

**2026 Annual Town Meeting
Arlington, Massachusetts**

Article 30: HOME RULE LEGISLATION / REPEAL MBTA PROHIBITION

To see if the town will vote to authorize and request the Select Board to file Home Rule Legislation or other Special Legislation to repeal Chapter 504, Section 16 of the Acts of 1980, in which “the Massachusetts Bay Transportation Authority is hereby prohibited from further planning or construction of the red line northwest rapid transit extension beyond a point on the so-called Lexington Branch railroad right of way located six hundred feet more or less northwesterly of Route 2 unless specifically authorized to do so by law,” or take any action related thereto.

Substitute Motion:

Article No. 30

Dated: April 27, 2026

I, Paul Schlichtman, do hereby submit the following Substitute Motion under Article 30:

VOTED: That the Town does and hereby authorizes the Select Board to file Home Rule Legislation to provide substantively as follows:

“AN ACT REPEALING SECTION 16 OF CHAPTER 504 OF THE ACTS OF 1980”

Be it enacted by the Senate and House of Representatives in the General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, Section 16 of Chapter 504 of the Acts of 1980, “An Act Relative to the Granting of Certain Easements and Interests in Land to the Massachusetts Bay Transportation Authority for Construction of Red Line Extension,” is repealed and nullified.

SECTION 2. This act shall take effect upon its passage.

It shouldn't be illegal to plan good transit. Article 30 FAQs:

Is this repeal really necessary?

Yes. The Select Board opines that prohibition in Section 16 “ended upon completion of the Northwest Extension in 1985,” but this opinion is not shared by any Massachusetts court. Repeal of this provision removes any doubt about the validity of this law. It also sends a message that Arlington no longer wants to prohibit transit planning through town.

Will a YES vote bring the Red Line into Arlington?

No. The only thing a YES vote will do is ask the state legislature to repeal Section 16 of Chapter 504 of the Acts of 1980. It will allow Arlington to fully engage with the MBTA, so that today's residents can influence transit planning in our town.

What plans currently exist for a Red Line extension?

49 years ago, the MBTA developed detailed plans for the Red Line extension from Harvard Square through Arlington Heights. These plans are reflected in the *1977 Final Environmental Impact Statement (EIS) for the Red Line Extension - Harvard Square to Arlington Heights*. The Alewife to Arlington Heights segment is described in Volume 2 of the EIS and is available on the Resources page of extendtheredline.org.

The 1977 EIS described a plan for cut-and-cover construction of a subway tunnel along the Lexington Branch railroad (currently the Minuteman Bikeway). The plan took into consideration federal requirements to maintain freight rail service west of Arlington Center and called for a linear park to be placed on top of the tunnel. It also included an underground pedestrian plaza under the Massachusetts Avenue-Mystic Street intersection, providing for a safe and convenient way for pedestrians to move through Arlington Center. If the MBTA chooses to move forward with a Red Line Extension, a new feasibility study would be required and the existing plans would need to be revised to align with a topography that has changed since 1977. Revised plans would also need to account for the growing trend of bicycle commuters in and around Arlington.

Does the MBTA view Chapter 504 as a limitation on its planning functions?

While the MBTA reported that “it received at least five requests to explore a red line extension to Arlington,” there is no evidence the T has engaged in even the most limited planning for a Red Line extension since the prohibition was enacted in 1980. **The act of reporting requests is not an indicator of actual planning.**

Is this a heavy lift for our legislators?

No. Arlington's three legislators (Senator Cindy Friedman and Representatives Sean Garballey and Dave Rogers) are experienced, capable legislators. They have a track record of guiding home rule legislation to passage, including the 2024 repeal of the previous prohibition.

A more detailed discussion follows.

It shouldn't be illegal to plan good transit.

On April 26, 2023, [Arlington Town Meeting \(Article 19\)](#) voted **169-41-1** to seek repeal of [Chapter 439 of the Acts of 1976](#) “An Act Prohibiting the Massachusetts Bay Transportation Authority for locating a mass transportation facility within a certain distance of the Arlington Catholic High School.”

As a result, [Chapter 283 of the Acts of 2024](#) was signed into law by Governor Healey on December 23, 2024.

AN ACT REPEALING THE PROHIBITION ON THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY FROM LOCATING A FACILITY WITHIN A CERTAIN DISTANCE OF ARLINGTON CATHOLIC HIGH SCHOOL

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to repeal forthwith the prohibition on the Massachusetts Bay Transportation Authority from locating a facility within a certain distance of Arlington Catholic high school, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 439 of the acts of 1976 is hereby repealed.

