

# SENATE . . . . . No. 2121

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Senate, May 24, 2017 -- Text of amendment (596) (offered by Senator Donoghue et al) to the Ways and Means amendment (Senate, No. 3) to the House Bill making appropriations for the fiscal year 2018 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
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1 by inserting, after section \_\_, the following new section:-

2 "SECTION \_\_. The General Laws are hereby amended by inserting after chapter 40W,  
3 the following chapter:-

4 Chapter 40X. Community Benefit Districts

5 Section 1. As used in this chapter, the following words shall have the following  
6 meanings unless the context clearly requires otherwise:

7 "Community benefit district" or "CBD", a contiguous geographic area with clearly  
8 defined boundaries, formed pursuant to this chapter.

9 "CBD corporation", the nonprofit corporation designated to receive funds and otherwise  
10 implement the CBD, including the board of directors, officers and any employees.

11 "CBD fee", a payment for services or improvements specified by the initial management  
12 plan and any management plan.

13 “Initial management plan”, the strategic and operating plan for the CBD as approved by  
14 the municipal governing body as part of the creation of the CBD.

15 “Management plan”, any subsequent, updated version of the initial management plan that  
16 is approved by the board of directors.

17 “Memorandum of understanding with the municipality” or “MOU”, a document which  
18 describes the standard government services and supplemental services to be provided within the  
19 CBD and how the municipality will participate in the CBD as a property owner and member.

20 “Municipal governing body”, the city council or board of aldermen in a city or the board  
21 of selectmen or town council in a town.

22 “Petition signer”, a property owner, or their designee, within the CBD who affirmatively  
23 signs the petition to establish the CBD.

24 “Property”, real property located within the CBD, whether commercial, tax exempt or  
25 residential.

26 “Property owner”, the owner of record of property; provided, however, that when a  
27 property is owned by an entity other than a natural person, a petition signer for that property shall  
28 include the petition-signer’s title and shall demonstrate its authority to sign as owner; and  
29 provided further, that if a property is owned by multiple persons, the signature of 1 owner shall  
30 be sufficient if that owner demonstrates authority to sign on behalf of the other owners.

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

34 “Supplemental services”, 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. The rights and powers of a CBD corporation in a CBD approved by the  
38 municipal governing body pursuant to section 4 shall include: retaining or recruiting business;  
39 administering and managing central and neighborhood business districts; promoting economic  
40 development; managing parking; designing, engineering, constructing, maintaining or operating  
41 buildings, facilities, urban streetscapes or infrastructures to further economic development and  
42 public purposes; conducting historic preservation activities; leasing, owning, acquiring, or  
43 optioning real property; owning and managing parks, public spaces and community facilities;  
44 supplementing maintenance, security, or sanitation; planning and designing services; formulating  
45 a fee structure; accumulating interest; incurring costs or indebtedness; entering into contracts;  
46 suing and being sued; employing legal and accounting services; undertaking planning, feasibility  
47 and market analyses; developing common marketing and promotional activities; engaging in  
48 placemaking, programming, and event management within the district; soliciting donations,  
49 sponsorships and grants; operating transit services; and supporting public art, human and  
50 environmental services related to the enhancement of the district or other supplemental services  
51 or programs that would further the purposes of this chapter.

52 Section 3. The organization of a CBD shall be initiated by a petition of the property  
53 owners within the proposed CBD, which shall be filed in the office of the clerk of the  
54 municipality and contain the following:

55 (i) the signatures of the property owners, including participating tax-exempt entities, or  
56 petition signers in the proposed district who support the establishment of the district and who  
57 will pay more than 50 per cent of the assessments proposed to be levied; provided, however, that  
58 the amount of the assessment attributable to property owned by the same property owner that is  
59 in excess of 20 per cent of the amount of all assessments proposed shall not be included in the  
60 calculation or, alternatively, if there are not more than 4 property owners in the proposed district,  
61 all such property owners shall sign the petition;

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

63 (iii) the identity and address of the CBD corporation, including its initial set of directors  
64 and officers and a copy of its by-laws;

65 (iv) an initial management plan, which shall set forth the supplemental services and  
66 programs, vision, strategy, budget and fee structures proposed for the CBD;

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

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

72 A 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 the petition shall be filed with the undersecretary of housing and community development and

75 the secretary of housing and economic development not more than 30 days following receipt of  
76 the petition by the clerk of the municipality.

77 Section 4. (a) The municipal governing body shall hold a public hearing not more than 60  
78 days following receipt of the petition by the clerk of the municipality. Written notification of the  
79 hearing shall be sent to each property owner within the boundary of the proposed CBD not more  
80 than 30 days before a hearing by mailing notice to the address listed in the property tax records.  
81 Notification of the hearing shall be published for 2 consecutive weeks in a newspaper of general  
82 circulation in the area, the last publication being not less than 14 days before the hearing and  
83 listed on the municipality's website. The public notice shall contain the proposed boundaries of  
84 the CBD, the proposed fee level, a summary of supplemental programs and services and where  
85 the property owner may obtain a full copy of the initial management plan.

