

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:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/19/2023</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/19/2023</i>

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:

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

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

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

7 “Municipal executive body”, the mayor or city manager in a city or the Select Board,
8 town manager, or town administrator in a town.

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

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

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

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

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

23 SECTION 2. Program Plan & TID Adoption Requirements

24 (a) Prior to establishing a TID, Lexington shall develop a program plan describing said
25 TID’s means and objectives. At a minimum, the program plan shall include:

26 (1) a financial plan that describes the costs and sources of revenue required to establish
27 transit improvement programs within a TID, including cost estimates for the transit improvement
28 programs, the amount of indebtedness, if any, to be incurred, and any sources of anticipated
29 capital; provided, that the financial plan’s cost estimates may include any of the following types
30 of costs: (i) administrative costs, including any reasonable charges for the time spent by town
31 employees in connection with the implementation of a transit improvement program and for

32 committing the assessment, collections of fees and payment enforcement; (ii) capital costs,
33 including the costs of the construction of public works or improvements, new buildings,
34 structures and fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing
35 buildings, structures or fixtures, the acquisition of equipment, or the grading and clearing of
36 land; (iii) discretionary costs, including any payments made by a municipal entity that, in its
37 discretion, are necessary for the creation of TID or the implementation of a transit improvement
38 program; (iv) financing costs, including all interest paid to holders of evidences of indebtedness
39 issued to pay for transit improvement program costs and any premium paid over the principal
40 amount of that indebtedness because of the redemption of the obligations before maturity; (v)
41 information costs, including any costs associated with promoting and advertising the transit
42 improvement programs, providing public safety information, disseminating transit schedules, or
43 providing other forms of information necessary to the transit operations of a TID; (vi)
44 management costs, including costs incurred by establishing and maintaining TID administrative
45 and managerial support and other services, as necessary or appropriate, to provide transit
46 improvement programs; or (vii) professional service costs, including any costs incurred for
47 consultants, planning, engineering, architectural, or legal advice, or other services related to
48 providing transit improvement programs;

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

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

52 (4) identification of the municipal department responsible for administering the transit
53 improvement programs; provided, that for a program involving a TID consisting of more than 1

54 municipality, the program plan shall designate a lead municipality responsible for managing the
55 program;

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

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

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

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

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

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

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

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

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

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

82 (1) a majority vote of Town Meeting; provided, that Town Meeting finds that the
83 establishment of the TID is in the public interest; and

84 (2) a vote of the property owners subject to the fee provided for in section 5 within said
85 TID, where a minimum of 51 percent of property owners shall be required to vote in the
86 affirmative and said voters casting ballots in the affirmative shall constitute at least 51 percent of
87 the total assessed value of land of fee-paying properties in said TID; provided, that ballots for
88 such vote shall be sent by certified mail to each property owner in accordance with the mailing
89 address officially on file with the municipal assessor.

90 Nothing in this section shall prevent a TID from including more than one municipality;
91 provided, however, that each participating municipality shall be duly authorized by special
92 legislation to establish a TID. If any of the municipalities considering the establishment of a TID
93 fail to meet the requirements under paragraphs (1) and (2) of this subsection, the TID shall not be
94 established. Further, nothing in this section shall preclude Lexington from entering into an
95 agreement pursuant to section 4A of chapter 40 with any other municipality to provide

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

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

100 (1) a declaration that management authority over a TID rests with the Select Board or,
101 where more than one municipality is establishing a TID, the municipal executive body of the
102 lead municipality;

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

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

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

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

113 SECTION 3. At any time after the establishment of a TID pursuant to section 2, the
114 district boundaries may be amended by an affirmative vote of Town Meeting or, if the TID
115 involves more than one municipality, an affirmative vote of the municipal legislative body of
116 each participating municipality.

117 SECTION 4. The rights and powers of a TID shall include: developing, managing, and
118 maintaining transit improvement programs; establishing and collecting fees pursuant to section
119 5; leasing, owning, acquiring, or optioning real property; undertaking collections and
120 enforcement of fines associated with the collection of fees; providing planning and design
121 services; formulating a fee structure; accumulating interest; incurring costs or indebtedness;
122 entering into contracts; suing and being sued; employing legal and accounting services;
123 undertaking planning, feasibility and market analyses; developing common marketing and
124 promotional activities; or engaging in other supplemental services or programs that would further
125 the purposes of this chapter.

126 SECTION 5. (a) A transit improvement fee may be collected and used solely to fund
127 items to further the goals identified and approved in a TID program plan and spent in accordance
128 with the provisions of this act. The transit improvement fee shall be determined by a formula
129 consisting of any combination of the following:

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

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

133 (3) a fee per employee;

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

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

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

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

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

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

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

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

145 (3) agricultural properties.

146 (c) The collector-treasurer of the Town of Lexington, is hereby authorized to collect
147 transit improvement fees and disburse the funds to the duly authorized and designated municipal
148 department identified under subsection (c) of section 2. If the TID contains more than one
149 municipality, it shall be the responsibility of the collector-treasurer in each municipality to
150 collect the fee and remit it to the lead community. The collector-treasurer of each participating
151 municipality is authorized to levy fines for non-payment of fees, and if necessary, to pursue
152 appropriate legal action for said enforcement. The collector-treasurer shall disburse revenues to
153 the designated municipal department within 60 days of the collection of transit improvement
154 fees, without the need for further appropriation by Town Meeting.

155 (d) Following the establishment of a TID, all fees billed by or on behalf of a TID and
156 unpaid by the obligor after 60 days from the date of billing shall become a lien in favor of
157 Lexington on the real property of the obligor in an amount sufficient to satisfy all unpaid fees,
158 which shall have priority over all other liens except municipal liens and mortgages of record

159 prior to the recording of a notice of lien, if notice of the lien is duly recorded by Lexington in the
160 appropriate registry of deeds or land court registry district.

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

164 SECTION 6. (a) A property owner subject to an exemption pursuant to clause Third or
165 clause Eleventh of section 5 of chapter 59 shall not be subject to the fee provided for in section
166 5; provided however, that such property owner shall have all the rights and privileges as any
167 other property owner pursuant to this chapter if such property owner participates in the voluntary
168 payment program set forth in subsection (b).

169 (b) A property owner of property located within a TID and subject to an exemption in
170 clause Third or clause Eleventh of section 5 of chapter 59 may enter into an agreement with the
171 Select Board for voluntary payments to Lexington for the purposes of this chapter or, if the TID
172 involves more than one municipality, the municipal executive body for the lead municipality.

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

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

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

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

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

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

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

204 Following the public hearing, the Select Board shall then refer the matter to Town
205 Meeting which by the vote of a majority may then determine the TID dissolved; provided,
206 however, that no TID shall be dissolved until it has satisfied or paid in full all of its outstanding
207 indebtedness, obligations, and liabilities, or until funds are on deposit and available therefor, or
208 until a repayment schedule has been formulated and municipally approved therefor. The TID
209 shall be prohibited from incurring any new or increased financial obligations after its dissolution.

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

214 In the event Lexington desires to withdraw from a TID involving more than one
215 municipality, it may, by petition containing the signatures of the fee-paying owners whose
216 properties represent at least 51 percent of the assessed value within the TID and at least 51
217 percent of the fee-paying property owners within the district, seek a dissolution vote from Town
218 Meeting. If Lexington is not the lead municipality, upon such approval from Town Meeting,
219 Lexington shall then also receive an affirmative vote of the lead municipality's legislative body,
220 in order to effectuate the withdrawal.