

# **Appendix B:**

## **Legislation and Other Government Documents**

<b>2011 MASSWORKS AWARDS</b>		
<b>Municipality</b>	<b>Project Description</b>	<b>Award</b>
Athol	In 2011, EOHED awarded a \$881,993 grant through the MassWorks Infrastructure Program to support the Traverse Street Infrastructure Project. This included reconstruction of three interconnecting roadways and pedestrian walkways, repairs to drainage infrastructure and retaining walls, and construction of a new parking lot.	\$881K
Bernardston	In 2011, EOHED awarded a \$399,993 grant through the MassWorks Infrastructure Program to support the Town of Bernardston's School Road Improvement Project. This included widening the road to allow school bus and emergency vehicle traffic to pass safely and improve the drainage system to prevent flooding.	\$399K
Bernardston	In 2011, EOHED awarded a \$275,000 grant through the MassWorks Infrastructure Program to support the South Street Development Project. Included in the work is full-depth reconstruction, installation of vertical granite curbing, sloped granite edging, hot mix asphalt sidewalks, handicap ramps, minor drainage improvements, signs, pavement markings, and management of traffic during construction.	\$275K
Easton	In 2011, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program for streetscape and sewer improvements to support downtown revitalization in Easton.	\$1M
Florida	In 2011, EOHED awarded a \$528,000 grant through the MassWorks Infrastructure Program to resurface River Road.	\$528K
Gardner	In 2011, EOHED awarded a \$500,000 grant through the MassWorks Infrastructure Program to support the Lower Main Street Signalization and Roadway Realignment Project.	\$500K
Holyoke	In 2011, EOHED awarded a \$2,200,000 grant through the MassWorks Infrastructure Program to support the construction of a public way from Route 202 to Campus Road providing additional access to Holyoke Community College in the city of Holyoke.	\$2.2M
Hopedale / Milford	In 2011, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program for the restoration of railroad crossings in the Towns of Hopedale and Milford.	\$1M
Hubbardston	In 2011, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program for repair and rehabilitation of Grimes Road, Hale Road, Healdville Road, and Ragged Hill Road.	\$1M

Lowell	In 2011, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program to support the Rivers Edge Development Project. The grant will be utilized to complete public roadway and associated infrastructure to allow the creation of a minimum of 28 units of mixed-income housing in single and two-family owner-occupied buildings.	\$1.5M
New Bedford	In 2011, EOHED awarded a \$1,200,000 grant through the MassWorks Infrastructure Program for streetscape improvements along Acushnet Avenue, including environmentally-friendly streetscaping, pedestrian scale lighting, attractive seating and planting areas, wider sidewalks to accommodate all users and create space for outdoor seating, bicycle accommodation, safer and more efficient intersections, and new fencing and plantings. The project will also include upgrading the existing water and sewer system along the Avenue to promote economic redevelopment, as well as separation of the existing combined sewer system to promote environmental improvements	\$1.2M
Newton	In 2011, EOHED awarded a \$1,800,000 grant through the MassWorks Infrastructure Program to support the Newton Transportation Infrastructure Project. The Newton Transportation Infrastructure Project will address long-standing access, safety and capacity deficiencies in the Chestnut Hill area. Work will include design and engineering and the installation of traffic signals, milling and paving, sidewalk installation, drainage and pavement markings along Route 9 and Centre Street. The project will facilitate the Chestnut Hill Square Project, an \$80 million mixed use development	\$1.8M
Peabody	In 2011, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program to support the Peabody Main Street Corridor Realignment Project. The project included lane realignment and repaving, traffic light synchronization, safety equipment improvements, enhanced signage and parking space alterations.	\$1.5M
Pittsfield	In 2011, EOHED awarded a \$1,100,000 grant through the MassWorks Infrastructure Program to support the Downtown Roadway and Streetscape Improvement Project.	\$1.1M
Princeton	In 2011, EOHED awarded a \$450,000 grant through the MassWorks Infrastructure Program for the reconstruction of a 1 mile portion of Mirick Road.	\$450K
Quincy	In 2011, EOHED awarded a \$5,100,000 grant through the MassWorks Infrastructure Program to support the Town Brook Culvert Enhancement Project in Quincy.	\$5.1M

Rockland	In 2011, EOHED awarded a \$535,740 grant through the MassWorks Infrastructure Program for water line installation within the layout of the East West Parkway between Weymouth Street and the easterly boundary of the former South Weymouth Naval Air Station. The project will occur in conjunction with the private installation of sewer line in the area.	\$535K
Saugus	In 2011, EOHED awarded a \$841,568 grant through the MassWorks Infrastructure Program for infrastructure improvements to support the Route 1 Project.	\$841K
Taunton	In 2011, EOHED awarded a \$149,360 grant through the MassWorks Infrastructure Program for infrastructure improvements to support the Myles Standish Industrial Park Zone 1.	\$149K
Topsfield	In 2011, EOHED awarded a \$550,000 grant through the MassWorks Infrastructure Program to support the Town's Bridge Improvement Project.	\$550K
Williamsburg	In 2011, EOHED awarded a \$420,000 grant through the MassWorks Infrastructure Program to resurface Chesterfield Road.	\$420K
<b>Supplemental Budget/ Infrastructure Dev. Fund</b>		
<b>Municipality</b>	<b>Project Description</b>	<b>Award</b>
Adams	In 2011, EOHED awarded a \$2,000,000 grant through the MassWorks Infrastructure Program for infrastructure improvements to support redevelopment of Greylock Glen. The work included design, construction, and construction administration for 5,800 feet of roadway, gas mains, sewer mains, water mains and drainage improvements and full depth pavement reconstruction.	\$2M
Amesbury	In 2011, EOHED awarded a \$1,250,000 grant through the MassWorks Infrastructure Program to reconstruct roadway infrastructure to support the development in the Lower Millyard section of the City of Amesbury. As the sole access to the Lower Millyard, Elm Street has numerous safety issues affecting the development of the area including roadway deterioration, lack of defined sidewalks, ninety degree turns, missing curbing, poor drainage, and increased traffic at severely restricted intersections. The improvements are critical to the Lower Millyard revitalization and will allow for the expansion of existing industries and the construction of new rehabilitated facilities.	\$1.25M

Barre	In 2011, EOHED awarded a \$1,200,000 grant through the MassWorks Infrastructure Program for the reconstruction of Dicks Brook Culvert and Downtown Streetscape Improvements in the Town of Barre. The project consists of engineering and construction of the Dick's Brook culvert beginning at West Street, continuing down Newton and Grove Street, and discharging from under Grove Street.	\$1.2M
Bourne	In the fall of 2011, EOHED awarded a \$1,250,000 grant through the MassWorks Infrastructure Program for the Main Street Streetscape Phase III project. The now complete project provided infrastructure enhancements and removed certain development impediments that currently exist to develop in Buzzards Bay. The infrastructure work will open the Buzzards Bay area to economic development, recreation enhancement and affordable housing opportunities. The project was completed in December 2012.	\$1.25M
Brockton	In 2011, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program for Downtown Streetscape Improvements in Brockton. The project included lighting the five railroad underpasses at Court, Centre, Lincoln, School and Crescent Streets between Montello & Commercial Street and repaving a portion of Commercial Street.	\$1.5M
Burlington	In 2011, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program for public infrastructure improvements at Northwest Park, including the reconstruction of portions of North Ave, 4th Ave, and the Middlesex Turnpike.	\$1.5M
Chelmsford	In 2011, EOHED awarded a \$475,000 grant through the MassWorks Infrastructure Program to design / engineer, purchase and install a traffic signal at the intersection of Billerica Road (rt. 129) and Elliott Street. Rt. 129, a town controlled roadway, is the main arterial that bisects the Town's largest technology center and is served by the Lowell Regional Transit Authority's Rt. 15 bus route.	\$475K
Chelsea	In 2011, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program to support the reconstruction of Everett Avenue. The project included sub-surface work (e.g. sewer replacement and water and drain improvements) and surface work (e.g. roadway widening, traffic signal and sidewalk reconstruction, bikeway accommodation and other incidental work).	\$1M

