

SENATE No. 3093

Senate, July 31, 2022 -- Text of the Senate amendment (Senator Hinds) to the House Bill establishing a Beachwood/Lenstock Maintenance District in the town of Stockbridge (House, No. 4316).

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

1 SECTION 1. (a) Notwithstanding any general or special law to the contrary, there may be
2 established in the town of Stockbridge a Beachwood/Lenstock maintenance district, which shall
3 constitute a body politic and corporate.

4 The district shall be formed for the purposes of maintaining the private roads and ways
5 within the district and to maintain, operate and acquire common properties including, but not
6 limited to, maintenance of the area described in subsection (a) of section 3 as the beach.

7 (b) The district shall consist of the land and easements described and shown on the
8 following plans, all of which are filed with the Berkshire middle district registry of deeds and
9 which comprise the Beachwood/Lenstock subdivision:

10 (1) Beach-Wood Plan No. 1 dated June 26, 1937, in High Desk Drawer 6, Plan No. 1
11 including, but not limited to, the parcel designated on Plan No. 1 as “Common Beach”;

12 (2) Beach-Wood Plan No. 2, dated September 10, 1938, in Drawer 6, Sheet 2;

13 (3) Beach-Wood Plan No. 3, dated June 1, 1945, in Drawer No. 178, Sheet 1;

14 (4) Beach-Wood Plan No. 4, dated October 1, 1946, in Drawer 6, Sheet 6;

- 15 (5) Beach-Wood Plan No. 5 dated May, 1949, in book 417B, page 28;
- 16 (6) Beach-Wood Plan No. 6, dated September 19, 1950, in book 417B, page 71;
- 17 (7) Beach-Wood Plan No. 7, dated September 19, 1950, in book 417B, page 80, as
18 revised by a plan entitled “Plan of Lots at Beachwood – Stockbridge Mass. Owned by Victor E.
19 D’Angelo, revised Aug. 1967, Scale 1” = 80’, E.W. Phelps, Engr.” in book 417D, page 176;
- 20 (8) Beach-Wood Plan No. 8, dated January 6, 1953, in book 417C, page 86, as amended
21 by a plan entitled “Revision to Beachwood Plan #8, Stockbridge, Mass. Laid Out by Ruth E.
22 Parker, Scale 1”=80’, John J. Unwin, Surveyor”, undated, recorded in book 417F, page 215;
- 23 (9) Beach-Wood Plan No. 9, dated Jan. 1957, in book 417E, page 16;
- 24 (10) Beach-Wood Plan of Lot ‘A’, Stockbridge Mass. Laid Out by Ruth E. Parker, dated
25 Aug. 14, 1964, unrecorded, DOC. 5639, and referenced in a deed from Russell B. Parker and
26 Emily
27 R. Parker, to Raymond P. Tuggey and Mary A. Tuggey, in book 825, page 139;
- 28 (11) property with an address of 13 Interlaken Cross road, which abuts property shown
29 on Beachwood Plan No. 8, as revised, as set forth in a deed from Theodore Greenbaum and
30 Barbara M. Greenbaum to Bruce S. Auerbach and Robin Richman, in book 2659, page 295;
- 31 (12) all parcels with frontage on all the roads extending from the Lenox-Stockbridge
32 highway into Beachwood and all the roads shown on Beachwood Plans 1 to 9, inclusive;
- 33 (13) all parcels with rights to access the Easement Parcel as defined in the Easement
34 Agreement between Charles A. Parker and Pamela M. Parker and the Beachwood/Lenstock

35 Association, Inc. in book 1636, page 1124, which was amended by “Amendment to the
36 Easement Agreement” in book 6209, page 129;

37 (14) all other parcels not specifically shown on the plans referenced above, which
38 include written easements to use the Rrads and rights of way and the Common beach, shown on
39 the Beach-Wood Plans listed above; and

40 (15) any any additional parcels or lots designated as common areas by the district;
41 provided, however, that the following parcels, including the heirs, successors and assigns of
42 these parcels, shall be excluded from the district:

