

HOUSE No. 159

By Mrs. Harkins of Needham, petition of Lida E. Harkins and others relative to special development districts. Community Development and Small Business.

The Commonwealth of Massachusetts

PETITION OF:

Lida E. Harkins
Richard T. Moore
Joyce A. Spiliotis
Scott P. Brown
John V. Fernandes

Willie Mae Allen
Robert K. Coughlin
John D. Keenan
Alice Hanlon Peisch
Michael E. Festa

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO SPECIAL DEVELOPMENT 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. As used in this chapter, the following words
2 shall, unless the context clearly requires otherwise, have the
3 following meanings:—
4 “Agency”, the Massachusetts Development Finance Agency
5 established pursuant to section 2 of chapter 23G of the General
6 Laws, as amended from time to time.
7 “Amended improvement plan” any change to the improvement
8 plan with respect to the boundaries of a development zone,
9 method of assessing costs, description of improvements or method
10 of financing the improvements that is approved through the same
11 procedures as the original improvement plan adopted pursuant to
12 this chapter.
13 “Assessing party”, shall mean the municipality, the agency or
14 the local improvement district, if any, as the party authorized in
15 the improvement plan to assess any infrastructure assessments in
16 the development zone.
17 “Cost”, shall include the cost of: (a) construction, reconstruc-
18 tion, renovation, demolition and acquisition of all lands, struc-

19 tures, real or personal property, rights, rights-of-way, utilities,
20 franchises, easements, and interests acquired or to be acquired by
21 the public facilities owner; (b) all labor and materials, machinery
22 and equipment including machinery and equipment needed to
23 expand or enhance services from the municipality, the common-
24 wealth or any other political subdivision thereof to the develop-
25 ment zone; (c) financing charges and interest prior to and during
26 construction, and for 1 year after completion of the improvements,
27 interest and reserves for principal and interest, including costs of
28 municipal bond insurance and any other type of credit enhance-
29 ment or financial guaranty and costs of issuance; (d) extensions,
30 enlargements, additions, and enhancements to improvements;
31 (e) architectural, engineering, financial and legal services;
32 (f) plans, specifications, studies, surveys and estimates of costs
33 and of revenues; (g) administrative expenses necessary or incident
34 to the construction, acquisition, and financing of the improve-
35 ments; and (h) other expenses as may be necessary or incident to
36 the construction, acquisition, and financing of the improvements.

37 “Development zone”, one or more contiguous parcels of real
38 estate in the municipality described in the improvement plan and
39 to be benefited by the improvements and subject to infrastructure
40 assessments as described in the improvement plan.

41 “Economic development project”, the acquisition, construction,
42 expansion, improvement or equipping of improvements serving
43 any commercial, industrial or mixed use residential project not
44 qualifying as a local improvement project as certified by the
45 agency after review of the improvement plan submitted in connec-
46 tion with a project.

47 “Infrastructure assessments,” assessments, betterments, special
48 assessments, charges or fees as described in this chapter and
49 assessed by the assessing party upon the real estate within the
50 development zone to defray the cost of improvements financed in
51 accordance with this chapter.

52 “Improvement plan”, a plan approved in the petition for the
53 establishment of a development zone setting forth the proposed
54 improvements, services and programs, revitalization strategy, the
55 cost estimates for said improvements, the boundaries of the devel-
56 opment zone, and, if a local improvement district is to be estab-
57 lished, the specific powers the local improvement district shall

58 adopt from those listed in section 3(d), the analysis of any costs of
59 financing said improvements, the identification of the assessing
60 party, the method and structure of the infrastructure assessments,
61 the selection of any or all of the assessing powers listed in
62 section 5 that shall be utilized by the assessing party within the
63 development zone, the description of the project in a proposed
64 development zone in such detail so as to determine if it is either
65 an economic development or local improvement project, the pro-
66 posed use of any bonds or notes to finance such project, provided
67 that any bonds or notes financing an economic development pro-
68 ject shall only be issued by the agency, and the designation of
69 either the agency or the local improvement district as the issuer of
70 any bonds or notes financing a local improvement project, the par-
71 ticipation of the agency, if any, in a district improvement
72 financing program as described in section 8, and if so, a descrip-
73 tion of any assessing powers to be utilized, disclosures, if any, of
74 potential conflicts of interest of members of a prudential com-
75 mittee of a local improvement district, if any, and the estimates of
76 the costs and expenses to be levied and assessed on the real estate
77 in the development zone.

78 “Improvements”, the acquiring, laying, constructing, improving
79 and operating of capital improvements to be owned by a public
80 facilities owner, such as, but not limited to, storm drainage sys-
81 tems, dams, sewage treatment plants, sewers, water and well sys-
82 tems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting,
83 traffic lights, signage and traffic control systems, parking,
84 including garages, public safety and public works buildings,
85 parks, landscaping of public facilities, cultural and performing
86 arts facilities, recreational facilities, marine facilities such as
87 piers, wharfs, bulkheads and sea walls, transportation stations and
88 related facilities, shuttle transportation equipment, fiber and
89 telecommunication systems, facilities to produce and distribute
90 electricity, including alternate energy sources such as co-genera-
91 tion and solar installations, the investigation and remediation
92 associated with the cleanup of actual or perceived environmental
93 contamination within the development zone in accordance with
94 applicable governmental regulations and provided that no such
95 investigation or remediation shall impair the rights of the public
96 facilities owner or any other person to contribution or reimburse-

97 ment from any potentially responsible party for the costs thereof,
98 and other improvements provided that improvements shall not
99 include any improvements located in so-called “gated communi-
100 ties” that restrict access to the general public.

101 “Issuer”, either the local improvement district, if any, acting
102 through its prudential committee or the agency acting through its
103 board of directors, as designated in the improvement plan, as the
104 issuer of notes or bonds financing the improvements, provided
105 that the agency shall be the exclusive issuer of all bonds or notes
106 financing an economic development project.

107 “Local improvement district”, a body politic and corporate and
108 a political subdivision of the commonwealth created under this
109 chapter pursuant to a petition to assist with economic or commu-
110 nity development and located in a municipality and granted by the
111 improvement plan with any of the following powers: to act as an
112 assessing party, public facilities owner, or issuer of bonds or notes
113 to finance a local improvement project located in a development
114 zone; provided, however, that any local improvement district shall
115 have the same boundaries as the development zone described in
116 the improvement plan and shall be included within the definition
117 of a “local governmental unit” as defined in chapter 29C and its
118 bonds and notes shall be included within the definition of “local
119 governmental obligations” as defined in said statute; and provided
120 that a local improvement district shall be included within the defi-
121 nition of a “governmental entity” for purposes of owning public
122 infrastructure improvements pursuant to chapter 293 of the acts of
123 2006.

124 “Local improvement project”, the acquisition, construction,
125 expansion, improvement or equipping of improvements serving
126 new or existing residential facilities and commercial facilities
127 ancillary thereto.

