

ANSWERS TO YOUR QUESTIONS: COMMUNITY BENEFIT DISTRICTS

Why do we need Community Benefit Districts (CBDs)?

CBDs solve a problem: cities and towns don't have the resources to support the 18-hour management of our state's downtowns, main streets and village centers. These "live, work, and play" areas need more attention and resources than residential neighborhoods. They may need street furniture, arts programming, daily trash collection, branding and marketing, and much more. Local government can't do this alone, and CBDs can help by establishing a supportive public-private-nonprofit partnership.

These "management districts" are run by a nonprofit organization with community governance. They empower local people, businesses, and organizations to get involved in addressing the community's needs. CBDs promote civic collaboration, long-term revitalization, and private and nonprofit investment in the community. They also create new local jobs and invigorate small business districts.

Example of district management: Rose Kennedy Greenway

Today's urban spaces are complicated. The Rose Kennedy Greenway is a prime example. The Big Dig created a series of world-class park spaces that require world-class management. Despite the involvement of the Commonwealth, the City of Boston, deep-pocketed real estate abutters, and parks advocates, no single stakeholder could take on the job and it was quickly becoming unsustainable.

The long-term solution was to create a Business Improvement District. After a thorough outreach effort to property owners around the Greenway, a management plan and budget was developed. 82% of abutters signed the petition, representing 89% of the total \$1.5 million budget. The Boston City Council held a hearing, deliberated, and established the BID in April of 2018. The parks are managed by the Greenway Conservancy, a non-profit 501(c)3 organization that holds a long-term lease from MassDOT.

On a smaller scale, the CBD bill would make creative, home-grown partnerships within reach of more cities and towns throughout the state for their own brand of problem-solving. We need new tools and financing mechanisms so that our communities can sustain themselves and thrive.

How is a CBD different from a Business Improvement District (BID)?

They are very similar. Business Improvement Districts (BIDs) were originally developed in the 1970s to keep local downtowns attractive and competitive as they lost population and competed with regional malls. Massachusetts adopted a BID statute in the mid-1990s and now there are currently seven BIDs in the state (Downtown Crossing-Boston, Springfield, Amherst, Taunton, Hyannis, Hudson and the Rose Kennedy Greenway), with one or two more in development.

Thankfully, times have changed. From Boomers to Millennials, people of all ages want to live in walkable and vibrant places that offer a mix of amenities like jobs, shops, services, restaurants and culture. As a result, more communities need district management than ever before.

But these districts are harder to establish in Massachusetts than other parts of the country. We have 7 BIDs in the entire state, while Washington, DC alone has 10 districts, New York City has 75 BIDs, and California has more than 300 CBDs. We've heard the need for a new tool that would help more communities participate here, especially towns and Gateway Cities.

Based on interviews with existing BIDs and local officials, along with research into best practices across the country, the CBD bill includes several key changes compared to BIDs:

1. 75% of the area does not need to be zoned or used for commercial, industrial, retail or mixed use;
2. The petition requirements are more in line with the rest of the country;
3. Renewal at least every 10 years;
4. Management by a nonprofit corporation regulated as a charity; and
5. Emphasis on a public-private-nonprofit partnership.

Some communities may find the BID model more to their liking, whereas others will find that CBD addresses their needs.

Didn't we pass this already? Does the Governor support it?

Yes and yes. Governor Baker and Secretary Jay Ash have publicly supported the latest version of the Community Benefit Districts bill and believe that it can be a helpful tool for communities. The Legislature originally passed Community Benefit District language as part of the 2016 Economic Development Act, and then again as part of the FY2018 budget last year. The language was vetoed the first time, and sent back with amendments the second time. Months of detailed negotiations among Sen. Eileen Donoghue, Rep/Sen. Brendan Crighton, and Sec. Jay Ash resulted in the current version acceptable to all parties.

Is this a tax?

No. A tax is a compulsory payment that goes into the government's coffers to be budgeted by local officials for general use.

