

SENATE No. 1070

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

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 establishing community benefit districts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

SENATE No. 1070

By Ms. Donoghue, a petition (accompanied by bill, Senate, No. 1070) of Eileen M. Donoghue, Jason M. Lewis, Daniel A. Wolf, Anne M. Gobi and other members of the General Court for legislation to establish community benefit districts. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act establishing community benefit districts.

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

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

3 CHAPTER 40X. COMMUNITY BENEFIT DISTRICTS.

4 Section 1. Definitions

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

7 “CBD”, a Community Benefit District formed pursuant to this chapter, which is generally
8 a contiguous geographic area with clearly defined boundaries.

9 “CBD management entity”, the independent non-profit entity governed by the CBD
10 Board of Directors designated to receive funds to carry out and implement the purposes of the
11 CBD

12 “Community Benefit District Board of Directors” or “Board of Directors”, a locally
13 designated non-profit board including property owners or their designees, as well as other local
14 stakeholders, who are assigned responsibility for the management of a Community Benefit
15 District.

16 “Fee”, a payment for services or improvements specified by the CBD Management Plan.

17 “Management Plan”, the strategic plan for the CBD which sets forth the supplemental
18 services and programs, boundaries, benefit zones, rates of assessments, vision, revitalization
19 strategy, budget and fee structure, as well as the non-profit management entity for the
20 Community Benefit District, and is approved by the local municipal governing body as part of
21 the creation of the CBD. A CBD Management Plan shall be updated at least once every two
22 years by the CBD Board of Directors, and a copy thereof shall be mailed, emailed, or delivered
23 to each CBD member and filed with the local governing body.

24 “Local municipal governing body”, the city council or board of aldermen in a city or the
25 board of selectmen or town council in a town.

26 “Petition-signer”, a property owner within the CBD who affirmatively signs the petition
27 to establish such CBD.

28 “Property”, any real property located within the CBD, whether commercial, tax-exempt
29 or residential;

30 “Property owner”, the owner of record of property.

31 “Standard government services”, governmental functions, programs, activities, facilities,
32 improvements and other services which a municipality is authorized to perform or provide and
33 paid for out of the local municipal government budget.

34 “Supplemental service”, the provision of programs, public rights of way services,
35 activities, amenities, or information in addition to the standard governmental services provided to
36 the CBD.

37 Section 2. Rights and Powers

38 The rights and powers of a CBD approved by a municipal governing body shall include:
39 retaining or recruiting business; administering and managing central and neighborhood business
40 districts; promoting economic development; managing parking; designing, engineering,
41 constructing, maintaining, or operating buildings, facilities, urban streetscapes or infrastructures
42 to further economic development and public purposes; conducting historic preservation
43 activities; leasing, owning, acquiring, or optioning real property; owning and managing parks,
44 public spaces and community facilities; supplementing maintenance, security, or sanitation;
45 planning and designing services; formulating a fee structure; accumulating interest; incurring
46 costs or indebtedness; entering into contracts; suing and being sued; employing legal and
47 accounting services; undertaking planning, feasibility and market analyses; developing common
48 marketing and promotional activities; engaging in placemaking, programming, and event
49 management within the district; soliciting donations, sponsorships, and grants; operating transit
50 services; and supporting public art and human and environmental services as related to the
51 enhancement of the district or other supplemental services or programs that would further the
52 purposes of this chapter.

53 Section 3. Initiation of Organization; Contents of Petition

54 The organization of a CBD shall be initiated by a petition of the property owners within
55 the proposed CBD which shall be filed in the office of the clerk of the municipality. Such
56 petition shall contain:

57 (a) the signatures of the property owners (petition signers) in the proposed district who
58 support the establishment of the district and who will pay more than forty percent of the
59 assessments proposed to be levied, with the caveat that the amount of assessment attributable to
60 property owned by the same property owner that is in excess of 20 percent of the amount of all
61 assessments proposed shall not be included in the calculation;

62 (b) a description of and a site map delineating the boundaries of the proposed CBD;

63 (c) the proposed Management Plan which shall set forth the supplemental services and
64 programs, vision and revitalization strategy, and budget and fee structures;

65 (d) the identity and location of the management entity designated to implement and
66 oversee the ongoing improvement plan;

67 (e) the criteria for waiving the fee for any property owner within the CBD who can
68 provide evidence that the imposition of such fee would create a significant financial hardship;

69 and

70 (f) a staffing plan, which may include private nonprofit, for-profit, or public agency
71 subcontractors.

72 Such petition may include a mechanism for reimbursing the municipality for the costs
73 incurred in establishing the CBD, and for costs incurred in collecting the district fees. A copy of

74 said petition shall be filed with the Director of Housing and Community Development within
75 thirty days of receipt of such petition by the clerk of the municipality.

