

**2012 -- S 2974 AS AMENDED**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2012**

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A N A C T

AUTHORIZING THE ESTABLISHMENT OF THE ABBEY LANE COMMUNITY WATER DISTRICT

Introduced By: Senator Nicholas D. Kettle

Date Introduced: May 17, 2012

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. Local Act 87 as enacted in 2008 entitled “AN ACT TO INCORPORATE  
2 THE ABBEY LANE CONDOMINIUM ASSOCIATION, INC. WATER DISTRICT”, and Local  
3 Act 89 as enacted in 2009 in amendment thereof entitled “AN ACT RELATING TO THE  
4 ABBEY LANE COMMUNITY ASSOCIATION, INC. WATER DISTRICT” are here by  
5 repealed in their entirety.

6           SECTION 2. Creation - (a) There is created a body corporate and public and a political  
7 subdivision of the state, a special water district to be known as the Abbey Lane Community  
8 Water District water district established for the purpose of providing adequate water supply to the  
9 residents of said district and to others who may contract with the district for water supply. The  
10 District shall consist of the area or tract of land situated in the Town of Foster, Rhode Island,  
11 County of Providence bounded and described as follows: Tax Assessor’s Plat 17, Lot 47A shown  
12 on the tax assessor’s maps of the Town of Foster, these limits meaning and intending to include  
13 public and private streets, roads and thoroughfares listed and all public and privately held  
14 properties. The area within the boundaries described in this section shall be known as the Abbey  
15 Lane Community water district.

16           (b) The district is hereby constituted an independent public instrumentality and the  
17 exercise by the district of the powers conferred by this chapter shall be deemed and held to be the  
18 performance of an essential public function.

1           SECTION 3. Electors. -The inhabitants of the district registered to vote for town officers  
2 are electors of the district.

3           SECTION 4. Regular and special meetings - Voting. (a) The first meeting of the district  
4 may be called and run by any five (5) qualified electors. The first meeting shall be held on such  
5 date as shall be determined by the electors who called the meeting, taking into account the notice  
6 requirement of Section 4(b) hereof. The district shall hold a regular meeting on the first Thursday  
7 in May in every year, or at such intervals and on such dates as a majority of electors present at a  
8 regular meeting shall determine.

9           (b) Special meetings of the district shall be called by the clerk upon order of the board or  
10 upon written application of at least five (5) electors; and whenever the subject of imposing or  
11 increasing rates and fees or ordering a tax is to be acted on at any special meeting, the rates, fees  
12 or tax shall be mentioned in the notice. It is the duty of the clerk to fix a suitable place for the  
13 holding of all meetings, and to give notice of each meeting, both annual and special, by posting a  
14 notice in at least two (2) public places within the district at least ten (10) days before the meeting,  
15 and the notice shall contain a statement of the time and place when and where a meeting will be  
16 held for the purpose of correcting and canvassing the voting list to be used at the annual or special  
17 meeting, and it is the duty of the assessor of taxes of the district to canvass and correct the voting  
18 list in the same manner, as near as may be, or as provided by law for boards of canvassers.

19           (c) No vote, except upon an adjournment, or in the annual election of officers, shall be  
20 taken at any meeting of the district unless at least five (5) electors are present at the meeting. On  
21 demand of at least one-fifth (1/5) of the qualified electors of the district present at any meeting for  
22 a ballot on any question pending at the meeting, the ballot shall be allowed; and all votes except  
23 on motion to adjourn, or on amendment to any pending proposition, shall be required by the  
24 moderator to be so taken, that the votes affirmative and negative may be by him or her counted,  
25 and the results entered by the clerk on the minutes of the meeting.

26           (d) It is the duty of the clerk of the district to fix a suitable place within the district for the  
27 holding of meetings and for giving notice of subsequent meetings.

28           SECTION 5. Officers constituting board – Powers – Elections. – (a) The electors of the  
29 district shall at each annual meeting elect officers to serve until the next succeeding annual  
30 meeting in May and until their successors are elected and qualified, and the elected offices shall  
31 consist of a chairperson, a vice chairperson, and a clerk, whose duties and powers are within the  
32 district, as like officers proper for a district. The elected officers constitute the board, and the  
33 duties of the board are prescribed in this chapter. Any vacancy that may occur in any of the  
34 aforementioned elected offices between annual meetings shall be filled by some person to be chosen

1 by the other members of the board to hold the office until the next annual meeting. The electors  
2 of the district may, at any meeting, adopt and ordain bylaws, and, from time to time, rescind or  
3 amend the bylaws, as they deem necessary and proper for the purposes of this chapter and not  
4 repugnant to it and not inconsistent with any other law; provided, that no greater penalty is  
5 inflicted by the board than is prescribed in Section 12; and provided, further, that the electors may  
6 appoint committees they deem necessary, and may fix the compensation of all officers, agents,  
7 employees, and committees of the district.

8 (b) The electors of the district shall elect officers at each annual meeting or at such  
9 intervals and on such dates as a majority of the electors present at a regular meeting shall  
10 determine, provided that elections shall be held not less than once every four (4) years. At the  
11 first meeting of the district, the one member shall be elected for a term ending the first Thursday  
12 in May, 2015, one member shall be elected for a term ending the first Thursday in May, 2014 and  
13 one member shall be elected for a term ending the first Monday in May, 2013. Thereafter,  
14 members of the board shall be elected for a term of office of three (3) years, or such other term as  
15 a majority of electors present at a regular meeting shall determine in order to conform with any  
16 changes to the frequency of elective meetings approved by the electors in conformity with this  
17 paragraph 3(a).

18 (c) For a person to become a candidate at any election under this section, that person  
19 must be a qualified elector.

20 (d) The general election laws shall govern elections under this section so far as applicable  
21 and consistent with the provisions of this chapter. Paper ballots may be used for the elections and  
22 the elections shall be at the expense of the district. The ballots shall contain no designation of  
23 party or political principle and there shall be no primaries or other preliminary

24 (e) All elections shall be at large. No vacancy in the membership of the board shall  
25 impair the right of a quorum to exercise the powers of the district. Two members of the board  
26 shall constitute a quorum and the affirmative vote of two member shall be necessary for any such  
27 action taken by vote of the board. Any such action shall take effect immediately unless otherwise  
28 provided and need not be published or posted.