At about the same time, Paul Selker (TMM-9) discovered another prohibition written into a 1980 state law, tacked onto the end of a series of temporary and permanent easements enacted to permit the construction of the Red Line west of Alewife Station. Chapter 16 of Section 504 of the Acts of 1980 prohibits the MBTA from “further planning or construction of the red line northwest rapid transit extension beyond a point on the so-called Lexington Branch railroad right of way located six hundred feet more or less northwesterly of Route 2 unless specifically authorized to do so by law.”

With an overwhelmingly positive 2023 vote, I looked at a two-pronged strategy for repealing this second prohibition. Rep. Sean Garballey said he would look to attach the repeal to the next transportation bond issue. I also submitted a warrant article (Article 30) requesting Home Rule Legislation to effectuate the repeal. Again, with the overwhelming vote in 2023, I expected this article to sail through Town Meeting... until the warrant article hearing before the Select Board.

Mr. DeCoursey was the first to speak. He took aim at the article, concluding that, “I’d be inclined to move no action on it. Mainly because I am concerned about, we have other things we are asking our legislators to do and I just don’t see that this is necessary.” It was a similar objection he raised three years ago, when the Select Board report noted Mr. DeCoursey’s dissent “because in his view, the Act (prohibiting a facility near Arlington Catholic) did not prevent the proposed expansion of the Red Line through Arlington... Mr. DeCoursey further questioned whether a petition to repeal the Act would impact more pressing local legislative priorities.”

MBTA Home Rule Legislation: Comparing the 2023 and 2026 Select Board Reports

Select Board Report 2023 Annual Town Meeting • Article 19	Select Board Report 2026 Annual Town Meeting • Article 30
(3 - 1) Mr. DeCoursey voted in the negative and Mr. Helmuth recused himself. The majority of the Select Board respectfully requests Town Meeting's support to repeal a 1976 Special Act ("An Act Prohibiting The Massachusetts Bay Transportation Authority From Locating Mass Transportation Facility Within Certain Distance Of The Arlington Catholic High School" or "The Act"), which prohibited the MBTA from constructing any mass transportation facility, including but not limited to a rapid transit station and parking garage, on any land located within seventy-five yards of Arlington Catholic High School. Mr. DeCoursey dissented because in his view, the Act did not prevent the proposed expansion of the Red Line through Arlington. Indeed, he noted that Governor Dukakis, a strong proponent of public transportation, came to Arlington to sign the Act into law. Mr. DeCoursey further questioned whether a petition to repeal the Act would impact more pressing local legislative priorities. Nonetheless the balance of the Board agrees that it would be valuable to clear outdated home rule legislation which serves little practical purpose today and may inadvertently signal the Town's reticence to improve its mass transit service options.	COMMENT: The Board voted unanimously, 4-0 (with Mr. Helmuth recusing himself), to recommend that no action be taken on this article seeking to authorize the filing of home rule legislation to delete Section 16 of Chapter 504 of the Acts of 1980. Chapter 504 was a special act of the legislature that allowed the MBTA to take easements and other interests in real property for the completion of the red line extension to Alewife Station. Section 16 contained a limited restriction prohibiting the MBTA from further planning or construction of the "northwest rapid transit extension" beyond a point 600 feet northwest of Route 2 unless specifically authorized to so by a future enacted law. Section 16's limited restriction ended upon completion of the Northwest Extension in 1985. Had the legislature desired that this restriction be permanent, it would not have identified the Northwest Extension specifically and it would have inserted language making clear that it would apply notwithstanding any special act or general law to the contrary. Alternatively, the legislature could have made the restriction permanent by amending the MBTA's Enabling Act contained in G.L., c. 161A (the "Enabling Act"), specifically Section 3, paragraphs (g) and (k), which gives the MBTA broad authority to plan and construct transportation facilities within its territory. The Board notes that the proponent cited as precedent here actions taken by Town Meeting in calendar year 2023 to repeal Chapter 439 of the Acts of 1976, which prohibited the construction of a "mass transit facility" within 75 yards of Arlington Catholic High School. Among other differences with Chapter 504, Chapter 439 applied to a specific location in Arlington and did not limit the restriction to a facility constructed as part of the Northwest Extension. Further, Chapter 439 contained the following preamble: "Notwithstanding the provisions of paragraphs (g) and (k) of section three of [the Enabling Act], or any other general or special law to the contrary." There is no similar language in Chapter 504. The Board is also aware that in current practice, the MBTA does not view Chapter 504 as a limitation on its planning functions. In its most recent capital planning report for FY 2026-2030, the MBTA reported that it received at least five requests to explore a red line extension to Arlington. In response, the MBTA stated it had identified other priorities for the approximately \$440 million dedicated to red line improvements and observed that the capital plan did not include funding for any heavy rail expansion projects. Finally, the Board recognizes the burden that home rule legislation places upon the town's legislative delegation. The recommended vote reflects the Board's position that there are several home rule petitions (i.e. FGARS and SGARS restrictions, real estate transfer fee, increasing the number of all alcohol licenses for restaurants, elimination of Chapter 61B recreational land classification) the Town has pending or will have pending with the legislature that are of more immediate significance than the repeal of Chapter 504.

