

CHAPTER 240
HB 486 – FINAL VERSION

06/04/2015 1497s
06/04/2015 1714s
06/04/2015 2071s
06/04/2015 2092s
24June2015... 2334EBA

2015 SESSION

15-0489
10/04

HOUSE BILL **486**

AN ACT authorizing towns and cities to establish special assessment districts and establishing a committee to study the creation of a special village district in Danbury.

SPONSORS: Rep. Carson, Merr 7; Rep. Coffey, Hills 25; Rep. Bickford, Straf 3; Sen. Forrester, Dist 2

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill:

I. 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.

II. Establishes a committee to study the creation of a special village district in Danbury.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT authorizing towns and cities to establish special assessment districts and establishing a committee to study the creation of a special village district in Danbury.

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

1 240:1 Purpose. It is the intent and purpose of section 2 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;

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

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

14 240:2 New Chapter; Special Assessment Districts. Amend RSA by inserting after chapter 52 the
15 following new chapter:

CHAPTER 52-A

SPECIAL ASSESSMENT DISTRICTS

16
17
18 52-A:1 Definitions. In this chapter:

19 I. "Improvement plan" means the plan for the special assessment district which sets forth
20 the supplemental public services and facilities to be provided in the district and a plan for providing
21 such services and facilities, including a budget and fee structure, which is approved by the municipal
22 governing body as part of the creation of the special assessment district. An improvement plan shall
23 be updated at least once every 3 years by the governing body.

24 II. "Proportionate share of the benefits" means that share, or portion, of the value of the total
25 public facilities and service which specially and peculiarly benefits the property upon which they are

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1 imposed, as determined under RSA 52-A:3, III.

2 III. “Public facilities” means capital improvements, including but not limited to
3 transportation, sanitary sewer, solid waste, drainage, potable water, communication infrastructure,
4 and parks and recreational facilities that have a life expectancy of 3 or more years.

5 IV. “Public services” means the performance by employees, consultants, or agents of
6 functions, operations, design, engineering, planning and maintenance, and repair activities in order
7 to provide public facilities.

8 V. “Special assessment” means a charge imposed upon properties located within a
9 designated special assessment district by a town or city to pay for public facilities and services which
10 specially benefit the properties upon which they are imposed.

11 VI. “Special assessment district” means the district in which public facilities and services are
12 to be provided and in which special assessments and charges may be levied and collected pursuant to
13 this chapter to pay for those public facilities and services.

14 52-A:2 Authority.

15 I. Consistent with the provisions of this chapter, any town or city may establish special
16 assessment districts for a part of the area of the town or city, within which may be provided public
17 facilities and services from funds derived from service charges, special assessments, or other charges
18 within the special assessment district.

19 II. For the purpose of providing public facilities and services within any special assessment
20 district, the town or city may levy and collect service charges, special assessments, or other charges
21 within the district, and borrow and expend money, and issue bonds, notes, and other obligations of
22 indebtedness, which powers shall be exercised in the manner and subject to the limitations provided
23 by this chapter and by the general laws of the state.

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

29 52-A:3 Requirements for Special Assessment Districts. A special assessment district shall meet
30 the following requirements:

31 I. Public facilities and services for which special assessments are levied and collected must
32 peculiarly and specially benefit the properties upon which the special assessments are imposed.

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

36 III. The proportionate share of the benefits received by the properties upon which a special

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1 assessment is imposed shall be calculated and apportioned by using any equitable means of
2 assessment and apportionment which the governing body of the municipality may prescribe,
3 including but not limited to square footage, front-footage, increased value, number of dwelling units,
4 distance from the public facility, traffic generation, or other impact generation factors, or any
5 combination thereof.

6 52-A:4 Procedures for Initiation of Special Assessment Districts.

7 I. Proceedings for the establishment of a special assessment district may be instituted by a
8 petition filed with the governing body. The petition shall:

9 (a) Describe the boundaries of the territory which is proposed for inclusion in the special
10 assessment district and include a map clearly delineating the boundaries.

11 (b) Contain a proposed improvement plan, as defined in RSA 52-A:1, I, for the special
12 assessment district.

13 (c) Be signed by the owners of at least 50 percent of the lots within the proposed district,
14 representing at least 65 percent of the assessed valuation within the proposed district. The name of
15 each property owner signing the petition shall be indicated clearly on the petition, along with a
16 listing by street address or lot number of all properties owned. In the case of any property that is
17 owned jointly or in the name of a corporation, partnership, trust, or other legal entity, the signature
18 and authority of any person purporting to represent the owner or owners shall be presumed valid for
19 that purpose, subject to challenge. In the event of any dispute about the validity of such a signature
20 or the authority of the person purporting to represent the entity, the decision of the governing body
21 shall be conclusive.

