

SENATE No. 2065

The Commonwealth of Massachusetts

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

SENATE, Monday, November 23, 2015

The committee on Community Development and Small Businesses to whom was referred the petitions (accompanied by bill, Senate, No. 1070) of Eileen M. Donoghue, Jason M. Lewis, Daniel A. Wolf, Anne M. Gobi and other members of the General Court for legislation to establish community benefit districts ; and (accompanied by bill, House, No. 144) of Brendan P. Crighton and others relative to the establishment of community benefit districts in cities and towns,- reports the accompanying bill (Senate, No. 2065).

For the committee,
Kathleen O'Connor Ives

SENATE No. 2065

The Commonwealth of Massachusetts

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

An Act relative to community benefit districts.

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. Definitions

2 “CBD”, a Community Benefit District formed pursuant to this chapter, which is one or
3 more geographic areas with clearly defined boundaries.

4 “CBD Corporation,” the non-profit corporation designated to receive funds and otherwise
5 implement the purposes of the CBD. References herein to the CBD Corporation shall include its
6 Board of Directors, officers and any employees.

7 “ CBD Fee”, a payment for services or improvements specified by the Initial
8 Management Plan and any Management Plan.

9 “Initial Management Plan”, the strategic and operating plan for the CBD as approved by
10 the local municipal governing body as part of the creation of the CBD. A “Management Plan” is
11 any subsequent, updated version of the Initial Management Plan and is a document that is
12 approved by the Board of Directors.

13 “Memorandum of Understanding with the Municipality”, The MOU describes the standard
14 government services and supplemental services to be provided within the CBD, and how the
15 municipality will participate in the CBD as a property owner and member.

16 “Local municipal governing body”, the city council or board of aldermen in a city or the
17 board of selectmen or town council in a town.

18 “Petition-signer”, a property owner, or their designee, within the CBD who affirmatively
19 signs the petition to establish such CBD.

20 “Property”, any real property located within the CBD, whether commercial, tax-exempt
21 or residential;

22 “Property owner”, the owner of record of property. . When a property is owned by other
23 than a natural person, a petition-signer for that property must include his or her title and aver
24 authority to sign as owner. When a property is owned by multiple persons, the signature of one
25 owner is sufficient if that owner avers authority to sign on behalf of the other owners.

26 “Standard government services”, governmental functions, programs, activities, facilities,
27 improvements and other services which a municipality is authorized to perform or provide and
28 paid for out of the local municipal government budget.

29 “Supplemental services”, the provision of programs, public rights of way services,
30 activities, amenities, or information in addition to the standard governmental services provided to
31 the CBD.

32 Section 2: Rights and Powers

The rights and powers of a CBD Corporation in a CBD approved by the municipal governing body shall include: retaining or recruiting business; administering and managing central and neighborhood business districts; promoting economic development; managing parking; designing, engineering, constructing, maintaining, or operating buildings, facilities, urban streetscapes or infrastructures to further economic development and public purposes; conducting historic preservation activities; leasing, owning, acquiring, or optioning real property; owning and managing parks, public spaces and community facilities; supplementing maintenance, security, or sanitation; planning and designing services; formulating a fee structure; accumulating interest; incurring costs or indebtedness; entering into contracts; suing and being sued; employing legal and accounting services; undertaking planning, feasibility and market analyses; developing common marketing and promotional activities; engaging in placemaking, programming, and event management within the district; soliciting donations, sponsorships, and grants; operating transit services; and supporting public art and human and environmental services as related to the enhancement of the district or other supplemental services or programs that would further the purposes of this chapter.

Section 3: Initiation of Organization; Contents of Petition

The organization of a CBD shall be initiated by a petition of the property owners within the proposed CBD which shall be filed in the office of the clerk of the municipality.

Such petition shall contain:

(1) the signatures of the property owners (petition signers) in the proposed district who support the establishment of the district and who will pay more than fifty percent of the assessments proposed to be levied;

(2) a description of and a site map delineating the boundaries of the proposed CBD;

(3) the identity and address of the CBD Corporation, including its initial set of directors and officers and a copy of its bylaws;

(4) Initial Management Plan which shall set forth the supplemental services and programs, vision and strategy, and budget and fee structures proposed for the CBD;

(5) the criteria for waiving the fee for any property owner within the CBD who can provide evidence that the imposition of such fee would create a significant financial hardship; and

(6) a staffing plan, which may include private nonprofit, for-profit, or public agency contractors or subcontractors.

Such petition may include a mechanism for reimbursing the municipality for the costs incurred in establishing the CBD, and for costs incurred in collecting the district fees.

A copy of said petition shall be filed with the Director/Undersecretary of Housing and Community Development and the Secretary of Housing and Economic Development within thirty days of receipt of such petition by the clerk of the municipality

Section 4: Hearing on petition; declaration of organization; notice

The local municipal governing body shall hold a public hearing within sixty days of the receipt of a petition. Written notification of such hearing shall be sent to each property owner within the boundary of the proposed CBD at least thirty days prior to such hearing, by mailing notice to the address listed in the property tax records. Notification of the hearing shall also be

published for two consecutive weeks in a newspaper of general circulation in the area at least fourteen days prior to such hearing and listed on the municipality's website. Such public notice shall contain the proposed boundaries of the CBD, the proposed fee level, summary of supplemental programs and services and where the property owner may obtain a full copy of the Initial Management Plan.

