

HOUSE No. 4094

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 17, 2016.

The committee on Transportation to whom was referred the petition (accompanied by bill, House, No. 3877) of William M. Straus relative to supplemental infrastructure financing for transportation, reports recommending that the accompanying bill (House, No. 4094) ought to pass.

For the committee,

WILLIAM M. STRAUS.

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to transportation infrastructure value capture.

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

1 SECTION 1. The General Laws, as appearing in the 2014 Official Edition, are hereby
2 amended by adding the following new chapter:-

3 Chapter 40X. Supplemental Infrastructure Financing for Transportation.

4 Section 1. As used in this chapter, the following words shall, unless the context clearly
5 requires otherwise, have the following meanings:-

6 “Adjustment factor”, for each fiscal year of the term of a given SIFT agreement, the
7 product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately
8 following the base date.

9 “Authority”, the Massachusetts Bay Transportation Authority, and/or a Regional Transit
10 Authority.

11 “Base date”, the last assessment date of the real property tax immediately preceding the
12 creation of the SIFT district, or any other assessment date designated as the base date in a SIFT
13 agreement.

14 “Captured assessed value”, the valuation amount by which the current assessed value of
15 all properties within a SIFT district exceeds the original assessed value of such properties within
16 the SIFT district. If the current assessed value is equal to or less than the original, there is no
17 captured assessed value.

18 “Department”, the Massachusetts Department of Transportation.

19 “Financial plan”, a statement of the costs and sources of revenue required to complete
20 construction of the transportation project, which shall include: (1) cost estimates; (2) the
21 projected amount of indebtedness to be incurred by the municipality, the department and/or the
22 authority; and (3) any other sources of anticipated capital, including but not limited to any
23 federal funding.

24 “Inflation factor”, a ratio: (1) the numerator of which shall be the total assessed value of
25 all parcels of residential, commercial and industrial real estate that are assessed at full and fair
26 cash value for the current fiscal year minus the new growth adjustment factor for the current
27 fiscal year attributable to the residential, commercial and industrial real estate as determined by
28 the commissioner of revenue under paragraph (f) of section 21C of chapter 59; and (2) the
29 denominator of which shall be the total assessed value for the preceding fiscal year of all the
30 parcels included in the numerator; provided, however, the ratio shall not be less than 1.

31 “Original assessed value”, the aggregate assessed value of all properties within the SIFT
32 district as of the base date; provided, however, that unless the city or town has expressly stated

33 within its SIFT agreement that it will not include an inflation factor, the original assessed value
34 in any year shall be equal to the original assessed value as of the base date multiplied by the
35 adjustment factor for that fiscal year.

36 “Secretary”, the secretary of the Massachusetts Department of Transportation.

37 “SIFT agreement”, an agreement entered into by the secretary and municipality and
38 approved by the municipality in accordance with section 3 authorizing a municipality to collect
39 and remit tax increment revenue in accordance with this chapter and which shall include without
40 limitation: (1) a detailed description of the transportation project to be financed in whole or in
41 part by the SIFT agreement, including a financial plan for such project; (2) the boundaries of the
42 SIFT district, including a depiction of the SIFT district on a map of the municipality and a listing
43 of the street addresses and lot numbers of all lots within the SIFT district; (3) estimates of the
44 captured assessed value during the term of the SIFT agreement; (4) a projection of the tax
45 revenues to be derived from the SIFT district in the absence of a SIFT agreement; (5) the method
46 of calculating the percentage of the tax increment to be remitted together with any provisions for
47 adjustment of the method of calculation; (6) the board or officer of the city or town responsible
48 for calculating the tax increment; (7) the projected tax increments to be remitted in each year of
49 the SIFT agreement; (8) the portion of the captured assessed value, if any, pledged or otherwise
50 subject to chapter 40Q or section 59 of chapter 40; (9) a statement of the estimated impact of tax
51 increment financing on all taxing jurisdictions in which the SIFT district is located; (10) the term
52 of years of the SIFT agreement; (11) the base date; (12) a copy of the SIFT certificate; (13) the
53 date, if any, following which the SIFT agreement must be re-approved by the city or town in
54 accordance with section 2 if a notice to proceed has not been issued by the department or
55 authority with respect to the transportation project; (14) the department and/or authority fund to

56 which the tax increment revenue shall be remitted; (15) if applicable, a statement of the city or
57 town electing that the original assessed value not be increased by the adjustment factor; and (16)
58 provisions, if any, addressing the municipality’s obligations under the SIFT agreement following
59 material changes regarding the scope, construction or operation of the transportation project.

