 70.00 feet an arc length of 35.40 feet to a point, N30°50'55"E a distance of 60.62 feet to a point, easterly on a curve to the left of radius 570.00 feet an arc length of 201.17 feet to a point, northeasterly on a curve to the left of radius 370.00 feet an arc length of 321.82 feet to a point, northeasterly on a curve to the left of radius 520.00 feet an arc length of 30.02 feet to a point, S36°11'28"E a distance of 61.87 feet to a point, southeasterly on a curve to the left of radius 370.00 feet an arc length of 121.08 feet to a point, southeasterly on a curve to the left of radius 1370.00 feet an arc length of 526.04 feet to a point; thence through land of Berkshire Mall Group, through land of the Boston and Maine Railroad, and through land of Berkshire Mall Group, S76°56'28"E a distance of 122.78 feet to a point; thence the following two courses through land of Berkshire Mall Group, northeasterly on a curve to the left of radius 120.00 feet an arc length of 76.13 feet to a point; N66°42'31"E a distance of 13.66 feet to a point on the westerly sideline of Route 8, a 1956 State Highway; thence along said westerly sideline S23°31'19"E a distance of 70.00 feet to a point; thence through land of Berkshire Mall Group, S66°42'31"W a distance of 59.44 feet to a point; thence through land of Berkshire Mall Group, through land of Boston and Maine Railroad, and through land of Berkshire Mall Group, N76°56'28"W a distance of 198.74 feet to a point; thence the following seven courses through land of Berkshire Mall Group, northwesterly on a curve to the right of radius 1430.00 feet an arc length of 549.08 feet to a point, N69°45'07"W a distance of 183.87 feet to a

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point, southwesterly on a curve to the right of radius 430.00 feet an arc length of 263.99 feet to a point, northwesterly on a curve to the right of radius 630.00 feet an arc length of 159.16 feet to a point, S30°50'55"W a distance of 0.55 feet to a point, southwesterly on a curve to the right of radius 130.00 feet an arc length of 92.67 feet to a point, N76°56'28"W a distance of 842.74 feet to a point; thence through land of Berkshire Mall Group and through land now or formerly of said Basil A. Petricca northwesterly on a curve to the right of radius 530.00 feet an arc length of 174.76 feet to a point, thence through land now or formerly of said Petricca, N42°38'20"W a distance of 695.86 feet to a point on the easterly sideline of said Partridge Road; thence along said sideline N17°04'29"E a distance of 69.48 feet to the point of beginning.

SECTION 2. The purposes of the District shall be to acquire the road described in section one, hereinafter referred to as the road, upon substantial completion of its construction and to maintain the road thereafter as a public way. The District shall have all the rights and powers necessary or convenient to carry out and effectuate its purposes, including, but without limiting the generality of the foregoing, the following rights and powers:

(a) to acquire, by purchase, gift or devise the road upon substantial completion of its construction and to maintain the road as a public way of the District,

(b) to adopt by-laws for the regulation of its affairs and the conduct of its business, which by-laws shall be consistent with the powers conferred by this act,

(c) to adopt an official seal and alter the same at pleasure,

(d) to borrow money and pay costs associated therewith as hereinafter provided,

(e) to raise money by taxation for the purposes set forth in this act, but for none other,

(f) to reimburse the town for costs incurred by the town for any services rendered to the District and for all costs incurred by the town before the establishment of the District which are attributable to the establishment of the District or the construction of the road,

(g) to sue and be sued in its own name, and to plead and be impleaded, provided, however, that neither the District nor any officer thereof shall be liable in tort except pursuant to the provisions of chapter two hundred and fifty-eight of the General Laws and provided, further, that the District may indemnify its officers to the extent provided in said chapter two hundred and fifty-eight,

(h) to make and enter into all contracts and agreements necessary or incidental to the accomplishments of its purposes, including contracts and agreements for maintenance of the road for terms of up to the term of any bonds of the District outstanding or expected to be issued and contracts and agreements with the town relative to services rendered to the District by the town, including without limitation the assessment and collection of taxes of the District, the transfer of payments of principal