Is this repeal really necessary?

In their report to Town Meeting, the Arlington Select Board opines that Chapter 16 of Section 503 of the Acts of 1980 is a limited restriction that “ended upon completion of the Northwest Extension in 1985.” The Select Board report argues that Section 503 lacks a necessary preamble, similar to the wording in Chapter 439 (the Arlington Catholic prohibition), “Notwithstanding the provisions of paragraphs (g) and (k) of section three of [the Enabling Act], or any other general or special law to the contrary.”

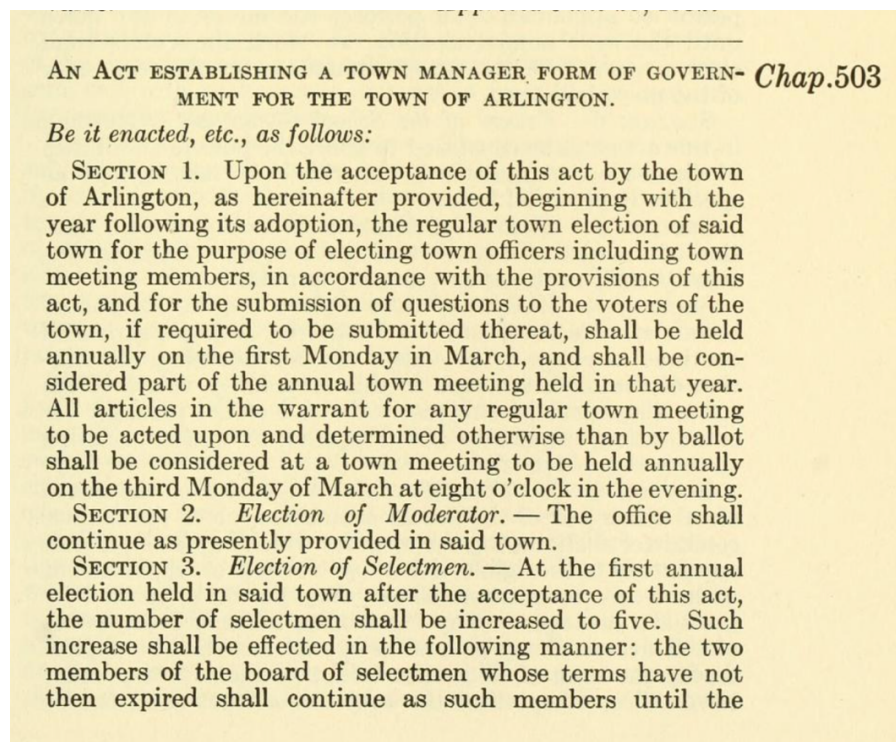
Let's examine this argument.

Chapter 16 of Section 504 of the Acts of 1980 is a session law. Let's begin by answering the question, “**What is a Massachusetts session law?**”

Session laws, called Acts and Resolves in Massachusetts, are the laws passed by the legislature arranged chronologically. [According to mass.gov](https://www.mass.gov/info-details/what-is-a-massachusetts-session-law):

The vast majority of Session Laws are Acts. Acts include everything from our annual state budget (the General Appropriation Act) and major legislative initiatives to reorganize government agencies. Session Laws that are not codified into the General Laws are called Special Acts and include matters affecting an individual or a particular city or town.

Session Laws are not, by definition, temporary. They are applied to limited situations, including laws pertaining to individual cities and towns. One of these Acts is Chapter 503 of the Acts of 1952, *The Town Manager Act of the Town of Arlington*. This act has been amended over the years but is still in place and it still supersedes the standard form of town government found in the general laws.