43 (i) any lots shown on the plan of land entitled “ ‘Brookside’ Definitive Subdivision Plan
44 of R.J. McDonald in Stockbridge, Massachusetts, February 1987 Scale 1” = 50’, Kelly Granger
45 Parsons & Associates, Inc., Great Barrington, Mass.”, recorded in the Berkshire middle district
46 registry of deeds in drawer O, plan 177, and any lots subsequently created in the same location
47 including, but not limited to, lots shown on the plan entitled “Plan of Land Surveyed for R.J. and
48 Brigitte D. McDonald in Stockbridge, Massachusetts January -1989, Scale 1” = 80’, Kelly
49 Granger Parsons & Associates, Inc., Great Barrington, Mass., recorded said registry in blat B,
50 #257 and “Plan of Land Surveyed for R.J. and Brigitte D. McDonald in Stockbridge,
51 Massachusetts June -1989, Scale 1” = 100’, Kelly Granger Parsons & Associates, Inc., Great
52 Barrington, Mass., recorded in said registry in plat B, #307;

53 (ii) property with an address of No. 3 Mahkeenac road, set forth in a deed from David
54 Shapiro to Bertrand Pogrebin and Letty Pogrebin recorded in said registry in book 4756, page
55 144;

56 (iii) property with an address of 5 Interlaken Cross road and including 1 and 3 Penny
57 Royal lane, set forth in a deed from Richard Gerszberg, Trustee of the C&R Nominee Realty
58 Trust to Richard Gerszberg and Caren Osten Gerszberg, recorded in said registry in book 5584,
59 page 281;

60 (iv) property with an address of 15 Interlaken Cross road, which consists of Lot 117 as
61 shown on Beachwood Plan No. 8, together with Lots 117A, 116A, 116B and 116B, as set forth
62 in a deed to Henry Nunberg, recorded in said registry in book 6463, page 186; provided,
63 however, that if this property is subdivided so that any separate parcel uses the roads as
64 described in clause (12) within the Beachwood/Lenstock subdivision for access, such separate
65 parcel shall be included in the district in the manner provided in section 13;

66 (v) property with an address of 9 Interlaken Cross road, which consists of other land
67 formerly of Ruth E. Parker as shown on a plan entitled "Plan of Land Surveyed for Thomas P.
68 Schuler and Christine L. Schuler, Stockbridge, Massachusetts dated October 11, 2011, 1" = 60',
69 by SK Design Group, Inc." recorded in said registry in plat J, #83 as set forth in a deed to
70 Christine L. Harrigan, recorded in said registry in book 4826, page 266; provided, however, that
71 if this property is subdivided so that any separate parcel uses the roads as described in clause
72 (13) within the Beachwood/Lenstock subdivision for access, such separate parcel shall be
73 included in the district in the manner provided in section 13.

74 SECTION 2. (a) Membership in the district shall consist of the proprietor, who shall be
75 the record owner, from time to time of any buildable lot lying within the district. For the
76 purposes of this act, a proprietor shall be deemed to include not only natural persons, but other
77 entities empowered to own real estate in the commonwealth, including corporations,

78 partnerships, realty trusts and federal, state and local governmental units; provided, however, that
79 a mortgagee of record in possession of a lot shall be deemed a proprietor under this act. Persons
80 or entities who jointly own a lot within the district shall collectively constitute a proprietor of
81 that lot for all purposes hereunder.

82 (b) As used herein, "lot" shall mean each separate building lot as shown on the plans and
83 enumerated in clause (2) of subsection (b) of section 1; provided, however, that if any lots have
84 heretofore been combined to constitute a single building lot as set forth in paragraph (1) of
85 subsection (a) of section 5, then the lots so combined shall constitute a single lot.

86 SECTION 3. The district shall have the following powers:

87 (i) to upgrade, repair, replace, reconstruct and maintain, including snow and ice removal,
88 the streets, ways, and rights of way within the district, or such portions thereof, as the district
89 shall determine in accordance with this act, exclusive of any public way;

90 (ii) to upgrade, repair, manage, and maintain all common lands and recreational facilities
91 located within the district, including the beach and the grove or such portions thereof, as the
92 district shall determine in accordance with this act;

93 (iii) to own, manage and enforce all easement rights and restrictive covenants now held
94 by the Beachwood/Lenstock Association, Incorporated;

95 (iv) to facilitate community education and involvement, including sponsoring and
96 holding seminars, gatherings and functions;

97 (v) to make and enter into all manner of contracts and agreements necessary or incidental
98 to the exercise of any power under this act including, but not limited to, contracts for legal and
99 engineering services;

100 (vi) to adopt an annual budget and to raise and appropriate funds in amounts necessary to
101 carry out the district's purposes;

102 (vii) to acquire, dispose of and encumber real and personal property for the district's
103 purposes;

104 (viii) to construct, acquire by lease or purchase, improve, maintain and operate such
105 equipment and facilities and such other equipment, materials, supplies, facilities and services as
106 shall be required to accomplish the district's purposes, to the same extent and subject to the same
107 limitations as shall apply to towns under the General Laws;

