To: Denise Provost, MA State Representative
From: Heather Brome, Policy Analyst
Date: April 15, 2008
Re: Massachusetts' 40T

Ms. Provost-

You requested information on other states' experiences with programs similar to those proposed in House 159/Senate 146 to establish a new chapter of the MA General Laws, 40T. Essentially, the bill would allow municipalities to create special assessment districts without seeking legislative approval. The districts would have the power to issue revenue bonds for a wide range of improvements.

These types of special assessment districts or local improvement districts are allowed in most states for a variety of purposes including—but, not limited to—public safety, sewers, parks, piers and waterfront facilities, and environmental protections such as water or soil conservation. The majority of districts serve a single function, however some special assessment districts provide more than one service.

Initially, this type of financing was created for infrastructure specific to new residential development. As towns expanded around the edges, the costs of switching from septic systems to linking with sewer systems or similar improvements could be funded through special assessement districts. These were often in unincorporated areas or areas that may in the future be annexed by a city or county. However, special assessment districts have grown in popularity for all types of infrastructure improvements and new development, especially in states with debt or tax limitations. For a discussion of changes in how we pay for growth, please see William Fulton's Op-Ed in Planetizen. http://www.planetizen.com/node/91. In short, while these funding mechanisms have been used since the early in the last century, they have increased in popularity rapidly in the past few decades.

The Census Bureau's Census of Governments is the most comprehensive source of data on Special District governments. The Bureau lists all the districts and authorities in each state included in their definition of special district government and also issues a comprehensive report on the finances of special district governments. The Census defines a special district government as "independent, special-purpose government units (other than school district governments) that exist as separate entities with substantial administrative and fiscal independence from general-purpose governments." These include special assessment districts and local improvement districts, but also include other non-governmental districts and authorities. The Census' comprehensive report on the finances of special district governments is available for FY 01/02. Data for FY 06/07 will be available later this year.

As of 2002, the states with the largest number of special district governments were California, Colorado, Illinois, Indiana, Kansas, Missouri, Nebraska, New York, Pennsylvania, Texas, and Washington. Each has more than 1,000 special districts. The number of special districts has grown rapidly over the past 35 years, from a national total of 21,264 to a national total of 35,052.

As you noted, there is limited information on defaults on loans issued to local development districts. I did find one good article on the subject. Attached is an article by David Hitchcock of Standard and Poor's assessing the risks from a bondholder's perspective of special district financing, including special assessment districts. He notes that taxpayers in special assessment district will not face increased tax rates if another taxpayer in the district defaults; the tax payment for each taxpayer is fixed. However, the risk to bondholders and taxpayers is from high tax burdens on a few parcels, particularly if those parcels are undeveloped. The author also reviews the history of municipal bond defaults since the 1920s. In the oil and gas down turn of the 1980s many Colorado special districts and Texas utility districts defaulted on their loans. Additionally, many Mello-Roos and special assessment districts issued debt just before the housing slowdown in California in the 1990s which led hundreds of millions of dollars in defaults. He notes that defaults began when tax rates became much higher on special district properties than on surrounding properties.

Further Reading:

Hitchcock, David. April 2000. "Credit Assessment for Special District Financing." *Government Finance Review*. 16(2): 33-36.

U.S. Census Bureau. July 2005. "Individual State Descriptions: 2002."

U.S. Census Bureau. June 2005. "Finances of Special Government Districts: 2002."