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and interest on indebtedness of the District to the holders thereof and the reimbursement of the town for such services, and the town is hereby authorized to enter into any such contract or agreement and to provide the services therein contemplated,

(i) to employ such consultants and experts as may be deemed necessary in its judgment and to fix their compensation and to fix the compensation, if any, of the district clerk and the district treasurer,

(j) to apply for, receive, accept, administer, expend and comply with the conditions, obligations and requirements respecting any grant, gift, loan, including without limitation any grant, gift or loan from agencies of local, state or federal government, donation or appropriation of any property or money in aid of the purposes of the District and to accept contributions of money, property, labor or other things of value, provided, however, that any such financial aid received by the District from the commonwealth shall not be deemed to be aid received by the town,

(k) to invest any funds not required for the immediate use of the District in such manner and to the extent permitted under the General Laws for the investment of such funds by the treasurer of a town, and

(l) to do all acts necessary or convenient to carry out the powers expressly or by necessary implication conferred upon the District by this act.

SECTION 3. The powers conferred upon the District by this act shall be exercised by a prudential committee consisting of three members who shall be residents of the town, two of whom shall be appointed by the board of selectmen of the town, and may be members of said board, and one of whom shall be elected by the owners of the property located in the District in such manner as said board shall deem reasonable. When the District is first established, the terms of the prudential committee members shall be for one, two or three years, so arranged that the term of one member will expire each year and that the term of the elected member shall expire last. The successors to the original members shall serve for terms of three years each. The prudential committee shall appoint a clerk of the District and a treasurer of the District who need not be members of the prudential committee and may be the town clerk and town treasurer, respectively. Two members of the prudential committee shall constitute a quorum and all actions of said committee shall be taken by majority vote except that actions resulting in the incurrence of debt of the District pursuant to section seven of this act shall require the unanimous approval of all members. Meetings of the prudential committee shall be held at least semi-annually and shall be governed by chapter thirty-nine of the General Laws insofar as apt except as otherwise provided by this act. Notice of prudential committee meetings shall be posted in the office of the town clerk and given to the owners of all property located within the District in such manner as the committee may reasonably determine.

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SECTION 4. The prudential committee shall provide in the bylaws of the District for the duties of the treasurer and clerk. Unless otherwise provided by the bylaws, the treasurer shall receive and take charge of all money belonging to the District and pay over and account for the same according to the order of the prudential committee. He shall annually render a true account of his receipts and disbursements and a report of his official acts to the prudential committee. The District shall, upon request, reimburse the town for any services performed for the District by the town treasurer, the town clerk or any other officers or employees of the town. The provision of any services to the District by officers or employees of the town, including the town treasurer and town clerk, shall be subject to prior approval by the board of selectmen.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, upon the substantial completion to the reasonable satisfaction of the District of the road as described in section one, the District shall acquire the road and maintain it as a public way, and no further action shall be required to establish the road as a public way of the District within the meaning of the provisions of chapter eighty-two or of any other applicable provisions of the General Laws. The applicable provisions of sections fifteen through twenty-seven A, inclusive, of chapter eighty-four of the General Laws shall apply to the District to the same extent as such provisions would apply to a town, and a member of the prudential committee of the District or the clerk of the District may receive and send the notices contemplated by sections nineteen and twenty of said chapter eighty-four.