29 SECTION 6. Officers and employees of board. - (a) The chairperson of the board shall be  
30 selected by the majority vote of the members of the board. Appointed officers shall consist of a  
31 treasurer, a tax collector and a tax assessor, which shall be appointed in the manner provided in  
32 the district's bylaws. The treasurer, tax collector and the tax assessor shall not be members of the  
33 board. The treasurer, tax collector and tax assessor need not be qualified electors of the district  
34 and may receive such compensation as set forth in the bylaws. Appointed officers may hold more

1 than one office.

2 (b) The board may from time to time hire, transfer or otherwise appoint or employ legal  
3 counsel, financial advisors and such other experts, engineers, agents, accountants, clerks, and  
4 other consultants and employees as it deems necessary and determine their duties.

5 SECTION 7. Compensation of board members. - Other than as described in the following  
6 sentence, the members of the board shall receive no compensation for the performance of their  
7 duties under this chapter. Each member may be reimbursed for all reasonable and necessary  
8 expenses incurred in the discharge of official duties as approved by the district.

9 SECTION 8. Powers. - The board shall have all the rights and powers necessary or  
10 convenient to carry out and effectuate this chapter, including, but without limiting the generality  
11 of the foregoing, the rights and powers:

12 (a) To adopt by-laws for the regulation of its affairs and the conduct of its business, to  
13 promulgate rules, regulations and procedures in connection with the performance of its functions  
14 and duties and to fix, enforce and collect penalties for the violation thereof;

15 (b) To adopt an official seal and alter the same at pleasure;

16 (c) To maintain an office at such place or places as it may determine;

17 (d) To apply for, receive, accept, administer, expend and comply with the conditions,  
18 obligations and requirements respecting any grant, gift, loan, including without limitation any  
19 grant, gift or loan from agencies of local, state and federal governments, donation or  
20 appropriation of any property or money in aid of the purpose of the district and to accept  
21 contributions of money, property, labor or other things of value;

22 (e) To acquire by purchase, lease, lease-purchase, sale and leaseback, gift or devise, or to  
23 obtain options for the acquisition of, any water or water rights and any other property, real or  
24 personal, tangible or intangible, or any interest therein, in the exercise of its powers and the  
25 performance of its duties;

26 (f) To sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant  
27 options for any such purposes with respect to, any water, water rights, and any other property,  
28 real or personal, tangible or intangible, or any interest therein.

29 (g) To enter onto any land to make surveys, borings, soundings and examinations  
30 thereon, provided that said district shall make reimbursements for any injury or actual damage  
31 resulting to such lands and premises caused by any act of its authorized agents or employees and  
32 shall so far as possible restore the land to the same condition as prior to making of such surveys,  
33 town of Foster, to acquire by eminent domain any interest in real property within the district in  
34 the name of the district in accordance with the provisions of this chapter.

1 (h) To purchase water in bulk or by volume, and to sell water to, any person, private or  
2 public corporation or public instrumentality or municipality, the state and the federal government;

3 (i) To construct, improve, extend, enlarge, maintain and repair the water works system;

4 (j) To pledge or assign any money, fees, charges, or other revenues of the district and any  
5 proceeds derived by the district from the sale of property, insurance or condemnation awards;

6 (k) To borrow money and incur indebtedness and issue its bonds and notes as hereinafter  
7 provided;

8 (l) To make contracts of every name and nature and to execute and deliver all  
9 instruments necessary or convenient for carrying out any of its purposes;

10 (m) To establish public hydrants in public places as it may see fit and prescribe for what  
11 purposes the public hydrants are used, all of which it may change in its discretion;

12 (n) To enter into contracts and agreements with municipalities in all matters necessary,  
13 convenient or desirable for carrying out the purposes of this chapter including, without limiting  
14 the generality of the foregoing, collection of revenue, data processing, elections and other matters  
15 of management, administration, construction and operation;

16 (o) To sue and be sued and to prosecute and defend actions relating to its properties and  
17 affairs; provided that only property of the district other than revenues pledged to the payment of  
18 bonds and notes shall be subject to attachment or levied upon execution or otherwise;

19 (p) To lend money for its purposes, invest and reinvest its funds and at its option to take  
20 and hold real and personal property as security for the funds so loaned or invested;

21 (q) To do all things necessary, convenient or desirable for carrying out the purposes of  
22 this chapter or the powers expressly granted or necessarily implied in this chapter, including  
23 entering into agreements with other cities, towns or districts to provide for the joint operation of  
24 water supply activities;

25 (r) Consistent with the constitution and laws of the state, the board shall have such other  
26 powers, including all powers pertaining to the water works system not inconsistent herewith, as  
27 may be necessary for or incident to carrying out the foregoing powers and the accomplishment of  
28 the purposes of this chapter; provided, however, that nothing in this chapter shall impose any duty  
29 on the district to maintain groundwater levels within or without the boundaries of the district.

30 SECTION 9. Additional powers and limitations. -In addition to the powers of the board  
31 otherwise provided herein, the board shall have the following powers and shall be subject to the  
32 following limitations:

33 (a) The board is authorized and empowered to fix, revise, charge, collect and abate fees,  
34 rates, rents, assessments, delinquency charges and other charges for water, and other services,

1 facilities and commodities furnished or supplied by it including penalties for violations of such  
2 regulations as the board may from time to time promulgate under this chapter. Fees, rates, rents,  
3 assessments, delinquency charges and other charges of general application shall be adopted and  
4 revised by the board in accordance with procedures to be established by the board for assuring  
5 that interested persons are afforded notice and an opportunity to present data, views and  
6 arguments. Such fees, rates, rents, assessments and other charges may be based on the quantity f  
7 water used or the number and kind of water connections made, or the number and kind of  
8 plumbing fixtures installed on the estate, or upon the number or average number of persons  
9 residing or working in or otherwise connected with the estate, or upon any other factor affecting  
10 the use of or the value or cost of the water and water facilities furnished, or upon any combination  
11 of these factors. The board shall hold at least one public hearing on its schedule of fees, rates and  
12 charges or any revision thereof prior to adoption, notice of which shall be published in a  
13 newspaper of substantial circulation in the district at least one month in advance of the hearing.  
14 No later than the date of such publication the board shall make available to the public the  
15 proposed schedule of fees, rates and charges. Fees, rates, rents, assessments, abatements and other  
16 charges established by the board shall not be subject to supervision or regulation by any  
17 department, division, district, board, bureau, or agency of the state or any of its political  
18 subdivisions, including, without limitation, the public utilities commission and the division of  
19 public utilities pursuant to chapters 1-5 of title 39 of the general laws

