

HOUSE No. 4385

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 9, 2018.

The committee on Community Development and Small Businesses to whom were referred the petition (accompanied by bill, Senate, No. 82) of Eileen M. Donoghue, Robert M. Koczera, Sal N. DiDomenico, Tackey Chan and other members of the General Court for legislation to establish Community Benefit Districts, and the petition (accompanied by bill, House, No. 1971) of Brendan P. Crighton and others relative to the establishment of community benefit districts in cities and towns, reports recommending that the accompanying bill (House, No. 4385) ought to pass.

For the committee,

EDWARD F. COPPINGER.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 30. The General Laws are hereby amended by inserting after chapter 40W the
2 following chapter:-

3 CHAPTER 40X.

4 COMMUNITY BENEFIT DISTRICTS

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

7 “Community benefit district”, a contiguous geographic area with clearly-defined
8 boundaries formed pursuant to this chapter.

9 “Community benefit district corporation”, the nonprofit corporation designated to
10 receive funds and otherwise implement the community benefit district, including the board of
11 directors, officers and employees.

12 “Community benefit district fee”, a payment for services or improvements specified
13 by the initial management plan or any other management plan.

14 “Initial management plan”, the strategic and operating plan for the community benefit
15 district as approved by the municipal governing body as part of the creation of the community
16 benefit district.

17 “Management plan”, a subsequent, updated version of the initial management plan
18 that is approved by the board of directors.

19 “Memorandum of understanding with the municipality”, a document that describes the
20 standard government services and supplemental services to be provided within the community
21 benefit district and how the municipality will participate in the community benefit district as a
22 property owner and member.

23 “Municipal governing body”, the city council or board of aldermen in a city or the
24 board of selectmen or town council in a town.

25 “Petition signer”, a property owner or a designee within the community benefit district
26 who affirmatively signs the petition to establish the community benefit district.

27 “Property”, real property located within the community benefit district, whether
28 commercial, tax exempt or residential.

29 “Property owner”, the owner of record of property; provided, however, that when a
30 property is owned by an entity other than a natural person, a petition signer for that property shall
31 include the petition signer’s title and shall demonstrate its authority to sign as owner; and

32 provided further, that if a property is owned by multiple persons, the signature of 1 owner shall
33 be sufficient if that owner demonstrates authority to sign on behalf of the other owners.

34 “Standard government services”, governmental functions, programs, activities,
35 facilities, improvements and other services that a municipality is authorized to perform or
36 provide and that are paid for out of the municipal government budget.

37 “Supplemental services”, the provision of programs, public rights of way services,
38 activities, amenities or information in addition to the standard governmental services provided to
39 the community benefit district.

40 Section 2. The rights and powers of a community benefit district corporation in a
41 community benefit district approved by the municipal governing body pursuant to section 4 shall
42 include: (i) retaining or recruiting business; (ii) administering and managing central and
43 neighborhood business districts; (iii) promoting economic development; (iv) managing parking;
44 (v) designing, engineering, constructing, maintaining or operating buildings, facilities, urban
45 streetscapes or infrastructure to further economic development and public purposes; (vi)
46 conducting historic preservation activities; (vii) leasing, owning, acquiring or optioning real
47 property; (viii) owning and managing parks, public spaces and community facilities; (ix)
48 supplementing maintenance, security and sanitation; (x) planning and designing services; (xi)
49 formulating a fee structure; (xii) accumulating interest; (xiii) incurring costs or indebtedness;
50 (xiv) entering into contracts; (xv) suing and being sued; (xvi) employing legal and accounting
51 services; (xvii) undertaking planning, feasibility and market analyses; (xviii) developing
52 common marketing and promotional activities; (xix) engaging in placemaking, programming and
53 event management within the district; (xx) soliciting donations, sponsorships and grants; (xxi)

54 operating transit services; and (xxii) supporting public art, human and environmental services
55 related to the enhancement of the district or other supplemental services or programs that would
56 further the purposes of this chapter.