108 (ix) to apply for, accept and expend financial assistance from the federal government, the
109 commonwealth, Berkshire county and the town of Stockbridge either directly or jointly with the
110 town the district's purposes;

111 (x) to apply for, receive and expend funds from charitable foundations or other private
112 entities and individuals in the form of grants, gifts, loans and advances, for or in aid of the
113 district's purposes;

114 (xi) to employ such persons, including advisors, consultants and experts, as deemed
115 necessary, in its judgment, in carrying out the district's purposes and to fix their compensation;

116 (xii) to adopt by-laws for the regulation of its affairs and the conduct of its business,
117 which by-laws shall be consistent with this act and any applicable General Laws;

118 (xiii) to reimburse the town of Stockbridge, the proprietors and the Beachwood/Lenstock
119 Community Association, Incorporated for the costs of establishing the district including, but not
120 limited to, money advanced or expended for legal and legal-related expenses for the formation of
121 the district, which expenditures were made or incurred prior to the effective date of this act the
122 establishment of the district;

123 (xiv) to borrow at the first or any subsequent meeting of the district for the purpose of
124 meeting preliminary or current expenses such sums as may be necessary, including using
125 commercial lenders, and to issue therefor general obligation temporary notes for a period of not
126 more than 2 years, provided, however, that such notes shall be only issued in anticipation of
127 assessments and other revenues of the district for the fiscal year in which such notes are issued or
128 in anticipation of money to be received from the sale of longer term bonds or notes for such
129 purposes as may be authorized by this act;

130 (xv) to sue and be sued in its own name and to plead and be impleaded; provided,
131 however, that neither the district nor any officer or employee of the district shall be liable in tort
132 except pursuant to chapter 258 of the General Laws; provided, however, that the district may
133 indemnify its officers and employees to the extent provided in said chapter 258;

134 (xvi) to invest any funds not required for the immediate use of the district in such manner
135 and to the extent permitted under the General Laws for the investment of such funds by the
136 treasurer of a town;

137 (xvii) to procure insurance against any loss or liability which may be sustained or
138 incurred in carrying out the district's purposes in such amount as the district shall deem

139 necessary and appropriate and with insurers who shall be licensed to furnish such insurance in
140 the commonwealth; and

141 (xviii) generally, to perform all acts are necessary or convenient to implement the powers
142 which are expressly or by necessary implication conferred upon the district by this act and which
143 are not otherwise prohibited under the General Laws.

144 SECTION 4. (a) Within 6 months after the effective date of this act, the select board of
145 the town of Stockbridge shall call a meeting of the proprietors of the lands to be included in the
146 district as set forth in section 1. For the purposes of establishing an initial list of proprietors, the
147 select board shall consult with the board of assessors and the board of assessors shall furnish to
148 the select board a listing of all record property owners as of January 1 in the year of the district's
149 establishment who are owners of any lots or who, within the reasonable knowledge or belief of
150 the assessors, are owners of any lots as set forth in section 1. The select board, upon receiving
151 the lists, shall prepare and mail by certified mail a notice to each named proprietor, signed by the
152 select board and setting forth a time and place of a meeting to occur within 45 days, but not less
153 than 30 days from the date of mailing of the notice. The costs of mailing any notice required to
154 be given under this act shall be paid by the district. The notice shall be in the form of a warrant
155 specifying the matters upon which action is to be taken at the meeting and shall clearly state that
156 the purpose of the meeting is to consider the organization of the district. The selectmen shall, not
157 later than 30 days before the date of such meeting, cause a copy of the notice to be posted in
158 publicly accessible locations within the town and within the Beachwood/Lenstock subdivision.
159 The meeting shall be held at the town hall . At the first meeting of the district, 1 select board
160 member shall initially preside and shall call the meeting to order.

161 (b) The select board shall thereupon determine whether or not the proprietors
162 representing a majority of the lots entitled to vote as defined in section 5 are present or
163 represented by proxies duly executed and placed in the hands of other proprietors prior to the
164 meeting. Any original consent to special legislation for the formation of the
165 Beachwood/Lenstock maintenance district, or a copy thereof, signed by a proprietor in
166 anticipation of the formation of the district shall be accepted by the presiding select board
167 member as a valid proxy for the purpose of meeting the quorum requirements, for the purpose of
168 voting on the formation of the district and for any other matters voted upon at such meeting.
169 Lacking a majority, the meeting shall have no power to act but the select board may continue the
170 meeting to a date, time and place certain for the same purpose within a further 45-day period.