128 “Municipal governing body”, in a city, the city council with the
129 approval of the mayor, and in a city having a Plan D or E form of
130 charter, the city council with the approval of the city manager, the
131 town council in a town with a town council form of government,
132 or otherwise the town meeting and the board of selectmen in a
133 town with a town meeting form of government, except that in the
134 case of a town when a petition or amended improvement plan is
135 signed by 100 percent of the persons owning real estate in the

136 development zone, the board of selectmen shall constitute the
137 municipal governing body.

138 “Municipality”, a city or town, or cities and towns, if the devel-
139 opment zone, is located in multiple municipalities.

140 “Person”, any natural or corporate person, including bodies
141 politic and corporate, public departments, offices, agencies,
142 authorities and political subdivisions of the commonwealth, cor-
143 porations, trusts, limited liability companies, societies, associa-
144 tions, and partnerships and subordinate instrumentalities of any
145 one or more political subdivisions of the commonwealth.

146 “Petition”, the document initiating the creation of a develop-
147 ment zone and a local improvement district, if any, as described in
148 section 2 (b).

149 “Project”, an economic development project or a local improve-
150 ment project.

151 “Prudential committee” or “committee” established pursuant to
152 this chapter in connection with establishment of a local improve-
153 ment district.

154 “Public facilities owner”, means a local improvement district,
155 the agency, the municipality, the commonwealth or any other
156 political subdivision or public instrumentality, agency or public
157 authority of the commonwealth as identified in the improvement
158 plan.

1 SECTION 2. (a) Each municipality in the commonwealth is
2 authorized to establish 1 or more development zones pursuant to
3 this chapter. There is further authorized in each municipality in
4 the commonwealth, the establishment of 1 or more local improve-
5 ment districts, each a body politic and corporate and a political
6 subdivision of the commonwealth; provided, however, that no
7 local improvement district shall be established, organized, transact
8 any business, employ any personnel or exercise any powers until
9 the municipal governing body, pursuant to section 3, shall approve
10 by a majority vote the petition for the creation of a development
11 zone and a local improvement district, if so requested, and notice
12 of such approval has been filed with the records of the clerk of the
13 municipality and the secretary of the commonwealth. In the event
14 that 2 or more municipalities wish to jointly establish or consoli-
15 date contiguous development zones, the municipal governing

16 body of each such municipality wherein said development zone or
17 local improvement district shall be located, shall approve by a
18 majority vote the petition for the establishment of such a develop-
19 ment zone and a local improvement district, if so stated in the
20 petition.

21 (b) The establishment of a development zone and the optional
22 establishment of a local improvement district shall both be initi-
23 ated by a petition of the persons owning real estate within the pro-
24 posed development zone; provided further, that said petition shall
25 be filed in the office of the clerk of the municipality and the
26 offices of the agency. The agency shall certify to the municipality
27 within 30 days of the filing of the petition with the agency,
28 whether the project described in the improvement plan is an eco-
29 nomic development project or a local improvement project. The
30 petition, at a minimum, shall contain:

31 (1) a legal description of the boundaries of the development
32 zone, and the local improvement district, if any;

33 (2) the written consent to the establishment of the development
34 zone, and the local improvement district, if any, or any amended
35 improvement plan, of both the persons with the record ownership
36 of at least 80 percent of the acreage to be included in the develop-
37 ment zone and by persons owning at least 80 per cent of the tax
38 parcels within the development zone; provided that any real estate
39 owned by the commonwealth, or any agency thereof, or any polit-
40 ical subdivision thereof included in the boundaries of the district
41 shall not be included in the count of persons owning tax parcels or
42 acreage of the development zone for the purposes of this clause;

43 (3) if a local improvement district is to be established, the des-
44 ignation by the petitioners of 5 persons that are either record
45 owners of real estate within said development zone or designees
46 of said owner or owners to be the initial members of the pruden-
47 tial committee; provided further, that initial members of the com-
48 mittee shall serve for a term not to exceed 5 years as specified in
49 the petition or until replaced by members appointed as provided
50 hereafter; provided, however, that successor members of the pru-
51 dential committee shall be appointed by the city manager with the
52 approval of the city council in the case of a city under Plan D or E
53 forms of government, by the mayor with the approval of the city
54 council in the case of all other cities, the town council in the case

55 of a town with a town council form of government or the board of
56 selectmen in the case of a town with a town meeting form of gov-
57 ernment upon the expiration of the member's term of office for
58 the term specified in the petition and shall serve until their succes-
59 sors are appointed and qualified;

60 (4) the official name of the development zone and the local
61 improvement district, if any;

62 (5) a map of the proposed development zone, and the local
63 improvement district, if any, showing the boundaries, and any cur-
64 rent public improvements as are already in existence which may
65 be added to or modified by any improvements;

66 (6) based upon available data, the proposed timetable for con-
67 struction of the improvements and the estimated cost of com-
68 pleting said improvements;

69 (7) the improvement plan for the development zone and the
70 local improvement district, if any; and

71 (8) the procedure by which the municipality will be reimbursed
72 for any costs incurred by it in establishing the development zone,
73 or the local improvement district, if any, and for any administra-
74 tive costs to be incurred in the administration and collection of
75 any infrastructure assessments imposed on the development zone.

1 SECTION 3. (a) Upon receipt of a petition pursuant to
2 section 2 and the certification by the agency that project qualifies
3 as either an economic development or local improvement project,
4 the city council in the case of cities, the town council in the case
5 of towns with a town council form of government or the board of
6 selectmen in the case of a town with a town meeting form of gov-
7 ernment shall, within 60 days of said receipt, hold a public
8 hearing on said petition; provided further, that written notification
9 of such hearing and a summary of the petition and the improve-
10 ment plan, shall be provided by the clerk of the municipality to
11 the record owner of each parcel within the boundaries of the pro-
12 posed development zone no later than 14 days prior to such
13 hearing, by mailing notice to the address listed in the municipali-
14 ty's property tax records. Notification of the hearing shall also be
15 published for 2 consecutive weeks in a newspaper of general cir-
16 culation in the municipality at least 14 days prior to the date of
17 such hearing. Such public notice shall contain the proposed

18 boundaries of the development zone and the local improvement
19 district, if any, the proposed basis for determining any infrastruc-
20 ture assessments as well as the proposed benefits to be provided in
21 the development zone and the local improvement district, if any,
22 and the location or locations for viewing and copying the petition
23 including the improvement plan.

24 (b) A hearing pursuant to subsection (a) shall determine if the
25 petition satisfies the purposes set forth therein and the criteria of
26 this chapter for a development zone and a local improvement dis-
27 trict, if any, and shall obtain public comment regarding the
28 improvement plan and the effect that the development zone and
29 local improvement district, if any, will have on the record owners
30 of real estate within said development zone, its tenants, or others
31 within the development zone, and the municipality or adjacent
32 communities; provided further, that within 60 days of said public
33 hearing, the city manager with the approval of the city council in
34 the case of a city under Plan D or E forms of government, the
35 mayor with the approval of the city council in the case of all other
36 cities, the town council in the case of towns with a town council
37 form of government or otherwise the board of selectmen in the
38 case of a town with a town meeting form of government shall
39 issue recommendations on the petition; provided, however, that
40 said recommendations shall include, but shall not be limited to,
41 the following findings:—

42 (1) the establishment of the development zone and the local
43 improvement district, if any, is in compliance with the provisions
44 of this chapter;

45 (2) the establishment of the development zone and the local
46 improvement district, if any, is not inconsistent with any applic-
47 able element or portion of any master plan of the municipality;
48 and

49 (3) that the proposed improvements in the development zone
50 will be compatible with the capacity and uses of existing local and
51 regional infrastructure services and facilities.