20 (b) The fees, rates, rents, assessments and other charges established by the board in  
21 accordance with paragraph (a) shall be so fixed and adjusted in respect to the aggregate thereof so  
22 as to provide revenues, which, when added to taxes, if any, collected pursuant to Section 12  
23 hereof, are at least sufficient (i) to pay the current expenses of the district, (ii) to pay the principal  
24 of, premium, if any, and interest on bonds, notes, or other evidences of indebtedness issued by the  
25 district under this chapter as the same become due and payable, (iii) to create and maintain such  
26 reasonable reserves as may be reasonably required by any trust agreement or resolution securing  
27 bonds and notes, (iv) to provide funds for paying the cost of all necessary repairs, replacements  
28 and renewals of the water works system and (v) to pay or provide for any amounts which the  
29 district may be obligated to pay or provide for by law or contract including any resolution or  
30 contract with or for the benefit of the holders of its bonds and notes.

31 (c) In order to provide for the collection and enforcement of its fees, rates, rents,  
32 assessments and other charges, the board is hereby granted all the powers and privileges with  
33 respect to such collection and enforcement held by a town of liens for unpaid taxes.

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1 and other charges, the board is hereby granted all the powers and privileges with respect to such  
2 collection and enforcement held by a town of liens for unpaid taxes.

3 In addition to the other enforcement powers and remedies provided in this chapter, if any  
4 fee, rates, rents, assessments or other charges billed by the board against any premises which are  
5 connected with the water works system remain unpaid for a period of more than sixty (60) days  
6 from the due date thereof, and following such period notice and demand have been posted on  
7 such premises and have been given to the owner of said premises, by registered or certified mail  
8 addressed to said premises and to the address of said owner as shown on the records of the  
9 assessor of the municipality where premises is located and to occupants of said premises by mail,  
10 to pay the same within fifteen (15) days from the date of mailing of said notice, and such fees,  
11 rates, rents, assessments or other charges remain unpaid, the board shall have the power and is  
12 hereby authorized to shut off the supply of water to said premises until said fees, rates, rents,  
13 assessments or other charges and penalties are paid, together with interest thereon at the  
14 applicable rate and the standard charge of the district for restoring water service to said premises.

15 (d) Not later than one hundred eighty (180) days following the end of the district's fiscal  
16 year, the board shall make an annual report to the district of its activities for the preceding fiscal  
17 year. Each report shall set forth a complete operating and financial statement covering its  
18 operations during the year. The board shall cause the books, records and accounts of the district to  
19 be reviewed or audited by a certified public accountant.

20 SECTION 10. Exclusive authority for water distribution - Contracts. - (a) The board is  
21 authorized to obtain and maintain for the district a supply of water for the extinguishing of fire  
22 and for distribution to the inhabitants of the district, for domestic use and for other purposes, and  
23 may obtain that water by the establishment of its own works, or by contracting for it as provided  
24 in subsection (c), or in any other manner that the board may deem necessary and proper, and is  
25 not inconsistent with law. The district may also furnish water to inhabitants of municipalities  
26 outside of the boundaries of the district. If the district undertakes to distribute the water so  
27 obtained, it shall have the exclusive right to it, and may maintain an action against any person for  
28 using the water without the consent of the board, and may regulate the distribution and use of the  
29 water within and without the district. Nothing in this section, or any other section of this chapter,  
30 shall be construed as giving to the district an exclusive franchise to furnish water outside of the  
31 boundaries of the district.

32 (b) Without limiting the generality of the previous provisions as to fees, rates, rents,  
33 assessments and charges, any contract for the sale of water to inhabitants outside of the  
34 boundaries of the district may be recorded in the same manner as a deed of land, and, upon the

1 recording, the obligations of the owner of the real property involved are a lien on the property and  
2 the lien is enforceable in the same manner as taxes assessed on real estate are by law collected.

3 (c) The board is authorized to contract, for periods not exceeding forty (40) years, with  
4 the state, any other municipal or quasi-municipal corporation, or with the owners of any privately  
5 owned water system for the purchase or sale of water or for the use of water facilities, and the  
6 state, the other municipal or quasi-municipal corporations, and the owners of privately owned  
7 water systems are authorized to enter into contracts with the district. Notwithstanding Section 39-  
8 1-2(20) of the general laws, neither the district nor its governing body shall be deemed to be a  
9 public utility, and the district and its governing body shall not be subject to chapters 1-5 of title  
10 39 of the general laws.

11 SECTION 11. Condemnation Power. - (a) If for any of the purposes of this act, the board  
12 shall find it necessary to acquire any real property within the district and within the town of  
13 Foster, whether for immediate or future use, the district may find and determine that such  
14 property, whether a fee simple absolute or a lesser interest, is required for the acquisition,  
15 construction or operation of a water supply facility, and upon such determination, the said  
16 property shall be deemed to be required for such public use until otherwise determined by the  
17 board; and with the exceptions hereinafter specifically noted, the said determination shall not be  
18 affected by the fact that such property has theretofore been taken for, or is then devoted to, a  
19 public use; but the public use in the hands or under the control of the district shall be deemed  
20 superior to the public use in the hands of any other person, association or corporation; provided  
21 further, however, that no real property or interest, estate or right therein belonging to the state  
22 shall be acquired without consent of the state; and no real property or interest, estate or right  
23 therein belonging to any municipality shall be acquired without the consent of such municipality.

24 (b) The board may proceed to acquire and is hereby authorized to and may proceed to  
25 acquire such property, within the district and within the town of Foster, whether a fee simple  
26 absolute or a lesser interest, by the exercise of the right of eminent domain in the manner  
27 prescribed in this act.

28 (c) Nothing herein contained shall be construed to prohibit the board from bringing any  
29 proceedings to remove a cloud on title or such other proceedings as it may, in its discretion, deem  
30 proper and necessary, or from acquiring any such property by negotiation or purchase.