171 (c) If a quorum has been determined to be present in the manner above specified, the
172 meeting shall proceed to the following order of business:

173 (i) the election of a temporary clerk, who shall be sworn by 1 of the select board members
174 present, and a moderator who shall thereupon preside;

175 (ii) the taking of a vote to determine whether or not the district shall be established and
176 organized, which vote shall require the affirmative vote of 2/3 of the proprietors present and
177 voting in person or by proxy, as defined in section 5; provided, however, that if such vote shall
178 be in the negative, the meeting shall thereupon adjourn; and provided further, that if such vote
179 shall be in the affirmative and obtained the required 2/3 majority for the establishment of the
180 district, the meeting shall proceed to consider the order of business set forth in clauses (iii) to
181 (vi), inclusive, all of which shall be effective as of the date of the vote.

182 (iii) the adoption of district by-laws and a district seal;

183 (iv) the election by ballot of a district clerk and a district treasurer, who may be the same
184 person, to hold office for 1 year until the next succeeding annual meeting; provided, however,
185 that at each annual meeting thereafter, a clerk and treasurer shall be elected by ballot for a term
186 of 1 year; provided further, that there shall also be elected by ballot 9 members of a prudential
187 committee, of which 3 members shall serve for terms of 3 years, 3 members shall serve for terms
188 of 2 years and 3 members shall serve for terms of 1; provided further, that at each annual
189 meeting thereafter, successor members of the prudential committee shall be elected by ballot for
190 terms of 3 years; provided further, that at any district meeting thereafter, the number of members
191 of the prudential committee may be increased to a maximum of 11 or decreased to a minimum of
192 7 by an affirmative vote of the proprietors of the district; provided further, that such officers shall
193 hold office until their successors are elected and qualified; provided further, that persons eligible
194 for nomination and election to the prudential committee shall be at least 18 years of age and shall
195 include persons entitled to vote as proprietors or as representatives of proprietors at district
196 meetings; and provided further, that if so elected or appointed, an individual may serve
197 contemporaneously as a district officer and as a member of the prudential committee;

198 (v) the adoption of an initial budget for the remainder of the fiscal year and the
199 appropriation of money to be raised by assessment upon the proprietors in support thereof; and

200 (vi) the consideration of such other business as shall be consistent with the power and
201 authority conferred by this act.

202 (b) The district clerk shall retain all proxy votes cast at the initial meeting, together with
203 the minutes of the meeting and make them part of the permanent record of the district. The clerk
204 shall further prepare a certificate of the vote taken to organize the district and shall affix the

205 district seal thereto and shall obtain the endorsement of the select boardman initially presiding at
206 the meeting thereon. Such certificate shall be forwarded to the attorney general within 30 days
207 after the adjournment of the meeting.

208 SECTION 5. At the initial district meeting and at all subsequent annual and special
209 district meetings, voting by proprietors shall be governed by this section.

210 Persons or entities owning 1 or more lots within the district shall be entitled to cast 1 vote
211 for each lot owned by such persons or entities on any matter or issue to be voted upon at any the
212 meeting, exclusive of lots designated as common areas and recreational facilities.

213 Joint owners of a lot and proprietors that are not natural persons shall designate in writing
214 to the clerk, prior to the commencement of the meeting, a person authorized to vote on behalf of
215 the proprietor of that lot and such person shall be conclusively presumed as qualified and
216 authorized to represent the proprietor. A person owning 1 or more lots together with such
217 person's spouse shall not be required to furnish a written designation from such spouse and
218 either shall be presumed to be qualified to vote.

219 The authority of a person to cast a proxy vote on behalf of a proprietor shall be
220 determined by the clerk except that, at the initial meeting, such determination shall be made by
221 the presiding select board member. At the initial meeting, the consent or opposition to special
222 legislation for the formation of the Beachwood/Lenstock maintenance district duly executed by
223 the respective lot owners in anticipation of the formation of the district shall be accepted by the
224 presiding select board member as a valid proxy for the purpose of meeting the quorum
225 requirements, for the purpose of voting on the formation of the district and for any other matters
226 voted upon at such meeting. At any annual or special meetings, all proxies shall be tendered in

227 writing prior to the commencement of the meeting and shall clearly set forth the name and
228 address of the proprietor submitting the proxy, the name and address of the person who is to
229 exercise the proxy, the signature of the proprietor submitting the proxy and the date of execution.
230 The district may adopt in its by-laws an approved form of proxy to satisfy the requirements of
231 this section. The duration of a proxy shall be as established by district by-law.