60 “SIFT certificate”, a certificate issued by the secretary certifying that a municipality is
61 eligible to enter into a SIFT agreement under this chapter with respect to a particular
62 transportation project; provided, that the SIFT certificate shall designate, without limitation: (i)
63 the eligible municipality or municipalities ; (ii) the eligible transportation project; (iii) the
64 percentage of each municipality’s tax increment to be remitted to the authority or department;
65 (iv) any amounts for continuing maintenance of the transportation project following payment of
66 debt associated with the project; (v) the boundaries of the SIFT district; (vi) the required term of
67 years during which the tax increment shall be collected and remitted; (vii) the department or
68 authority fund to which the tax increment revenue shall be remitted; and (viii) any other
69 condition deemed necessary by the secretary.

70 “SIFT district”, a specified area within the corporate limits of a city or town as set forth
71 in the SIFT certificate and as designated in a SIFT agreement approved in accordance with
72 section 3.

73 “Tax increment”, that portion of all real and personal property taxes assessed by a city or
74 town upon the captured assessed value of property in the SIFT district pursuant to the SIFT
75 agreement. The portion of the tax levy attributable to the increased valuation after the base date
76 shall be calculated using the same classification factors as were used as of the base date, or
77 without classification factors, if property was not classified for tax purposes as of the base date.

78 If the base date is earlier than the date as of which the commissioner of revenue makes the
79 certification required by subsection (c) of section 2A of chapter 59, the SIFT agreement may
80 provide for such further adjustment in calculating the tax increment as may be deemed
81 appropriate to reflect changes of practice after the base date with respect to the valuation of
82 property in order to achieve assessment at full and fair cash valuation.

83 “Transportation project”, any construction project, or any component thereof, undertaken
84 by the authority and/or department, including without limitation construction, repair or
85 enhancement of ways or bridges, on- or off-ramps, bikeways or multi-use paths, transit stations,
86 passenger facilities, and rail projects and extensions.

87 Section 2. The secretary may issue a SIFT certificate with respect to any transportation
88 project involving one or more municipalities; provided, that a SIFT certificate shall be
89 accompanied by written findings supporting: (i) the determination of eligibility with respect to
90 the municipalities; (ii) the determination of eligibility with respect to the transportation project;
91 (iii) the required term; and (iv) the tax increment to be remitted.

92 Section 3. (a) No municipality may enter into or implement a SIFT agreement unless and
93 until: (i) the secretary has issued a SIFT certificate authorizing the municipality to enter into a
94 SIFT agreement with respect to the transportation project; (ii) the SIFT agreement is in
95 conformity with all terms set forth in the SIFT certificate; and (iii) the SIFT agreement has been
96 approved by the municipality in accordance with this section.

97 (b) Notwithstanding any general or special law or regulation to the contrary, not less than
98 30 days prior to any vote required under subsection (c), a municipality shall hold a public
99 hearing regarding the SIFT agreement or amendment thereto and shall provide the public with an

100 opportunity to submit written comments. The municipality shall create a written record of the
101 public hearing, which shall include a description of the testimony offered by persons at such
102 hearing. Not less than 14 days prior to the hearing: (i) public notice of the hearing shall be
103 published in one or more local newspapers of general circulation and shall be posted in the
104 municipality's main governmental building and on the municipality's web site; and (ii) the SIFT
105 agreement or amendment shall be made available by the municipality for inspection and copying.

106 (c) Notwithstanding any general or special law or regulation to the contrary, a city or
107 town shall approve the SIFT agreement by vote of its town meeting, town council or city council,
108 with the approval of the mayor where required by law; provided, that the term of years, any
109 provision related to calculation of the tax increment, or the boundaries of a SIFT district may
110 only be amended, following approval by the secretary, after meeting the requirements for
111 adoption under this section.