31 (d) The necessity for the acquisition of property under this act shall be conclusively  
32 presumed upon the adoption of a vote by the board and a vote of the Foster town council  
33 determining that the acquisition of such property or any interest therein described in such vote is  
34 necessary for the acquisition, construction or operation of a water supply facility. Within six (6)



1 months after the passage of the vote of the town council, the board shall cause to be filed in the  
2 appropriate land evidence records a copy of the two votes together with a statement signed by the  
3 chairperson of the district that such property is taken pursuant to this act, and also a description of  
4 such real property indicating the nature and extent of the estate or interest therein taken as  
5 aforesaid and a plat thereof, which copies of the votes and statement of the chairperson shall be  
6 certified by the clerk of the district and the description and plat shall be certified by the Foster  
7 town clerk.

8 (e) Forthwith thereafter the board shall cause to be filed in the superior court in and for  
9 the county within which the real property lies a statement of the sum of money estimated to be  
10 just compensation for the property taken, and shall deposit in said superior court to the use of the  
11 persons entitled thereto the sum set forth in such statement. The board shall satisfy the court that  
12 the amount so deposited with the court is sufficient to satisfy the just claims of all persons having  
13 an estate or interest in such real property. Whenever the board satisfies the court that the claims of  
14 all persons interested in the real property taken have been satisfied, the unexpended balance shall  
15 be ordered repaid forthwith to the district.

16 (f) Upon the filing of the copy of the votes, statement, description and plat in the land  
17 evidence records and upon the making of the deposit in accordance with the order of the superior  
18 court, title to said real property in fee simple absolute or such lesser estate or interest therein  
19 specified in said resolution shall vest in the district, and said real property shall be deemed to be  
20 condemned and taken for the use of the district and the right to just compensation for the same  
21 shall vest in the persons entitled thereto, and the district thereupon may take possession of said  
22 real property. No sum so paid into the court shall be charged with clerks' fees of any nature.

23 (g) After the filing of the copy of the votes, statement, description and plat, notice of the  
24 taking of such land or other real property shall be served upon the owners or persons having any  
25 estate or interest in such real property by the sheriff or his deputies of the county in which the real  
26 estate is situated by leaving a true and attested copy of the vote, statement, description and plat  
27 with each of such persons personally, or at the last and usual place of abode in this state with  
28 some person living there, and in case of any such persons are absent, from this state and have no  
29 last and usual place of abode therein occupied by any person, such copy shall be left with the  
30 person or persons, if any, in charge of, or having possession of such real property taken of such  
31 absent persons, and another copy thereof shall be mailed to the address of such person as shown  
32 on the records of the assessor of the municipality where the premises is located.

33 (h) After the filing of such votes, description and plat, the board shall cause a copy of the  
34 vote and description to be published in some newspaper having general circulation in the town of

1 Foster at least once a week for three (3) successive weeks.

2 (i) If any party shall agree with the board upon the price to be paid for the value of the  
3 real property so taken and of appurtenant damage to any remainder or for the value of his estate,  
4 right or interest therein, the court, upon application of the parties in interest, may order that the  
5 sum agreed upon be paid forthwith from the money deposited, as the just compensation to be  
6 awarded in said proceedings; provided, however, that no payment shall be made to any official or  
7 employee of the district for any property or interest therein acquired from such official or  
8 employee unless the amount of such payment is determined by the court to constitute just  
9 compensation to be awarded in said proceedings.

10 (j) Any owner of, or person entitled to any estate or right in, or interested in any part of  
11 the real property so taken, who cannot agree with the board upon the price to be paid for his  
12 estate, right or interest in such real property so taken and the appurtenant damage to the  
13 remainder, may, within three (3) months after personal notice of said taking, or if he has no  
14 personal notice, may within one year from the time the sum of money estimated to be just  
15 compensation is deposited in the superior court to the use of the persons entitled thereto, apply by  
16 petition to the superior court for the county in which said real property is situated, setting forth  
17 the taking of his land or his estate or interest therein and paying for an assessment or damages by  
18 the court or by a jury. Upon the filing of such petition the court shall cause twenty (20) days'  
19 notice of the pendency thereof to be given to the district by serving the chairperson of the district  
20 with a certified copy thereof.

21 (k) After the service of such notice the court may proceed to the trial thereof. Such trial  
22 shall be conducted as other civil actions at law are tried. Such trial shall determine all questions of  
23 fact relating to the value of such real property, and any estate or interest therein, and the amount  
24 thereof and the appurtenant damage to any remainder and the amount thereof, and such trial and  
25 decision or verdict of the court or jury shall be subject to all rights to except to rulings, to move  
26 for new trial, and to appeal, as are provided by law. Upon the entry of judgment in such  
27 proceedings execution shall be issued against the money so deposited in court and in default  
28 thereof against any other property of the district.

29 (l) In case two (2) or more petitioners make claim to the same real property, or to any  
30 estate or interest therein, or to different estates or interests in the same real property, said court  
31 shall, upon motion, consolidate their several petitions for trial at the same time, and may frame all  
32 necessary issues for the trial thereof.

33 (m) If any real property or any estate or interest therein, in which any infant or other  
34 person not capable in law to act in his own behalf is interested, is taken under the provisions of

1 this act, said superior court, upon the filing therein of a petition by or in behalf of such infant or  
2 person or by the board may appoint a guardian ad litem for such infant or other person. Guardians  
3 may, with the advice and consent of said superior court, and upon such terms as said superior  
4 court may prescribe, release to the district all claims for damages for the land of such infant or  
5 other person or for any such estate or interest therein. Any lawfully appointed, qualified and  
6 acting guardian or other fiduciary of the estate of any such infant or other person, with the  
7 approval of the court of probate within this state having jurisdiction to authorize the sale of lands  
8 and properties within this state of such infant or other person, may before the filing of any such  
9 petition, agree with such infant or other person for any taking of his real property or of his interest  
10 or estate therein, and may upon receiving such amount, release to the district all claims for  
11 damages for such infant or other person for such taking.