A CBD (or BID) fee is a payment from property owners that pays for services that directly benefit those same property owners. The fee can only be used to implement the management plan that was proposed by local stakeholders and approved by local officials, and nothing else. A better comparison is a condo association, where property owners are joined through an organization to carry out a management plan and levy fees on themselves to pay for the improvement budget.

Fees are based on formulas agreed upon during the formation process. A property owner who receives less benefit pays less. This is completely different than property taxes, where there is no connection between what an owner pays and the service that is received.

But isn't this compulsory?

When the BID law was created, participation was optional. However, it didn't work. That is why the Legislature already addressed this issue in 2012 by closing the loophole and eliminating the opt-in provision for BIDs.

No district management law in the country is "opt-in," because there would be no incentive for anyone to voluntarily participate. Again, it is similar to a condo association. Although forming a condo association is optional at the beginning, it doesn't work unless everyone does their part. It is not fair for one owner to pay for the whole roof, for example. But also like condo associations, the CBD has to function despite a small number of owners who may be reluctant participants, or who refuse to pay their share. It can be challenging.

That being said, the CBD fee is mandatory only for some classes of property owners. Nonprofits and public agencies have to decide when the district is created whether they will participate or not, and they are also allowed the flexibility to participate through in-kind contributions rather than payments if that makes it easier—a church could offer the use of community space for meetings, for example. Low-income residents who qualify for property tax relief are automatically exempted. And residential property owners may also be exempted from the fee formula.

Finally, individual hardship waivers are allowed on an annual basis. There is no desire to place undue strain on a resident, small business, non-profit, or other property owner.

Does the petition process favor large property owners?

The proposed CBD statute carefully balances the interests of large and small property owners. On the one hand, the CBD petition process is easier than the BID petition because there is only one threshold to meet: the petition has to be signed by property owners who will pay at least 50% of the district's budget.

This is in line with other states. For example, California's petition requirement only requires a 30% threshold in order to be considered for public approval and adoption, and New Jersey doesn't require a petition at all—just a vote by the local governing body.

The CBD proposal makes good sense. Most commercial areas have a small number of property owners who own a large percentage of the property. It is crucial for them to approve the management plan and agree to pay their share before going too far in the process.

At the same time, CBD establishes new protections for property owners that the BID law doesn't have. The CBD petition caps the share of a large property owner at 40% when calculating the petition threshold, so no one property owner can meet the petition requirement on his or her own. If a district is composed of four property owners or fewer, all must sign the petition. There is also new disclosure language to prevent large property owners from hiding any controlling interests across multiple real estate entities.

But the petition is just one step in the process, and it is not even the most effective way to protect the interests of small property owners. Both BIDs and CBDs require a public hearing and a vote by the local governing body. CBD goes further by also requiring approval by the mayor or, in towns with less than 10,000 population, the town meeting. The proposed bill requires CBD entities to comply with nonprofit reporting requirements and state oversight, and also requires a detailed management plan to be approved by the local governing body, including disclosing the initial board of directors, the staffing plan, and organizational by-laws. The management plan must be updated at least every three years.

These districts can be dissolved at the initiative of participating property owners, and must be renewed at least every ten years.

Isn't this what local government should be doing?

The definition of "supplemental services" in the CBD bill is crystal clear that they are "in addition to" standard services provided by the municipality. They do not replace them. This is the accepted practice for over 1000 management districts across the country and is how BIDs have been implemented in Massachusetts without a problem for 20 years.

CBD funds can only be spent on the approved management plan approved by the local governing body. In addition, the CBD proposal goes further than the existing BID statute by authorizing the local municipal executive to enter into a Memorandum of Understanding with the district that spells out in writing what standard services are currently provided by the municipality and what will be done by the CBD, so that there is a baseline and documentation of the respective roles and responsibilities.

Does this threaten labor or privatize public sector jobs?

As mentioned above, CBD can only offer “supplemental municipal services” and not “standard municipal services” that are already provided by the city or town where the district is located. That means that no public sector jobs are threatened and cannot be replaced by private contractors.