52 (c) Within 21 days of the receipt of the recommendation
53 required pursuant to subsection (b), the city council in the case of
54 cities, the town council in the case of a town with a town council
55 form of government, or otherwise, in the case of a town with a
56 town meeting form of government, at the next available town

57 meeting, except that in the case of a petition in a town that is
58 signed by all the persons owning parcels within the proposed
59 development zone, the board of selectmen, without town meeting
60 approval, shall vote on the petition to establish the development
61 zone and the local improvement district, if any.

62 (d) Upon the approval of the petition, by majority vote of the
63 municipal governing body, or of the board of selectmen in the
64 case of a petition in a town signed by all persons owning real
65 estate within the proposed development zone pursuant to this
66 chapter, and notice of such approval has been filed with the
67 records of the clerk of the municipality, the agency, and the secre-
68 tary of the commonwealth, the development zone and the local
69 improvement district, if any, shall be deemed established and the
70 local improvement district, if any, acting through its prudential
71 committee, shall have all the rights and powers necessary or con-
72 venient to carry out and effectuate this chapter, not inconsistent
73 with the improvement plan as approved by the municipal gov-
74 erning body including, but without limiting the generality of the
75 foregoing, the following:

76 (1) to adopt by-laws for the regulation of its affairs and the
77 conduct of its business, to promulgate rules, regulations and pro-
78 cedures in connection with the performance of its functions and
79 duties, and to fix, enforce and collect penalties for the violation
80 thereof that relate to the operation, and financing of the improve-
81 ments: provided, however, that any by-laws, rules, regulations and
82 procedures shall be consistent with the powers conferred by this
83 chapter and with other applicable provisions of the General Laws;

84 (2) to adopt an official seal and alter the same at its pleasure;

85 (3) to maintain an office at such place or places within the
86 development zone or the municipality as it may determine;

87 (4) to make and enter into all manner of contracts and agree-
88 ments necessary or incidental to the exercise of any power granted
89 to a local improvement district by this chapter including agree-
90 ments with the municipality, the commonwealth, the agency and
91 any other city, town or political entity or utility providing services
92 that are necessary to the acquisition, construction, operation or
93 financing of the improvements within the development zone;

94 (5) to purchase or acquire by lease, lease-purchase, sale and
95 lease-back, gift or devise, or to obtain or grant options for the

96 acquisition of any property, real or personal, tangible or intan-
97 gible, or any interest therein, in the exercise of its powers and the
98 performance of its duties; provided that the local improvement
99 district may acquire real estate or any interest therein, within the
100 boundaries of the development zone itself, if authorized in the
101 improvement plan, except that the local improvement district, if
102 authorized in the improvement plan, may acquire real estate or
103 any interest therein outside the boundaries of the development
104 zone, necessary for the acquisition, construction, and operation of
105 the improvements or services relating thereto that are located
106 within the development zone or are related to, or provided by the
107 local improvement district;

108 (6) to construct, improve, extend, equip, enlarge, repair and
109 operate and administer the improvements for the benefit of the
110 development zone within, or without the development zone; to
111 acquire existing improvements or construct new improvements,
112 including those located under or over any roads, public ways or
113 parking areas, and to enter upon and dig up any private land
114 within the development zone for the purpose of constructing said
115 improvements and of repairing the same; provided further, that
116 chapter 30B of the General Laws shall apply to the local improve-
117 ment district and all its improvements as defined herein, except
118 that section 16 of said chapter 30B shall not apply; provided fur-
119 ther, that chapter 31 shall not apply to any person employed or
120 engaged by the local improvement district under this chapter; pro-
121 vided further, that as relating to its improvements and any con-
122 struction or repair work undertaken by it pursuant to this clause,
123 the local improvement district shall be deemed to be a public
124 agency for purposes of sections 26 to 27F, inclusive, and
125 sections 44A to 44H, and the violation and penalty provisions in
126 Section 44J inclusive of chapter 149; and provided further, that all
127 other applicable provisions of the General Laws protecting public
128 health, welfare and safety shall apply;

129 (7) to accept gifts or goods of funds, property or services from
130 any source, public or private, and comply, subject to the provi-
131 sions of this chapter and the terms and conditions hereof;

132 (8) to sell, lease, mortgage, exchange, transfer or otherwise
133 dispose of, or grant options for any such purposes with respect to
134 any property, real or personal, tangible or intangible, of the local
135 improvement district, or any interest therein;

136 (9) to pledge or assign any money, infrastructure assessments
137 or other revenues of the local improvement district and any pro-
138 ceeds derived by the local improvement district;

139 (10) to borrow money and incur indebtedness and issue bonds
140 or notes as hereinafter provided:

141 (11) to enter into contracts and agreements with the munici-
142 pality, the agency, the commonwealth or any political subdivisions
143 thereof, the property owners of the development zone and any
144 public or private utility with respect to all matters necessary, con-
145 venient or desirable for carrying out the purposes of this chapter
146 including, without limiting the generality of the foregoing, the
147 acquisition of existing improvements (including utilities or infra-
148 structure outside the development zone but benefiting the devel-
149 opment zone), collection of revenue, data processing, and other
150 matters of management, administration and operation; to make
151 other contracts of every name and nature; and to execute and
152 deliver all instruments necessary or convenient for carrying out
153 any of its purposes;

154 (12) to assess and collect infrastructure assessments as
155 described in this chapter; to exercise the powers and privileges of,
156 and to be subject to the limitations upon, municipalities provided
157 in sections 38 to 42K, inclusive, of chapter 40, chapter 80 and
158 chapter 83, in so far as such provisions may be applicable and are
159 consistent with the provisions of this chapter; provided, however,
160 that any requirement in said chapters for a vote by the governing
161 body of a district, town or city or for a vote by the voters of a
162 town, city or district shall be satisfied by a vote or resolution duly
163 adopted by an annual or special meeting of the prudential com-
164 mittee in accordance herewith; provided that the municipality or
165 the agency may assume and exercise all of the assessing powers
166 described in this chapter to the exclusion of the local improvement
167 district, if either is so authorized in the improvement plan, and, if
168 so authorized, it shall follow the same procedures that are applic-
169 able to the local improvement district;

170 (13) to sue and be sued in its own name; provided, however,
171 that neither the local improvement district nor any member of the
172 prudential committee, officer or employee thereof shall be liable
173 in tort except pursuant to the provisions of chapter 258; provided
174 further, that the local improvement district may indemnify its offi-

175 cers and employees to the extent provided in said chapter 258; and
176 provided further that the property of the local improvement dis-
177 trict other than revenues pledged to the payment of notes or bonds
178 shall not be subject to attachment, or be levied upon by execution
179 or otherwise;

