

HB 1458 – AS INTRODUCED

2014 SESSION

14-2209
10/03

HOUSE BILL **1458**

AN ACT authorizing towns and cities to establish special assessment districts.

SPONSORS: Rep. Bickford, Straf 3; Sen. Forrester, Dist 2

COMMITTEE: Municipal and County Government

ANALYSIS

This bill allows a town or city to establish one or more special assessment districts to provide public facilities and services and for which special assessments and charges may be levied and collected to pay for those public facilities and services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT authorizing towns and cities to establish special assessment districts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Purpose. It is the intent and purpose of this act to:

2 I. Authorize a town or city to finance public facilities, enhance economic development, and
3 retain economic viability through the levying and collection of special assessments;

4 II. Provide a mechanism for towns and cities to levy and collect special assessments from
5 property to recover the cost of providing public facilities that peculiarly benefit the property upon
6 which they are imposed;

7 III. Define the procedural and substantive requirements for special assessments and special
8 assessment districts for capital costs and service charges of public facilities covered in a master plan
9 element of a town or city;

10 IV. Shift the financing of public facilities from all taxpayers to those who specifically benefit
11 from such public facilities; and

12 V. Authorize a town or city to establish special assessment districts and levy special
13 assessments for the purpose of providing public facilities to benefit property owners in such
14 designated special assessment districts.

15 2 New Chapter; Special Assessment Districts. Amend RSA by inserting after chapter 52 the
16 following new chapter:

17 CHAPTER 52-A

18 SPECIAL ASSESSMENT DISTRICTS

19 52-A:1 Definitions. In this chapter:

20 I. “Master plan” means a plan adopted in accordance with RSA 674:2.

21 II. “Development” means any construction or expansion of a building or structure, any
22 change in the use of a building or structure, or any land use change that affects a local government’s
23 need for public facilities.

24 III. “Proportionate share of the benefits” means that share, or portion, of the value of the
25 total public facilities and service which specially and peculiarly benefits the property upon which
26 they are imposed, and in no event shall such share or portion be in excess of the benefits such
27 property receives by reason of such improvement.

28 IV. “Public facilities” means capital improvements, including, but not limited to,
29 transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and
30 recreational, and health systems and facilities that have a life expectancy of 3 or more years.

31 V. “Public services” means the performance by employees, consultants, or agents of

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1 functions, operations, design, engineering, planning and maintenance, and repair activities in order
2 to provide public facilities.

3 VI. “Special assessment” means a charge imposed upon property located within a designated
4 special assessment district by a town or city to pay for public facilities and services which peculiarly
5 and specially benefit the property upon which they are imposed.

6 VII. “Special assessment district” means the district in which public facilities and services
7 are to be provided and in which special assessments and charges may be levied and collected
8 pursuant to this chapter to pay for those public facilities and services.

9 52-A:2 Authority.

10 I. Consistent with the provisions of this chapter, any town or city may adopt provisions
11 authorizing it to establish, and subsequently merge or abolish those created hereunder, special
12 assessment districts for any part or all of the area of such town or city, within which may be provided
13 public facilities and services from funds derived from service charges, special assessments, or other
14 charges within such special assessment district.

15 II. For the purpose of providing public facilities and services within any special assessment
16 district, the town or city may levy and collect service charges, special assessments, or other charges
17 within such special assessment district, and borrow and expend money, and issue bonds, revenue
18 certificates, and other obligations of indebtedness, which powers shall be exercised in such manner,
19 and subject to such limitations, as may be provided by general law of the state, in furtherance of the
20 provision of the public facilities and services authorized by this chapter.

21 III. The provisions of this chapter shall not affect or limit any other provisions of law
22 authorizing or providing for the furnishing of public facilities and services or the raising of revenue
23 for these purposes. A town or city may use the provisions of this chapter instead of, or in conjunction
24 with, any other method of financing part or all of the cost of providing the public facilities and
25 services authorized under this chapter.