Dedham	In 2011, EOHED awarded a \$1,700,000 grant through the MassWorks Infrastructure Program to support the Dedham Square Improvement Project. The project includes comprehensive traffic, safety and pedestrian improvements in Dedham Square.	\$1.7M
Easton	In 2011, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program for infrastructure improvements, including sewer improvements, to support downtown revitalization in Easton.	\$1.5M
Haverhill	In 2011, EOHED awarded a \$1,200,000 grant through the MassWorks Infrastructure Program to support the Merrimack Street Renaissance Extension Initiative. The Initiative consists of the following four elements: improvements to the Merrimack parking garage, Bradford Rail-Trail design, Merrimack Street streetlight replacement and Merrimack Street streetscape improvements.	\$1.2M
Lenox	In 2011, EOHED awarded a \$600,000 grant through the MassWorks Infrastructure Program for sewer service upgrades to support Tanglewood, Canyon Ranch, and the surrounding area.	\$600K
Littleton	In 2011, EOHED awarded a \$1,800,000 grant through the MassWorks Infrastructure Program to improve safety capacity on Route 119 in Littleton from Beaver Brook to Route 110. The project includes geometric modifications, traffic signal installations and corridor widening wherever feasible.	\$1.8M
Lynn	In 2011, EOHED awarded a \$500,000 grant through the MassWorks Infrastructure Program to support the rehabilitation of the Seaport Marina.	\$500K
Milton	In 2011, EOHED awarded a \$1,800,000 grant through the MassWorks Infrastructure Program for Houghton's Pond improvements, including renovations at Houghton's Pond Park and athletic fields in the Town of Milton.	\$1.8M
New Bedford	In 2011, EOHED awarded a \$2,000,000 grant through the MassWorks Infrastructure Program for infrastructure improvements along Acushnet Avenue, including environmentally-friendly streetscaping, pedestrian scale lighting, attractive seating and planting areas, wider sidewalks to accommodate all users and create space for outdoor seating, bicycle accommodation, safer and more efficient intersections, and new fencing and plantings. The project will also include upgrading the existing water and sewer system along the Avenue to promote economic redevelopment, as well as separation of the existing combined sewer system to promote environmental improvements	\$2M

Oxford	In 2011, EOHED awarded a \$2,200,000 grant through the MassWorks Infrastructure Program for the Oxford-Dudley-Webster Sewer Extension Project. The project will include one pumping station, one force main bridge crossing, and one force main railroad crossing.	\$2.2M
Pittsfield	In 2011, EOHED awarded a \$2,500,000 grant through the MassWorks Infrastructure Program for restoration of the McKay Street Parking Garage. The work will include structural repair and waterproofing of the parking facility.	\$2.5M
Plymouth	In 2011, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program for Commerce Way roadway improvements, including selective widening of Commerce Way between Plympton Road (Route 80) and the Route 44 eastbound ramps, and traffic signal improvements.	\$1.5M
Quincy	In 2011, EOHED awarded a \$5,000,000 grant through the MassWorks Infrastructure Program to support the Town Brook Culvert Enhancement Project in Quincy.	\$5M
Randolph	In 2011, EOHED awarded a \$1,300,000 grant through the MassWorks Infrastructure Program for streetscape and infrastructure improvements to support downtown revitalization.	\$1.3M
Revere	In 2011, EOHED awarded a \$995,985 grant through the MassWorks Infrastructure Program for the construction of a pedestrian gateway to Wonderland Transit Plaza.	\$995K
Rockland	In 2011, EOHED awarded a \$500,000 grant through the MassWorks Infrastructure Program for design and organizational project management on a \$4 Million State-of-the-Art Senior Center.	\$500K
Saugus	In 2011, EOHED awarded a \$2,000,000 grant through the MassWorks Infrastructure Program for replacement of a water line along Route 1.	\$2M
Springfield	In 2011, EOHED awarded a \$1,200,000 grant through the MassWorks Infrastructure Program to support the South End Neighborhood Streetscape Improvement Project. The project will improve the physical roadway condition, improve traffic circulation, on-street parking, accommodate pedestrian activities, and improve safety.	\$1.2M

<b>2012 MASSWORKS AWARDS</b>		
<b>Municipality</b>	<b>Project Description</b>	<b>Award</b>
Ashland	In 2012, EOHED awarded a \$365,000 grant through the MassWorks Infrastructure Program for the Cold Spring Brook Infrastructure Improvement Project. The MassWorks funding will be used to increase the Cold Spring Brook sewer pipeline and connect it to the Chestnut Street Pump Station. The improvements support future growth within the Rail Transit District, which is located within a quarter-mile of the Ashland commuter rail station and was identified as a State Priority Development Area in the 495/MetroWest Development Compact.	\$365K
Ayer	In 2012, EOHED awarded a \$266,000 grant through the MassWorks Infrastructure Program for the redevelopment of the current parking facility in the Town's central business district. The project received support letters from the Towns of Groton and Townsend.	\$266K
Beverly	In 2012, EOHED awarded a \$500,000 grant through the MassWorks Infrastructure Program to support design and permitting assistance to the City of Beverly for the first phase of the Brimbal Avenue Interchange Project, which will include widening a section of Brimbal Avenue and building a connector road between Brimbal Avenue and Sohier Road. The project is strongly supported by the North Shore Alliance for Economic Development and is included in the Metropolitan Area Planning Council's 2011 North Shore Regional Strategic Plan.	\$500K
Blandford	In 2012, EOHED awarded a \$500,000 grant through the MassWorks Infrastructure Program to support the reconstruction of Otis-Tolland Road, Curtis Hall Road and Moreau Road in the Town of Blandford. These roads are utilized by three towns and the project will improve public safety for local and regional commuters as well as the tourists who visit the area throughout the year.	\$500K
Boston	In 2012, EOHED awarded a \$1,600,000 grant through the MassWorks Infrastructure Program for roadway and parking improvements to support redevelopment opportunities in the Jackson Square neighborhood of Boston. This project is supported by the Metropolitan Area Planning Council's MetroFuture Plan.	\$1.6M

Brockton	In 2012, EOHED awarded a \$4,000,000 grant through the MassWorks Infrastructure Program to support the acquisition of the Enterprise Block by the City of Brockton. Funds will also be used to demolish the Gardner Building and prepare the site for future development. This project is part of a larger redevelopment to create new office, retail and residential units on this block in the heart of Downtown Brockton.	\$4M
Buckland	In 2012, EOHED awarded a \$971,000 grant through the MassWorks Infrastructure Program to repair a portion of Clesson Brook Road in need of immediate attention as a result of damages caused by Tropical Storm Irene. The MassWorks Award will complement approximately \$4.1 million in federal funding for repairs in the project area.	\$971K
Burlington	In 2012, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program to support roadway improvements to Middlesex Turnpike, Second Avenue and South Avenue to support the consolidation of Keurig Company's current Massachusetts workforce to this site.	\$1M
Chelsea	In 2012, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program to support the replacement of water main, sewer separation and roadway and sidewalk repairs. These upgrades further the long-term redevelopment efforts in Chelsea's Everett Avenue Urban Renewal District as well as support the Chelsea One North 230 market-rate housing development project which is expected to break ground before the end of 2012.	\$1.5M
Chicopee	In 2012, EOHED awarded a \$1,680,000 grant through the MassWorks Infrastructure Program for roadway and utility construction to support new development at the RiverMills at Chicopee Falls, a 64-acre site which encompasses the former Facemate and Uniroyal properties. The project is consistent with the Pioneer Valley's Regional Plan.	\$ 1.68M
East Brookfield	In 2012, EOHED awarded a \$594,000 grant through the MassWorks Infrastructure Program to fund necessary repairs to the Lashaway Dam. The dam, now at risk of failing, supports Route 9, which carries an average of 17,500 vehicles per day. The award will complement over \$800,000 in repairs made by MassDOT to the dam's bridge.	\$594K