180 (14) to invest any funds of the local improvement district in
181 such manner and to the extent permitted under the General Laws
182 for the investment of such funds by the treasurer of a munici-
183 pality;

184 (15) to employ such assistants, agents, employees and persons,
185 including consulting experts as may be deemed necessary in the
186 prudential committee's judgment, and to fix their compensation;

187 (16) to procure insurance against any loss or liability that may
188 be sustained or incurred in carrying out the purposes of this
189 chapter in such amount as the local improvement district shall
190 deem necessary and appropriate with 1 or more insurers who shall
191 be licensed to furnish such insurance in the commonwealth;

192 (17) to apply for any loans, grants or other type of assistance
193 from the United States Government, the commonwealth or any
194 political subdivision thereof;

195 (18) to adopt an annual budget and to raise, appropriate, and
196 assess funds in amounts necessary to carry out the purposes for
197 which the local improvement district is formed as described in this
198 chapter; and

199 (19) to do all things necessary, convenient or desirable for car-
200 rying out the purposes of this chapter or the powers expressly
201 granted or necessarily implied in this chapter.

1 SECTION 4. (a) Upon the majority vote of the municipal gov-
2 erning body approving a petition establishing a local improvement
3 district, or amended improvement plan, as the case may be, filed
4 pursuant to section 2, or the board of selectmen in the case of a
5 town when a petition, or an amended improvement plan, as the
6 case may be, is signed by all the persons owning tax parcels
7 within the development zone, the prudential committee, after each
8 member before entering upon his duties shall have taken an oath
9 before the clerk of the municipality to administer the duties of his
10 office faithfully, and a record of such oaths shall be filed in the
11 office of the clerk of the municipality, shall, within 14 days meet
12 and shall take the following actions:

13 (1) elect a chairman and vice-chairman, who shall preside at all
14 meetings of the prudential committee in the absence of the
15 chairman or in the event of his inability to act or because of a con-
16 flict of interest and elect a clerk and treasurer; and, in addition,
17 the prudential committee shall appoint an auditor who shall have
18 the powers and duties set forth in sections 50 and 51 of chapter 41
19 of the General Laws. The prudential committee may otherwise
20 hire, supervise, suspend and discharge such employees as the pru-
21 dential committee shall deem necessary or appropriate for the con-
22 duct of the work to be performed by the local improvement
23 district including, but not limited to, a local improvement district
24 superintendent;

25 (2) to appoint other local improvement district officers, adopt
26 local improvement district by-laws and other rules for the general
27 conduct of its business; provided further, that said by-laws shall
28 include a description of the duties and responsibilities of the local
29 improvement district officers and a requirement that all meetings
30 of the prudential committee shall be posted in the offices of the
31 clerk of the municipality at least 48 hours prior to said meeting;

32 (3) adopt a local improvement district seal;

33 (4) adopt a budget for the fiscal year and appropriate monies to
34 be raised pursuant to this chapter in support thereof; and include
35 in its initial and in all subsequent annual appropriations, compen-
36 sation, if any, for the municipality's assessors and tax collector,
37 pursuant to the provisions of section 108B of chapter 41 of the
38 General Laws, with respect to their duties and expenses here-
39 under; and

40 (5) consider such other business as shall be consistent with the
41 power and authority conferred by this chapter.

42 (b) Said prudential committee shall meet not less than once
43 every 6 months; provided further, that a minimum of 3 members
44 of the prudential committee shall be required for a quorum and
45 that a quorum of the prudential committee shall be required for
46 the conduct of any business; provided further, that all actions per-
47 mitted to be taken by the prudential committee shall require a
48 majority vote of its members present at said meeting who shall
49 constitute a quorum in accordance with this chapter or the by-laws
50 of the local improvement district; and provided further, that meet-
51 ings of the prudential committee shall be governed by chapter 39

52 of the General Laws except as otherwise provided in this chapter
53 and any action by the prudential committee shall take effect
54 immediately unless otherwise provided and need not be published
55 or posted. Any member of the prudential committee may be
56 removed from office for just cause by the municipality acting
57 through its city council, town council or board of selectmen as the
58 case may be.

1 SECTION 5. (a) Consistent with the improvement plan, the
2 assessing party is authorized and empowered to fix, revise,
3 charge, collect and abate infrastructure assessments for the cost,
4 and administration of the improvements imposed on the real
5 estate, leaseholds or other interests therein, located in the develop-
6 ment zone. In providing for the payment of the cost of the
7 improvements or for the use of the improvements, the assessing
8 party may avail itself of the provisions of the General Laws
9 relative to the assessment, apportionment, division, fixing,
10 reassessment, revision, abatement and collection of infrastructure
11 assessments by cities and towns, or the establishment of liens
12 therefore and interest thereon, and the procedures set forth in sec-
13 tions 5 and 6 of chapter 254 of the General Laws for the foreclo-
14 sure of liens arising under section 6 of chapter 183A of the
15 General Laws, as it shall deem necessary and appropriate for pur-
16 poses of the assessment and collection of infrastructure assess-
17 ments. Notwithstanding any general or special law to the
18 contrary, the issuer may pay the entire cost of any improvements,
19 including the acquisition thereof, during construction or after
20 completion, or the debt service of notes or bonds used to fund
21 such costs, from infrastructure assessments, and may establish
22 said infrastructure assessments prior to, during, or within 1 year
23 after completion of construction or acquisition of any improve-
24 ments. The assessing party may establish a schedule for the pay-
25 ment of infrastructure assessments not to exceed 35 years. The
26 assessing party may determine the circumstances under which the
27 infrastructure assessments may be increased, if at all, as a conse-
28 quence of delinquency or default by the owner of that parcel or
29 any other parcel within the development zone. To provide for the
30 collection and enforcement of its infrastructure assessments, the
31 assessing party is hereby granted all the powers and privileges

32 with respect thereto held by the municipality on the effective date
33 of this chapter or as otherwise provided in this chapter, to be exer-
34 cised concurrently with the municipality.

35 The infrastructure assessments of general application autho-
36 rized by this chapter may only be increased for administrative
37 expenses in excess of the infrastructure assessments described in
38 the improvement plan, and shall be in accordance with the proce-
39 dures to be established by the assessing party for assuring that
40 interested persons are afforded notice and an opportunity to pre-
41 sent data, views and arguments. The assessing party shall hold at
42 least 1 public hearing on its schedule of infrastructure assessments
43 or any revision thereof prior to adoption by the assessing party,
44 notice of which shall be delivered to the municipality and be pub-
45 lished in a newspaper of general circulation in the municipality at
46 least 1 month in advance of the hearing. No later than the date of
47 such publication, the assessing party shall make available to the
48 public and deliver to the municipality the proposed schedule of
49 infrastructure assessments.

50 The infrastructure assessments established by the assessing
51 party shall not be subject to supervision or regulation by any
52 department, division, commission, board, bureau, or agency of the
53 commonwealth or any of its political subdivisions, including
54 without limitation, the municipality, if it is not the assessing party,
55 nor shall the assessing party be subject to the provisions of sec-
56 tions 20A and 21C of chapter 59.