Session laws are permanent, and stay in place unless amended or repealed, unless there is a sunset provision included in the law. An example of a Session Law with a sunset provision is found in [Chapter 195 of the Acts of 2024](#):

AN ACT AUTHORIZING THE TOWN OF NORTHFIELD TO CONTINUE THE EMPLOYMENT OF FIRE CHIEF FLOYD DUNNELL, III

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, Floyd Dunnell, III, the fire chief of the town of Northfield, may continue to serve in such position **until August 13, 2025** or until the date of his retirement or non-reappointment, whichever occurs first; provided, however, that he is mentally and physically capable of performing the duties of his office; provided further, that the town shall, at its own expense, require that Floyd Dunnell, III be examined by an impartial physician designated by the town to determine such capability; and provided further, that no deductions from the regular compensation of Floyd Dunnell, III shall be made pursuant to chapter 32 of the General Laws for retirement or pension purposes.

SECTION 2. This act shall take effect upon its passage.

Approved, September 6, 2024.

Further contradicting the argument that Section 504 was not a temporary act is the language of the law.

Each of the 15 sections pertaining to easements and construction have specific, independent language regarding applicability. Only eight of the sections are designated as temporary. **There is no language declaring that Section 16 is temporary.**

Provision:	Found in Chapter 504 of the Acts of 1980:
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain temporary construction easement ...	Sections 1, 2, 7, 9, 10, 14, 15
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain permanent subsurface easement ...	Section 3
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority all its right, title and interest in and to a certain parcel of land ...	Section 4
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain portion of metropolitan district commission land	Sections 5, 6
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain care and control easement on metropolitan district commission property	Section 8
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain air rights easement on metropolitan district commission land...	Section 11
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain permanent utility easement on metropolitan district commission property	Section 12
The metropolitan district commission is authorized and directed to convey to the Massachusetts Bay Transportation Authority a certain portion of metropolitan district commission land located in the town of Arlington, comprising a temporary construction easement ...	Section 13
The Massachusetts Bay Transportation Authority is hereby prohibited from further planning or construction on the red line northwest rapid transit extension beyond a point on the so-called Lexington Branch railroad right of way located six hundred feet more or less northwesterly of Route 2 unless specifically authorized to do so by law, enacted after the effective date of this act .	Section 16

Section 16 states this provision of the law remains in effect “**unless specifically authorized to do so by law, enacted after the effective date of this act.**” It doesn’t expire with the temporary easements. It’s forever, unless it is amended or repealed.

So, who's correct?

A 4-0 decision by the Arlington Select Board is not a binding legal opinion. A binding legal opinion would require a decision by the seven members of the Massachusetts Supreme Judicial Court.

If the Select Board is correct, and the restriction found Section 16 of Chapter 504 of the Acts of 1980 ended upon completion of the Northwest Extension in 1985, the presence of this language in the session laws invites controversy through ambiguity.

There's no evidence that the MBTA has engaged in planning for a Red Line extension at any time after this law was enacted. The mere presence of this text, valid or not, can be a chilling effect. According to the Select Board, the "MBTA reported that it received at least five requests to explore a red line extension to Arlington. In response, the MBTA stated it had identified other priorities..." This statement demonstrates that the MBTA is, intentionally or not, in compliance with the 1980 prohibition.

If the MBTA were to demonstrate some element of planning for a Red Line extension, the 1980 law could invite an extended legal dispute. All it would take is one motivated opponent to haul the MBTA into court for violating this law.

If the Supreme Judicial Court were to agree with the Select Board, and rules that Section 16 of Chapter 504 of the Acts of 1980 is invalid, the language of this law would remain on the books but would be unenforceable. It would continue to represent Arlington in 1980, and not Arlington and its residents in 2026.

One example of a law that remained on the books after being ruled unconstitutional is Virginia's *Racial Integrity Act of 1924*. This law was overturned by the United States Supreme Court on [June 12, 1967 in *Loving v. Virginia*](#), finding that anti-miscegenation laws were unconstitutional.

This law remained on the books until 2020, when Virginia repealed these unenforceable laws. At the time, [Virginia House Majority Leader Charniele Herring said](#), "Although the scars of racial segregation still remain, we don't need reminders in Virginia's Acts of Assembly. It's painful that these words remain on the books in 2020, and our votes today show the rest of the country that the Commonwealth has progressed."

Similarly, a strong positive vote under Article 30, and the repeal of Section 16 of Chapter 504 of the Acts of 1980, will show the Commonwealth that Arlington has progressed.

If the Select Board is wrong, and the restriction found Section 16 of Chapter 504 of the Acts of 1980 is still valid, then the MBTA can plan new or improved rail transit in 350 of the Commonwealth's 351 municipalities. It just can't consider anything along the MBTA-owned right of way west of Thorndike Field in Arlington.

If you support the law that prohibits planning or construction of the Red Line in Arlington, vote no action.

If you want to repeal the law that prohibits planning or construction of the Red Line in Arlington, **please vote YES for the substitute motion under Article 30.**