26 52-A:3 Requirements for Special Assessment Districts. A special assessment district shall meet
27 the following requirements:

28 I. Public facilities and services for which special assessments are levied and collected must
29 peculiarly and specially benefit the property upon which the special assessments are imposed.

30 II. Special assessments levied and collected pursuant to a designated special assessment
31 district shall not exceed a proportionate share of the benefits received by the property upon which
32 the special assessments are imposed.

33 III. The proportionate share of the benefits received by the property upon which a special
34 assessment is imposed shall be calculated and apportioned by using any equitable means of
35 assessment and apportionment which the governing body of a local government may prescribe
36 including, but not limited to, square footage, front-footage, increased value, number of dwelling
37 units, distance from the public facility, traffic generation, or other impact generation factors, or any

1 combination thereof.

2 52-A:4 Procedures for Initiation of Special Assessment Districts.

3 I. Proceedings for the establishment of a special assessment district may be instituted by
4 petition requesting the institution of such proceeding and signed by the number of registered voters
5 within the proposed district required by subparagraph (c) and filed with the governing body. A
6 petition shall:

7 (a) Describe the boundaries of the territory which is proposed for inclusion in the special
8 assessment district.

9 (b) State the type or types of public facilities and services to be provided within the
10 special assessment district.

11 (c) Be signed by not less than a number of registered voters residing within the district
12 equal to at least 20 percent of the number of votes cast within the special assessment district in the
13 municipality at the last regular municipal election, or of at least 50 percent of the property owners
14 within the proposed district, or by the owners of at least 65 percent of the assessed valuation within
15 the proposed district.

16 II. If the governing body finds that the petition is signed by the requisite number of
17 petitioners under subparagraph I(c), that finding shall be final and conclusive.

18 52-A:5 Ordinance Establishing Special Assessment District. Within 30 days after a petition
19 requesting the institution of proceedings for the establishment of a special assessment district is
20 properly filed with it, the governing body of the town or city shall adopt an ordinance establishing a
21 special assessment district in the form hereinafter specified.

22 I. Proceedings for the establishment of a special assessment district shall be instituted by
23 the adoption of an ordinance establishing the special assessment district which shall:

24 (a) State that a special assessment district is established under the terms of this chapter
25 and describe the boundaries of the territory proposed for inclusion in the special assessment district.

26 (b) State the name proposed for the special assessment district in substantially the
27 following form: “_____ Special Assessment District.”

28 (c) State the type or types of public facilities and services proposed to be provided within
29 the special assessment district pursuant to this chapter.

30 (d) State that, except to the extent that funds are otherwise available and committed, a
31 special assessment sufficient to pay for all such public facilities and services will be annually levied
32 and collected within such special assessment district. The ordinance shall specify the rate and
33 method of apportionment of the special assessment in sufficient detail to allow each landowner or
34 resident within the special assessment district to estimate the annual amount that he or she will
35 have to pay.

36 II. Public hearing and notice.

37 (a) A public hearing shall be held by the governing body at least 10 days prior to the

1 adoption, amendment, merger, or abolition of a special assessment district.

2 (b) Notice shall be provided in accordance with the provisions of RSA 675:7 but shall
3 require at least 15 days but no more than 30 days prior to the public hearing. Notice shall:

4 (1) Contain the text of the ordinance.

5 (2) State the time and place of the hearing.

6 (3) State that at the hearing testimony will be heard of all interested persons or
7 taxpayers for or against the establishment of the special assessment district, the extent of the
8 district, or the furnishing of specified types of public facilities or services.

9 III. Protests.

10 (a) At the public hearing, protests against the establishment of the special assessment
11 district, the extent of the district, or the furnishing of specified types of public facilities or services
12 within the special assessment district may be made orally or in writing by any interested person or
13 taxpayer. Any protests pertaining to the regularity or sufficiency of the proceeding shall be in
14 writing and shall clearly set forth the irregularities and defects to which objection is made. All
15 written protests shall be filed with the clerk of the governing body on or before the time fixed for the
16 hearing. The governing body may waive any irregularities in the form or content of any written
17 protest and at the hearing may correct minor defects in the proceedings. Written protests may be
18 withdrawn in writing at any time before the conclusion of the hearing.