Easthampton	In 2012, EOHED awarded a \$2,750,000 grant through the MassWorks Infrastructure Program to support the ongoing effort by the City and Mill owners to redevelop the Pleasant Street Mills into a vibrant, mixed-use community. The project is supported by the Pioneer Valley Planning Commission and is included in the Valley Vision 2011 update.	\$2.75M
Fall River	In 2012, EOHED awarded a \$580,000 grant through the MassWorks Infrastructure Program for the extension of Robb Way roadway, utilities, and pedestrian amenities which will become the primary entrance for the John Matouk & Co. manufacturing facility. The company plans to create a repositioned corporate campus including renovations of the company's current 30,000 square-foot facility and the development of a new, 50,000 square-foot manufacturing facility at the site.	\$580K
Haverhill	In 2012, EOHED awarded a \$4,000,000 grant through the MassWorks Infrastructure Program to create the public infrastructure improvements needed to support the redevelopment of the Merrimack Street in Downtown Haverhill. This grant will complement a 2011 MassWorks grant in this area of Haverhill and will help extend the momentum of economic development and employment opportunities generated from the designated Growth District eastward towards the Merrimack Street corridor.	\$4M
Holyoke	In 2012, EOHED awarded a \$2,000,000 grant through the MassWorks Infrastructure Program to support the construction of a new passenger station on Dwight Street in Holyoke, which will become a stop on the Knowledge Corridor-Vermont Restoration Rail Line project. This project is supported by the Pioneer Valley Planning Commission and was identified in the Pioneer Valley Planning Commission's Valley Vision 2 Plan.	\$2M
Hull	In 2012, EOHED awarded a \$1,950,000 grant through the MassWorks Infrastructure Program to rebuild Nantasket Avenue in Hull. The project will include a "Complete Streets" approach and will support redevelopment along Nantasket Avenue including the potential for an estimated 217,000 square feet of commercial space and 330 residences.	\$1.95M
Marion	In 2012, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program to complement \$1.33 million committed by the Town of Marion for the reconstruction of Ryder Lane and South Street. This MassWorks project is supported by the Southeastern Regional Planning and Economic Development District.	\$1M

Milton	In 2012, EOHED awarded a \$1,000,000 grant through the MassWorks Infrastructure Program to support streetscape improvements which will connect two Milton Villages, located at the Central Avenue and Milton trolley stations. The project will support current and proposed transit-oriented development, housing construction and new retail in the Villages.	\$1M
Natick	In 2012, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program to make needed roadway and utility improvements from the Kansas Street intersection at North Main Street (Route 27) to the gated entry way at US Army Natick Soldier Systems Center. The intersection improvements are necessary to accommodate both current and future traffic volumes, will support the NCCS and enhance vehicular and pedestrian access to the nearby Paper Board Redevelopment Project, a Smart Growth and 40R project. \$1 million from the Patrick-Murray Administration's previously released Capitol Plan will be added to complete this project.	\$1.5M
New Marlborough	In 2012, EOHED awarded a \$500,000 grant through the MassWorks Infrastructure Program to support the rehabilitation of the Foley Bridge, which is part of Canaan Southfield Road. Currently, the bridge is at risk of closure due its poor condition. Closure of the bridge would impact emergency response, access to local businesses, access to local and regional community services and shopping.	\$500K
North Adams	In 2012, EOHED awarded a \$881,000 grant through the MassWorks Infrastructure Program to support redevelopment of the Heritage State Park, including improvements to the park entrance, upgrades to the park's landscaping, pedestrian access improvements between the Park and MassMoCA and downtown North Adams. The project is supported by the Berkshire Regional Planning Agency's "Sustainable Berkshires" plan which is currently in process.	\$881K
Paxton	In 2012, EOHED awarded a \$200,000 grant through the MassWorks Infrastructure Program to replace an existing deteriorated, short-span, wood bridge with a precast concrete culvert within the right of way on Davis Hill Road in Paxton. These improvements will increase public safety for Paxton's residents, neighboring communities and allow trucks to utilize the roadway.	\$200K

Plymouth	In 2012, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program to support infrastructure improvements in the Downtown/Harbor District to spur economic development and make improvements in preparation of the 400th Anniversary of the arrival of the Mayflower in 1620.	\$1.5M
Springfield	In 2012, EOHED awarded a \$3,860,000 grant through the MassWorks Infrastructure Program to support the Springfield Technical Community College Assistance Corporation (STCC-AC) to demolish a warehouse in the Springfield Technology Park for the creation of 350 parking spaces. The parking area will allow STCC-AC to release a parcel of land outside the Technology Park that is being targeted for a grocery store to serve the neighborhoods of Mason Square, Upper Hill, McKnight, Six Corners and Metro Center.	\$3.86M
Taunton	In 2012, EOHED awarded a \$1,280,000 grant through the MassWorks Infrastructure Program to support Phase II streetscape improvements in Downtown Taunton. The City funded construction of Phase I and has identified funding for the design and engineering for the Phase II improvements. Downtown Taunton has been identified as a State Priority Development Area in the South Coast Rail Land Use and Economic Development Corridor Plan.	\$1.28M
Ware	In 2012, EOHED awarded a \$2,500,000 grant through the MassWorks Infrastructure Program to complement \$1 million committed by the Town of Ware and an additional \$2.5 million by Kanzaki Specialty Paper (KSP) for upgrades and improvements to Ware's Waste Water Treatment Plant. The project represents a Public-Private partnership which will increase sewer capacity by mitigating current treatment issues generated by KSP and allow KSP to expand production at their facility.	\$2.5M

2013 MASSWORKS AWARDS		
Municipality	Project Description	Award
Amesbury	In 2013, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program to help support the Lower Millyard Improvement Project in the City's downtown area. This public infrastructure project is part of an overall effort to spur private investment and development in Amesbury's Lower Millyard. The City plans to develop the 1.6 acre site into an urban, riverfront park known as Heritage Park. The development will include pedestrian bridge connections to the newly constructed Nicolas Costello Transportation Center and Senior Center, the downtown area, and the rail trail. The final project will also include approximately 289 new units of housing, 30,000 square feet of office space and a multi-story 10,500 square foot commercial property. The Lower Millyard is identified as a Priority Development Area in the Merrimack Valley Regional Plan.	\$1,642,434
Ashland	In 2013, EOHED awarded a \$6,000,000 grant through the MassWorks Infrastructure Program for infrastructure improvements to support the Ashland TOD Mixed Use District. The District has been permitted for the construction of over 900 housing units, 141,000 sf of commercial development, 90 acres of open space, and 5 miles of walking & bike trails. The MassWorks award will support the creation of water, sewer and roadway connections throughout the site as well as the creation of walking and biking trails connecting the development to downtown and the Ashland Commuter Rail Station. Located at the site of the former Nyanza dye manufacturing plant, the site was designated as an EPA Superfund Site in 1985 and was subsequently remediated & capped in 1992. The Ashland TOD District was identified as a Priority Development Area in the 495/MetroWest Compact Study.	\$6,000,000
Attleboro	In 2013, EOHED awarded a \$3,960,000 grant through the MassWorks Infrastructure Program to support the revitalization of downtown Attleboro. The award will be used to construct Riverfront Drive, a 1,930 foot roadway that will connect Wall Street with Olive Street. The new roadway will provide a critical connection between downtown and the new Intermodal Transit Center, improving traffic flow and pedestrian access to the area. The new road will also free up additional land for the development of an estimated 250 new multi-family housing units and approximately 20,000 square feet of commercial space. The City designated a Brownfields Support Team in 2010 and the site was identified as a Priority Development Area in the South Coast Rail Economic Development and Land Use Corridor Plan.	\$3,960,000
Berlin	In 2013, EOHED awarded a \$1,520,000 grant through the MassWorks Infrastructure Program to support critical roadway and pedestrian improvements along River Road West which will enable Phase 3 of the development, known as Riverbridge, to commence. This phase of the construction will consist of 205 housing units and a 77,000 sf hotel. The Riverbridge development is located in an area that was identified as a Priority Development Area in the 495/MetroWest Development Compact Plan.	\$1,528,585
Beverly	In 2013, EOHED awarded a \$1,500,000 grant through the MassWorks Infrastructure Program. The MassWorks award supports the construction of the first phase of the Brimbal Avenue Interchange Project, which will include widening a section of Brimbal Avenue and building a connector road between Brimbal Avenue and Sohier Road. The public infrastructure project will immediately unlock \$20 million in private development between the two roads. The project is strongly supported by the North Shore Alliance for Economic Development and is included in the Metropolitan Area Planning Council's 2011 North Shore Regional Strategic Plan.	\$5,000,000