57 Section 3. The organization of a community benefit district shall be initiated by a
58 petition of the property owners within the proposed community benefit district which shall be
59 filed in the office of the clerk of the municipality and shall contain:

60 (i) the signatures of the property owners, including participating tax-exempt entities,
61 or petition signers in the proposed district who support the establishment of the district and who
62 will pay more than 50 per cent of the assessments proposed to be levied; provided, however, that
63 the amount of the assessment attributable to property owned by the same property owner that is
64 in excess of 20 per cent of the amount of all assessments proposed shall not be included in the
65 calculation or, alternatively, if there are not more than 4 property owners in the proposed district,
66 all such property owners shall sign the petition;

67 (ii) a description of and a site map delineating the boundaries of the proposed
68 community benefit district;

69 (iii) the identity and address of the community benefit district corporation, including
70 its initial set of directors and officers and a copy of its by-laws;

71 (iv) an initial management plan which shall set forth the supplemental services and
72 programs, vision, strategy, budget and fee structures proposed for the community benefit district;

73 (v) the criteria for waiving the fee for a property owner within the community benefit
74 district who can provide evidence that the imposition of such a fee would create a significant
75 financial hardship; and

76 (vi) a staffing plan which may include private nonprofit, for profit or public agency
77 contractors or subcontractors.

78 A petition may include a mechanism for reimbursing the municipality for the costs
79 incurred in establishing the community benefit district and for costs incurred in collecting the
80 district fees. A copy of the petition shall be filed with the undersecretary of housing and
81 community development and the secretary of housing and economic development not more than
82 30 days following receipt of the petition by the clerk of the municipality.

83 Section 4. (a) The municipal governing body shall hold a public hearing not more
84 than 60 days following receipt of the petition by the clerk of the municipality. Written
85 notification of the hearing shall be sent to each property owner within the boundary of the
86 proposed community benefit district at least 30 days before a hearing by mailing notice to the
87 address listed in the property tax records. Notification of the hearing shall be published for 2
88 consecutive weeks in a newspaper of general circulation in the area, the last publication of which
89 shall be not less than 14 days before the hearing and listed on the municipality's website. The
90 public notice shall contain the proposed boundaries of the community benefit district, the
91 proposed fee level, a summary of supplemental programs and services and where the property
92 owner may obtain a full copy of the initial management plan.

93 (b) Prior to the public hearing, the municipal governing body shall direct the town
94 clerk, city clerk or a designee to determine that the establishment criteria have been met, as set

95 forth in section 3. In determining whether a signature is authentic, the clerk shall apply the same
96 standard used when certifying signatures for a petition to place a referendum on a local or state
97 ballot.

98 (c) Not more than 45 days after the public hearing, a municipal governing body may,
99 by vote of the city council with the approval of the mayor in a city, except in any city operating
100 under a Plan D or Plan E charter, in which case, by vote of the city council with the approval of
101 the city manager, and by a vote of the board of selectmen in a town, declare the district organized
102 and describe the boundaries and service area of the district; provided, however, that in a town
103 with a population of not more than 10,000, the district shall not be declared organized without a
104 vote by the board of selectmen and a town meeting. The declaration shall include authorization
105 to municipal staff to enter into an agreement with the community benefit district corporation with
106 respect to operations and funding consistent with the approved initial management plan. Upon
107 such declaration, the community benefit district may commence operations.

108 (d) Notice of the declaration of the organization of the community benefit district
109 shall be mailed or delivered to each property owner within the proposed community benefit
110 district. The notice shall explain that membership in the community benefit district is irrevocable
111 unless the community benefit district is dissolved pursuant to section 10 and shall include a
112 description of the basis for determining the district fee, the projected fee level and the services to
113 be provided within the community benefit district. The notice shall be published for 2
114 consecutive weeks in a newspaper of general circulation in the area, the last publication being
115 not more than 30 days after the vote to declare the district organized.

116 (e) Participation in the community benefit district shall be permanent unless the
117 community benefit district is dissolved pursuant to section 10. All property owners shall
118 contribute in accordance with fee structures based upon the benefits anticipated to be received, as
119 outlined in the initial management plan.