232 Any matter to be voted upon at the initial district meeting or at any annual or special
233 meeting of the district shall require only a majority of those proprietors representing lots entitled
234 to be voting pursuant to this section who shall be present in person or by proxy and voting on the
235 question, except for the following actions which shall require a 2/3 vote of those proprietors: (i)
236 the question on whether the Beachwood/Lenstock maintenance district shall be established and
237 organized; (ii) a vote to petition for dissolution of the district; (iii) a vote to purchase or
238 otherwise acquire real property; (iv) a vote to finance any undertaking which is authorized by the
239 act to be financed in whole or in part by the issuance by the district of long-term bonds or notes;
240 and (v) a vote to establish or change the method or means of assessing upon the proprietors their
241 share of district expenses.

242 As long as the prudential committee consists of 9 members, at least 5 members of the
243 prudential committee present at the meeting shall be required to constitute a quorum. If the
244 number of members of the prudential committee are altered, then the quorum shall be established
245 which shall not be less than a majority of the committee members. All actions authorized to be
246 taken by the prudential committee shall require a majority vote of the committee members. .

247 SECTION 6. (a) Annual meetings of the district shall be held on the first Saturday
248 following July 4; provided, however, that when July 4 falls on a Saturday, the annual meeting

249 shall be held on the following Saturday or at such other date as the district shall establish in its
250 by-laws but such annual meeting shall not occur more than 60 days after the date set by the town
251 for the annual town meeting of the town of Stockbridge.

252 (b) Annual and other special meetings of the district shall be called by warrant of the
253 prudential committee, notice of which shall be given at least 14 days before such meeting. The
254 warrant shall be mailed first class, postage prepaid to each proprietor of record in the district and
255 a copy thereof same shall be delivered to a constable of the town of Stockbridge or to some other
256 person who shall cause a copy of the notice to be posted in public places in the town of
257 Stockbridge or by advertising in a newspaper published at least weekly within Berkshire county
258 and having a general circulation in the town of Stockbridge.

259 (c) The warrant for all district meetings shall state the time and place of the meeting and
260 the subjects to be acted upon. The prudential committee shall insert in the warrant of the annual
261 meeting all subjects, the insertion of which shall be requested of them in writing by at least 10
262 proprietors in the district and in the warrant for every special district meeting all subjects, the
263 insertion of which shall be requested of them in writing by at least 20 proprietors.

264 (d) The prudential committee may call a special district meeting in its discretion and it
265 shall call a special meeting upon request in writing of at least 20 proprietors representing at least
266 20 per cent of the lots entitled to be voting as set forth in section 5. Special meetings so requested
267 shall be held not later than 45 days after the receipt of such request.

268 (e) No action taken at the annual or any special district meeting shall be valid unless the
269 subject matter thereof shall have been set forth in the warrant for the meeting. More than 1
270 district meetings for distinct purposes may be called for by the same warrant. A moderator shall

271 be chosen by ballot at the district meeting for a 2-year term and shall have the powers of the
272 moderator of a town meeting.

273 (f) District meetings shall be governed by chapter 39 of the General Laws except as
274 otherwise expressly provided in this act.

275 (g) The board of assessors of the town of Stockbridge shall, not less than 30 days prior to
276 the annual district meeting, prepare and forward to the prudential committee a true and complete
277 alphabetical listing with addresses of the proprietors reflected in their records as of January first
278 of that year and from the records maintained by the assessors pursuant to chapter 59 of the
279 General Laws and other related provisions. A copy of such list shall be maintained in a manner
280 accessible to the proprietors and the general public at all reasonable times by the prudential
281 committee or the district clerk and shall further be available for inspection at each annual and
282 any special district meeting. The board of assessors shall likewise maintain a list of proprietors
283 within the town by separate list or special designation on its list of all assessed parcels.

284 (h) Quorum requirements for annual and special district meetings shall be as specified for
285 the initial district meeting set forth above or otherwise as the district shall determine in its by-
286 laws; provided, however, that the quorum requirements at such meeting shall not be reduced
287 below 20 per cent of the proprietors, whether voting in person or by proxy.