Brockton	The City of Brockton was awarded over \$11 million in additional funding to help support the redevelopment of Enterprise Block, a centrally located square that will bring growth and opportunity to downtown Brockton. Phase I of the project will consist of a mix of housing and commercial space. The housing portion will feature 113 new housing units, including 71 apartments, 29 of which will be affordable. The remaining 42 units will be live/work space for local artists, featuring an artist gallery and office space on the first floor. The commercial component of Phase I will include the rehabilitation of the now vacant Enterprise Building into 52,000 square-feet of office space. The second phase of development will include 102 new units of housing and a new parking garage to accommodate the increase in tenants. This is scheduled to begin within two years after the completion of Phase I. Enterprise Block is part of the Brockton Growth District, which was designated on March 19, 2013.	\$11,066,361
Chelsea	The City of Chelsea was awarded a \$3 million grant to support Phase III of the Gateway Center Improvement Project, which will include the replacement of water mains, sewer separation, and roadway and sidewalk repairs. These upgrades will help support the long-term redevelopment efforts in the City's Urban Renewal District and will support the construction of a new 152-room hotel, a 250,000 square foot corporate center, and the construction of the second phase of the One North housing project, which will include 230 market-rate rental units. This latest grant will complement the \$2.5 million the City has received in MassWorks funding since 2011 to support the revitalization of the area. This project is supported by the Metropolitan's Area Planning Council's Metrofuture Plan.	\$3,000,000
Conway	The MassWorks award will support infrastructure improvements in Conway's Downtown, including public safety improvements and handicap accessibility to the public park area. The project will complement \$870,000 contributed by the Town for related Downtown projects.	\$997,521
Deerfield	The MassWorks award will provide a permanent solution to repairs along River Road, which for the past 15 years has experienced pavement failure and cracking. Infrastructure improvements will include the removal of the debris and reconstructing the existing drainage systems. MassWorks funds will leverage \$100,000 contributed by the Town to make additional repairs to River Road and extend the project pavement limits.	\$952,463
Easthampton	The MassWorks award will continue the infrastructure work funded by a 2012 MassWorks grant to redevelop the Pleasant Street Mills into a vibrant, mixed-use community. Specifically the grant will construct of 404 new public parking spaces on the southern side of the mills. The City will also seek to enhance the project area through the planting of 124 native trees and shrubs, new trails and lighting as funding allows. The project is consistent with the Pioneer Valley Planning Commission's 2011 Valley Vision update.	\$1,500,000
Easton	Queset Commons is a planned, mixed-use district in the heart of Easton and approved as a 40R Smart Growth District. When complete, the development will include 280 residential units and 116,000 sf of office and retail space. The first 98 units of housing and 22,000 SF of commercial space are fully permitted by the Town. The MassWorks award will provide for the construction of improvements at the Rt. 138 / Rt. 123 intersection providing for improved traffic flow and pedestrian safety at this critical intersection. The Queset Commons 40R District is identified as a Priority Development Area in the South Coast Rail Economic Development and Land Use Corridor Plan.	\$1,000,000
Hadley	The MassWorks award will be used to pave an 800-foot section of Shattuck Road immediately south of the Hadley-Sunderland town border. The road paving will enhance public transportation safety of Shattuck Road by improving the road surface for all-weather travel, as well as providing for a viable detour route to allow closure of Route 47, a north-south corridor, during the replacement of the Dwyer's Bridge culvert.	\$61,815
Hardwick	The MassWorks award will be used to replace the existing 15 foot span culvert across Muddy Brook along Patrill Hollow Road. The road is the most direct link for emergency response between the east and west sides of Hardwick.	\$415,000

Haverhill	The Merrimack Street Renaissance Project is a major redevelopment initiative designed to revitalize several blighted and underutilized parcels along the Merrimack River. The MassWorks award will assist the redevelopment project by improving accessibility to the Merrimack River through the construction of a new boardwalk, parking and the creation of new public spaces. Private development on the site will include a mixed-use development with office, retail and housing. The grant compliments a previous \$4M award to the City of Haverhill to support this project and aims to extend the momentum of economic development and employment opportunities generated from the designated Growth District eastward towards the Merrimack Street corridor. The area was identified as a State Priority Development Area in the Merrimack Valley Regional Plan.	\$5,000,000
Lawrence	The MassWorks funded infrastructure will provide the important nexus from the new Northern Essex Community College Allied Health and Technology Center opening in January 2014 to the City's primary downtown street, Essex Street, and support economic development surrounding the growing urban campus in downtown Lawrence. The infrastructure improvements will include the renovation the Essex Street Connection and additional alley ways which provide critical linkages throughout the downtown and are used on a regular basis by NECC students and faculty. This area of Downtown Lawrence is identified as a Priority Development Area in the Merrimack Valley Regional Plan.	\$894,696
Malden	The City of Malden was awarded a \$3 million grant to support the Downtown Revitalization and Transit Reconnection Project. This major project will help reestablish Pleasant Street as the main gateway to the heart of the City's downtown community and will increase residential and pedestrian access to the Orange Line MBTA station. The project also helps support the City's goal of creating 500 new housing units in the area and transforming the area into a mixed-use, transit-oriented development.	\$3,000,000
Marlborough	The City of Marlborough was awarded a \$1.6 million grant to support roadway, bicycle and pedestrian improvements along Simarano Drive in Marlborough's Southwest Quadrant. The area is continuing to grow with companies such as TJX Companies Inc. and Quest Diagnostics expanding in the area. These critical infrastructure improvements will support additional housing units, a new hotel and more retail and dining space for residents and workers. The Simarano Drive Area is designated as a Priority Development Area in the 495/Metrowest Compact Study	\$1,600,000
Mashpee	Mashpee Commons is a certified Growth Center for the Town of Mashpee, designed and built using Smart Growth principals. The MassWorks award will extend Market Street from its current terminus in Mashpee Commons, southward to Job's Fishing Road allowing for the development of residential and mixed-use buildings along either side. Part of a permitted 382 unit 40B development, the first phase will include 53 units and approximately 12,000 sf of retail. This project is consistent with Cape Cod Commission's Regional Planning efforts.	\$901,250
Melrose	The City of Melrose was awarded a \$960,000 grant to help support infrastructure improvements near the Highlands commuter rail station, including the reconfiguration of four municipal parking areas, sidewalk reconstruction, enhanced pedestrian lighting and crossings, traffic calming measures, pedestrian amenities, and period lighting.	\$960,000
Mount Washington	The MassWorks award will make repairs necessary to stabilize BashBish Falls Road making it safe and serviceable. Mount Washington, in spite of its small population, is a considerable resource for the Commonwealth and is a popular tourist destination and important to the economic vitality of the region. Without substantial repairs, the Road will be unsafe for all travel shortly and leave the Town with only one access point from New York State.	\$1,000,000
North Brookfield	The MassWorks award will repair and replace critical infrastructure on the Sucker Brook Bridge on Murphy Road, which has been closed since August 2013 due to safety concerns. In addition to impacting the local residents and farmers, the closure has rerouted public safety vehicles, increasing response time to emergency calls.	\$500,000

Oakham	The MassWorks award will assist the Town of Oakham with roadway improvements which the Town has not been able to fund on it's own. The grant will be used for drainage improvements, guardrail replacement and roadway resurfacing. The Town seeks to make improvements to improve roadway safety and to bring additional development to the community.	\$900,000
Pittsfield	The City of Pittsfield was awarded a \$2 million grant for Phase III of the Streetscape Improvement Project, which began in 2005 and is serving as a catalyst for the redevelopment of the City's downtown area. This grant complements \$13 million in additional state, local and federal dollars spent in the area for revitalization purposes. In 2011, Pittsfield also received a \$3.6 million MassWorks grant for improvements and repair to the McKay Street Garage in downtown Pittsfield.	\$2,000,000
Revere	The City of Revere was awarded a \$1.5 million grant to support the Broadway Core Business District Revitalization Project to make infrastructure improvements that will transform the City's downtown and support small business growth, create jobs, and facilitate the development of new housing units. Among other things, the award will be used to match the City's current investment in streetscape improvements, including new sidewalks, lighting, and crosswalks.	\$1,500,000
Salem	The City of Salem was awarded \$1.275 million to support the improvement of Grove Street from Harmony Grove Road to Goodhue Street. The project will produce a "complete streets" circulation environment with pedestrian and bicycle accommodations. MassWorks funds will be used for construction, environmental remediation, and design. The infrastructure development will directly support the proposed redevelopment of Legacy Park and four other key sites within the North River Canal Corridor to create a total of 315 housing units. These projects will revitalize this blighted, former industrial area into a mixed-use neighborhood consistent with the goals of the North River Canal Corridor Master Plan.	\$1,275,000
Savoy	The MassWorks award will be used to complement \$1,695,027 in FEMA funding used to repair the roadway and drainage damaged caused by Tropical Storm Irene during the fall of 2011. Black Brook Road has remained closed since the storm as a result of unsafe roadway conditions and failure of the slopes. The project is expected to be completed during the 2014 construction season. The project is supported by the town of Florida.	\$997,112
Taunton	The City of Taunton seeks to expand the redevelopment efforts at the Myles Standish Industrial Park (MSIP) by constructing additional roadway, utilities and a pump house to provide access to an additional 5 new lots and 48.8 acres of development. The City will seek to leverage the MassWorks award with a \$2M Federal Economic Development Agency Grant to assist with further roadway improvements which will increase connectivity in the MSIP. This award will also support the future development of the Life Science Training and Education Center to be located in the Myles Standish Business Park. The MSIP is designated as a Priority Development Area in the South Coast Rail Economic Development and Land Use Corridor Plan.	\$2,000,000
Tolland	The MassWorks award will assist the Town of Tolland in repairing 2.4 miles of Route 57 westwards from Burt Hill Road to the Sandisfield line. This section of highway is so badly deteriorated that it is impossible to plow a smooth surface for safe vehicle travel. The funds will also be used to repair drainage in along Route 57 in the center of town and repave the roadway. The project is supported by a \$30,000 contribution by the Town. The project is supported by the Towns of Granville and Sandisfield.	\$990,000
Wales	This area of Wales serves to provide a means for residents in the area to access the major interstates and supports a denser housing area within Woodland Heights and a future residential multi-family housing complex at the end of Walker Road. The Town has committed \$33,000 to complete the design and engineering for this project. This project is consistent with the Pioneer Valley Regional Plan and was highly recommended by the MassDOT district office as a shovel ready project.	\$881,923