120 Section 5. (a) Each community benefit district corporation shall have a not-for-profit
121 board of directors that shall oversee its operations to insure the implementation of the initial
122 management plan and any management plan. Not less than 51 per cent of the board shall be
123 composed of property owners, which may include participating tax-exempt property owners or
124 their designees, and the remaining members may be a balanced group of stakeholders
125 representing the community including residents, municipal government, business tenants and
126 nonprofits.

127 (b) The initial management plan shall be updated not less than once every 3 years by
128 the community benefit district board of directors and a copy thereof shall be mailed, emailed or
129 delivered to each community benefit district member and filed with the municipal governing
130 body.

131 (c) The community benefit district corporation shall comply with the public charity
132 reporting requirements of section 8F of chapter 12.

133 Section 6. The real property located within a proposed community benefit district
134 shall be considered in the fee formula for supplemental services and programs as outlined in the
135 initial management plan, except that residential property with a homeowner eligible for a
136 property tax exemption established by statute, local ordinance or by-law shall not be charged a
137 fee for participating in the district.

138 Tax-exempt property owners in the district shall not be required to pay assessment
139 fees, but may elect to do so. Tax-exempt property owners may also enter into a memorandum of
140 agreement with the district management entity in lieu of, or to supplement, monetary payments
141 and that may include contributions including: space for events, loans of equipment or vehicles,
142 volunteers or volunteer management, staff time, programs and services to the community or
143 another contribution deemed appropriate to support implementation of the district management
144 plan.

145 The community benefit district corporation may grant a financial hardship waiver to a
146 property owner pursuant to the waiver criteria established within the community benefit district.
147 A waiver is not intended to be permanent, shall be requested and granted on an annual basis and
148 shall be based upon temporary, extraordinary circumstances. The community benefit district
149 corporation may approve in-kind contributions or services in addition to, or in lieu of, fees upon
150 execution of a memorandum of agreement with a property owner.

151 Section 7. Upon formal approval of a community benefit district, the municipal
152 governing body shall adopt the district fee structure for the financing of items submitted in the
153 initial management plan for the community benefit district; provided, however, that the total fees
154 assessed in any 1 year may not exceed $\frac{1}{2}$ of 1 per cent of the sum of the assessed valuation of the
155 real property owned by participating members in the community benefit district. The basis of a
156 district fee may be determined by a formula utilizing at least 1 or a combination of the following
157 methodologies:

158 (i) different levels for varying classifications of real property;

159 (ii) benefit zones;

- 160 (iii) assessed valuation;
- 161 (iv) building or parcel square footage;
- 162 (v) street frontage; or
- 163 (vi) another formula that meets the objectives of the community benefit district.

164 The community benefit district, through its management plan, shall have the option to
165 limit or cap the maximum annual fee derived from individual properties or the total annual
166 revenue generated by the community benefit district.

167 The initial management plan may also propose a phase-in period of not more than 3
168 years in which assessments increase over the stated period. The formula for determining the
169 district fee structure shall be set forth in the original petition as required by section 3.

170 The community benefit district may change the formula or the assessment level set
171 forth in the initial management plan or management plan by majority vote of its board of
172 directors, ratified by a vote of $\frac{2}{3}$ of the property owners that are members in the community
173 benefit district. Not more than 30 days after amendment of the formula or assessment level, the
174 community benefit district shall file notice of the changes with the municipal governing body,
175 the undersecretary of housing and community development and the secretary of housing and
176 economic development. In addition to receiving funds from the district fee, the community
177 benefit district corporation may receive grants, donations, revenues generated from parking fees,
178 community benefit district activities or gifts on behalf of the community benefit district.

179 Section 8. The collector or treasurer of the municipality may collect district fees in
180 designated community benefit districts and disburse the funds to the community benefit district

181 corporation. In addition to the items identified in section 3A of chapter 60, the collector or
182 treasurer may include notices for district fees in the envelope or electronic message in which a
183 property bill is sent. District fees collected shall be used solely to fund items to further the goals
184 identified and approved in the initial management plan for the community benefit district. The
185 collector or treasurer shall disburse fee revenues to the community benefit district corporation
186 not later than 30 days after the collection of such fees, together with any interest earned on those
187 fees.