Prior to the public hearing, the local municipal governing body shall direct the town clerk or city clerk or his or her designee to determine that the establishment criteria has been met as set forth in section Three. In determining whether a signature is authentic, the clerk shall apply the same standard used when certifying signatures for a petition to place a referendum on a local or state ballot.

Within forty-five days after the public hearing, a local municipal governing body, in its sole discretion, may by a vote declare the district organized and describe the boundaries and service area of the district. Such declaration shall include authorization to municipal staff to enter into an agreement with the CBD Corporation with respect to operations and funding consistent with the Initial Management Plan approved. Upon such declaration, the CBD may commence operations.

Notice of the declaration of the organization of the CBD shall be mailed or delivered to each property owner within the proposed CBD. The notice shall explain that membership in the CBD is irrevocable until the dissolution under section 10, and shall include a description of the basis for determining the district fee, the projected fee level and the services to be provided within the CBD. Such notice shall be published for 2 consecutive weeks in a newspaper of

97 general circulation in the area, the last publication being not more than 30 days after the vote to
98 declare the district organized.

99 Participation in the CBD shall be permanent until the dissolution of the CBD under
100 section 10. All property owners, including public, private and nonprofit entities, shall participate,
101 although each shall contribute based upon specified fee structures based upon the benefits
102 anticipated to be received, as outlined in the Initial Management Plan.

103 Section 5: Board of Directors of the CBD Corporation

104 Each CBD Corporation shall have a non-profit Board of Directors that shall oversee its
105 operations to insure the implementation of the Initial Management Plan and any Management
106 Plan. At least 51% of the Board shall be composed of property owners or their designees, and
107 the remaining members may be a balanced set of stakeholders representing the community,
108 including residents, municipal government, business tenants , and nonprofits.

109 The Initial Management Plan shall be updated at least once every three years by the CBD
110 Board of Directors, and a copy thereof shall be mailed, emailed, or delivered to each CBD
111 member and filed with the local governing body.

112 The CBD Corporation shall conform with the Mass General Law Chapter 12 Section 8F
113 in regards to nonprofit reporting requirements.

114 Section 6: Property included in the fee formula; waivers

115 All real property located within the proposed CBD shall be considered in the fee formula
116 for the supplemental services and programs as outlined in the Initial Management Plan. The
117 CBD Corporation, at its sole discretion, may grant a financial hardship waiver to any property

owner, pursuant to the waiver criteria previously established within the CBD. Such waiver is not intended to be permanent and must be requested and granted on an annual basis and shall be based upon temporary, extraordinary circumstances. The CBD Corporation may also, at its discretion, approve in-kind contributions or services in addition to, or in lieu of, fees upon execution of a memorandum of agreement with a property owner.

Section 7: District fee structure

Upon formal approval of a CBD, the local municipal governing body shall adopt the district fee structure for the financing of items submitted in the Initial Management Plan for the CBD; provided, however, that the total fees assessed in any one year may not exceed one-half of one percent of the sum of the assessed valuation of the real property owned by participating members in the CBD district.

The basis of such district fee may be determined by a formula utilizing any one or a combination of the following:

- (1) different levels for varying classifications of real property;
- (2) benefit zones;
- (3) assessed valuation;
- (4) building or parcel square footage;
- (5) street frontage; or
- (6) any other formula which meets the objectives of the CBD.

The CBD, through its Management Plan, shall have the option to limit or cap the maximum annual fee derived from individual properties or the total annual revenue generated by the CBD.

The formula for determining the district fee structure shall be set forth in the original petition as required by section three.

In addition to receiving funds from the district fee, the CBD Corporation shall be authorized to receive grants, donations, revenues generated from parking fees, CBD activities, or gifts on behalf of the CBD.

Section 8: Collection of fees and disbursement of funds

The collector-treasurer of the municipality is hereby authorized to collect such district fees in designated CBDs and to disburse the funds to the CBD Corporation. In addition to the items identified in Chapter 60, Section 3A, the collector-treasurer may include notices for district fees in the envelope or electronic message in which a property bill is sent.

The district fees collected shall be used solely to fund items to further the goals identified and approved in the Initial Management Plan for the CBD.

The collector-treasurer shall disburse revenues to the CBD Corporation no later than thirty days of the collection of such fees, together with the interest earned on the holding of such fees.

Following establishment of the CBD, all fees billed by or on behalf of the CBD and unpaid after thirty days from the date of billing shall become a lien on the property, which shall have priority over all other liens except municipal liens and mortgages of record prior to the

recording of a notice of lien, if notice of the lien is duly recorded by the CBD Corporation in the appropriate registry of deeds or land court registry district.