Warwick	The Winchester Road Paving project is a roadway safety improvement project which will improve drainage along the roadway and eliminate ice from forming. Winchester Rd., also known as Rt. 78, is the major North/South traveled route between Orange, MA and Winchester, N.H. The town estimates that approximately 1,000 cars use the road each day. The Town will pledge an additional \$50,000 towards to the project to ensure that it can cover any cost overruns. This project was recommended by the Franklin Regional Council of Government and the MassDOT district office as a shovel ready project.	\$495,000
West Stockbridge	The MassWorks award will be used to enhance pedestrian and vehicular safety, serviceability and appearance in West Stockbridge's Downtown. The shovel ready project includes infrastructure improvements to the intersections and sidewalks of Main Street, Center Street and Depot Streets. The Town has contributed \$140,000 for the design and additional infrastructure work. The project is consistent with the Town's Master Plan, the Berkshire Regional Planning Commission's "Regional Plan for Berkshires" and will compliment the rehabilitation of the Old Town Hall, a major downtown project now underway.	\$1,000,000
Westwood	The Canton Street at University Avenue Infrastructure Improvement Project includes intersection reconstruction to accommodate additional approach lanes and traffic control to improve traffic operations and safety. The MassWorks award will support redevelopment of 130 acres into a mixed-use project known as University Station. The University Station Project, located adjacent to I-95 and within walking distance of the Route 128/University Park MBTA Station, will include up to 750,000 sf of retail/commercial space, 325,000 sf of office/research space, a 160 room hotel, a 100 unit assisted care facility and up to 650 new mixed-income housing units.	\$5,500,000
Worcester	The MassWorks award will support the next phase of development within Worcester's City Square District. To help facilitate the next phase of private development which will consist of a 150 room hotel and a mixed used residential development with approximately 350 market-rate units and 15,000 square feet of retail, an existing building on the site (building E) will be demolished, the site remediated and prepared for future construction including the construction of an underground parking garage. City Square is part of the Worcester Growth District and is a Priority Development Area in the 495/MetroWest Development Compact Plan.	\$11,000,000

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The Official Website of the Executive Office of Housing and Economic Development (EOHED)

## Housing and Economic Development

Home > Initiatives > Executive Office of Housing and Economic... > MPRO > Infrastructure > MassWorks > 2013 MassWorks Round Results

### 2013 MassWorks Round Results

#### MassWorks Round Results

2012 MassWorks Round Results

2011 MassWorks Round Results

Contact Us ►

#### Applications

108 applications were submitted requesting \$263M in public infrastructure grants.

#### Awards

In 2013, the MassWorks Infrastructure Program awarded 33 infrastructure grants totaling \$79M to support housing, economic development and road safety in communities across the State.

#### Patrick Administration Priorities

EOHED and the Patrick Administration uses target goals for funding priorities through the MassWorks Infrastructure Program.

See the 2013 Round highlights below or click [here](#) for a complete list of awards in PDF format.

MassCommunications

Volume 3

Dec 2013

### MassWorks Infrastructure Program



#### MassWorks Infrastructure Program: 2013 In Summary

- In 2013, the MassWorks Infrastructure Program awarded 33 infrastructure grants totaling \$79.6 M to support housing, economic development and road safety in communities across the State.
- During the 2013 funding round, the average grant amount was \$2.4M and grants were awarded to municipalities of all sizes ranging in population from less than 200 to over 150,000.
- 108 applications were submitted requesting \$263M in public infrastructure grants.
- Applications were considered by a team of state reviewers representing a diversity of disciplines and evaluated for consistency with Program priorities, including readiness and consistency with the state's Sustainable Development Principles.
- Each of the projects selected for an award was consistent with a regional plan.
- The 2013 funding round prioritized projects that promoted multi-family housing in mixed-use environments. Of the 33 projects selected for an award, 20 met this criteria. These 20 projects will result in the near-term creation of 2,518 housing units.

MassWorks Infrastructure Program, 2013 Grant Awards



#### Spending Targets

	Gateway City	Transit-Oriented Development	Reuse Previously Developed Sites	Mix of Residential and Commercial Uses	Density of Housing	Regionally Significant
2013 Spending Portfolio	53%	72%	87%	85%	100%	56%
Program Spending Targets	50%	67%	80%	80%	100%	50%

Email: [MassWorks@state.ma.us](mailto:MassWorks@state.ma.us) | Phone: 617-780-3649Massachusetts Permit Regulatory Office  
Executive Office of Housing and Economic Development

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The Official Website of the Governor of Massachusetts

## Governor Deval Patrick

[Home](#) > [The Administration](#) > [Councils, Cabinets and Commissions](#) > [Regionalization Advisory Commission](#) > [About the Regionalization Advisory Commission](#)

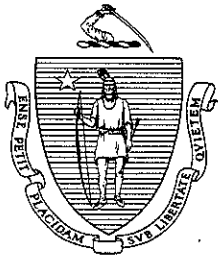
### About the Regionalization Advisory Commission

The Regionalization Advisory Commission was created by the [Acts of 2009, Chapter 60: An Act Establishing a Regionalization Advisory Commission](#). The law was signed by the Governor in August 2009, tasking the Commission to submit its findings and recommendations for regionalizing local services no later than April 30, 2010.

Following the passage of this law, former Lt. Governor Murray was named chair of the Commission and led a series of meetings with the goal of identifying best practices, challenges, and recommendations for regionalization a range of local services including: public health, housing, veterans' services, elder services, public safety, municipal finance, public works and transportation, education, libraries, green communities, and information technology.

Under the former Lt. Governor's leadership, Regionalization Advisory Commission filed a full report on April 30, 2009 with the state legislature. Former Lt. Governor Murray then partnered with the Joint Committee on Municipal Affairs and the Massachusetts Association of Regional Planning Agencies on a series of forums to receive immediate feedback from municipalities on the findings of the report.

After the Regionalization Advisory Commission has sunset based on legislation, the former Lt. Governor requested the Municipal Affairs Coordinating Cabinet's Executive Order be amended to formally include the promotion of regionalizing local services as a part of the Cabinet's mission. Through the work of the former Lt. Governor and the Secretary of Administration and Finance, the Patrick Administration was implementing the state's new Community Innovation Challenge Grants, which received an overwhelming response for regionalization projects by cities and towns. Grants for these projects were awarded in late winter 2012.



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
(617) 725-4000

**DEVAL L. PATRICK**  
GOVERNOR

**TIMOTHY P. MURRAY**  
LIEUTENANT GOVERNOR

January 9, 2013

To the Honorable Senate and House of Representatives:

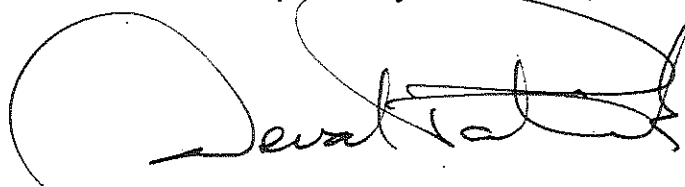
I am filing for your consideration a bill entitled "An Act Relative to Municipal Unemployment Insurance." This bill arises from the work and recommendations of the Municipal Unemployment Insurance Task Force I convened to address the concerns raised during the spring of 2012 by a number of municipalities.