76 Section 4. Hearing on petition; declaration of organization; notice

77 The local municipal governing body shall hold a public hearing within sixty days of the
78 receipt of a petition. Written notification of such hearing shall be sent to each property owner
79 within the boundary of the proposed CBD at least thirty days prior to such hearing, by mailing
80 notice to the address listed in the property tax records. Notification of the hearing shall also be
81 published for two consecutive weeks in a newspaper of general circulation in the area at least
82 fourteen days prior to such hearing and listed on the municipality's website. Such public notice
83 shall contain the proposed boundaries of the CBD, the proposed fee level, the proposed benefits
84 and the basis for determining the district fee as well as state where the property owner may
85 obtain a full copy of the CBD Management Plan

86 Prior to the public hearing, the local municipal governing body shall direct the town clerk
87 or city clerk or his designee to determine that the establishment criteria has been met as set forth
88 in section three.

89 At the public hearing, the local municipal governing body shall determine if the petition
90 satisfies the purposes set forth and the establishment criteria of this chapter and shall obtain
91 public comment regarding the Management Plan and the effect the proposed CBD will have on
92 the property owners, tenants, and others within the CBD. If it appears that said petition is not in
93 conformity with the purposes and establishment criteria, the local municipal governing body
94 shall dismiss the petition. At the public hearing, the presiding officer or clerk of said governing

95 body shall read into the record the basis for determining the district fee pursuant to section seven
96 and the process by which eligible property owners may dissolve the CBD.

97 Within forty-five days after the public hearing, the local municipal governing body, in its
98 sole discretion, may by a vote declare the district organized and describe the boundaries and
99 service area of the district. Upon such declaration, the CBD may commence operations.

100 Notice of the declaration of the organization of the CBD shall be mailed or delivered to
101 each property owner within the proposed CBD. The notice shall explain that membership in the
102 CBD is irrevocable until the dissolution under section 10, and shall include a description of the
103 basis for determining the district fee, the projected fee level and the proposed services to be
104 provided by the CBD. Such notice shall be published for 2 consecutive weeks in a newspaper of
105 general circulation in the area, the last publication being not more than 30 days after the vote to
106 declare the district organized.

107 Participation in the CBD shall be permanent until the dissolution of the CBD under
108 section 10. All property owners, including public, private and nonprofit entities, shall participate,
109 although each shall contribute based upon specified fee structures based upon the benefits
110 anticipated to be received, as outlined in the CBD Management Plan.

111 Section 5. Board of directors

112 Each CBD shall have a non-profit Board of Directors who shall oversee the management
113 entity to insure the implementation of the Management Plan. The CBD Board of Directors will
114 establish bylaws for the CBD management entity, including the term for board members and the
115 process for selecting new board members. The local municipal governing body may in its vote
116 creating the CBD establish rules and regulations governing the CBD Board of Directors that do

117 not infringe on the independence of the management entity. At least 51% of the Board shall be
118 composed of property owners or their designees, and the remaining members may be a balanced
119 set of stakeholders representing the community, including residents, municipal government,
120 business tenants, and nonprofits.

121 Section 6. Property included in the fee formula; waivers

122 All real property located within the proposed CBD shall be considered in the fee formula
123 for the supplemental services and programs as outlined in the improvement plan. The CBD
124 Board of Directors, at its sole discretion, may grant a financial hardship waiver to any property
125 owner, pursuant to the waiver criteria previously established by the CBD. Such waiver is not
126 intended to be permanent and must be requested and granted on an annual basis and shall be
127 based upon temporary, extraordinary circumstances. The CBD Board of Directors may also, at
128 its discretion, approve in-kind contributions or services in addition to, or in lieu of, fees upon
129 execution of a memorandum of agreement with a property owner.

130 Section 7. District fee structure

131 By formal approval of a CBD, the local municipal governing body shall adopt the district
132 fee structure for the financing of items submitted in the Management Plan for the CBD;
133 provided, however, that the total fees assessed in any one year may not exceed one-half of one
134 percent of the sum of the assessed valuation of the real property owned by participating members
135 in the CBD district. The basis of such district fee may be determined by a formula utilizing any
136 one or a combination of the following: (1) different levels for varying classifications of real
137 property; (2) benefit zones; (3) assessed valuation; (4) square footage; (5) street frontage; or (6)
138 any other formula which meets the objectives of the CBD.

