HOUSE DOCKET, NO. 2481 FILED ON: 1/19/2023

HOUSE . . . . . No. 3704

The Commonwealth of Massachusetts

PRESENTED BY:

Michelle L. Ciccolo and Michael J. Barrett

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 authorizing the town of Lexington to finance expanded transit services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Michelle L. Ciccolo	*15th Middlesex*	*1/19/2023*
Michael J. Barrett	*Third Middlesex*	*1/19/2023*

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HOUSE . . . . . No. 3704

By Representative Ciccolo of Lexington and Senator Barrett, a joint petition (accompanied by bill, House, No. 3704) of Michelle L. Ciccolo and Michael J. Barrett (by vote of the town) that the town of Lexington be authorized to finance expanded transit services. Transportation. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act authorizing the town of Lexington to finance expanded transit services.

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

SECTION 1. Definitions. For the purposes of this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Fee", a payment for services or improvements within a TID.

"Lead municipality", the municipality exercising managerial control over the TID, as designated by the group of municipalities participating in the establishment of a TID, provided that each participating municipality be independently authorized to establish a TID.

"Municipal executive body", the mayor or city manager in a city or the Select Board, 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 Lexington 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 Lexington shall not exceed 25 per cent of the total area of Lexington.

"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, Lexington 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;

(11) a proposal for communication and collaboration between Lexington, any other municipality 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.

(b) The Select Board shall hold a public meeting to consider the merits of the program plan, prior to its submittal for adoption.

(c) 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 (d) 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 (d). Once adopted, a program plan shall only be substantially altered or amended after meeting the same requirements for adoption.

(d) Lexington may, after the development of a program plan and a public meeting on the merits of said plan pursuant to subsections (a) and (b), establish a TID, as defined in section 1, within the boundaries of Lexington by:

(1) a majority vote of Town Meeting; provided, that Town Meeting finds that the establishment of the TID is in the public 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 percent of property owners shall be required to vote in the affirmative and said voters casting ballots in the affirmative shall constitute at least 51 percent 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 one municipality; provided, however, that each participating municipality shall be duly authorized by special legislation to establish a TID. If any of the municipalities considering the establishment of a TID fail to meet the requirements under paragraphs (1) and (2) of this subsection, the TID shall not be established. Further, nothing in this section shall preclude Lexington from entering into an agreement pursuant to section 4A of chapter 40 with any other municipality to provide

transportation-related services, whether or not such municipality is authorized to establish or participate in a TID.

(e) Any vote by Town Meeting under paragraph (1) of subsection (d) of this section shall include:

(1) a declaration that management authority over a TID rests with the Select Board or, where more than one municipality is 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 Town Meeting or, if the TID involves more than one municipality, 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 act. The 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;

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

(3) a fee per employee;

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

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

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

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

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

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

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

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

(3) agricultural properties.

(c) The collector-treasurer of the Town of Lexington, is hereby authorized to collect transit improvement fees and disburse the funds to the duly authorized and designated municipal department identified under subsection (c) of section 2. If the TID contains more than one municipality, it shall be the responsibility of the collector-treasurer in each municipality to collect the fee and remit it to the lead community. The collector-treasurer of each participating municipality is 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, without the need for further appropriation by Town Meeting.

(d) Following the 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 Lexington 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 Lexington 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 Lexington under this act shall not be deemed to be part of Lexington's regular levy collections and shall not be subject to the requirements of section 21C of chapter 59.

SECTION 6. (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 Select Board for voluntary payments to Lexington for the purposes of this chapter or, if the TID involves more than one municipality, the municipal executive body for the lead municipality.

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

SECTION 7. Lexington, or, if the TID involves more than one municipality, the group of municipalities participating in the establishment of a TID shall provide a minimum of 20 percent of the TID's program costs from funds not generated by the fees authorized under section 5. The

Massachusetts department of transportation shall provide 25 percent in matching funds, subject to appropriation. Users of the new transit improvement program shall be required to pay a fee for service, which shall, in the aggregate, be no more than 5 percent of the total program costs. Property owners located within a TID shall provide a minimum of 25 percent of the transit improvement program costs.

SECTION 8. The Select Board or, if the TID involves more than one municipality, the municipal executive body of the lead municipality, shall conduct a review of the program plan 12 months prior to the completion of the duration of the transit improvement programs within a TID to determine if the program is desired to be continued, and if so, complete a program assessment that includes a review of the anticipated costs to continue said service. If a continuation is sought, a public hearing shall be conducted on the TID's desire to continue service and a renewal of the authorization shall be approved by Town Meeting in a manner consistent with the authorization set forth in section 2.

SECTION 9. A TID may be dissolved by petition to the Select Board and a subsequent decision by Town Meeting to authorize dissolution, or a TID may be dissolved upon request by the Town Manager for a dissolution vote by Town Meeting. If the TID involves more than one municipality, said petition or request must be made in the lead municipality.

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

The Select Board shall hold a public hearing within 30 days of receipt of a completed dissolution petition.

Following the public hearing, the Select Board shall then refer the matter to Town Meeting which by the vote of a majority may then determine the TID dissolved; 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 Lexington desires to withdraw from a TID involving more than one municipality, it may, by petition containing the signatures of the fee-paying owners whose properties represent at least 51 percent of the assessed value within the TID and at least 51 percent of the fee-paying property owners within the district, seek a dissolution vote from Town Meeting. If Lexington is not the lead municipality, upon such approval from Town Meeting, Lexington shall then also receive an affirmative vote of the lead municipality’s legislative body, in order to effectuate the withdrawal.