288 SECTION 7. (a) The prudential committee shall have and shall exercise the following
289 powers and duties:

290 (i) the expenditure of money raised and borrowed by the district for the district;

291 (ii) the preparation of an annual budget for the management and operation of the district
292 and the submission of such budget to the annual district meeting for its approval; provided,
293 however, that such annual budget shall include the committee's estimate of any money required
294 to be raised and appropriated by assessment upon the district proprietors by borrowing or
295 otherwise;

296 (iii) to apply in the name of the district for grants, loans and other assistance from both
297 governmental and nongovernmental entities for or in aid of the district's purposes;

298 (iv) subject to prior appropriation therefor, to enter into agreements and contracts
299 involving the purchase or lease of services, equipment and supplies consistent with the powers
300 granted in this act; and

301 (v) subject to prior appropriation therefor, to hire, supervise, suspend and discharge such
302 employees as the committee shall deem necessary or appropriate for the conduct of the work to
303 be performed by the district including, but not limited to, a district superintendent who shall have
304 charge on a day-to-day basis of all district employees and who shall be responsible to the
305 prudential committee for the conduct and supervision of all work to be performed by or on behalf
306 of the district; provided, however, that compensation and benefits for the district superintendent
307 and all other employees shall, subject to prior appropriation therefor, be as determined by vote of
308 the prudential committee.

309 (b) The prudential committee shall meet as necessary, but at least every 6 months. A
310 quorum of the prudential committee shall be required at all meetings, in person or by telephone,
311 for the conduct of any business and shall consist of a majority of the members. The initial
312 meeting of the prudential committee shall occur not later than 30 days after the establishment of

313 the district. Thereafter, the committee shall schedule 1 meeting to occur in each year
314 immediately following the adjournment of the annual district meeting. At such initial meeting
315 and at all subsequent meetings following the annual district meeting, the committee shall elect
316 from its members a chair who shall preside at all committee meetings and who shall serve until a
317 successor shall be elected at the meeting following the annual district meeting. The committee
318 shall also elect a vice-chair who shall preside over committee meetings in the absence of the
319 chair and who shall serve for a like term. The committee shall elect such other officers as it shall
320 determine necessary to fulfill its duties. The district may, subject to a prior appropriation
321 therefor, provide appropriate compensation for district officers, including members of the
322 prudential committee and including the expense of travel, meals and lodging for such officers
323 and committee members residing outside the district.

324 (c) Without limiting its powers as set forth herein, the prudential committee shall have
325 charge of expenditures on account of the district duly budgeted and appropriated pursuant to the
326 powers granted to the district and shall exercise the authority conferred upon it by district by-
327 law, except as otherwise expressly provided in this act.

328 (d)(1) The district treasurer shall receive and take charge of all money belonging to the
329 district and pay over and account for the same according to the order of the district or of its
330 prudential committee. No other persons shall pay any district bill; provided, however, nothing in
331 this paragraph shall prohibit the treasurer from paying such bill by the use of a bank treasurer's
332 or a cashier's check. The district treasurer shall have the powers given to auditors under section
333 50 of chapter 41 of the General Laws and shall annually render a true account of the district
334 treasurer's receipts and disbursements and a report of the district treasurer's official acts to the
335 district. The district treasurer shall give bond annually for the performance of the district

336 treasurer's duties in a form approved by the commissioner of revenue and in such sum, not less
337 than the amount established by the commissioner, as shall be fixed by the prudential committee;
338 provided, however, that if the district treasurer fails to give such bond within 10 days after the
339 treasurer's election or appointment or if within 10 days after the expiration of the bond or a
340 renewal thereof, the treasurer fails to file a renewal thereof, the prudential committee shall
341 declare the office vacant and the vacancy shall be filled by the committee in the manner set forth
342 in subsection (e).

343 (2) The district clerk shall, in addition to the other duties specified herein, take all
344 minutes at district meetings and at meetings of the prudential committee and maintain a record of
345 such minutes in a manner provided for the maintenance of records of minutes of town meetings
346 and of meetings by the select boards. The clerk shall further be the official responsible for
347 certifying copies of any and all votes taken at a district meeting or a meeting of the prudential
348 committee.

349 (e) Any vacancy occurring in the office of clerk, treasurer or member of the prudential
350 committee elected by the district may be filled by the district for the remainder of the unexpired
351 term at any special meeting called for that purpose. The prudential committee may appoint a
352 person to fill any such vacancy until an election can be held or the disability is removed. The
353 election shall not be required to be held earlier than the next annual meeting. Any temporary
354 appointee shall be sworn and shall perform the duties of the office to which such person was
355 appointed. A temporary treasurer appointed to fill a vacancy shall give bond in the same manner
356 as the treasurer.