SECTION 6. The prudential committee shall be responsible for the expenditure and shall expend the money raised and borrowed by the District, and shall annually prepare and approve a budget. Upon approval of the budget, which shall be deemed to constitute an appropriation for the expenses enumerated therein, the clerk shall certify to the assessors of the town the amount of money to be raised as taxes of the District, which shall be assessed and collected in the same manner as town taxes, and shall be paid over to the district treasurer. The assessors and treasurer of the town shall have the same powers and duties relative to the assessment, collection and abatement or granting of exemptions relative to money voted by the District as they have and exercise relative to the assessment, collection and abatement and granting of exemptions relative to town taxes, and the amount so certified shall be assessed upon the land situated within the District, exclusive of improvements thereto or personal property situated thereon, without regard to and without affecting any levy limit which may be applicable to the town. Taxes of the District shall be assessed to provide moneys for the District's budget without regard to any limits imposed under the General Laws. The District shall, at the request of the town, include in each budget compensation to the town for any services rendered and expenses incurred by town officers with respect to the District. The

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fiscal year of the District shall be the same fiscal year established by the General Laws or otherwise for the town.

SECTION 7. The District is hereby authorized and empowered to provide by resolution for the issuance, at one time or from time to time of bonds of the District in the aggregate principal amount of ten million dollars outstanding at any one time, excluding bonds refunded by other bonds issued under this paragraph, for the purpose of providing funds for paying the cost of acquisition of and maintenance of the road as described in this act and the costs of issuance of such bonds. Bonds of the District shall be dated, may bear interest at such rate or rates and shall mature at such time or times, not later than twenty-five years from the date of issuance thereof, as may be determined by the prudential committee, and may be made redeemable before maturity at the option of the District at such price or prices and under such terms and conditions as may be fixed by the prudential committee prior to the issue of bonds. The District may sell its bonds in such manner, either at public or private sale, and for such price, at par, premium or discount, as it may determine shall best effectuate the purposes of this act. Insofar as apt, and except as otherwise provided in this act, the provisions of chapter forty-four of the General Laws which apply to districts shall apply to the District. Section nine of said chapter forty-four and the debt limit provisions of said chapter shall not apply to the District. Bonds, notes and other evidences of indebtedness issued or entered into under the provisions of this act shall not be deemed to be a debt or a pledge of the faith and credit of the town, but shall be payable solely from the revenues of the District, and shall not constitute debt of the town outstanding under any debt limits applicable to the town. The District may in its discretion issue bonds, notes or other evidence of indebtedness such that the interest on such indebtedness is or is not includable in the gross income of the holder thereof within the meaning of section one hundred and three of the Internal Revenue Code of 1986. Notwithstanding any other provisions of this act or any other general or special law to the contrary, bonds issued under the provisions of this act shall not be exempt from taxation.

SECTION 8. Bonds or notes may be issued under this act without obtaining the consent of the emergency finance board or of any department, division, commission, board, bureau or agency of the commonwealth or the town, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefor by this act, and the validity of and security for any bonds or notes issued by the District shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

SECTION 9. The District may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption.

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Refunding bonds may be issued at such time or times prior to the maturity or redemption of the refunded bonds as the District deems to be in the public interest. Refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of refunding bonds and the expenses of redeeming bonds being refunded. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof and the rights, duties and obligations of the District in respect to the same shall be governed by the provisions of this act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

SECTION 10. All moneys received pursuant to the provisions of this act, whether as proceeds from the issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

SECTION 11. The District and all its revenues, income and real and personal property shall be exempt from taxation and from betterments and special assessments and the District shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions.

SECTION 12. The District may, in the discretion of the prudential committee, be dissolved at any time after one year from the date all debt issued by the District has been retired and all liabilities of the District have been satisfied fully. Upon dissolution of the District, the road shall be conveyed to the town as a public way and the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all bonds and other obligations of the District shall vest in the town. Notwithstanding the foregoing, however, dissolution of the District shall not take effect until the District shall apply to the town for acceptance of the road as a public way of the town and the town shall accept it as such in accordance with chapter eighty-two of the General Laws and other applicable law. If the town refuses to accept the road, the District shall continue in existence and operation in all respects. There shall be no limitation on the number of, or frequency of, applications by the District for acceptance of the road as a public way of the town.

SECTION 13. All by-laws and regulations of the town shall apply to the District and the road to the same extent and in the same manner as the same apply to the town and the public ways of the town.

SECTION 14. This act shall take effect upon its passage.

Approved April 27, 1989.