22 (d) Designate a representative of the petitioners solely for the purpose of payment of
23 mailing costs under RSA 52-A:5, I.

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

26 52-A:5 Establishment of District.

27 I. Within 15 days after receipt of a petition that satisfies the requirements of RSA 52-A:4,
28 the governing body shall notify the petitioners' representative that it has determined the petition to
29 be sufficient and shall request payment of the cost of mailing notice under paragraph II.

30 II. Within 60 days after receipt of payment under paragraph I, the governing body shall hold
31 a hearing on the establishment of the special assessment district. Written notice of the date, time,
32 and location of the hearing, together with a copy of the proposed improvement plan, or a summary of
33 the plan, and a description of the proposed boundaries of the district, shall be posted in 2 public
34 places in the municipality, one of which may be on the municipality's Internet website. Written
35 notice shall also be sent by first-class mail at least 30 days before the hearing to the owner of each
36 property within the boundary of the proposed district. For each property, notice shall be sent to the

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1 person and address listed in the municipality's property tax records. In the case of property under a
2 condominium or similar form of collective ownership, notice shall be sent to the officers of the
3 collective or association, as defined in RSA 356-B:3, XXIII. In the case of property under a
4 manufactured housing park form of ownership as defined in RSA 205-A:1, II, notice shall be sent to
5 the manufactured housing park owner. In the case of 2 or more properties owned by the same person
6 or persons, a single notice shall be sufficient.

7 III. At the public hearing, the proposed improvement plan shall be presented in writing.
8 The governing body shall obtain public comment regarding the plan and the effect that creation of
9 the proposed special assessment will have on the property owners, tenants, and others within the
10 district. Any proposed changes to the improvement plan shall be submitted in writing at the
11 hearing. The hearing may be continued one or more times, and additional notice shall not be
12 required if the date, time, and location of the continued hearing are announced at the hearing and
13 are included in the minutes of the hearing.

14 IV. Within 45 days after the conclusion of the public hearing, the governing body, in its sole
15 discretion, shall either approve or disapprove establishment of the special assessment district.
16 Approval shall be based upon the improvement plan presented at the hearing, subject only to
17 changes that were presented in writing at the hearing and other minor technical changes. If the
18 governing body approves establishment of the district, it shall declare the district organized and
19 describe the boundaries and service area of the district. Upon such declaration, the district may
20 commence operations and the municipality may impose and collect special assessments as provided
21 in the improvement plan and in this chapter.

22 V. In establishing the boundaries of a special assessment district, the governing body may
23 alter the exterior boundaries of a special assessment district to include less territory than that
24 described in the notice of the public hearing, but it may not include any territory not described in the
25 notice of the public hearing.

26 VI. In designating the types of public facilities and services to be provided in a special
27 assessment district, the governing body may eliminate one or more of the types of public facilities or
28 services specified in the improvement plan, but it may not include any types of public facilities or
29 services not specified in the improvement plan.

30 52-A:6 Method of Appropriation. The municipality shall adopt a budgetary appropriation for
31 capital and operating expenditures in a special assessment district as part of its budget process. The
32 expense of constructing and maintaining the public facilities and performing public services
33 described in the improvement plan, or paying off any capital debt or interest incurred in constructing
34 or maintaining the public facilities on an annual basis, shall be included in the budgetary
35 appropriation. At the end of each fiscal year, a full accounting of expenditures shall be made.

36 52-A:7 Assessment and Collection of Special Assessments. Upon adoption of the budgetary

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1 appropriation, the municipality may levy assessments in an amount necessary to fund the
2 appropriation, net of other revenues applied to the appropriation. The assessments shall be made
3 against the owners of properties in the special assessment district based on their proportionate
4 shares of the benefits as determined by the governing body. Government property and nonprofit
5 organizations within the district shall be subject to the assessments. The special assessments shall
6 be assessed and collected in the same manner as property taxes under RSA 76 and RSA 80 and be
7 subject to the same penalties and the same procedure and sale in case of delinquency. The town or
8 city shall commit a special assessment to the tax collector with a warrant signed by the appropriate
9 municipal officials requiring the tax collector to collect them. The tax collector shall have the same
10 rights and remedies, including a lien on the real estate, and be subject to the same liabilities in
11 relation thereto as in the collection of taxes as provided in RSA 80.

12 52-A:8 Use of Proceeds. Any special assessments collected pursuant to this chapter shall be
13 used, in whole or in part, only for public facilities and services authorized by this chapter or for the
14 payment of the principal and interest of bonds and other obligations of indebtedness for such public
15 facilities and services.

16 52-A:9 Issuance of Bonds and Other Indebtedness.