357 SECTION 8. (a)(1) At its initial meeting and at the annual meeting each year thereafter,
358 the prudential committee shall submit an annual budget for the management and operation of the
359 district to the proprietors for approval by a majority vote. Further, the proprietors shall vote on a
360 method to be employed during the fiscal year to which the meeting relates for financing the share
361 of its annual budget which is anticipated to be required to be funded by the district. The district
362 may vote to adopt any of the following methods of financing or a combination thereof:

363 (i) the district may raise, by assessments upon the proprietors and by accepting voluntary
364 contributions, the total sum required to meet the estimated expense;

365 (ii) the district may pay the whole of such expense as the work, material, labor and
366 services shall be performed and, for such purpose, may incur debt by a temporary loan in
367 anticipation of the collection of assessments from the district members during the fiscal year in
368 which the debt is incurred or during the next succeeding fiscal year; and

369 (iii) at such district meeting or at a special meeting called for the purpose, the district may
370 incur debt to the amount necessary to pay that portion of such expense which relates solely to
371 proposed long-term district improvements or major equipment purchases and may issue therefor
372 notes or bonds and may, if the district so approves, issue notes or bonds on the condition that the
373 first payment on account of the principal shall be deferred for a period of not more than 5 years
374 from the date of issue of such notes or bonds and that the whole amount of such debt shall be
375 payable within a period of not more than 25 years after such notes or bonds are issued; provided,
376 however, that no such issue shall be for a term longer than the reasonably estimated useful life of
377 the improvements, facilities and equipment to be so funded.

378 (2) Indebtedness incurred by the district under this subsection shall be subject to chapter
379 44 of the General Laws and to any other General Laws applicable to notes and bonds of districts,
380 except as otherwise provided in this act. If the district issues notes or bonds and thereafter it shall
381 receive an appropriation from another governmental entity to cover all or any part of the
382 expenses of such improvements, the district, in its discretion, unless otherwise mandated by the
383 terms and conditions of the grant from such governmental unit, may make all or any part of such
384 appropriation available to redeem notes or bonds of the district and shall hold the balance, if any,
385 to the credit of the district to be used for the payment of the expense of such improvements,
386 facilities and equipment. Bonds or notes issued under this section shall be the general obligations
387 of the district.

388 (3) That portion, if any, of the budgeted expense for the initial fiscal year and for each
389 subsequent fiscal year which shall be required by the district for the payment of principal and
390 interest on bonds and notes issued or to be issued by the district and which will become due
391 during the ensuing fiscal year, together with those amounts necessary to be raised by the district
392 to maintain and operate the district during that fiscal year for capital outlay items, the costs of
393 which are not otherwise funded, and all other budgeted expenses for which the district is
394 authorized to raise money, the costs of which items shall be raised by assessment upon the lots
395 owned by the proprietors within the district. Each lot within the district shall be assessed an
396 equal share of the portion of the budget to be funded by assessment, except that the lots
397 designated as the beach and the grove, and any properties or interest in property owned by the
398 district, shall not be subject to assessment.

399 (4) Following the adjournment of the initial district meeting and each annual district
400 meeting thereafter, the clerk of the district shall certify to the assessors of the town of

401 Stockbridge all sums of money voted to be raised by district assessment, which vote shall have
402 been adopted by a majority vote as provided in this act, together with the amount to be paid by
403 each proprietor according to the determination made by such votes. The assessors of the town of
404 Stockbridge shall, without further vote, assess such amounts upon the lands of the proprietors
405 within the district and commit the same to the collector of taxes of the town of Stockbridge who
406 thereupon shall have and exercise the same powers and duties in relation to the collection of such
407 assessments as the collector has and exercises relative to the collection of town taxes. The billing
408 of such assessments shall be done semi-annually, contemporaneously with the billing of the real
409 estate taxes in each fiscal year by the town. The collector shall remit weekly to the district
410 treasurer all sums collected by the collector on account of such assessments. An assessment
411 made hereunder shall be a lien upon the land assessed therefor in the same manner as a lien for
412 real estate taxes assessed by the town under section 37 of chapter 60 of the General Laws and
413 other applicable General Laws.

414 (5) Tax assessments on lots which are owned by the Beachwood/Lenstock Community
415 Association, Incorporated and which are subject to assessment for town taxes shall be deferred
416 until such time as such lot is sold or otherwise conveyed by Beachwood/Lenstock Community
417 Association, Inc. The proceeds from the sale of such lot shall be applied first to any due and
418 unpaid real estate taxes with respect to such lot, if any, and then to uncollected district
419 assessments on the lot, in each case together with any interest or other charges due thereon.