This legislation will do the following:

- create a 65% UI offset to retirees collecting a defined benefit pension, thereby significantly limiting a returning retiree's access to unemployment when laid off and collecting a pension;
- eliminate the disparity between those employed directly by a school department and those providing services to the school but paid directly by the municipality;
- prevent municipalities from being charged for wages earned by election workers; and
- allow DUA to participate in the US Treasury's Offset Program so that the agency can collect UI debts as a result of an overpayment; this would be particularly significant to municipalities because all amounts recouped would go directly into their accounts.

By enacting these provisions and other non-legislative recommendations in the report, together we will provide relief to municipalities while maintaining the integrity of the UI system, respecting the rights of those unemployed workers with valid claims, and ensuring the UI system's continuing compliance with federal law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Seval Kalkan", is written over a large, loopy circular flourish.



# The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND

AND THIRTEEN.

## AN ACT

RELATIVE TO MUNICIPAL UNEMPLOYMENT INSURANCE.

*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.

Section 1 of chapter 62D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after the definition of "debtor", the following:-

"Federal tax refund payment", any overpayment of federal taxes to be refunded to the person making the overpayment after the Internal Revenue Service makes the appropriate credits as provided in 26 U.S.C. § 6402(a) and 26 CFR § 6402-3(a)(6)(i) for any liabilities for any federal tax on the part of the person who made the overpayment."

SECTION 2. Section 1 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after subsection (u) the following:-

(v) "Unemployment compensation debt", an amount owed to the department as a result of (1) an erroneous payment of benefits as described in section 69 of this chapter, also referred to as an

overpayment; (2) an uncollected contribution to the Unemployment Compensation Fund, for which the commissioner has determined an individual to be liable, along with any penalties and interest on such debt as determined under section 15 of this chapter; and (3) fees authorized under the Treasury Offset Program described in 26 U.S.C. § 6402(f)(5)(B), and 31 CFR § 285.8(h).

SECTION 3. Section 6A of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after subsection (6) the following:-

(7) an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000.

SECTION 4. Said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after section 14P the following:-

SECTION 14 Q. Treasury Offset Program. The commissioner may enter into an agreement with the Secretary of the Department of Treasury, under the provisions of 26 U.S.C. § 6402(f) and 31 CFR § 285.8, to transmit valid, unpaid, and overdue unemployment compensation debts to the Financial Management Service, a bureau of the U.S. Department of the Treasury, for collection by offset of Federal tax refund payments through the Treasury Offset Program. If the commissioner chooses to participate in the Treasury Offset Program to recover unemployment compensation debt, the commissioner shall adhere to all rules, policies, and guidance as required by the U.S. Department of the Treasury and the U.S. Department of Labor in implementing and administering the program. The commissioner may promulgate such regulations as needed to implement this section.

SECTION 5. Section 15 of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after subsection (e), the following:-

(f) If an assessment, or any administrative decision upon review thereof has become final and the contributions, payments in lieu of contributions, interest, or penalties thereby assessed remain unpaid, the Director may refer the unpaid and overdue amount to the Secretary of the Department of Treasury for collection under the provisions of 26 U.S.C. § 6402(f), the Treasury Offset Program, provided that all procedures for notice and opportunity to present evidence as required by 31 CFR § 285.8 have been followed.

SECTION 6. Section 28A of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after subsection (d) the following:-

(e) with respect to any services described in subsections (a) and (b) that are provided to or on behalf of an educational institution, benefits shall not be paid to any individual under the same circumstances as described in subsections (a) through (c).

SECTION 7. Section 29 of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after subsection (d)(6) the following:-

(7) Notwithstanding any of the foregoing provisions of this subsection, the amount of benefits otherwise payable to an individual for any week that begins in a period with respect to which such individual is receiving governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment from a defined benefit plan that is based on the previous work of such individual for the separating employer or for a base period employer shall be reduced by an amount equal to 65 per cent of the amount of such payment that is reasonably attributable to such week; provided,

however, that such reduction shall apply only when such separating or base period employer employed the individual for at least 75 per cent of the individual's total length of service on which the defined benefit plan is based; and provided, further that such reduction shall apply only if, and to the extent, then consistent with section 3304(a)(15) of the Internal Revenue Code of 1954. Payments received under the Social Security Act shall not be subject to this paragraph.

SECTION 8. Section 53A of said chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words "and (2)", and inserting in place thereof the following:- , (2) withdrawn for payment of fees authorized under the Treasury Offset Program described in section 14Q and paid to the Financial Management Service, a bureau of the U.S. Department of the Treasury, and (3).

SECTION 9. Section 69B of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting, before the first sentence in line 1, the following:- (a) .

SECTION 10. Said section 69B of said chapter 151A of the General Laws, as so appearing, is hereby further amended by inserting, at the end thereof, the following:-

(b) In addition to any other remedy provided by this chapter, the commissioner may request that the amount payable to the department by an individual resulting from an overpayment of unemployment benefits which has become final as specified in 430 CMR 6.12 be set off against any Federal tax refund payment owed such individual by the U.S. Department of Treasury, in accordance with the requirements of the Treasury Offset Program described in section 14Q of this chapter.

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The Official Website of the Executive Office for Administration and Finance

## Administration and Finance

[Home](#) > [Budget, Taxes & Procurement](#) > [Working For You](#) > [Community Innovation Challenge Grant Program](#)

### Community Innovation Challenge Grant Program



[Click to see the full size image.](#)

[Click to download an accessible list.](#)

The Patrick Administration developed the Community Innovation Challenge (CIC) grant program in 2012. The program encourages and incentivizes regionalization based upon the belief that the most crucial and visible interactions between government and citizens occur locally. In two years, the program invested \$6.25 million in 49 unique projects that involve 197 municipalities across the Commonwealth.

[Read more about the Community Innovation Challenge Grant Program](#)

#### CIC Success Stories (FY12 Project Reports)

#### 2014 CIC Application and Guideline Documents

#### 2013 CIC Grant Program

#### 2012 CIC Grant Program

#### Municipal Performance, Accountability, and Transparency

Several projects funded by the CIC program support the development of similar initiatives at the municipal level to embed performance management best practices and utilize new technologies to improve accountability and increase transparency. This webpage highlights five such projects.

#### Regionalization Assistance Guide

#### CIC Facts

- In two years, municipalities requested \$41,008,402 in funding through the program.
- 3,686,311 residents total live in the 197 municipalities participating in CIC programs. This equates to 56% of the Commonwealth's population.
- 18 of 26 Gateway Cities are part of at least one CIC program.
- Of the 30 projects in Fiscal Year 2013, 8 expand projects originally funded in Fiscal Year 2012.
- Of the 49 total projects, 84% are regionalization projects and 16% are internal efficiencies.
- The CIC program has funded projects in 11 municipal service delivery areas (Facilities management, education, financial services, public health, public works, information technology, transportation, library, public safety, veterans' services, and housing)

#### Press Releases

Administration Announces \$2.25 Million in CIC Grants

Administration Announces Funding for CIC Grants

100 'Community Innovation Challenge' Grants Received

Community Innovation Challenge Grant Announced

#### Program Contact

Tim Dodd  
Program Manager  
Executive Office for Administration and Finance  
Massachusetts State House  
Room 373  
Boston, MA 02133  
[cicgrants@state.ma.us](mailto:cicgrants@state.ma.us)

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The Executive Office for Administration and Finance (A&F) developed a Regionalization Assistance Guide which serves as a directory of programs offered by the Commonwealth to assist municipalities in the development of regional projects. The Guide includes both technical assistance and grant programs.