86 (b) Prior to the public hearing, the municipal governing body shall direct the town clerk,  
87 city clerk or a designee to determine that the establishment criteria have been met, as set forth in  
88 section 3. In determining whether a signature is authentic, the clerk shall apply the same standard  
89 used when certifying signatures for a petition to place a referendum on a local or state ballot.

90 (c) Not more than 45 days after the public hearing, a municipal governing body, in its  
91 sole discretion, may, by vote of the city council with approval of the mayor in a city and by vote  
92 of the board of selectmen in a town, declare the district organized and describe the boundaries  
93 and service area of the district; provided, however, that in a town with a population of not more  
94 than 10,000, the district shall not be declared organized without a vote by the board of selectmen  
95 and a town meeting. The declaration shall include authorization to municipal staff to enter into  
96 an agreement with the CBD corporation with respect to operations and funding consistent with

97 the approved initial management plan. Upon such declaration, the CBD may commence  
98 operations.

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

106 (e) Participation in the CBD shall be permanent unless the CBD is dissolved pursuant to  
107 section 10. All property owners shall contribute in accordance with fee structures based upon the  
108 benefits anticipated to be received, as outlined in the initial management plan.

109 Section 5. (a) Each CBD corporation shall have a not for profit board of directors that  
110 shall oversee its operations to insure the implementation of the initial management plan and any  
111 management plan. At least 51 per cent of the board shall be composed of property owners, which  
112 may include participating tax-exempt property owners, or their designees; and the remaining  
113 members may be a balanced group of stakeholders representing the community, including  
114 residents, municipal government, business tenants and nonprofits.

115 (b) The initial management plan shall be updated at least once every 3 years by the CBD  
116 board of directors and a copy thereof shall be mailed, emailed or delivered to each CBD member  
117 and filed with the municipal governing body.

118 (c) The CBD corporation shall comply with the public charity reporting requirements of  
119 section 8F of chapter 12.

120 Section 6. All real property located within a proposed CBD shall be considered in the fee  
121 formula for supplemental services and programs as outlined in the initial management plan,  
122 except that any residential property with a homeowner eligible for a property tax exemption  
123 established by statute, or local ordinance or bylaw, shall not be charged a fee for participating in  
124 the district.

125 Tax-exempt property owners in the district shall not be required to pay assessment fees,  
126 but may elect to do so. Tax-exempt property owners may also enter into a Memorandum of  
127 Agreement with the district management entity in lieu of, or to supplement, monetary payments,  
128 and which may include such contributions as: space for events, loans of equipment or vehicles,  
129 volunteers or volunteer management, staff time, programs and services to the community, or any  
130 other contribution deemed appropriate to support implementation of the district management  
131 plan.

132 The CBD corporation, at its sole discretion, may grant a financial hardship waiver to any  
133 property owner, pursuant to the waiver criteria established within the CBD. A waiver is not  
134 intended to be permanent and shall be requested and granted on an annual basis, and shall be  
135 based upon temporary, extraordinary circumstances. The CBD corporation may also, at its  
136 discretion, approve in-kind contributions or services in addition to, or in lieu of, fees upon  
137 execution of a memorandum of agreement with a property owner.

138 Section 7. Upon formal approval of a CBD, the municipal governing body shall adopt the  
139 district fee structure for the financing of items submitted in the initial management plan for the

140 CBD; provided, however, that the total fees assessed in any 1 year may not exceed 1/2 of 1 per  
141 cent of the sum of the assessed valuation of the real property owned by participating members in  
142 the CBD district. The basis of a district fee may be determined by a formula utilizing at least 1 or  
143 a combination of the following methodologies:

144 (i) different levels for varying classifications of real property;

145 (ii) benefit zones;

146 (iii) assessed valuation;

147 (iv) building or parcel square footage;

148 (v) street frontage; or

149 (vi) any other formula which meets the objectives of the CBD.

150 The CBD, through its management plan, shall have the option to limit or cap the  
151 maximum annual fee derived from individual properties or the total annual revenue generated by  
152 the CBD.

153 The initial management plan may also propose a “phase-in” period of not more than 3  
154 years, with assessments increasing over the stated period. The formula for determining the  
155 district fee structure shall be set forth in the original petition as required by section 3.