57 Notwithstanding any general or special law to the contrary, the
58 assessing party may contract with one or more persons for any
59 services required by the assessing party regarding the assessment,
60 apportionment, division, fixing, reassessment, revision, collection
61 and enforcement of infrastructure assessments hereunder, and the
62 fees, costs and other expenses thereof shall be included in the cal-
63 culation of the infrastructure assessments levied by the assessing
64 party hereunder.

65 The infrastructure assessments established by the assessing
66 party in accordance with this chapter shall be fixed and adjusted
67 in respect of the aggregate thereof so as to provide revenues at
68 least sufficient to: (i) to pay the administrative expenses of the
69 assessing party, and the local improvement district, if any; (ii) to
70 pay the principal of, premium, if any, and interest on bonds, notes

71 or other evidences of indebtedness of the issuer under this chapter
72 as the same becomes due and payable; (iii) to create and maintain
73 such reasonable reserves as may be reasonably required by any
74 trust agreement or resolution securing bonds; (iv) to provide funds
75 for paying the cost of necessary repairs, replacements and
76 renewals of the improvements; and (v) to pay or provide for any
77 amounts that the issuer may be obligated to pay or provide for by
78 law or contract, including any resolution or contract with or for
79 the benefit of the holders of its bonds and notes, provided that the
80 assessing party shall not be required to increase any infrastructure
81 assessments by virtue of any individual property owner delinquen-
82 cies.

83 (b) As an alternative to levying infrastructure assessments
84 under any other provisions of this chapter or the General Laws,
85 the assessing party may levy special assessments on real estate,
86 leaseholds, or other interests therein within the development zone
87 to finance the cost, and administration of the improvements. In
88 determining the basis for and amount of the special assessment,
89 the cost, and administration of the improvements, including the
90 cost of the repayment of the debt issued or to be issued by the
91 issuer to finance the improvements, may be calculated and levied
92 using any of the following methods that result in fairly allocating
93 the costs of the improvements to the real estate in the develop-
94 ment zone:

95 (1) equally per length of frontage, or by lot, parcel, or dwelling
96 unit, or by the square footage of a lot, parcel or dwelling unit;

97 (2) according to the value of the property as determined by the
98 municipality's board of assessors; or

99 (3) in any other reasonable manner that results in fairly allo-
100 cating the cost, administration and operation of the improvements,
101 according to the benefit conferred or use received including, but
102 not limited to, by classification of commercial or residential use or
103 distance from the improvements.

104 The assessing party, consistent with the improvement plan, may
105 also provide for the following:

106 (1) a maximum amount to be assessed with respect to any
107 parcel;

108 (2) a tax year or other date after which no further special
109 assessments under this section shall be levied or collected on a
110 parcel;

111 (3) annual collection of the levy without subsequent approval
112 of the assessing party;

113 (4) the circumstances under which the special assessment
114 levied against any parcel may be increased, if at all, as a conse-
115 quence of delinquency or default by the owner of that parcel or
116 any other parcel within the development zone;

117 (5) the circumstances under which the special assessments may
118 be reduced or abated; and

119 (6) the assessing party may establish procedures allowing for
120 the prepayment of infrastructure assessments under this chapter.

121 (c) Infrastructure assessments, levied under this chapter shall
122 be collected and secured in the same manner as property taxes,
123 betterments, and assessments and fees owed to the municipality
124 unless otherwise provided by the assessing party and shall be sub-
125 ject to the same penalties and the same procedure, sale, and lien
126 priority in case of delinquency as is provided for such property
127 taxes, betterments and liens owed to the municipality. Any liens
128 imposed by the municipality for the payment of property taxes,
129 betterments and assessments shall have priority in payment over
130 any liens placed on real estate within the development zone.

131 (d) Notwithstanding any general or special act to the contrary,
132 the agency, the municipality, the local improvement district, if
133 any, or any other public facilities owner are each authorized to
134 contract with 1 or more owners of real estate within a develop-
135 ment zone to acquire or undertake improvements within the devel-
136 opment zone. Upon completion, such improvements shall be
137 conveyed to the public facilities owner, provided that the consid-
138 eration for said conveyance shall be limited to the cost of said
139 improvements.

1 SECTION 6. (a) In addition to the powers granted pursuant to
2 chapter 23G and Chapter 40D of the General Laws, the agency, if
3 it is designated as an issuer in the improvement plan, and if its
4 board of directors accepts such designation, is hereby authorized
5 to borrow money and issue and secure its bonds for the purpose of
6 financing improvements as provided in and subject to, the provi-
7 sions of this chapter; provided further that the provisions of said
8 chapters 23G and 40D of the General Laws shall apply to bonds
9 issued under this section, except that the provisions of

10 subsection (b) of section 8 of said chapter 23G and section 12 of
11 said chapter 40D shall not apply to bonds issued pursuant to this
12 chapter or the improvements financed thereby; and provided fur-
13 ther, that the improvements financed by the agency pursuant to
14 this chapter shall constitute a project within the meaning of
15 section 1 of said chapter 23G and section 1 of said chapter 40D,
16 but shall not be considered facilities to be used in a commercial
17 enterprise. With respect to the issuance of bonds or notes for the
18 purposes of this chapter in the event of a conflict between this
19 chapter and chapter 23G, this chapter shall control.

20 Nothing in this chapter shall be construed to limit or otherwise
21 diminish the power of the agency to finance the costs of projects
22 authorized pursuant to said chapter 23G and said chapter 40D
23 within the development zone or the municipality upon compliance
24 with the provisions of said chapter 23G and said chapter 40D.

25 (b) The issuer is hereby authorized and empowered to provide
26 by resolution of its prudential committee, in the case of a local
27 improvement district, or its board of directors, in the case of the
28 agency, from time to time, for the issuance of bonds or notes of
29 the issuer for any of the purposes set forth in this chapter. Bonds
30 issued hereunder shall be special obligations payable solely from
31 particular funds and revenues generated from infrastructure
32 assessments levied pursuant to this chapter as provided in such
33 resolution. No bonds or notes shall be issued by the agency or the
34 local improvement district pursuant to this chapter until the agen-
35 cy's board of directors has determined that the bonds or notes,
36 trust agreement and any related financing documents are reason-
37 able and proper and comply with this chapter. The agency may
38 charge a reasonable fee in connection with the review of such doc-
39 umentation by its staff and board of directors. Without limiting the
40 generality of the foregoing, such bonds may be issued to pay or
41 refund notes issued pursuant to this chapter, to pay the cost of
42 acquiring, laying, constructing, and reconstructing the improve-
43 ments. The bonds of each issue shall be dated, shall bear interest
44 at the rates, including rates variable from time to time, and shall
45 mature at the time or times not exceeding 35 years from their date
46 or dates, as determined by the issuer, and may be redeemable
47 before maturity, at the option of the issuer or the holder thereof, at
48 the price or prices and under the terms and conditions fixed by the

49 issuer before the issuance of the bonds. The issuer shall deter-
50 mine the form of the bonds, and the manner of execution of the
51 bonds, and shall fix the denomination or denominations of the
52 bonds and the place or places of payment of principal and interest,
53 which may be at any bank or trust company within or without the
54 commonwealth and such other locations as designated by the
55 issuer. In the event an officer whose signature or a facsimile of
56 whose signature shall appear on any bonds shall cease to be an
57 officer before the delivery of the bonds, the signature or facsimile
58 shall nevertheless be valid and sufficient for all purposes the same
59 as if he had remained in office until the delivery. The bonds shall
60 be issued in registered form. The issuer may sell the bonds in a
61 manner and for a price, either at public or private sale, as it may
62 determine to be for the best interests of the development zone.