(617)-727-2040 ext. 35405

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## Community Innovation Challenge Grant Awards

APPLICANTS	PROJECT TITLE	AMOUNT
<b>Education Projects</b>		
Manchester-Essex RSD	Regionalizing Special Education Services for Children with Dyslexia	\$109,000
Freetown Lakeville RSD	Special Education Cost Savings through Full Regionalization	\$173,900
Chesterfield-Goshen Regional School District; Hampshire Regional School District, Towns of Westhampton, Southampton, and Williamsburg	Regionalized Technology Support Services	\$78,000
Southwick-Tolland Regional School District, Town of Granville	Southwick Tolland Granville Regional School District	\$44,000
Cheshire and Lanesborough, Northern Berkshire Vocational Regional District	Vocational/ Technical School District Expansion	\$23,975
Chatham, Harwich, Monomoy Regional School District	Monomoy Regional School District Transition	\$204,000
<b>Environment/Public Works Projects</b>		
Brookfield, Brimfield, East Brookfield, Warren and West Brookfield	Regional Equipment Sharing Cooperative (RHE COOP)	\$58,000
Auburn, Charlton, Dudley, Holden, Leicester, Millbury, Oxford, Paxton, Shrewsbury, Spencer, Sturbridge, Webster and West Boylston	Regionalizing Municipal Stormwater Management in Central Massachusetts through Collaborative Education, Data Management, and Policy Development	\$310,000
Chatham and Harwich	Portable Closed Loop Pressure Wash Water Recycle System for Commercial Fishing Fleets	\$25,500
Hatfield, Southampton, Palmer, and Pioneer Valley Planning Commission	Pioneer Valley Conservation Compact	\$132,455
Norfolk County	Regional Municipal Engineering Services	\$237,000
<b>Civic Engagement Projects</b>		
Boston	Commonwealth Citizens Connect App	\$400,000
<b>Performance Management Projects</b>		
Amesbury, Lowell, Somerville, Woburn, and Worcester	Massachusetts Statewide Performance Management Program	\$373,400

## Community Innovation Challenge Grant Awards

APPLICANTS	PROJECT TITLE	AMOUNT
<b>Online Municipal Services and Systems Projects</b>		
Royalston and the Community Software Consortium	Municipal Software Development	\$290,710
Becket, Dalton, Lee, Monterey, Lenox, Richmond, Sheffield, and Berkshire Regional Planning Commission	Berkshire On-line Municipal Building Permits	\$110,835
Barnstable, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Nantucket, Provincetown, Sandwich, Truro, Wellfleet, Yarmouth, and Cape Cod Commission	Digital Regionalization: Permit, License, and Inspection Automation	\$500,000
<b>Public Health Projects</b>		
Franklin Regional Council of Governments, Towns of Buckland, Charlemont, Deerfield, Gill, Hawley, Monroe, Granby and Plainfield	Franklin County Cooperative Public Health Service	\$119,375
Berkshire Regional Planning Commission, Towns of Adams, Alford, Becket, Clarksburg, Dalton, Egremont, Great Barrington, Hancock, Lanesborough, Mt. Washington, New Marlborough, North Adams, Peru, Richmond, Sandisfield, Savoy, Sheffield, Washington, West Stockbridge, Williamstown and Windsor	Berkshire Public Health Alliance Public Health Nurse Program	\$41,305
Ashland, Medway, and Hopkinton	Provision of Electronic Food Inspections	\$15,000
<b>Public Safety Projects</b>		
Franklin County Regional COG, Office of the Franklin County Sheriff, Bernardston, Buckland, Colrain, Conway, Deerfield, Greenfield, Erving, Gill, Heath, Montague, Warwick, and Whatley	Franklin County Regional Dog Officer Control and Kennel	\$19,700
Ashland, Hopkinton	Ashland-Hopkinton Fire Services Collaborative	\$175,000
Chesterfield, Easthampton, Greenfield, Granby, Montague, Northampton, Springfield, and Ware	NoFIRES- Northwestern Juvenile Fire Intervention Response, Education, and Safety Partnership	\$47,000
Andover	Shelter from the Storm	\$29,967
Southeastern Regional Planning and Economic Development District, Taunton, Seekonk, North Attleboro, Fairhaven, Easton, Swansea, Somerset, Freetown, Dighton, Westport and Wareham	Southeast Fire Department Electronic Records and Permitting Collaborative	\$76,800
Norfolk County	Regional Animal Control	\$234,000

## Community Innovation Challenge Grant Awards

APPLICANTS	PROJECT TITLE	AMOUNT
<b>General Government Projects</b>		
East Bridgewater	Town-Facilities Management and IT Consolidation	\$73,633
Abington, Avon, Hanover, Hingham, Holbrook and West Bridgewater, Bridgewater-Raynham Regional School District, South Shore Vocational Technical High School, Whitman-Hanson Regional School District	Southeast Technology Network	\$199,690
Norfolk County	Municipal Payroll Program	\$196,000
<b>Facilities Management Projects</b>		
Hanover	Centralized Building and Infrastructure Asset Maintenance System	\$46,000
Middleborough	Town of Middleborough Consolidation of IT and Maintenance Services	\$28,210.60
<b>Other Projects</b>		
Acton, Boxborough, Littleton, Maynard, and Stow	Shared Transportation Resources among Five Municipalities and One Business in the Acton Region	\$184,575
Norfolk County	Veterans' Service Office	\$244,000
Norfolk County	Regional Services Coordinator	\$89,000

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The Official Website of the Executive Office for Administration and Finance

## Administration and Finance

[Home](#) > [Budget, Taxes & Procurement](#) > [Working For You](#) > [Community Innovation Challenge Grant](#) > [Community Innovation Challenge Grant Program](#)

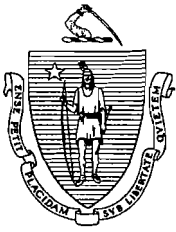
### Community Innovation Challenge Grant Program

The Patrick Administration developed the Community Innovation Challenge (CIC) grant program in 2012. The program encourages and incentivizes regionalization based upon the belief that the most crucial and visible interactions between government and citizens occur locally. In two years, the program invested \$6.25 million in 49 unique projects that involve 197 municipalities across the Commonwealth.

“Our new fiscal reality demands that government change the way it does business to stretch every taxpayer dollar as far as possible,” said Secretary of Administration and Finance Glen Shor. “The Patrick Administration’s CIC grant program is just one of the many ways we are working to give cities and towns the tools they need to drive change in local government.”

Regionalization is an opportunity for neighboring communities to build partnerships to engage in shared services, inter-municipal agreements, municipal collaborations, consolidations, mutual aid, and regional planning to reduce the risk of duplicating efforts and unnecessary spending of limited taxpayer dollars. With 351 cities and towns spanning the Commonwealth, there are countless ways to collaborate and work together to maintain important local services and deliver those services effectively and efficiently.

The CIC grant program is one more example of the kind of reforms the Patrick Administration has made in challenging fiscal times to make government more effective and efficient. The CIC grant program provides incentives, such as technical assistance, training, and other one-time or transition funding for municipal leaders to work together to pursue innovative ways to deliver critical services to taxpayers more efficiently. Ideal projects for the grant program include those with the potential for greatest impact, high levels of innovation and substantial potential cost savings for municipalities.



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT  
STATE HOUSE • BOSTON 02133  
(617) 725-4000

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

By His Excellency

DEVAL L. PATRICK  
GOVERNOR

2007 FEB 15 PM 2:52  
OFFICE OF THE SECRETARY OF STATE  
DIVISION OF GOVERNMENTAL AFFAIRS

EXECUTIVE ORDER NO. ~~480~~

**STRENGTHENING THE LEVEL OF PARTNERSHIP AND COLLABORATION  
BETWEEN STATE GOVERNMENT AND CITIES AND TOWNS**

WHEREAS, Cities and towns are the primary service providers for the residents of the Commonwealth;

WHEREAS, cities and towns are a vital partner in creating the conditions under which economic development flourishes throughout Massachusetts;

WHEREAS, cities and towns have the primary responsibility of educating children throughout the Commonwealth and providing children with the foundation that will enable them to compete in a global marketplace;

WHEREAS, the most crucial and visible interactions between government and citizen – education, public safety, transportation, public health, recreation and more – occur locally;

WHEREAS, the level of partnership and collaboration between state government and cities and towns has suffered over the past decade;

WHEREAS, cities and towns have been burdened under a statutory and regulatory scheme that often stifles innovation, reduces flexibility, and in many instances leaves local government wholly dependent upon state government; and,

WHEREAS, the revitalization of cities and towns will begin with an emphasis on greater service collaboration between local and state government, enhanced opportunities for regional collaboration, a renewed emphasis on providing cities and towns with the flexibility to address their unique challenges, and a direct and daily forum to foster regular, honest and open communication between local government and the executive branch of government.

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § I, Art. I, hereby order as follows:

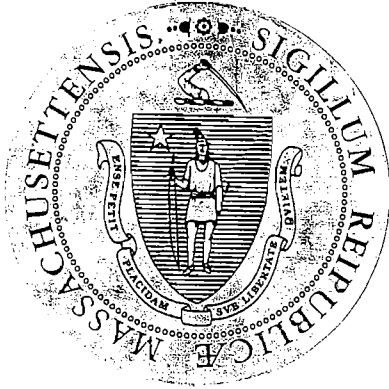
Section 1. There is hereby established within the Executive Office of Administration and Finance, a Municipal Affairs Coordinating Cabinet.