The most labor-friendly cities and states in the country use district management tools successfully. As already mentioned, New York City alone has about 75 BIDs, DC has at least 10 and California has over 300 CBDs. By coordinating private property owners and encouraging community investments, district management helps government generate more robust property, sales, and income tax revenues. These flow into public coffers and support the salaries of public sector employees. It is a partnership that works and makes the pie bigger.

CBDs are independent non-profit organizations, so it would be an unprecedented move to impose labor conditions or other extraordinary regulations on them and would create an enormous backlash from the entire non-profit sector. However, they are subject to the same level of public oversight and reporting as any other non-profit organization at the state and federal level. In fact, the CBD is even required to reimburse the municipality for any expenses in creating the district, if the municipality so desires.

The BID statute has operated for the past 20 years without any discernable labor tensions. Nor are we aware of such problems in other parts of the country. Like Main Streets organizations, they are good municipal partners that serve a civic agenda.

Will this violate our civil liberties or cede control of public land?

The proposed CBD statute does not give police power to the districts. A walk through Boston’s Downtown Crossing (one of our 7 BIDs) illustrates the role of a district entity in promoting vibrant, diverse public places. All of our state and national laws remain in place regarding the right to assemble, speak publicly, or otherwise use public space. Agreements with third-part entities to manage public facilities are common and would be no different if partnering with a CBD or BID. Public ownership of parkland, sidewalks, or other public areas would be retained.

In fact, districts play a positive role in ensuring that more members of the community can access and enjoy that public space, by offering events, music, arts, seating and other amenities.

Districts work cooperatively with local governments. By having more eyes on the street and feet on the ground, they help keep our busiest places safe by alerting police and emergency personnel to emerging situations. They can also provide important outreach to individuals suffering from homelessness, addiction, or mental health challenges in a systematic and humane way by creating programs and partnerships with other local organizations. This is an improvement on the status quo where these individuals are usually engaged only in times of conflict and crisis.

For more information, contact:

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Organizations and Leaders Supporting Community Benefit Districts

Economic Development and Non-Profit Organizations

Massachusetts Municipal Association (MMA)
Massachusetts Smart Growth Alliance
Gateway Cities Innovation Institute—MassINC
Worcester Regional Chamber of Commerce
Worcester Business Development Corporation
Newton Needham Regional Chamber
Springfield Regional Chamber
Economic Development Council of Western Massachusetts
Hyannis Main Street Business Improvement District
Springfield Business Improvement District
Amherst Business Improvement District
Metropolitan Area Planning Council
Massachusetts Association of Community Development Corporations
Massachusetts Public Health Association
Transportation for Massachusetts
Local Initiatives Support Corporation-Boston
American Institute of Architects, Massachusetts Chapter

Local Officials

Mayor Kimberley Driscoll, City of Salem
Mayor Joseph M. Petty, City of Worcester
Mayor Brian Arrigo, City of Revere
Mayor Joseph Curtatone, City of Somerville
Mayor Stephanie Burke, City of Medford
Mayor Stephen L. DiNatale, City of Fitchburg
Mayor Thomas McGee, City of Lynn
Mayor Jon Mitchell, City of New Bedford
Edward M. Augustus, Jr., City Manager, City of Worcester
Adam Chapdelaine, Town Administrator, Town of Arlington
Keith Bergman, Town Administrator, Town of Littleton

Eileen Donoghue, City Manager, City of Lowell
Richard Howard, Town Manager, Town of Winchester
Michelle Ciccolo, Member, Lexington Board of Selectmen
Dottie Fulginiti, Chair, Easton Board of Selectmen
Lee Hartmann, Planning and Development Director, Town of Plymouth
Judi Barrett, Plymouth Regional Economic Development Foundation
Brian Szekely, Town Planner, Town of Winchester
Paul Materazzo, Planning Director, Town of Andover
Arthur Robert, Director of Community and Economic Development, City of Framingham
James Errickson, Director of Community and Economic Development, Town of Natick
James Freas, Deputy Director of Planning and Development, City of Newton
John Sisson, Economic Development Director, Town of Dedham