63 Before the preparation of definitive bonds, the issuer may,
64 under like restrictions, issue interim receipts or temporary bonds
65 exchangeable for definitive bonds when the bonds have been exe-
66 cuted and are available for delivery. The issuer may also provide
67 for the replacement of any bonds that shall become mutilated or
68 shall be destroyed or lost. The issue of the bonds, the maturities,
69 and other details thereof, the rights of the holders thereof, and the
70 duties of the local improvement district, if any, and the agency in
71 respect of the same shall be governed by this chapter insofar as
72 the same may be applicable.

73 While any bonds or notes issuer remain outstanding, its powers,
74 duties or existence shall not be diminished or impaired in any
75 way that will affect adversely the interests and rights of the
76 holders of such bonds or notes. Bonds or notes issued under this
77 chapter, unless otherwise authorized by law, shall not be deemed
78 to constitute a debt of the commonwealth or the municipality, or a
79 pledge of the faith and credit of the commonwealth or of the
80 municipality, but the bonds or notes shall be payable solely by the
81 issuer as special obligations payable from particular funds col-
82 lected from infrastructure assessments levied pursuant to this
83 chapter. Any bonds or notes issued by the issuer under this
84 chapter, shall contain on the face thereof a statement to the effect
85 that neither the commonwealth nor the municipality shall be
86 obliged to pay the same or the interest thereon, and that neither
87 the faith and credit nor taxing power of the commonwealth or of

88 the municipality is pledged to the payment of the bonds or notes.
89 All bonds or notes issued under this chapter shall have and are
90 hereby declared to have all the qualities and incidents of nego-
91 tiable instruments as defined in sections 3-104 of chapter 106 of
92 the General Laws.

93 Issuance by the issuer of 1 or more series of bonds or notes for
94 1 or more purposes shall not preclude it from issuing other bonds
95 or notes in connection with the same project or any other project;
96 provided, however, that the resolution or trust indenture wherein
97 any subsequent bonds or notes may be issued shall recognize and
98 protect any prior pledge made for any prior issue of bonds or
99 notes unless in the resolution or trust indenture authorizing such
100 prior issue the right is reserved to issue subsequent bonds on a
101 parity with such prior issue.

102 (c) In the discretion of the issuer, bonds issued pursuant to this
103 chapter may be secured by a trust agreement between the issuer
104 and the bond owners or a corporate trustee which may be any trust
105 company or bank having the powers of a trust company within or
106 without the commonwealth. A trust agreement may pledge or
107 assign, in whole or in part, the revenues, funds and other assets or
108 property held or to be received by the assessing party, or the issuer
109 including without limitation all monies and investments on
110 deposit from time to time in any fund of the assessing party or the
111 issuer or any account thereof and any contract or other rights to
112 receive the same, whether then existing or thereafter coming into
113 existence and whether then held or thereafter acquired by the
114 assessing party or the issuer, and the proceeds thereof. A trust
115 agreement may pledge or assign, in whole or in part, development
116 zone revenues, funds and other assets or property relating to the
117 development zone held or to be received by the assessing party or
118 the issuer. A trust agreement may contain, without limitation,
119 provisions for protecting and enforcing the rights, security and
120 remedies of the bondholders, provisions defining defaults and
121 establishing remedies, which may include acceleration and may
122 also contain restrictions on the remedies by individual bond-
123 holders. A trust agreement may also contain covenants of the
124 issuer concerning the custody, investment and application of
125 monies, the issue of additional or refunding bonds, the use of any
126 surplus bond proceeds, the establishment of reserves and the regu-

127 lation of other matters customarily treated in trust agreements. It
128 shall be lawful for any bank or trust company to act as a deposi-
129 tory of any fund of the assessing party or the issuer or trustee
130 under a trust agreement, provided it furnishes indemnification and
131 reasonable security as the issuer may require. Any assignment or
132 pledge of revenues, funds and other assets and property made by
133 the assessing party or the issuer shall be valid and binding and
134 shall be deemed continuously perfected for the purposes of
135 chapter 106 and other laws when made. The revenues, funds and
136 other assets and property, rights therein and thereto and proceeds
137 so pledged and then held or thereafter acquired or received by the
138 assessing party or the issuer shall immediately be subject to the
139 lien of such pledge without any physical delivery or segregation
140 or further act, and the lien of any such pledge shall be valid and
141 binding against all parties having claims of any kind in tort, con-
142 tract or otherwise against the trust, whether or not such parties
143 have notice thereof. The trust agreement by which a pledge is
144 created need not be filed or recorded to perfect the pledge except
145 in the records of the issuer and no filing need be made pursuant to
146 said chapter 106. Any pledge or assignment made by the issuer is
147 an exercise of its political and governmental powers, and rev-
148 enues, funds, assets, property and contract or other rights to
149 receive the same and the proceeds thereof which are subject to the
150 lien of a pledge or assignment created under this chapter shall not
151 be applied to any purposes not permitted by the pledge or assign-
152 ment.

153 (d) The issuer is hereby authorized and empowered to issue,
154 from time to time, notes of the issuer in anticipation of federal,
155 state or local grants for the cost of acquiring, constructing or
156 improving the development zone's improvements or in anticipa-
157 tion of bonds to be issued pursuant to this chapter. Said notes
158 shall be authorized, issued and sold in the same manner as, and
159 shall otherwise be subject to the other provisions of this chapter.
160 Such notes shall mature at such time or times as provided by the
161 issuing resolution of the issuer and may be renewed from time to
162 time; provided, however, that all such notes and renewals thereof
163 shall mature on or prior to 20 years from their date of issuance.

164 (e) In addition to other security provided herein, or otherwise
165 by law, bonds, notes or obligations issued by the issuer under any

166 provision of this chapter, may be secured, in whole or in part, by a
167 letter of credit, line of credit, bond insurance policy, liquidity
168 facility or other credit facility for the purpose of providing funds
169 for payments in respect of bonds, notes or other obligations
170 required by the holder thereof to be redeemed or repurchased prior
171 to maturity or for providing additional security for such bonds,
172 notes or other obligations. In connection therewith, the issuer
173 may enter into reimbursement agreements, remarketing agree-
174 ments, standby bond purchase agreements and any other necessary
175 or appropriate agreements. The assessing party may pledge or
176 assign any of its revenues as security for the reimbursement by the
177 it to the issuers or providers of such letters of credit, lines of
178 credit, bond insurance policies, liquidity facilities or other credit
179 facilities of any payments made under the letters of credit, lines of
180 credit, bond insurance policies, liquidity facilities or other credit
181 facilities.