12 (n) In case any owner of or any person having an estate or interest in such real property  
13 shall fail to file his petition as above provided, the superior court for the county in which the real  
14 property is situated, in its discretion, may permit the filing of such petition within one year  
15 subsequent to the year following the time of the deposit in the superior court of the sum of money  
16 estimated to be just compensation for the property taken; provided, such person shall have had no  
17 actual knowledge of the taking of such land in season to file such petition; and provided, no other  
18 person or persons claiming to own such real property or estate or interest therein shall have been  
19 paid the value thereof; and provided, no judgment has been rendered against the district for the  
20 payment of such value to any other person or persons claiming to own such real estate.

21 (o) If any real property or any estate or interest therein is unclaimed or held by a person  
22 or persons whose whereabouts are unknown, after making inquiry satisfactory to the superior  
23 court for the county in which the real property lies, the board, after the expiration of two (2) years  
24 from the first publication of the copy of the votes, statement and description, may petition such  
25 court that the value of the estate or interest or such unknown person or persons be determined.  
26 After such notice by publication to such person or persons as the court in its discretion may order,  
27 and after hearing on said petition, the court shall fix the value of said estate or interest and shall  
28 order said sum to be deposited in the registry of such court in a special account to accumulate for  
29 the benefit of the person or persons, if any, entitled thereto. The receipt of the clerk of the  
30 superior court therefor shall constitute a discharge of the district from all liability in connection  
31 with such taking. When the person entitled to the money deposited shall have satisfied the  
32 superior court of his right to receive the same, the court shall cause it to be paid over to him, with  
33 all accumulations thereon.

34 (p) The superior court shall have power to make such orders with respect to

1 encumbrances, liens, taxes and other charges on the land, if any, as shall be just and equitable.

2 (q) Whenever in the opinion of the board a substantial saving in the cost of acquiring title  
3 can be effected by conveying other real property, title to which is in the district, to the person or  
4 persons from whom the estate or interest in real property is being purchased or taken, or by the  
5 construction or improvement by the district of any work or facility upon the remaining real  
6 property of the person or persons from whom the estate or interest in real property is being  
7 purchased or taken, the board shall be and hereby is authorized to convey such other real property  
8 to the person or persons from whom the estate or interest in real property is being purchased or  
9 taken and to construct or improve any work or facility upon the remaining land of such person or  
10 persons.

11 (r) At any time during the pendency of any proceedings for the assessment of damages  
12 for property or interests therein taken or to be taken by eminent domain by the district, the board  
13 or any owner may apply to the court for an order directing an owner or the board, as the case may  
14 be, to show cause why further proceedings should not be expedited, and the court may upon such  
15 application make an order requiring that the hearings proceed and that any other steps be taken  
16 with all possible expedition.

17 SECTION 12. Construction and maintenance of pipes, aqueducts, and other structures —  
18 Tax exemption. - The board may within and without the district, and without the consent of any  
19 municipality, drive, lay, make, construct, and maintain pipes, aqueducts, conduits, machinery, or  
20 other equipment or appliances, or authorize the construction and maintenance to be done, and  
21 regulate their use; and may carry any works to be constructed, or authorized to be constructed by  
22 it, over or under any highway, turnpike, railroad, or street, in any manner so as not to permanently  
23 obstruct or impede travel; and may enter upon and dig up any highway, turnpike, road, or street  
24 for the purpose of laying down pipes or building aqueducts, upon or beneath the surface or for the  
25 purpose of repairing the pipes or aqueducts, and, if in the course of the making, constructing, or  
26 repairing, any pipe, conduit, or other structure lawfully located in a highway, turnpike, road, or  
27 street is damaged, or if the location of the pipe, conduit, or other structure is changed, the district  
28 shall reimburse the owner of the pipe, conduit, or other structure for the damage, or for the  
29 expense of the change of location. The board shall restore the highway, turnpike, road, or street so  
30 dug up, to as good a condition as before the work was done. In connection with construction in  
31 any municipality, the board shall obtain such consents, approvals and permits as shall be required  
32 by the municipality for such construction.

33 SECTION 13. Taxes - Assessments - Penalty for nonpayment. - The qualified electors of  
34 the district, at any of the meetings of the district, have power to order taxes, and provide for

1 assessing and collecting the taxes on the ratable real estate and tangible personal property of the  
2 district, as they deem necessary for the purpose of obtaining and maintaining a supply of water  
3 and distributing the water for the extinguishing of fire; for power, domestic, and other uses; for  
4 establishing and maintaining and constructing water works and driving wells, and operating the  
5 water works and wells; for acquiring and leasing real estate and other property and property rights  
6 necessary for a water supply, and laying and maintaining pipes, conduits, aqueducts, and other  
7 structures connected with them, and purchasing implements, machinery, and other appliances; for  
8 the payment of the current expenses of district; for the payment of officers, employees, and other  
9 agents as the board is authorized to elect, appoint, or otherwise choose under this act; and for the  
10 payment of any indebtedness that has been or may be incurred by the district; and the taxes so  
11 ordered shall be assessed by the assessor of the district on the taxable inhabitants and the property  
12 in the district according to the last valuation made by the assessor of the district on the taxable  
13 inhabitants and the property in the district according to the last valuation made by the Foster tax  
14 assessor, next previous to the assessment, adding, however, any taxable property which may have  
15 been omitted by the town assessor or afterwards acquired, using the assessed valuation made by  
16 the Foster tax assessor. In all cases where the town assessor has included property within and  
17 without the district in one valuation, the assessor of the district shall make an equitable valuation  
18 of that portion of the property lying within the district; and in the assessing and collecting of the  
19 taxes proceedings shall be had by the officers of the district, as near as may be, as are required to  
20 be held by the officer of the town in assessing and collecting town taxes. All taxes assessed  
21 against any person in the district shall constitute a lien upon his or her real estate therein for a  
22 period of 3 years after the assessment, and if the real estate be not alienated, then until the taxes  
23 are collected, as provided in chapter 9-1, et seq., of title 44 of the general laws. The collector of  
24 taxes for the district shall, for the purpose of collecting taxes assessed by the district, have the  
25 same powers and authority as are now by law conferred on collectors of taxes for towns in this  
26 state. The qualified electors of the district may provide for a deduction, from the tax assessed  
27 against any person if paid by an appointed time, or for a penalty, by way of percentage on the tax  
28 if not paid at the appointed time, not exceeding twelve percent (12%) per annum, as they deem  
29 necessary to insure punctual payment.

