



July 9, 2007

The Honorable Harriette Chandler, Senate Chair
The Honorable James T. Welch, House Vice-Chair
Joint Committee on Community Development and Small Business
State House
Boston, Massachusetts 02133

Re: Comments on S. 146 and H. 159—Establishing Chapter 40T of the General Laws

Dear Senator Chandler and Representative Welch,

On behalf of the cities and towns of the Commonwealth, the Massachusetts Municipal Association (MMA) wishes to provide commentary on S. 146 and H. 159, both of which would create a new Chapter 40T of the General Laws authorizing cities and towns to create “special development districts (SDD),” a new economic development tool to assist localities finance the construction of public infrastructure.

This legislation is a new iteration of a version that was added by a Senate amendment to the so-called economic stimulus bill during the 2005-06 legislative session. While the amendment adding 40T was passed by both branches and sent to the Governor, this provision was vetoed. While the House overrode the veto, the Senate did not do so and the provision was not included in the final economic stimulus act.

During consideration of the veto, MMA expressed serious concerns about the legislation and urged that further discussion around the 40T concept take place taking into consideration municipal government input. Unfortunately, last year’s bill was never heard at a public hearing and MMA and other stakeholders were never consulted. Thus, MMA appreciates this opportunity to provide commentary and suggestions to improve this proposed development strategy.

Enclosed with this letter are specific MMA comments appearing within the text of the legislation developed last year. Below are three general comments that have been expressed previously to the Legislature and the proponents of the measure.

First, and most concerning to MMA, the legislation creates a prudential committee of 5 property owners to oversee and administer the SDD. These committees would have the authority to levy betterments, assessments and fees, sue and be sued, adopt by-laws, enter into contractual agreements, apply for and receive federal and state financial assistance, borrow money and issue bonds, invest funds, administer development plans, and procure insurance.

These prescribed roles come very close to those vested with municipal government. Of course, this poses obvious and serious concerns and fundamental questions that have not been addressed—First, because these committees would have authority over improvements inside and outside the district, it is very likely that there would be several conflicts with municipal authority, and how would the legislation address these potential conflicts? Second, what happens when the Prudential Committee does not have adequate expertise or knowledge required to conduct all the affairs incumbent upon them? Third, why should the *unelected* Prudential Committee be empowered to use special assessments to raise revenues which could far outpace Proposition 2 ½? Fourth, what role, if any, would the municipality have in overseeing the SDD and the Prudential Committees?

Another flaw is that the legislation contains no mitigation to offset any of the unforeseeable costs incurred by the municipality, such as the provision of police and fire services within the SDD.

The MMA also questions the need for this legislation, especially since the proposed development strategy is not much different from a business improvement district pursuant to G.L. c. 40O.

While the MMA recognizes that there may be some abstract potential benefits in the proposed 40T concept, those benefits are overshadowed by its pitfalls unless satisfactory answers to the aforementioned questions and concerns are provided.

It is our strong recommendation and request that all of the concerns raised in this letter and those comments provided in the enclosures be fully addressed before any further action is taken. We note that the proponents of the measure have yet to meet with the relevant MMA policy committee and municipal leadership to address these issues.

Again, we urge that the legislation be reconsidered in light of these comments. Thank you very much!

Sincerely,

Geoffrey C. Beckwith
Executive Director