182 (f) In connection with, or incidental to, the issuance of bonds,
183 notes or other obligations, the issuer may enter into such contracts
184 as the issuer may determine to be necessary or appropriate relative
185 to the issuance thereof and the interest payable thereon or to place
186 the bonds, notes or other obligations of the issuer, as represented
187 by the bonds or notes, or other obligations in whole or in part, on
188 such interest rate or cash flow basis as the issuer may determine
189 appropriate, including without limitation, interest rate swap agree-
190 ments, insurance agreements, forward payment conversion agree-
191 ments, futures contracts, contracts providing for payments based
192 on levels of, or changes in, interest rates or market indices, con-
193 tracts to manage interest rate risk, including without limitation,
194 interest rate floors or caps, options, puts, calls and similar
195 arrangements. Such contracts shall contain such payment, secu-
196 rity, default, remedy and other terms and conditions as the district
197 may deem appropriate and shall be entered into with such party or
198 parties as the district may select, after giving due consideration,
199 where applicable, for the credit worthiness of the counter party or
200 counter parties, including any rating by a nationally recognized
201 rating agency, the impact on any rating on outstanding bonds,
202 notes or other obligations or any other criteria the issuer may
203 deem appropriate.

204 (g) The issuer shall have the power out of any funds available
205 therefore to purchase its bonds or notes. The issuer may hold,
206 pledge, cancel or resell such bonds or notes, subject to and in
207 accordance with agreements with bondholders. The issuer may
208 issue refunding bonds for the purpose of paying any of its bonds
209 at maturity or upon acceleration or redemption. Refunding bonds
210 may be issued at such time or times prior to the maturity or
211 redemption of the refunded bonds as the issuer deems to be in the
212 public interest. Refunding bonds may be issued in sufficient
213 amounts to pay or provide for the principal of the bonds being
214 refunded, together with any redemption premium thereon, any
215 interest accrued or to accrue to the date of payment of such bonds,
216 the expense of issuing the refunding bonds, the expense of
217 redeeming bonds being refunded and such reserves for debt
218 service or other capital from the proceeds of such refunding bonds
219 as may be required by a trust agreement or resolution securing the
220 bonds and, if considered advisable by the issuer, for the additional
221 purpose of the acquisition, construction or reconstruction and
222 extension or improvement of improvements. All other provisions
223 relating to the issuance of refunding bonds shall be as set forth in
224 this chapter insofar as the same may be applicable.

225 (h) All moneys received pursuant to the provisions of this
226 chapter, whether as proceeds from the issue of bonds or notes, or
227 as revenue or otherwise, shall be deemed trust funds to be held
228 and applied solely as provided in this chapter.

229 (i) Bonds or notes issued under this chapter are hereby made
230 securities in which all public officers and public bodies of the
231 commonwealth and its political subdivisions, all insurance compa-
232 nies, trust companies in their commercial departments and within
233 the limits set by the General Laws, banking associations, invest-
234 ment companies, executors, trustees and other fiduciaries, and all
235 other persons whatsoever who are now or may hereafter be autho-
236 rized to invest in bonds or other obligations of a similar nature
237 may properly and legally invest funds, including capital in their
238 control and belonging to them; and the bonds are hereby made
239 obligations that may properly and legally be made eligible for the
240 investment of savings deposits and income thereof in the manner
241 provided by section 2 of chapter 167E. The bonds or notes are
242 hereby made securities that may properly and legally be deposited

243 with and received by any state or municipal officer or any agency
244 or political subdivision of the commonwealth for any purpose for
245 which the deposit of bonds or other obligations of the common-
246 wealth is now or may hereafter be authorized by law.

247 Notwithstanding any general or special law to the contrary, or
248 any provision in their respective charters, agreements of associa-
249 tions, articles or organization, or trust indentures, domestic corpo-
250 rations organized for the purpose of carrying on business within
251 the commonwealth, including without implied limitation any elec-
252 tric or gas company as defined in section 1 of chapter 164, rail-
253 road corporations as defined in section 1 of chapter 160, financial
254 institutions, trustees and the municipality may acquire, purchase,
255 hold, sell, assign, transfer, or otherwise dispose of any bonds,
256 notes, securities or other evidence of indebtedness of the issuer
257 provided that they are rated similarly to other governmental bonds
258 or notes, and to make contributions to the issuer, all without the
259 approval of any regulatory authority of the commonwealth.

260 (j) Any holder of bonds or notes issued under this chapter, and
261 a trustee under a trust agreement, except to the extent its rights
262 may be restricted by the trust agreement, may, either at law or in
263 equity, by suit, action, mandamus or other proceeding, protect and
264 enforce all rights under the laws of the commonwealth or granted
265 hereunder or under the trust agreement, and may enforce and
266 compel the performance of all duties required by this chapter or
267 by the trust agreement, to be performed by the issuer or by any
268 officer thereof.

269 (k) Notwithstanding any of the provisions of this chapter or
270 any recitals in any bonds or notes issued under this chapter, all
271 such bonds or notes shall be deemed to be investment securities
272 under the provisions of chapter 106.

273 (l) Bonds or notes may be issued under this chapter without
274 obtaining the consent of any department, division, commission,
275 board, bureau or agency of the commonwealth or the municipality,
276 and without any proceedings or the happening of any other condi-
277 tions or things than those proceedings, conditions or things that
278 are specifically required thereof by this chapter, and the validity
279 of and security for any bonds or notes issued by the district or the
280 agency shall not be affected by the existence or nonexistence of
281 any such consent or other proceeding conditions, or things.

1 SECTION 7. A local improvement district, if established under
2 this chapter and all its receipts, revenues, income and real and per-
3 sonal property shall be exempt from taxation and from better-
4 ments and assessments and the local improvement district shall
5 not be required to pay any tax, excise or assessment to or from the
6 commonwealth or any of its political subdivisions. Bonds or
7 notes issued by the issuer and their transfer and their interest or
8 income, including any profit on the sale thereof, shall at all times
9 be exempt from taxation within the commonwealth, provided that
10 nothing in this chapter shall act to limit or restrict the ability of
11 the commonwealth or the municipality to otherwise tax the indi-
12 viduals and companies, or their real or personal property or any
13 person living or business operating within the boundaries of the
14 development zone or local improvement district, if any.