30 SECTION 14. Issuance of bonds and notes. - For the purpose of raising money to carry  
31 out the provisions of this chapter, the board is authorized and empowered to issue bonds and  
32 notes in anticipation of bonds. Such bonds and notes may be issued hereunder as general  
33 obligations of the district or as special obligations payable solely from particular funds. Without  
34 limiting the generality of the foregoing, such bonds and notes may be issued to pay or refund

1 notes issued in anticipation of the issuance of bonds, to pay the cost of any acquisition, extension,  
2 (40) years from their dates of issue, as may be determined by the board of the district, and may be  
3 made redeemable before maturity at a price or prices and under terms and conditions that may be  
4 fixed by the board of the district prior to the issue of the bonds. The board shall determine the  
5 form of the bonds and notes, including interest coupons, if any, to be attached to them, and the  
6 manner of their execution, and shall fix the denomination or denominations of the bonds and  
7 notes and the place or places of payment of the principal and interest, which may be at any bank  
8 or trust company within or without the state. The bonds shall bear the seal of the district or a  
9 facsimile of the seal. In case any officer whose signature or a facsimile of whose signature shall  
10 appear on any notes, bonds or coupons shall cease to be such officer before the delivery thereof,  
11 such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if  
12 such officer had remained in office until after such delivery. The board may also provide for  
13 authentication of bonds or notes by a trustee or fiscal agent. Bonds may be issued in bearer or in  
14 registered form, or both, and, if notes, may be made payable to bearer or to order, as the district  
15 may determine, and provision may be made for the registration of any coupon bonds as to  
16 principal alone and also as to both principal and interest, for the reconversion into coupon bonds  
17 of bonds registered as to both principal and interest and for the interchange of bonds registered as  
18 to both principal and interest and for the interchange of registered and coupon bonds. The issue of  
19 notes shall be governed by the provisions of this chapter relating to the issue of bonds in  
20 anticipation of bonds as the same may be applicable. Notes issued in anticipation of the issuance  
21 of bonds including any renewals, shall mature no later than five (5) years from the date of the  
22 original issue of such notes. The board may by resolution delegate to any member of the board or  
23 any combination of them the power to determine any of the matters set forth in this section  
24 including the power to award such bonds or notes to a purchaser or purchasers at public sale. The  
25 board may sell bonds and notes of the district in such manner, either at public or private sale, for  
26 such price, at such rate or rates of interest, or at such discount in lieu of interest, as it may  
27 determine will best effect the purposes of this chapter.

28         The district may issue interim receipts or temporary bonds, with or without coupons  
29 exchangeable for definitive bonds when such bonds shall have been executed and are available  
30 for delivery. The board may also provide for the replacement of any bonds which shall have been  
31 destroyed or lost.

32         SECTION 15. Issuance of notes in anticipation of revenue or receipt of grants or other  
33 aid. - The board may also provide by resolution for the issuance from time to time of temporary  
34 notes in anticipation of the revenues to be collected or received by the district in any year, or in

1 anticipation of the receipt of federal, state or local grants or other aid. Notes issued in anticipation  
2 of revenues, including any renewals thereof, shall mature no later than one year from their  
3 respective dates, and that notes issued in anticipation of federal, state or local grants or other aid  
4 including any renewals thereof, shall mature no later than three (3) years from their respective  
5 dates. The issue of such notes shall be governed by the provisions of this chapter relating to the  
6 issue of bonds or other notes as the same may be applicable.

7 SECTION 16. Payment of bonds and notes. - The principal of, premium, if any, and  
8 interest on all bonds and notes issued under the provisions of this chapter, unless otherwise  
9 provided herein, shall be general obligations of the district or shall be payable solely from the  
10 funds provided therefor from revenues as herein provided.

11 In the discretion of the board, any bonds and notes issued hereunder may be secured by a  
12 resolution of the board or by a trust agreement between the district and a corporate trustee, which  
13 may be any trust company or bank having the powers of a trust company within or without the  
14 state, and such trust agreement shall be in such form and executed in such manner as may be  
15 determined by the board. Such trust agreement or resolution may pledge or assign, in whole or in  
16 part, the revenues and other moneys held or to be received by the district, including the revenues  
17 from any facilities already existing when the pledge or assignment is made, and any contract or  
18 other rights to receive the same, whether then existing or thereafter coming into existence and  
19 whether then held or thereafter acquired by the district, and the proceeds thereof. Such trust  
20 agreement or resolution may contain such provisions for protecting and enforcing the rights,  
21 security and remedies of the bondholders or noteholders as may, in the discretion of the board, be  
22 reasonable and proper and not in violation of law, including, without limiting the generality of the  
23 foregoing, provisions defining defaults and providing for remedies in the event thereof which  
24 may include the acceleration of maturities and covenants setting forth the duties of, and  
25 limitations on, the district in relation to the acquisition, construction, improvement, enlargement,  
26 alteration, equipping, furnishing, maintenance, use, operation, repair, insurance and disposition of  
27 the water works system, or other property of the district, the custody, safeguarding, investment  
28 and application of moneys, the issue of additional or refunding bonds and notes, the fixing,  
29 revision and collection of fees, rates, rents, assessments or other charges, the use of any surplus  
30 bond and note proceeds, the establishment of reserves, and the making and amending of  
31 contracts.

32 In the discretion of the board any bonds or notes issued under authority of this chapter,  
33 may be issued in the form of lines of credit, loans, or other banking arrangements and under such  
34 terms and conditions, not inconsistent with this chapter, and under such agreements with the

1 purchasers or makers thereof, as the board may determine to be in the best interest of the district.  
2 In addition to other security provided herein or otherwise by law, bonds or notes issued by the  
3 district under any provision of this chapter may be secured, in whole or in part, by insurance or  
4 letters or lines of credit or other credit facilities, and the board may pledge or assign any of its  
5 revenues as security for the reimbursement by the district to the issuers of such insurance, letters  
6 or lines of credit or other credit facilities of any payments made under the insurance or letters or  
7 lines of credit or other credit facilities.

