

HOUSE No. 4303

Substituted by the House, on motion of Ms. Barber of Somerville, for a bill with the same title (House, No. 3550). May 16, 2016.

The Commonwealth of Massachusetts

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

An Act establishing the Somerville municipal job creation and retention trust.

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

1 SECTION 1. There is hereby established a trust to be known as the Somerville Municipal
2 Job Creation and Retention Trust (the “Trust”). The purpose of the Trust is to assist in the
3 creation and maintenance of employment opportunities within the city of Somerville for the
4 citizens of the city of Somerville.

5 SECTION 2. There is hereby established a board of trustees hereinafter referred to as the
6 board, which shall include no fewer than 5 and no more than 9 trustees, including ex officio the
7 mayor of Somerville or designee and the president of the board of aldermen or designee. Those
8 members of the board who are not serving in an ex officio capacity shall be appointed by the
9 mayor, subject to confirmation by the board of aldermen, and are designated as public agents for
10 purposes of the constitution of the commonwealth.

11 SECTION 3. The powers of the board, all of which shall be carried on in furtherance of
12 the purposes set forth in this act, shall include but not be limited to, the following:

13 (a) to receive and accept personal property, by gift, grant, devise or transfer from any
14 federal, state or local governmental or other public entity, or any person, trust, corporation or
15 other private entity, including without limitation funds or other personal property tendered to the
16 trust in connection with the Somerville zoning ordinance or any other Somerville ordinance;

17 (b) to retain personal property, including without limitation personal property that is un-
18 invested and investments that yield no income;

19 (c) to make grants for Trust purposes upon such terms as the board deems advisable;

20 (d) to make loans for Trust purposes upon such terms of repayment or otherwise as the
21 board deems advisable and to extend the time for payment of any obligation of the trust;

22 (e) to sell, exchange, or transfer personal property of the trust for such consideration and
23 upon such terms as to credit or otherwise as the board deems advisable;

24 (f) to execute, acknowledge and deliver assignments, transfers, pledges, contracts,
25 promissory notes, releases and other instruments, sealed or unsealed, necessary, proper or
26 incidental to any transaction involving trust assets in which the board engages for the
27 accomplishment of the purposes of the trust;

28 (g) to employ advisors and agents, including without limitation accountants and
29 appraisers, and to delegate to such persons or firms such ministerial or discretionary powers as
30 the board deems necessary;

31 (h) to pay reasonable compensation to all advisors and agents, including reasonable
32 compensation for the cost of city of Somerville staff time devoted to trust matters, and to
33 apportion such compensation between income and principal as the board deems advisable;

34 (i) to apportion receipts and charges between income and principal as the board deems
35 advisable;

36 (j) to exercise all powers and rights, including proxies and powers of attorney, necessary
37 and proper in connection with the ownership of any securities held as part of trust personal
38 property; and

39 (k) to compromise, arbitrate, defend, enforce, release, settle or otherwise adjust claims in
40 favor of or against the trust and to accept any personal property, either in total or partial
41 satisfaction of any indebtedness or other obligation.

42 SECTION 4. Notwithstanding any general or special law to the contrary, all monies paid
43 to the trust by public or private contribution or in accordance with the Somerville zoning
44 ordinance, including any delinquent payments collected as a municipal charges lien pursuant to
45 chapter 252 of the acts of 1996, shall be paid directly into the trust, and such monies do not have
46 to be appropriated or accepted and approved into the trust. General revenues appropriated into
47 the trust become trust property; and to be expended, these funds do not need to be further
48 appropriated. All monies remaining in the trust at the end of any fiscal year, whether or not
49 expended by the board within 1 year of the date they were appropriated into the trust, remain
50 trust property. The board of trustees shall annually report to the board of aldermen, the total
51 amount of receipts and expenditures for the fund for the prior fiscal year and for the current
52 fiscal year through December thirty-first, or such later date as the board of aldermen may, by
53 vote determine, together with such other information as the board of aldermen may by vote
54 require. The board of aldermen shall review annually the funds in the trust and expenditures from

55 the trust to provide oversight for the purposes of creating and retaining jobs within the city of
56 Somerville for citizens of the city of Somerville.

57 SECTION 5. The trust is a public employer and the members of the board are public
58 employees for purposes of chapter 258 of the general laws.

59 SECTION 6. The trust shall be deemed a municipal agency and the trustees' special
60 municipal employees, for purposes of chapter 268A of the general laws.

61 SECTION 7. The trust is a governmental body for purposes of sections 23A, 23B and
62 23C of chapter 39 of the general laws.

63 SECTION 8. The trust is exempt from chapters 59 and 62 of the general laws and from
64 any other provisions concerning the payment of taxes based upon or measured by personal
65 property or income imposed by the commonwealth or any political subdivision thereof.

66 SECTION 9. The books and records of the trust shall be audited annually by an
67 independent auditor in accordance with accepted accounting practices.

68 SECTION 10. The declaration of trust, which establishes and controls the trust, as
69 provided in this act, shall be filed in the office of the Somerville city clerk.

70 SECTION 11. The trust is a board of the city for purposes of chapter 30B and section
71 15A of chapter 40 of the general laws.

72 SECTION 12. (a) The city of Somerville may, by ordinance, require the payment of a job
73 creation and retention linkage fee for any project that (1) requires zoning relief, including
74 without limitation, a special permit, special permit with site plan review, a variance or site plan
75 approval; and (2) contains a single use or combination of uses exceeding a square foot threshold

76 to be determined from time to time by the board of aldermen. The ordinance shall specify the
77 dollar amount of the linkage fee; the method by which it shall be increased from time to time;
78 and the types of uses to which it shall apply.

79 (b) There shall be a Somerville Municipal Job Creation and Retention Trust Fund into
80 which job creation and retention linkage fees shall be paid, and no such fee shall be paid to the
81 city's general treasury or used as general revenues subject to section 53 of chapter 44 of the
82 general laws. The Fund shall be administered by the trustees of the trust for the purposes of
83 creating and retaining jobs within the city of Somerville for citizens of the city of Somerville in
84 accordance with the trust and this act.

85 SECTION 13. This act shall take effect upon its passage.