112 Section 4. (a) Within 60 days following approval of a SIFT agreement in accordance with
113 section 3, the assessor of the city or town shall certify the original assessed value of the taxable
114 property within the boundaries of the SIFT district. Each year after the approval of a SIFT
115 agreement the assessor of the city or town shall certify the amount by which the assessed value
116 has increased or decreased from the original value.

117 (b) Following approval of a SIFT agreement in accordance with section 3, the city or
118 town shall set aside and remit all tax increment revenues in accordance with the SIFT agreement.

119 Section 5. Notwithstanding any general or special law or regulation to the contrary, a
120 SIFT agreement may not require a municipality to remit additional payments to the authority,

121 department or any other party in the event that tax increment revenue is less than any annual
122 contributions set forth in the SIFT agreement.

123 Section 6. The department shall promulgate rules and regulations necessary to implement
124 this chapter, including, without limitation, rules and regulations establishing criteria for
125 evaluating eligible transportation projects.

126 SECTION 2. Chapter 10 of the General Laws, as so appearing, is hereby amended by
127 inserting after section 35AAA the following 2 new sections:-

128 Section 35BBB. There is hereby set up on the books of the commonwealth a separate
129 fund to be known as the MBTA SIFT Fund, hereinafter referred to as the Fund. There shall be
130 credited to the Fund all payments made by a city or town to the Fund pursuant to a SIFT
131 agreement adopted in accordance with chapter 40X and any other fees collected in regards to the
132 project identified in a SIFT agreement. Amounts in the Fund shall be held by the state treasurer
133 or his designee as trustee and not on account of the commonwealth, and the state treasurer is
134 hereby authorized and directed to disburse amounts in the Fund, without further appropriation, at
135 the direction of the Massachusetts Bay Transportation Authority, hereinafter referred to as the
136 authority; provided, however, that amounts credited to the Fund pursuant to a SIFT agreement
137 shall be segregated by city or town and shall be used solely for the purpose of financing those
138 transportation projects identified in such SIFT agreements.

139 All amounts in the Fund shall be available for payment of debt service on debt
140 obligations issued by the authority, and may be pledged to secure debt of the authority in such
141 manner and according to such priority as the authority may determine.

142 In order to increase the marketability of any bonds or notes of the authority which may be
143 secured by or payable from amounts held in the Fund, the sums to be credited to the Fund as
144 aforesaid are hereby impressed with a trust for the benefit of the authority and the holders from
145 time to time of any such bonds or notes, and, in consideration of the acceptance of payment for
146 any such bonds or notes, the commonwealth covenants with the purchasers and all subsequent
147 holders and transferees of any such bonds or notes that while any such bond or note shall remain
148 outstanding, and so long as the principal of or interest on any such bond or note shall remain
149 unpaid, the sums to be credited to the Fund as aforesaid shall not be diverted from the purposes
150 identified herein.

151 SECTION 3. Chapter 6C of the General Laws, as so appearing, is hereby amended by
152 inserting after section 4 the following new section:-

153 Section 4B. There shall be established and placed within the department a separate fund
154 to be known as the Department of Transportation SIFT Fund, hereinafter referred to as the Fund.
155 There shall be credited to the Fund any revenues from appropriations or other monies authorized
156 by the general court and specifically designated to be credited to the Fund, any gifts, grants,
157 private contributions, or investment income earned on the Fund's assets, and all payments made
158 by a city or town to the Fund pursuant to a SIFT agreement adopted pursuant to chapter 40X and
159 any other fees collected in regards to the project identified in a SIFT agreement. Amounts
160 credited to the Fund pursuant to such SIFT agreements shall be segregated by city or town and
161 shall be used solely for the purpose of financing those transportation projects identified in such
162 SIFT agreements. All amounts in the Fund shall be available for expenditure without
163 appropriation for payment of costs associated with construction of such transportation projects
164 and for debt service on debt obligations issued by the department or the commonwealth to fund

165 construction of such transportation projects, and may be pledged to secure debt of the department
166 or the commonwealth in such manner and according to such priority as the department may
167 determine.