Section 9: Amendment of district boundaries

At any time after the establishment of a CBD pursuant to the provisions of this chapter, the district boundaries upon which the establishment was based may, upon the recommendation of the CBD Corporation, be amended by the local municipal governing body after compliance with the procedures set forth in this section.

The CBD Corporation shall prepare a petition, consistent with the criteria described in Section 3 in all ways except for the signatures. Instead, if the petition concerns an amendment to expand the district, the petition must be accompanied by signatures of the property owners representing no less than fifty percent of the assessed valuation in the expanded area only. If the petition concerns an amendment to reduce the size of the district, it must be accompanied by the signatures of property owners representing no less than fifty percent of the assessed valuation in the existing district.

The local municipal governing body shall hold a public hearing within sixty days of the receipt of a petition to amend the district boundaries. In the case of an expansion petition, written notification of such hearing shall be sent to each property owner within the proposed expansion area of the CBD at least thirty days prior to such hearing, by mailing notice to the address listed in the property tax records. In the case of a reduction petition, such public notice must be sent to each property owner in the existing district. For either an expansion or reduction petition, notification of the hearing shall also be published for two consecutive weeks in a newspaper of general circulation in the area at least fourteen days prior to such hearing and listed on the

municipality's website. For an expansion petition, such public notice shall contain the proposed expanded boundaries of the CBD, the fee level, summary of supplemental programs and services, and where the property owner may obtain a full copy of the Management Plan. For a reduction petition, such public notice shall contain the proposed reduced boundaries of the CBD and any changes in the fee level, supplemental programs and services or other material aspects of the Management Plan that will occur as a result of the boundary change. Within 30 days of the hearing, and upon determination by the city or town clerk, or designee, that the petition has met the necessary criteria, the local governing body, in its sole discretion, may by a vote declare the district boundaries amended.

Upon the adoption of any amendment to the district boundaries which increases the size of the district, any owner of property to be added to the district shall be notified of the new boundaries of the district in accordance with section four.

Section 10: Dissolution

A CBD may be dissolved by petition to the local municipal governing body and a subsequent decision by such governing body to authorize dissolution.

In order to be considered by the local municipal governing body, a petition to dissolve a CBD shall contain the signatures of the owners of at least fifty percent of the assessed valuation within the district.

The local municipal governing body shall hold a public hearing within thirty days of receipt of a completed petition on the issue of dissolution.

200 Following the public hearing, the local municipal governing body may declare the CBD
201 dissolved; provided, however, that no CBD shall be dissolved until it has satisfied or paid in full
202 all of its outstanding indebtedness, obligations, and liabilities; or until funds are on deposit and
203 available therefore; or until a repayment schedule has been formulated and municipally approved
204 therefor. In addition, the CBD shall be prohibited from incurring any new or increased financial
205 obligations.

206 Any liabilities, either current or future, incurred as a result of action to accomplish the
207 purposes of the Management Plan shall not be an obligation of the municipality but said
208 liabilities shall be paid for entirely from revenue gained from the project or facilities authorized,
209 or from the fees on the properties in the CBD.

210 Upon the dissolution of a CBD, any remaining revenues derived from the sale of assets
211 acquired with fees collected shall be refunded to the property owners in the CBD in which fees
212 were charged by applying the same formula used to calculate the fee in the fiscal year in which
213 the CBD is dissolved.

214 Nothing in this section shall prevent the filing of a subsequent petition for a similar
215 district.

216 Section 11: Districts with Non-Contiguous Geographic Areas Within a Municipality

217 A CBD may include non-contiguous geographic areas within the municipality. If the
218 petition proposes such a district, each non-contiguous area must separately qualify by meeting
219 the signature threshold in Section Three. Once the clerk has determined that the establishment
220 criteria have been met, the municipality shall consider whether the CBD as a whole should be
221 approved. A petition to reduce or dissolve a CBD with non-contiguous areas must be signed by

property owners representing at least fifty percent of the assessed value in the CBD as a whole. A petition to expand such a CBD must be signed by property owners representing fifty percent of the assessed value in the expanded area only. A CBD that includes non-contiguous areas may set services, programs and fees to take into account the differing circumstances of each area.

Section 12: CBD located in more than one Municipality

A CBD may be located in more than one municipality if the petition in each municipality separately complies with the process set forth in this Chapter for the establishment of a CBD. Petitioners must state in each petition whether they will proceed with establishment if the other municipality or municipalities involved do not approve the proposed CBD. A petition to reduce a CBD located in more than one municipality must be signed by property owners with fifty percent of the assessed valuation in that municipality's portion of the district. A petition to expand such a CBD must be signed by property owners representing fifty percent of the assessed value in the expanded area only. A petition to dissolve the entire CBD located in more than one municipality must be signed by property with fifty percent of the assessed valuation in each municipality. A CBD is located in more than one municipality may set services, programs and fees to take into account the differing circumstances of each area.

Section 13: Effective date

This legislation will be effective immediately.