1 SECTION 8. For purposes of this chapter, the agency shall be
2 the exclusive issuer of bonds secured by infrastructure assess-
3 ments pursuant to and according to the terms of chapter 40Q of
4 the General Laws. With the approval of the municipal governing
5 body and the Massachusetts Economic Assistance Coordinating
6 Council, the agency may issue its bonds in place of those of the
7 municipality pursuant to, and according to the terms of
8 chapter 40Q, provided that the municipality has fulfilled all
9 requirements set forth in said chapter 40Q that would be required
10 of the municipality if it were itself issuing bonds pursuant to said
11 chapter 40Q. Additionally, the municipality shall include in its
12 “invested revenue district development program”, as defined in
13 said chapter 40Q, a description of the rights and responsibilities of
14 the assessing party, the agency and the municipality with respect
15 to said program. In such case, the municipality may designate the
16 agency as the issuer of bonds pursuant to said chapter 40Q for the
17 purpose of financing any of the “project costs” as defined in said
18 chapter 40Q and that are located in, or functionally serving the
19 needs of the development zone. The municipality shall determine
20 the percentage of the “captured assessed valuation,” as defined in
21 said chapter 40Q, of property within the boundaries of the devel-
22 opment zone that the municipality is pledging pursuant to an
23 invested revenue district development program as defined in said
24 chapter 40Q for the payment of the agency’s bonds. With the

25 written agreement of the person or persons owning 1 or more spe-
26 cific tax parcels in the development zone, the assessing party may
27 adopt a plan whereby any of the assessing powers described in
28 this chapter are made applicable exclusively to said parcels in
29 order to secure and fund the debt service for the bonds. The “pro-
30 ject costs” as defined in said chapter 40Q, shall not be reduced by
31 the amount of the revenues derived pursuant to this chapter and
32 said revenues derived from such a plan, may be made contingent
33 upon or abated, in whole or in part, by the assessing party upon
34 the receipt of the anticipated revenues generated through the
35 pledged captured assessed valuation. At the option of the munici-
36 pality, the adjustment for the “inflation factor” described in said
37 chapter 40Q, may be waived in order to increase the captured
38 assessed valuation available to the development zone. The
39 assessing party, the agency and the municipality shall enter into an
40 inter-municipal agreement delineating the rights and responsibili-
41 ties of each pursuant to the district improvement financing.

1 SECTION 9. The prudential committee and the local improve-
2 ment district’s officers, if any, shall at all times keep full and
3 accurate accounts of the local improvement district’s receipts,
4 expenditures, disbursements, assets and liabilities, which shall be
5 open to inspection by any record owner of land within the devel-
6 opment zone, or duly appointed officer or duly appointed agent of
7 the commonwealth or the municipality. The fiscal year of the
8 local improvement district shall be the same fiscal year as estab-
9 lished by the General Laws for cities and towns in the common-
10 wealth. The local improvement district shall be subject to an
11 audit of its accounts in the manner provided in section 40 of
12 chapter 44. Before the issuance of any bonds or notes under the
13 provisions of this chapter, any officer of the local improvement
14 district or of the prudential committee charged with responsibility
15 for the issuance thereof, shall each execute a surety bond in the
16 sum of \$250,000 payable to the local improvement district, or in
17 lieu thereof, the prudential committee shall obtain a blanket posi-
18 tion bond covering any member of the prudential committee, or
19 officer of the local improvement district, charged with responsi-
20 bility for the issuance of any bond or notes, such surety bonds to
21 be conditioned upon the faithful performance of the duties of their

22 offices, to be executed by a surety company authorized to transact
23 business in the commonwealth as a surety and approved by the
24 prudential committee.

1 SECTION 10. For the purposes of chapter 268A, the local
2 improvement district shall be considered a municipal agency. The
3 members of the prudential committee and the officers and
4 employees of the local improvement district, together with any
5 person who performs professional services for the local improve-
6 ment district on a part-time, intermittent or consultant basis, such
7 as an architect, attorney, engineer, planner, or construction, finan-
8 cial, or real estate expert, shall be special municipal employees;
9 provided, however, that the provisions of said chapter 268A, or
10 any similar provision of any general or special law, shall not apply
11 to any member of the prudential committee having a direct or
12 indirect financial interest in any contract or transaction entered
13 into with the local improvement district pursuant to an improve-
14 ment plan that has been submitted with the petition and approved
15 by the municipality in accordance with section 5, if said improve-
16 ment plan contains a statement making disclosure of said mem-
17 ber's interest and the interests of his immediate family in said
18 contract or transaction.

1 SECTION 11. The issuer may make representations and agree-
2 ments for the benefit of the holders of the issuer's bonds and notes
3 or other obligations to provide secondary market disclosure infor-
4 mation. The prudential committee or an officer of the local
5 improvement district authorized by the prudential committee may
6 make the representations and agreements on behalf of the local
7 improvement district or may delegate the authority to any other
8 officer or employee of the local improvement district. The agree-
9 ment may include: (1) covenants to provide secondary market
10 disclosure information (2) arrangements for such information to
11 be provided with the assistance of a paying agent, trustee, dissem-
12 ination or other agent; and (3) remedies for breach of the agree-
13 ments, which remedies may be limited to specific performance.

1 SECTION 12. The collector-treasurer of each municipality, at
2 the option of the municipality and the issuer, may collect any

3 infrastructure assessments including any recording fees, on behalf
4 of the issuer pursuant to an agreement between the municipality
5 and the issuer and to disburse the funds to any designated man-
6 agement entity or financial institution selected by the local
7 improvement district or the agency. The collector-treasurer shall
8 disburse revenues to the management entity or financial institution
9 within 30 days of the collection of such fees, together with the
10 interest earned on the holding of such fees.

1 SECTION 13. (a) This chapter shall be considered to provide
2 an exclusive, additional, alternative and complete method of
3 accomplishing the purposes of this chapter and exercising the
4 powers authorized hereby and shall be considered and construed
5 to be supplemental and additional to, and not in derogation of,
6 powers conferred upon the agency or the local improvement dis-
7 trict, if any, by law; but, insofar as the proceedings of this chapter
8 are inconsistent with any general or specific law, administrative
9 order or regulation, or any resolution or ordinance of the munici-
10 pality, this chapter shall be controlling. Without limiting the gen-
11 erality of the foregoing, no provision of any resolution or
12 ordinance of the municipality requiring ratification by the voters
13 of certain bond issues shall apply to the issuance of bonds or notes
14 of a local improvement district, if any, pursuant to this chapter,
15 nor shall be applicable to the manner of voting or the limitations
16 as to the amount and time of payment of debts incurred by a local
17 improvement district.

18 (b) Except as specifically provided in this chapter, all other
19 statutes, ordinances, resolutions, rules and regulations of the com-
20 monwealth and the municipality shall be fully applicable to the
21 property, property owners, residents and businesses located in the
22 development zone. This chapter shall not obligate the munici-
23 pality to pay any costs for the acquisition, construction, equipping
24 or operation and administration of the improvements located
25 within the development zone.

1 SECTION 14. The local improvement district, if any, is a dis-
2 tinct and separate entity from the municipality, and the munici-
3 pality shall not be subject to any claims, actions or liabilities as a
4 result of the establishment of the local improvement district, its

5 operations or the actions or inactions of its officers or its pruden-
6 tial committee or employees and there shall be no recourse against
7 the municipality on account of, or arising from such obligations.

1 SECTION 15. The local improvement district, if any, shall ter-
2 minate 40 years after the date of the local improvement district's
3 establishment, provided that the local improvement district is no
4 longer administering, or maintaining any improvements, and all of
5 the local improvement district's or agency's bonds, notes and
6 other obligations have been paid or satisfied. However, the
7 municipal governing body by majority vote may extend the exis-
8 tence of the local improvement district for a fixed number of years
9 as it shall determine appropriate. Upon such termination, all of
10 the property of the local improvement district shall be deemed
11 transferred to the municipality.