156 The CBD may change the formula or the assessment level set forth in the initial  
157 management plan or management plan by majority vote of its board of directors, ratified by vote  
158 of 2/3 of the property owners that are members in the CBD. Within 30 days after amendment of  
159 the formula or assessment level, the CBD shall file notice of the changes with the municipal



160 governing body, the undersecretary of housing and community development and the secretary of  
161 housing and economic development. In addition to receiving funds from the district fee, the CBD  
162 corporation may receive grants, donations, revenues generated from parking fees, CBD activities  
163 or gifts on behalf of the CBD.

164           Section 8. The collector or treasurer of the municipality may collect district fees in  
165 designated CBDs and disburse the funds to the CBD corporation. In addition to the items  
166 identified in section 3A of chapter 60, the collector or treasurer may include notices for district  
167 fees in the envelope or electronic message in which a property bill is sent. District fees collected  
168 shall be used solely to fund items to further the goals identified and approved in the initial  
169 management plan for the CBD. The collector or treasurer shall disburse fee revenues to the CBD  
170 corporation not later than 30 days after the collection of such fees, together with any interest  
171 earned on those fees.

172           Following establishment of the CBD, all fees billed by or on behalf of the CBD and  
173 unpaid after 30 days from the date of billing shall become a lien on the property, which shall  
174 have priority over all other liens except municipal liens and mortgages of record prior to the  
175 recording of a notice of lien, if notice of the lien is duly recorded by the CBD corporation in the  
176 appropriate registry of deeds or land court registry district.

177           Section 9. At any time after the establishment of a CBD pursuant to this chapter, the  
178 district boundaries upon which the establishment was based may, upon the recommendation of  
179 the CBD corporation, be amended by the municipal governing body after compliance with the  
180 procedures set forth in this section.

181           The CBD corporation shall prepare a petition, consistent with the criteria described in  
182 section 3; provided, however, that if the petition concerns an amendment to expand the district,  
183 the petition shall be accompanied by signatures of the property owners who are required to pay  
184 more than 50 per cent of the assessments in the expanded area. If the petition concerns an  
185 amendment to reduce the size of the district, it shall be accompanied by signatures of the  
186 property owners who are required to pay more than 50 per cent of the assessments levied in the  
187 existing district. The municipal governing body shall hold a public hearing not more than 60  
188 days after its receipt of a petition to amend the district boundaries. In the case of an expansion  
189 petition, written notification of the hearing shall be sent to each property owner within the  
190 proposed expansion area of the CBD not more than 30 days before the hearing, by mailing notice  
191 to the address listed in the property tax records. In the case of a reduction petition, the notice  
192 shall be sent to each property owner in the existing district. For either an expansion or reduction  
193 petition, notification of the hearing shall also be published for 2 consecutive weeks in a  
194 newspaper of general circulation in the area with the last publication being not more than  
195 14 days before the hearing and shall be listed on the municipality's website. For an expansion  
196 petition, the public notice shall contain the proposed expanded boundaries of the CBD, the fee  
197 level, a summary of supplemental programs and services, and where the property owner may  
198 obtain a full copy of the management plan. For a reduction petition, the public notice shall  
199 contain the proposed reduced boundaries of the CBD and any changes in the fee level,  
200 supplemental programs and services or other material aspects of the management plan that will  
201 occur as a result of the boundary change. Not more than 30 days after the hearing, and upon  
202 determination by the city or town clerk, or designee, that the petition has met the necessary  
203 criteria, the municipal governing body, in its sole discretion, may by a vote declare the district

204 boundaries amended. Upon the adoption of an amendment to the district boundaries which  
205 increases the size of the district, owners of property to be added to the district shall be notified of  
206 the new boundaries of the district in accordance with section 4.

207         Section 10. A CBD may be dissolved by a majority vote by its board of directors, ratified  
208 by a two-thirds vote of the property owners; provided, however, that the amount of the  
209 assessment attributable to property owned by the same property owner that is in excess of 20 per  
210 cent of the amount of all assessments proposed shall not be included in the calculation; provided,  
211 however, that no CBD shall be dissolved until it has satisfied or paid in full all of its outstanding  
212 indebtedness, obligations and liabilities; until funds are on deposit and available therefore or  
213 until a repayment schedule has been formulated and municipally approved. Upon dissolution, the  
214 CBD shall not incur any new or increased financial obligations. Any liabilities, either current or  
215 future, incurred as a result of action to accomplish the purposes of the management plan shall not  
216 be an obligation of the municipality. Liabilities shall be paid for entirely from revenue gained  
217 from the project or facilities authorized, or from the fees on the properties in the CBD.

218         Upon the dissolution of a CBD, any remaining revenues derived from the sale of assets  
219 acquired with fees collected shall be refunded to the property owners in the CBD by applying the  
220 same formula used to calculate the fee in the fiscal year in which the CBD is dissolved. Nothing  
221 in this section shall prevent the filing of a subsequent petition for a similar CBD."