

SENATE No. 2324

The Commonwealth of Massachusetts

PRESENTED BY:

Cindy F. Friedman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to generate revenue to expand transit options.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/26/2021</i>

SENATE No. 2324

By Ms. Friedman, a petition (accompanied by bill, Senate, No. 2324) of Cindy F. Friedman and Michael J. Barrett for legislation to establish transit improvement districts. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2083 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act to generate revenue to expand transit options.

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

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 40W the
2 following chapter:

3 Chapter 40X. TRANSIT IMPROVEMENT DISTRICTS.

4 Section 1. Definitions. For the purposes of this chapter, the following words shall, unless
5 the context clearly requires otherwise, have the following meanings:

6 “Fee”, a payment for services or improvements within a TID.

7 “Lead municipality”, the municipality exercising managerial control over the TID, as
8 designated by the group of municipalities participating in the establishment of a TID.

“Municipal executive body”, the mayor or city manager in a city or the board of selectmen, town manager, or town administrator in a town.

“Municipal legislative body”, the city council or board of alderman in a city or the town meeting in a town.

“Partners”, the businesses, entities, municipalities, districts, regional entities, and state agencies participating in a TID.

“Program plan”, a statement of means and objectives for providing the capital, operational facilities, and resources to improve transit, transportation, and quality of life within a TID.

“TID”, a transit improvement district formed pursuant to this chapter, which is a specified area within 1 or more municipalities that shall consist of 2 or more parcels or lots of land, whether or not contiguous, or 2 or more buildings or structures, whether or not adjacent, on 2 or more parcels of land; provided, that the total area of all TIDs within a municipality shall not exceed 25 per cent of the total area of the municipality.

“Transit improvement program” a transit project that implements transit improvements upon existing transportation services within a TID.

Section 2 – Program Plan & TID Adoption Requirements

(a) Prior to establishing a TID, a municipality or group of municipalities shall develop a program plan describing said TID’s means and objectives. At a minimum, the program plan shall include:

(1) a financial plan that describes the costs and sources of revenue required to establish transit improvement programs within a TID, including cost estimates for the transit improvement programs, the amount of indebtedness, if any, to be incurred, and any sources of anticipated capital; provided, that the financial plan's cost estimates may include any of the following types of costs: (i) administrative costs, including any reasonable charges for the time spent by town employees in connection with the implementation of a transit improvement program and for committing the assessment, collections of fees and payment enforcement; (ii) capital costs, including the costs of the construction of public works or improvements, new buildings, structures and fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures or fixtures, the acquisition of equipment, or the grading and clearing of land; (iii) discretionary costs, including any payments made by a municipal entity that, in its discretion, are necessary for the creation of TID or the implementation of a transit improvement program; (iv) financing costs, including all interest paid to holders of evidences of indebtedness issued to pay for transit improvement program costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity; (v) information costs, including any costs associated with promoting and advertising the transit improvement programs, providing public safety information, disseminating transit schedules, or providing other forms of information necessary to the transit operations of a TID; (vi) management costs, including costs incurred by establishing and maintaining TID administrative and managerial support and other services, as necessary or appropriate, to provide transit improvement programs; or (vii) professional service costs, including any costs incurred for consultants, planning, engineering, architectural, or legal advice, or other services related to providing transit improvement programs;

(2) a list of the necessary capital and operational resources to be procured and public facilities, if any, to be constructed;

(3) identification of the use, if any, of private property for transit improvement programs;

(4) identification of the municipal department responsible for administering the transit improvement programs; provided, that for a program involving a TID consisting of more than 1 municipality, the program plan shall designate a lead municipality responsible for managing the program;

(5) a proposed management and operational plan regarding transit service delivery within the TID, which may include contracting for transit service management with an existing regional transit authority, a transportation management association, or a private service entity;

(6) the duration of any transit improvement programs, which shall be a minimum of 3 years and shall not exceed 6 years after the transit service start date;

(7) a list of the entities participating as partners in a transit improvement program;

(8) the means for setting policy and making decisions related to the transit improvement program;

(9) the target start date for the collection of funds and initiation of transit service within the TID;

(10) a careful consideration of how the TID can fill public transportation gaps not currently provided by publicly accessible local, regional, or state transit services; and

(11) a proposal for communication and collaboration between any municipalities involved in establishing the TID, any regional transit authorities and transportation management associations with relevant jurisdiction, the surrounding business community and housing providers, and the Massachusetts department of transportation.

A municipality or group of municipalities that have developed a program plan shall hold a public meeting to consider the merits of the program plan prior to its submittal for adoption.