8         It shall be lawful for any bank or trust company to act as a depository or trustee of the  
9 proceeds of bonds, notes, revenues or other moneys under any such trust agreement or resolution  
10 and to furnish such indemnification or to pledge such securities and issue such letters of credit as  
11 may be required by the district. Any pledge of revenues or other property made by the board  
12 under this chapter shall be valid and binding and shall be deemed continuously perfected from the  
13 time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then  
14 held or thereafter acquired or received by the district shall immediately be subject to the lien of  
15 such pledge without any physical delivery or segregation thereof or further act; and the lien of  
16 any such pledge shall be valid and binding against all parties having claims of any kind in tort,  
17 contract or otherwise against the district, irrespective of whether such parties have notice thereof.  
18 Neither the resolution, any trust agreement nor any other agreement by which a pledge is created  
19 need be filed or recorded except in the records of the district.

20         Any holder of a bond or note issued by the district under the provisions of this chapter or  
21 of any of the coupons appertaining thereto and any trustee under a trust agreement or resolution  
22 securing the same, except to the extent the rights herein given may be restricted by such trust  
23 agreement or resolution securing the same, may bring suit upon the bonds or notes or coupons  
24 and may, either at law or in equity, by suit, action, mandamus, or other proceedings for legal or 2  
25 equitable relief, including proceedings for the appointment of a receiver to take possession and  
26 control of the business and properties of the district, to operate and maintain the same, to make  
27 any necessary repairs, renewals and replacements in respect thereof and to *fix*, revise and collect  
28 fees and charges, protect and enforce any and all rights under such trust agreement, resolution or  
29 6 other agreement, and may enforce and compel the performance of all duties required by this act  
30 or by such trust agreement or resolution to be performed by the board or by any officer of the  
31 district.

32         SECTION 17. Refunding bonds and notes. - The board may issue refunding bonds and  
33 notes for the purpose of paying any of its bonds or notes at maturity or upon acceleration or  
34 redemption. Refunding bonds and notes may be issued at such time prior to the maturity or



1 redemption of the refunded bonds or notes as the board deems to be in the public interest.  
2 Refunding bonds and notes may be issued in sufficient amounts to pay or provide the principal of  
3 the bonds or notes being refunded, together with any redemption premium thereon, any interest  
4 accrued or to accrue to the date of payment of such bonds or notes, the expenses of issue of  
5 refunding bonds or notes, the expenses of redeeming bonds or notes being refunded and such  
6 reserves for debt service or other capital or current expenses from the proceeds of such refunding  
7 bonds or notes as may be required by a trust agreement or resolution securing bonds or notes. The  
8 issue of refunding bonds or notes, the maturities and other details thereof, the security therefor,  
9 the rights of the holders thereof, and the rights, duties and obligations of the district in respect of  
10 the same shall be governed by the provisions of this chapter relating to the issue of bonds or notes  
11 other than refunding bonds or notes insofar as the same may be applicable.

12 SECTION 18. Defeasance of bonds or notes. - The board may at any time deposit with a  
13 trustee, a sum sufficient, with amounts then on deposit, including the debt service reserve fund, to  
14 purchase direct or guaranteed obligations of the United States of America which are adequate to  
15 pay the entire principal amount of the bonds or notes of a series, together with the interest to  
16 maturity, or to an applicable redemption date specified by the board to the trustee an any  
17 applicable redemption premium; or the board may deposit direct or guaranteed obligations of the  
18 United States of America in lieu of money for the purchase. The obligations are deemed adequate  
19 if the principal and interest payable on them are sufficient to pay the previously mentioned sums  
20 when due. Upon any deposit of money and a request by the board, the trustee shall purchase  
21 direct or guaranteed obligations of the United States of America. When adequate direct or  
22 guaranteed obligations of the United States of America are held by the trustee pursuant to this  
23 section, the bond resolution or indenture shall cease to be in effect with respect to such series of  
24 bonds or notes. The obligations and their proceeds shall be held in trust for the benefit of the  
25 bondholders or noteholders, and the trustee shall, on behalf of the district, call bonds or notes for  
26 redemption on the applicable redemption date. Any compensation or expenses of the trustee in  
27 carrying out this section shall be paid by the district, and any surplus funds held by the

28 SECTION 19. Credit of state and municipality not pledged. - Bonds, notes and other  
29 evidences of indebtedness issued or entered into under the provisions of this chapter shall not be  
30 deemed to be a debt or a pledge of the faith and credit of the state or of any city or town, but shall  
31 be payable solely from the revenues of the district. All bonds, notes and other evidences of  
32 indebtedness, shall contain on the face thereof a statement to the effect that neither the state nor  
33 any city or town shall be obligated to pay the same and that neither the faith and credit nor the  
34 taxing power of the state or of any city or town is pledged to the payment of the principal of or

1 interest on such bonds or notes. Each bond or note shall also recite whether it is a general  
2 obligation of the district or a special obligation thereof payable solely from particular funds  
3 pledged to its payment.

4 SECTION 20. Moneys received deemed to be trust funds. - All moneys received pursuant  
5 to the provisions of this chapter, whether as proceeds from the issue of bonds or notes or as  
6 revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided  
7 in this chapter.

8 SECTION 21. Bonds eligible for investment. - Bonds and notes issued under the  
9 provisions of this chapter are hereby made securities in which all public officers and public  
10 bodies of the state and its political subdivisions, all insurance companies, trust companies in their  
11 commercial departments, savings banks, co-operative banks, banking associations, investment  
12 companies, executors, administrators, trustees and other fiduciaries may properly and legally  
13 invest funds, including capital in their control or belonging to them. Such bonds and notes are  
14 hereby made securities which may be deposited with and received by any state or municipal  
15 officer or any agency or political subdivision, of the state for any purpose for which the deposit of  
16 bonds or obligations of the state is now or may hereafter be authorized by law.

17 SECTION 22. Bonds and notes issued without consent of other entities - Bonds and  
18 notes may be issued under this chapter without obtaining the consent of any department, division,  
19 commission, board, bureau or agency of the state or any municipality, including the public  
20 utilities commission and the division of public utilities pursuant to Chapters 1-5 of title of the  
21 general laws, and without any other proceedings or the happening of any other conditions or  
22 things than those proceedings, conditions or things which are specifically required therefor by  
23 this chapter, and the validity of and security for any bonds and notes issued by the district shall  
24 not be affected by the existence or nonexistence of any such consent or other proceedings,  
25 conditions or things.