17 I. A municipality may borrow money and issue bonds or notes to finance the public facilities
18 and services of a special assessment district, provided that bonds or notes may be issued only for the
19 purposes authorized under RSA 33:3 or RSA 33:3-c. All bonds or notes authorized in accordance
20 with this section shall be issued under the procedures in RSA 33, provided that the payments on the
21 bond and note shall be made only from special assessment district revenues.

22 II. Any such debt shall at no time be included in the net indebtedness of the municipality for
23 the purpose of ascertaining its borrowing capacity under RSA 33.

24 52-A:10 Priority of Lien. A special assessment shall be payable at the same time and in the
25 same manner as property taxes assessed under RSA 76 and shall remain a lien, co-equal with the
26 lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and
27 claims until paid.

28 52-A:11 Assessment Funds.

29 I. The funds received from the collection of special assessments shall be kept as a separate
30 fund to be known as the special assessment fund. The fund shall be allowed to accumulate from year
31 to year, shall not be commingled with municipal tax revenues, and shall not be deemed part of the
32 municipality's general fund accumulated surplus. The fund shall be expended only for the purposes
33 of this chapter.

34 II. Except when a capital reserve fund is established pursuant to paragraph III, all special
35 assessment funds shall be held in the custody of the municipal treasurer. Estimates of anticipated
36 assessments and anticipated expenditures from the assessment funds shall be submitted to the

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1 governing body under RSA 32:6 if applicable, and shall be included as part of the municipal budget
2 submitted to the legislative body for approval. The treasurer shall pay out amounts from the
3 assessment funds only upon order of the governing body. Expenditures shall be within amounts
4 appropriated by the legislative body.

5 III. All or part of any surplus in the special assessment fund may be placed in one or more
6 capital reserve funds under RSA 35 and placed in the custody of the trustees of trust funds. If such a
7 reserve fund is created, the governing body may expend such funds pursuant to RSA 35:15 without
8 prior approval or appropriation by the local legislative body.

9 52-A:12 Dissolution of District. A special assessment district created under this chapter may
10 not be dissolved until all debt incurred with respect to the district is finally discharged and all
11 special assessments levied for the purpose of paying the debt have been paid or otherwise satisfied.
12 Upon satisfaction of those conditions, the municipality's governing body may dissolve the district,
13 and it shall dissolve the district upon receipt of a petition signed by the number of property owners
14 specified in RSA 52-A:4, I(c). Upon dissolution of the district, all amounts remaining in the special
15 assessment fund shall become part of the municipality's general fund accumulated surplus.

16 240:3 Committee Established; Creation of a Village District in Danbury. There is established a
17 committee to study the creation of a special village district in Danbury.

18 I. The members of the committee shall be as follows:

19 (a) Three members of the house of representatives, one of whom shall be from the
20 municipal and county government committee, one of whom shall be from the public works and
21 highways committee, and one of whom shall be from the resources, recreation and development
22 committee, appointed by the speaker of the house of representatives.

23 (b) Two members of the senate, appointed by the president of the senate.

24 II. Members of the committee shall receive mileage at the legislative rate when attending to
25 the duties of the committee.

26 III. The committee shall study the following subjects:

27 (a) The creation of a special village district in Danbury where there are an insufficient
28 number of residents to form such a district under current law and a property owner intends to
29 construct municipal infrastructure improvements using the proceeds of municipal bonds issued by
30 such a district in connection with a real estate development project.

31 (b) Whether there should be chapter law authorizing such a district in general, whether
32 the creation of such a district should be by special legislation, or whether there should be some
33 combination of both forms of legislation.

34 (c) Governance, powers, obligations, and operation of such a district both before there
35 are a sufficient number of domiciled residents to constitute an electorate and afterward.

36 (d) The conditions under which an appointed village district commission is to become an

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1 elected village district commission.

2 (e) Financial and liability protections for any municipality in which such a district is
3 formed and applicability of local land-use regulation within the district.

4 (f) The conditions under which such a district is to be dissolved and ways to ensure that
5 only property within the district is assessable for any obligation of the district.

6 IV. The members of the study committee shall elect a chairperson from among the members.
7 The first meeting of the committee shall be called by the first-named house member. The first
8 meeting of the committee shall be held within 45 days of the effective date of this section. Four
9 members of the committee shall constitute a quorum.

10 V. The committee shall report its findings and any recommendations for proposed legislation
11 to the speaker of the house of representatives, the president of the senate, the house clerk, the
12 senate clerk, the governor, and the state library on or before November 1, 2015.

13 240:4 Effective Date.

14 I. Sections 1-2 of this act shall take effect 60 days after its passage.

15 II. The remainder of this act shall take effect upon its passage.

16

17 Approved: July 13, 2015

18 Effective Date: I. Sections 1-2 shall take effect September 11, 2015

19 II. Remainder shall take effect July 13, 2015