188 Following establishment of the community benefit district, the fees billed by or on
189 behalf of the community benefit district and unpaid after 30 days from the date of billing shall
190 become a lien on the property, which shall have priority over all other liens except municipal
191 liens and mortgages of record prior to the recording of a notice of lien, if notice of the lien is
192 duly recorded by the community benefit district corporation in the appropriate registry of deeds
193 or land court registry district.

194 Section 9. After the establishment of a community benefit district pursuant to this
195 chapter, the district boundaries upon which the establishment was based may, upon the
196 recommendation of the community benefit district corporation, be amended by the municipal
197 governing body after compliance with the procedures set forth in this section.

198 The community benefit district corporation shall prepare a petition, consistent with the
199 criteria described in section 3; provided, however, that if the petition concerns an amendment to
200 expand the district, the petition shall be accompanied by signatures of the property owners who
201 are required to pay more than 50 per cent of the assessments in the expanded area. If the petition
202 concerns an amendment to reduce the size of the district, it shall be accompanied by signatures

203 of the property owners who are required to pay more than 50 per cent of the assessments levied
204 in the existing district. The municipal governing body shall hold a public hearing not more than
205 60 days after its receipt of a petition to amend the district boundaries. In the case of an expansion
206 petition, written notification of the hearing shall be sent to each property owner within the
207 proposed expansion area of the community benefit district at least 30 days before the hearing by
208 mailing notice to the address listed in the property tax records. In the case of a reduction petition,
209 the notice shall be sent to each property owner in the existing district. For either an expansion or
210 reduction petition, notification of the hearing shall also be published for 2 consecutive weeks in a
211 newspaper of general circulation in the area with the last publication being not less than 14 days
212 before the hearing and shall be listed on the municipality's website. For an expansion petition,
213 the public notice shall contain the proposed expanded boundaries of the community benefit
214 district, the fee level, a summary of supplemental programs and services and where the property
215 owner may obtain a full copy of the management plan. For a reduction petition, the public notice
216 shall contain the proposed reduced boundaries of the community benefit district and any changes
217 in the fee level, supplemental programs and services or other material aspects of the management
218 plan that will occur as a result of the boundary change. Not more than 30 days after the hearing,
219 and upon determination by the city or town clerk or designee, that the petition has met the
220 necessary criteria, the municipal governing body may by a vote declare the district boundaries
221 amended. Upon the adoption of an amendment to the district boundaries that increases the size of
222 the district, owners of property to be added to the district shall be notified of the new boundaries
223 of the district in accordance with section 4.

224 Section 10. A community benefit district may be dissolved by a majority vote by its
225 board of directors, ratified by a $\frac{2}{3}$ vote of the property owners; provided, however, that the

226 amount of the assessment attributable to property owned by the same property owner that is in
227 excess of 20 per cent of the amount of all assessments proposed shall not be included in the
228 calculation; provided further, that the community benefit district shall not be dissolved until it
229 has satisfied or paid in full its outstanding indebtedness, obligations and liabilities, until funds
230 are on deposit and available therefore or until a repayment schedule has been formulated and
231 approved by the municipal governing body. Upon dissolution, the community benefit district
232 shall not incur any new or increased financial obligations. Any liabilities, either current or future,
233 incurred as a result of action to accomplish the purposes of the management plan shall not be an
234 obligation of the municipality. Liabilities shall be paid for entirely from revenue gained from the
235 project or facilities authorized or from the fees on the properties in the community benefit
236 district.

237 Upon the dissolution of a community benefit district, any remaining revenues derived
238 from the sale of assets acquired with fees collected shall be refunded to the property owners in
239 the community benefit district by applying the same formula used to calculate the fee in the
240 fiscal year in which the community benefit district is dissolved. Nothing in this section shall
241 prevent the filing of a subsequent petition for a similar community benefit district.