26 SECTION 23. Tax exemption. - The district and all its revenues, income and real and  
27 personal property shall be exempt from taxation and from betterments and special assessments  
28 and the district shall not be required to pay any tax, excise or assessment to or for the state or any  
29 of its political subdivisions; provided, however, that the board is authorized to enter into  
30 agreements to make annual payments in lieu of taxes with respect to property of the district  
31 located outside the district. Bonds and notes issued under this act and their transfer and the  
32 income therefrom, including any profit made on the sale or exchange thereof, shall at all times be  
33 exempt from taxation by the state and all political subdivisions of the state. The district shall not  
34 be required to pay any transfer tax of any kind on account of instruments recorded by it or on its

1 behalf.

2 SECTION 24. Malicious damage - Civil and criminal penalties. - If any person  
3 maliciously or wantonly destroys or damages any hydrant, pipe, aqueduct, conduit, machinery,  
4 equipment, appliance, or other property of the district used for the purposes provided for in this  
5 chapter, that person, whether principal or accessory, forfeits to the district, to be recovered by an  
6 action of trespass o the case, treble the amount of damages which appear to have been sustained,  
7 and shall also be liable to indictment, and upon conviction, shall be fined not more than one  
8 thousand dollars (\$1,000) or imprisoned not more than one year, or shall suffer both fine and  
9 imprisonment.

10 SECTION 25. Records; reports; inspection. - The district shall at all times keep flail and  
11 accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall  
12 be open to inspection by any officer or duly appointed agent of the state.

13 SECTION 26. Termination or dissolution of district. - Upon termination or dissolution of  
14 the district, the title to all finds and other properties owned by it which remain after payment of  
15 all bonds and notes and other obligations of the district shall vest in the town of Foster.

16 SECTION 27. Inconsistent laws or ordinances inoperative. - Except as otherwise  
17 provided herein, any provisions of any special law and part of any special law and all ordinances  
18 and parts of ordinances pertaining to the water works system which are inconsistent with the  
19 provisions of this chapter shall be inoperative and cease to be effective.

20 SECTION 28. Provisions of act controlling. - The provisions of this chapter shall be  
21 deemed to provide an exclusive, additional, alternative and complete method for the doing of the  
22 things authorized hereby and shall be deemed and construed to be supplemental and additional to,  
23 and not in derogation of, powers conferred upon the district by law; provided, however, that  
24 insofar as the provisions of this chapter are inconsistent with the provisions of any general or  
25 special law, administrative order or regulation, or law of any municipality, the provisions of this  
26 chapter shall be controlling.

27 SECTION 29. Pledge not to alter rights of district. - The state does hereby pledge to and  
28 agree with the holders of the bonds, notes, and other evidences of indebtedness of the district that  
29 the state will not limit or alter rights hereby vested in the district until the bonds, notes, or other  
30 evidences of indebtedness, together with interest thereon, with interest on any unpaid installment  
31 of interest and all costs and expenses in connection with any actions or proceedings by or on  
32 behalf of the bondholders and noteholders, are fully met and discharged. All action of the Abbey  
33 Lane Community Association Inc. Water District taken pursuant to this act becoming effective  
34 and hereby ratified and confirmed.

1           SECTION 30. Construction of act. – This chapter, being necessary for the welfare of the  
2 district and its inhabitants, shall be liberally construed to effect the purpose hereof.

3           SECTION 31. Severability. – This chapter shall be construed in all respects to meet all  
4 constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps  
5 shall be taken which are necessary to meet constitutional or other legal requirements whether or  
6 not these steps are expressly required by statute. If, after the application of the provisions of this  
7 section, any of the provisions of this chapter, or its application to any circumstances, shall be held  
8 unconstitutional by any court of competent jurisdiction, that decision shall not affect or impair the  
9 validity of the application of those provisions to other circumstances or the validity of any of the  
10 other provisions of this chapter.

11           SECTION 32. Open meetings law [“Access to Public Records”](#). - The district shall be  
12 subject to chapter 46 of title 42 of the general laws entitled ~~“Open Meetings.”~~ [“Open Meetings.”](#)  
13 [The district shall be subject to chapter 2 of title 38 of the general laws entitled “Access to Public](#)  
14 [Records”](#).

15           SECTION 33. The first meeting shall be called by any five (5) qualified electors of the  
16 district for purposes of this Section 33 and shall be held at such time and place as is specified in  
17 the notice of the call of the meeting, provided that said date shall occur not later than twelve  
18 months from the date of the passage of this act. A vote by ballot shall be taken at said first  
19 meeting upon the proposition, “Shall the Abbey Lane Community Water District be established  
20 according to the act of incorporation passed by the general assembly of the state?” If a majority of  
21 the persons so voting shall vote in the affirmative then said Abbey Lane Community Water  
22 District shall be established according to the provisions of this act, but if a majority of the persons  
23 so voting shall vote in the negative, then this act shall become null and void. Said first meeting  
24 shall be organized election of a moderator, a clerk, and a committee of three (3) persons, qualified  
25 electors in the district for purposes of this Section 33, who shall act at the meeting as a board of  
26 canvassers. Said board of canvassers shall be provided by the board of canvassers of the town of  
27 Foster with lists of the persons who are registered voters within the district and such persons shall  
28 be the qualified electors of the district for the purposes of this Section 33. The name of any  
29 person whose right to vote at said meeting is challenged shall be referred by the moderator to the  
30 committee who shall forthwith determine the question as to whether said person is qualified to  
31 vote and take part in the proceedings of the meeting and shall so report forthwith to said  
32 moderator. At said meeting said district after acceptance of the act may proceed to adopt bylaws  
33 and effect a permanent organization or it may adjourn to a date determined by vote.

- 1           SECTION 34. Sections 33 and 34 of this act shall take effect upon the passage of the act.
- 2    The remainder of this act shall take effect upon the approval of a majority of those voting on the
- 3    question as prescribed by section 33.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

AUTHORIZING THE ESTABLISHMENT OF THE ABBEY LANE COMMUNITY WATER  
DISTRICT

\*\*\*

1           This act would authorize the establishment of the Abbey Lane Community Water  
2 District.

3           Sections 33 and 34 of this act would take effect upon the passage of the act. The  
4 remainder of this act would take effect upon the approval of a majority of those voting on the  
5 question as prescribed by section 33.

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