420 SECTION 9. The fiscal year of the district shall be the same fiscal year as established by
421 the General Laws for cities and towns. The district's first fiscal year shall commence upon
422 creation of the district and end the date that the fiscal year used by the town of Stockbridge ends.

423 SECTION 10. The district shall include in its initial and all subsequent annual
424 appropriations, compensation for the board of assessors and the tax collector of the town of
425 Stockbridge, pursuant to section 108B of chapter 41 of the General Laws, for to their duties and
426 expenses hereunder.

427 SECTION 11. Neither the town of Stockbridge nor any agency or department of the
428 commonwealth shall be obligated for any debts of the district, nor shall they by virtue of this act
429 be required to pay for any liability, obligation or expense made, suffered or incurred by the
430 district. The proprietors of the district shall not be individually liable or obligated with respect to
431 debts or other obligations made, suffered or incurred by the district except with respect to the
432 payment of assessments upon their land as provided for in this act.

433 If the prudential committee votes to approve an alternate assessment procedure, it may
434 hire its own assessors and collector. If so approved, the district assessors and collector shall have
435 the same powers and duties relative to the assessment, liens and collection and abatement or
436 granting of exemptions relative to money voted by the district as the assessors and collectors of
437 the town of Stockbridge have and exercise relative to the assessment, liens and collection and
438 abatement and granting of exemptions relative to town taxes.

439 SECTION 12. The district shall establish in its initial budget and in all subsequent fiscal
440 year budgets an overlay account and a reserve fund as provided for towns under section 25 of
441 chapter 59 of the General Laws and section 5C of chapter 40 of the General Laws. Except for the
442 initial fiscal year, or portion thereof, of the operation of the district, the district may add to the
443 amount to be raised by district assessment a sum voted by the district for not more than 20 per
444 cent thereof for the purposes of and subject to the limitations as set forth in said section 25 of

445 said chapter 59. The district is further authorized to establish and maintain a stabilization fund
446 under the provisions of section 5B of said chapter 40. The district shall further be subject to an
447 audit of its accounts when required by the prudential committee in the manner provided in
448 section 40 of chapter 44 of the General Laws.

449 SECTION 13. Immediately upon the formation of the district, the district clerk, shall, in
450 addition to the other duties to be performed by such district officer, cause a review to be made at
451 that time and from time to time thereafter of the records required to be maintained by the board
452 of assessors for the town of Stockbridge, including copies of deeds furnished to the assessors by
453 the Berkshire middle district registry of deeds and shall otherwise take such actions as shall be
454 reasonably necessary to verify the list of proprietors to be included within the district. The clerk
455 shall further cause to be prepared 1 or more maps based in whole or in part upon the maps
456 required to be maintained by the assessors of the town of Stockbridge on which shall be shown
457 the location of all proprietors' lands initially included those which, upon such review, should, in
458 the opinion of the district clerk, be included within the district. Thereafter, at any special meeting
459 called for that purpose and not later than the next annual meeting, the district clerk shall furnish
460 the prudential committee with a list of proprietors proposed for inclusion in the district and such
461 maps depicting the approximate location and boundaries of such parcels and the existing parcels
462 within the district. The committee shall furnish written notice in the manner provided for
463 furnishing notice to a proprietor of a district meeting to the record owners of such parcels
464 proposed for inclusion in the district. At the district meeting called for such purpose, the district
465 shall, by its vote, determine whether or not any parcels shall be included within the district and
466 shall furnish the record owners thereof with full opportunity to be heard prior to such vote as
467 though such persons were proprietors of record and entitled to vote thereon.

468 SECTION 14. Once established pursuant to this act, the district shall not dissolve without
469 specific authorization by the general court, which shall not be given until provision has been
470 made for the payment of the obligations of the district. Such dissolution may be initiated by the
471 general court, by a 2/3 vote at a regular or special district meeting or by a petition by the town of
472 Stockbridge under section 8 of Article 89 of the Amendments to the Constitution of the
473 Commonwealth.

474 SECTION 16. If the initial meeting of the Beachwood/Lenstock maintenance district
475 shall not occur and the certified vote evidencing the establishment of the district shall not be filed
476 with the attorney general within 1 year after the effective date of this acts, this act shall cease to
477 be operative.

478 SECTION 15. Section 3 shall take effect on the date of the affirmative vote as provided
479 for in clause (ii) of subsection (c) of section 4. The remainder of this act shall take effect upon its
480 passage.