A separate program plan shall be adopted for each proposed TID. The program plan shall be adopted at the same time as the TID, as part of the TID adoption proceedings pursuant to subsection (b) of this section or, if at a different time, in the same manner as the adoption of the TID, with the same requirements of subsection (b). Once adopted, a program plan shall only be substantially altered or amended after meeting the same requirements for adoption.

(b) A municipality or group of municipalities may, after the development of a program plan and a public meeting on the merits of said plan pursuant to subsection (a), establish a TID, as defined in section 1, within the boundaries of said municipality or municipalities by:

(1) a majority vote of the appropriate municipal legislative body of each participating municipality; provided, that the municipal legislative body of each participating municipality finds that the establishment of the TID is in the public's best interest; and

(2) a vote of the property owners subject to the fee provided for in section 5 within said TID, where a minimum of 51 per cent of property owners shall be required to vote in the affirmative and said voters casting ballots in the affirmative shall constitute at least 51 per cent of the total assessed value of land of fee-paying properties in said TID; provided, that ballots for

such vote shall be sent by certified mail to each property owner in accordance with the mailing address officially on file with the municipal assessor.

Nothing in this section shall prevent a TID from including more than 1 municipality; provided, however, that each participating municipality shall vote affirmatively for the establishment of said TID pursuant to the requirements under paragraphs (1) and (2) of this subsection. If any of the municipalities considering establishment of a TID fail to meet the requirements under paragraphs (1) and (2) of this subsection, a TID shall not be established.

(c) Any vote by a municipal legislative body under paragraph (1) of subsection (b) of this section shall include:

(1) a declaration that management authority over a TID rest with the municipal executive body or, where a group of municipalities are establishing a TID, the municipal executive body of the lead municipality;

(2) a designation of the municipal department under whose authority funds may be expended under section 5; provided, that said designation shall reference the applicable program plan and require that all funds be spent in a manner consistent with said plan;

(3) a statement describing the methodology used for the calculation of any proposed transit improvement fees pursuant to section 5;

(4) a designation of the source of the municipal matching funds and an authorization for the appropriation of said funds; and

(5) a designation, if the transit improvement program is in a TID involving more than 1 municipality, of which municipality shall be the lead municipality for the purposes of managing said transit improvement program.

Section 3. At any time after the establishment of a TID pursuant to section 2, the district boundaries may be amended by an affirmative vote of the municipal legislative body of each participating municipality.

Section 4. The rights and powers of a TID shall include: developing, managing, and maintaining transit improvement programs; establishing and collecting fees pursuant to section 5; leasing, owning, acquiring, or optioning real property; undertaking collections and enforcement of fines associated with the collection of fees; providing planning and design 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; or engaging in other supplemental services or programs that would further the purposes of this chapter.

Section 5. (a) A transit improvement fee may be collected and used solely to fund items to further the goals identified and approved in a TID program plan and spent in accordance with the provisions of this chapter.

A transit improvement fee shall be determined by a formula consisting of any combination of the following:

(1) different fee levels for varying classifications of real property;

132 (2) a fee based on a percentage of the assessed value provided that the fee cannot exceed
133 5 per cent of the existing annual tax assessment;

134 (3) a fee per employee;

135 (4) a fee per parking space on the site;

136 (5) a fee per single occupancy vehicle (SOV) trip generated to the site under its current or
137 anticipated use;

138 (6) a fee per residential unit within a multifamily parcel;

139 (7) a fee for service as may be designed to accommodate a specific user or entity; or

140 (8) any other formula that meets the objectives of the TID.

141 (b) A TID may, in the establishment of a fee structure, elect to exempt any or all of the
142 following property types:

143 (1) residential dwellings, whether or not they are owner occupied, provided they do not
144 exceed 3 residential units in the same structure;

145 (2) small commercial properties of up to 5,000 gross square feet per building; or

146 (3) agricultural properties.

147 (c) The collector-treasurer of the municipality where a TID is located is hereby
148 authorized to collect transit improvement fees and disburse the funds to the duly authorized and
149 designated municipal department identified under subsection (c) of section 2. If the TID contains
150 more than 1 municipality, it shall be the responsibility of the collector-treasurer in each

municipality to collect the fee and remit to the lead community. The collector-treasurer of each participating municipality shall be authorized to levy fines for non-payment of fees and, if necessary, to pursue appropriate legal action for said enforcement.

The collector-treasurer shall disburse revenues to the designated municipal department within 60 days of the collection of transit improvement fees.