19 (b) If 50 percent or more of the registered voters residing within the territory proposed to
20 be included in the special assessment district, or the owners of 1/2 or more of the area of the land in
21 the territory proposed to be included in the special assessment district, file written protests against
22 the establishment of the special assessment district, the governing body shall abandon the proposed
23 establishment of the special assessment district.

24 (c) If such majority protests of the registered voters or of the landowners are only against
25 the furnishing of a specified type or types of public facilities or services within the special assessment
26 district, or against levying a specified rate or special assessment, those types of public facilities or
27 services or the specified rate or special assessment shall be eliminated from the ordinance finally
28 establishing the special assessment district.

29 IV. Boundaries of district. In establishing the boundaries of a special assessment district,
30 the governing body may alter the exterior boundaries of a special assessment district to include less
31 territory than that described in the notice of the public hearing, but it may not include any territory
32 not described in the notice of the public hearing.

33 V. Types of public facilities and services provided. In designating the types of public
34 facilities to be provided in a special assessment district, the governing body may eliminate one or
35 more of the types of public facilities and services specified in the ordinance establishing the special
36 assessment district, but it may not include any types of public facilities and services not specified in
37 the ordinance.

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1 52-A:6 Collection of Special Assessments and Service Charges. The special assessment shall be
2 collected in the same manner as ad valorem property taxes are collected and be subject to the same
3 penalties and the same procedure and sale in case of delinquency as provided for ad valorem
4 property taxes. The town or city shall commit a special assessment to the tax collector with a
5 warrant signed by the appropriate municipal officials requiring the tax collector to collect them. The
6 tax collector shall have the same rights and remedies, including a lien on the real estate, and be
7 subject to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80.
8 The tax collector or the appropriate town or city official responsible for collecting the special
9 assessments may deduct a service charge for the reasonable administrative costs incurred in
10 collecting the special assessment.

11 52-A:7 Use of Proceeds. Any special assessments collected pursuant to this chapter shall only be
12 used, in whole or in part, for public facilities and services authorized by this chapter or for the
13 payment of the principal and interest of bonds, revenue certificates, and other obligations of
14 indebtedness for such public facilities and services.

15 52-A:8 Issuance of Bonds and Other Indebtedness.

16 I. After the public hearing establishing a special assessment district and approving the
17 levying and collection of the special assessments for public facilities and services as provided by this
18 chapter, and as soon as a contract for the public facilities and services has been finally let, the
19 governing body may by the procedure in this section authorize the issuance of bonds, revenue
20 certificates, or other indebtedness not in excess of the aggregate amount of the liens levied for such
21 public facilities and services.

22 II. The governing body of a municipality may place on the ballot at an annual meeting or call
23 a duly noticed special meeting for the purpose of authorizing the issuance of bonds or notes for the
24 purposes of the special assessment district. A special meeting held under this section shall have the
25 same authority as that of an annual town meeting, and shall not require court permission. The
26 issuance of such bonds or notes shall be authorized by a majority vote of the voters present and
27 voting at the special meeting.

28 III. All bonds or notes authorized in accordance with this section shall be issued under the
29 procedures in RSA 33, provided that the payments on the bond and note shall be made only from
30 special assessment district revenues.

31 IV. Any such debt shall at no time be included in the net indebtedness of said municipality
32 for the purpose of ascertaining its borrowing capacity under RSA 33.

33 52-A:9 Priority of Lien. A special assessment shall be payable at the time and in the manner
34 indicated in the ordinance providing for the special assessment; shall remain a lien, co-equal with
35 the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles,
36 and claims until paid.

37 3 Effective Date. This act shall take effect 60 days after its passage.