139 The CBD, through its Management Plan, shall have the option to limit or cap the
140 maximum annual fee derived from individual properties or the total annual revenue generated by
141 the CBD. The formula for determining the district fee structure shall be set forth in the original
142 petition as required by section three. In addition to receiving funds from the district fee, the
143 management entity shall be authorized to receive grants, donations, revenues generated from
144 parking fees, CBD activities, or gifts on behalf of the CBD.

145 Section 8. Collection of fees; disbursement of funds; reporting requirements

146 The collector-treasurer of each municipality is hereby authorized to collect such district
147 fees in designated CBDs and to disburse the funds to the designated management entity. The
148 district fees collected shall be used solely to fund items to further the goals identified and
149 approved in the Management Plan for the CBD. The collector-treasurer shall disburse revenues
150 to the management entity no later than thirty days of the collection of such fees, together with the
151 interest earned on the holding of such fees.

152 Following establishment of the CBD, all fees billed by or on behalf of the CBD and
153 unpaid after thirty days from the date of billing shall become a lien on the property, which shall
154 have priority over all other liens except municipal liens and mortgages of record prior to the
155 recording of a notice of lien, if notice of the lien is duly recorded by the management entity in
156 the appropriate registry of deeds or land court registry district. The CBD management entity
157 shall conform with the Mass General Law Chapter 12 Section 8F in regards to nonprofit
158 reporting requirements.

159 Section 9. Amendment of district boundaries

160 At any time after the establishment of a CBD pursuant to the provisions of this chapter,
161 the district boundaries upon which the establishment was based may, upon the recommendation
162 of the CBD Board of Directors, be amended by the local municipal governing body after
163 compliance with the procedures set forth in this section.

164 The CBD Board of Directors shall prepare a petition, consistent with the criteria
165 described in Section 3 in all ways except for the signatures. Instead, if the petition concerns an
166 amendment to expand the district, the petition must be accompanied by signatures of the
167 property owners representing no less than 40 percent of the assessed valuation in the expanded
168 area only. If the petition concerns an amendment to reduce the size of the district, it must be
169 accompanied by the signatures of property owners representing no less than 40 percent of the
170 assessed valuation in the existing district.

171 In the case of an expansion petition, the local municipal governing body shall hold a
172 public hearing within sixty days of the receipt of a petition. Written notification of such hearing
173 shall be sent to each property owner within the proposed expansion area of the CBD at least
174 thirty days prior to such hearing, by mailing notice to the address listed in the property tax
175 records. Notification of the hearing shall also be published for two consecutive weeks in a
176 newspaper of general circulation in the area at least fourteen days prior to such hearing and listed
177 on the municipality's website. Such public notice shall contain the proposed expanded
178 boundaries of the CBD, the fee level, the benefits and the basis for determining the district fee.
179 Upon determination by the town clerk that the petition has met the necessary criteria, the local
180 governing body must approve within 30 days following the hearing.

181 In the case of a reduction petition, no public hearing is required. Upon determination by
182 the town clerk that the petition has met the necessary criteria, the local governing body must
183 approve within 30 days. Upon the adoption of any amendment to the district boundaries which
184 increases the size of the district, any owner of property to be added to the district shall be
185 notified of the new boundaries of the district in accordance with section four.

186 Section 10. Dissolution

187 A CBD may be dissolved by petition to the local municipal governing body and a
188 subsequent decision by such governing body to authorize dissolution. In order to be considered
189 by the local municipal governing body, a petition to dissolve a CBD shall contain the signatures
190 of the owners of at least forty percent of the assessed valuation within the district.

191 The local municipal governing body shall hold a public hearing within thirty days of
192 receipt of a completed petition on the issue of dissolution. Following the public hearing, the local
193 municipal governing body may declare the CBD dissolved; provided, however, that no CBD
194 shall be dissolved until it has satisfied or paid in full all of its outstanding indebtedness,
195 obligations, and liabilities; or until funds are on deposit and available therefore; or until a
196 repayment schedule has been formulated and municipally approved therefor. In addition, the
197 CBD shall be prohibited from incurring any new or increased financial obligations.

198 Any liabilities, either current or future, incurred as a result of action to accomplish the
199 purposes of the CBD improvement plan shall not be an obligation of the municipality, but said
200 liabilities shall be paid for entirely from revenue gained from the project or facilities authorized,
201 or from the fees on the properties in the CBD. Upon the dissolution of a CBD, any remaining
202 revenues derived from the sale of assets acquired with fees collected shall be refunded to the

203 property owners in the CBD in which fees were charged by applying the same formula used to
204 calculate the fee in the fiscal year in which the CBD is dissolved. Nothing in this section shall
205 prevent the filing of a subsequent petition for a similar project.

206 SECTION 2. This act shall take effect upon its passage.