(d) Following establishment of a TID, all fees billed by or on behalf of a TID and unpaid by the obligor after 60 days from the date of billing shall become a lien in favor of the municipality on the real property of the obligor in an amount sufficient to satisfy all unpaid fees, 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 municipality in the appropriate registry of deeds or land court registry district.

(e) Notwithstanding any general or special law to the contrary, transit improvement fees collected by a municipality under this chapter shall not be deemed to be part of the municipality's regular levy collections and shall not be subject to the requirements of section 21C of chapter 59.

Section 5A. (a) A property owner subject to an exemption pursuant to clause Third or clause Eleventh of section 5 of chapter 59 shall not be subject to the fee provided for in section 5; provided, however, that such property owner shall have all the rights and privileges as any other property owner pursuant to this chapter if such property owner participates in the voluntary payment program set forth in subsection (b).

(b) A property owner of property located within a TID and subject to an exemption in clause Third or clause Eleventh of section 5 of chapter 59 may enter into an agreement with the

173 municipal executive body in which such property is located for voluntary payments to such
174 municipality for the purposes of this chapter.

175 The TID shall establish the amount of and terms of such payment agreement based on
176 factors that include, but are not limited to: (1) the assessed value of the real property; (2)
177 community benefits provided by the property owner such as the property owner's contribution to
178 transportation goals and programs of the TID; (3) the total assets of the property owner,
179 including but not limited to, land, buildings and equipment; and (4) total annual revenues.

180 Section 6. The municipality or group of municipalities participating in the establishment
181 of a TID shall provide a minimum of 25 per cent of the TID's program costs from funds not
182 generated by the fees authorized under section 5. The Massachusetts department of
183 transportation shall provide 25 per cent in matching funds, subject to appropriation. Users of the
184 new transit improvement program shall be required to pay a fee for service, which shall, in the
185 aggregate, be no more than 5 per cent of the total program costs. Property owners located within
186 a TID shall provide a minimum of 25 per cent of the transit improvement program costs.

187 Section 7. The municipal executive body authorized to manage a TID under paragraph
188 (1) of subsection (c) of section 2 shall conduct a review of the program plan 12 months prior to
189 the completion of the duration of the transit improvement programs within a TID to determine if
190 the program is desired to be continued, and if so, complete a program assessment that includes a
191 review of the anticipated costs to continue said service. If continuance is sought, a public hearing
192 shall be conducted on the TID's desire to continue service and a renewal of the authorization
193 shall be approved by the relevant municipal legislative body or bodies in a manner consistent
194 with the authorization set forth in section 2.

Section 8. A TID may be dissolved by petition to the local municipal executive body and a subsequent decision by its legislative body to authorize dissolution, or a TID may be dissolved upon request by the chief elected or chief executive official of the lead municipality for a dissolution vote by the local municipal legislative body.

In order to be considered by a municipal legislative body, a petition to dissolve a TID shall contain the signatures of the fee-paying property owners whose properties represent at least 51 per cent of the total assessed value within the TID and at least 51 per cent of the fee-paying property owners within the TID.

The municipal executive body shall hold a public hearing within 30 days of receipt of a completed dissolution petition.

Following the public hearing, the municipal executive body shall refer the matter to its legislative body, which may determine, by a majority vote, to dissolve the TID; provided, however, that no TID shall be dissolved until it has satisfied or paid in full all of its outstanding indebtedness, obligations, and liabilities, or until funds are on deposit and available therefor, or until a repayment schedule has been formulated and municipally approved therefor. The TID shall be prohibited from incurring any new or increased financial obligations after its dissolution.

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

In the event a municipality participating in a TID containing more than 1 municipality desires to withdraw from the TID, such municipality may, by petition containing the signatures

217 of the fee-paying owners whose properties represent at least 51 per cent of the assessed value
218 within the TID and at least 51 per cent of the fee-paying property owners within the district, seek
219 a dissolution vote from its municipal legislative body. Upon such approval from a municipal
220 legislative body, the withdrawing municipality shall then also receive an affirmative vote of the
221 lead municipality's legislative body, in order to effectuate the withdrawal.

222 SECTION 2. Notwithstanding any general or special law to the contrary, upon passage of
223 this act, the Massachusetts department of transportation shall identify and set aside funding to be
224 used to meet its responsibilities under section 6 of chapter 40X, and shall establish a fund to
225 assist any municipality or group of municipalities in establishing a transit improvement district,
226 as defined in section 1 of chapter 40X; provided, that at least 35 per cent of the funds disbursed
227 from said fund shall be used over a 5 year period to fund projects in Environmental Justice areas.