Section 2. The cabinet shall be chaired by the deputy commissioner for local services of the department of revenue. The cabinet shall also include the state purchasing agent, the chief information officer, the commissioner of capital asset management and maintenance, the executive director of the group insurance commission, the personnel administrator, the chairman of the civil service commission, and any other person whom the Secretary of Administration and Finance may designate.

Section 3. The cabinet shall have the following responsibilities:

- (a) to implement policies and coordinate activities throughout the executive branch that are designed to enhance the partnership between local and state government;
- (b) to assess ways in which state government may provide assistance to local government in the provision of services, including but not limited to, technology, procurement, construction, employee benefits, and other areas where the assets of state government may be utilized to assist local governments;
- (c) to provide support to the Local Government Advisory Commission, ("LGAC") created pursuant to M.G.L. c. 3, § 62, to analyze and implement recommendations that have been made by the LGAC and approved by the Governor;
- (d) to coordinate the implementation of municipal impact statements on legislation and executive orders;
- (e) to provide analysis of home rule legislation to determine if the particular provision should be applied broadly to all cities and towns thereby providing permanent local authority.

Section 4 This Executive Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.



Given at the Executive Chamber in Boston  
this 15<sup>th</sup> day of February in the year of our  
Lord two thousand and seven, and of the  
Independence of the United States of  
America two hundred and thirty-one.

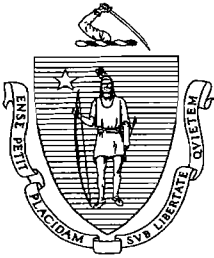
A stylized, handwritten signature in black ink, likely belonging to Deval L. Patrick.

DEVAL L. PATRICK, GOVERNOR  
Commonwealth of Massachusetts

A stylized, handwritten signature in black ink, likely belonging to William Francis Galvin.

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William Francis Galvin  
Secretary of the Commonwealth



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
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(617) 725-4000

**DEVAL L. PATRICK**  
GOVERNOR

**BY HIS EXCELLENCY**

**TIMOTHY P. MURRAY**  
LIEUTENANT GOVERNOR

**DEVAL L. PATRICK**  
GOVERNOR

**EXECUTIVE ORDER NO. 533**

**ENHANCING THE EFFICIENCY AND EFFECTIVENESS OF  
EXECUTIVE DEPARTMENT PROCUREMENTS  
AND ESTABLISHING A MUNICIPAL PROCUREMENT PROGRAM**

2011 MAY 10 PM 1:07  
OFFICE OF THE SECRETARY OF STATE  
REGULATIONS DIVISION

WHEREAS, the national economy, the financial system on which the economy relies, and the state budget are now under significant stress;

WHEREAS, state government must strive to achieve every possible efficiency in its operations and in its procurement of goods and services for use by Commonwealth public entities and in its delivery of services to the people of the Commonwealth;

WHEREAS, one mechanism for achieving greater efficiency and cost-effectiveness is by further coordinating and centralizing the management and oversight of the Executive Department's procurement practices and decision-making;

WHEREAS, the Commonwealth spends in excess of \$1 billion in the aggregate each fiscal year on goods and services, excluding energy; space rental, construction and health and human services expenses;

WHEREAS, through the improved coordination, centralization and implementation of best practices at the secretariat-level of state agency procurements and the oversight and aggregation by the

Operational Services Division of all procurement, the Commonwealth can achieve considerable cost-savings, while receiving goods and services equal or better than those presently purchased;

WHEREAS, Commonwealth-procured contracts for goods and services currently provide savings opportunities for all Commonwealth public entities, including cities and towns, and, whereas, additional contracts for goods and services unique to the needs of cities and towns procured by the Commonwealth on behalf of cities and towns would provide even greater savings;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. 1, order as follows:

Section 1. This Executive Order shall apply to the procurement and purchase of goods and services (as defined below) pursuant to M.G.L. Chapter 7, Section 22; M.G.L. Chapter 30, Sections 51 and 52; and 801 CMR 21.00 by all state agencies of the Executive Department and other entities governed by those provisions. As used in this Order, the terms “goods and services” shall not include energy, space rental, construction and health and human services expenses. As used in this Order, the term “strategically source” or “strategic sourcing” shall refer to the planned, systematic and enterprise-wide procurement process that continuously improves and re-evaluates the purchasing activities of the enterprise. As used in this Order, the term “Assistant Secretary for Operational Services” shall also mean the “State Purchasing Agent”, both of which are defined in MGL Chapter 7, Section 4A.

Section 2. I hereby direct the Assistant Secretary for Operational Services (hereinafter “Assistant Secretary”) of the Commonwealth’s Operational Services Division (“OSD”), who serves as the Commonwealth’s Chief Procurement Officer, to lead and implement all directives in this Executive Order, including to:

- Investigate opportunities to standardize and streamline the Commonwealth’s procurement processes both within OSD and the Executive Department in order to simplify the process for state agency procurement staff when conducting the

procurements, for public entity purchasing staff when using the contracts and for interested bidders when bidding on the procurements;

- Conduct a comprehensive review with other interested parties of the Commonwealth's standard terms and conditions and other procurement terms by October 1, 2011 for opportunities for improvements or adjustments and to identify terms that are unnecessary, costly and/or create a barrier to doing business with the Commonwealth;
- Develop and issue procurement and purchasing document templates, including, for example, a solicitation document (currently referred to as a "Request for Response" (RFR)) template similar to the RFR template used for statewide contracts, for use by state agencies by October 1, 2011 in order to streamline the process for agencies and standardize the terms for bidders, thereby making the procurement process more user friendly for agencies and businesses;
- Provide procurement training for state agency procurement staff, including the establishment of minimal procurement training requirements for state agency procurement staff;
- Perform outreach to work cooperatively and plan and strategically source the purchases for state agencies and other Commonwealth public entities to the extent practicable and where cost savings may be achieved;
- Improve customer service to public entities and businesses by implementing a Procurement Helpline;
- Investigate and benchmark Commonwealth prices for goods and services against other contracts that are of similar scope and complexity;
- Working with other professional procurement associations, identify other successful procurement models and practices and investigate implementation of such best procurement practices in the Commonwealth; and
- Investigate, lead and/or designate collective/cooperative procurements with other states and Commonwealth public entities, including, but not limited to, Commonwealth state colleges and universities and the Massachusetts Higher Education Consortium, with a goal of leveraging buying power,

sharing resources and best practice strategic sourcing techniques, when in the best interest of the Commonwealth.

Section 3. By October 1, 2011, OSD shall establish and implement, in consultation with the Commonwealth's Inspector General and Commonwealth municipalities, a Municipal Procurement Program ("MPP") within OSD for purposes of providing the following ongoing services for Commonwealth cities and towns:

- Outreach to municipalities and survey of their unique procurement needs that are not being fulfilled by current statewide, department or their own contracts;
- Procurement, or delegation of procurement to other departments, of high volume goods and services that are needed by Commonwealth cities and towns;
- Coordination and aggregation of planned municipal and state agency spending from statewide or department contracts; and
- Provision of training to cities and towns on how to use statewide and department contracts and how to navigate the Commonwealth's procurement processes and systems.

Section 4. By July 1, 2011, the secretary of each executive office ("secretariat") in the Executive Department shall appoint a Secretariat Chief Procurement Officer ("SCPO") and shall submit names of said SCPOs to the Assistant Secretary. Each SCPO shall report both to the SCPO's respective secretariat and, through a dotted line relationship, to the Assistant Secretary. Each SCPO shall also serve in the role of Secretariat Supplier Diversity Officer as defined in Section 4 of Executive Order 524. Where operationally warranted, SCPOs shall have the authority, following consultation with agency heads, to appoint chief procurement officers for agencies within their secretariats ("Agency CPOs"). Each Agency CPO shall report to the SCPO of his or her Secretariat. Additionally, each Agency CPO shall serve as the Agency Supplier Diversity Officer as defined pursuant to Section 4 of Executive Officer 524. All agency procurement personnel shall report to the Agency CPO or to his or her designee, or where no Agency CPO is appointed, to the SCPO for the agency's secretariat. SCPOs, Agency CPOs and other state agency procurement staff shall meet all minimum procurement training

standards and attend all required procurement training sessions as determined by the Assistant Secretary.

Section 5. By July 1, 2011, and thereafter modified based on and after the Fiscal Year 2012 budget is enacted, each SCPO shall submit to the Assistant Secretary for review and approval a FY 2012 secretariat procurement plan ("Secretariat Procurement Plan") that demonstrates how the Secretariat will, no later than September 30, 2011, migrate to the most efficient model for the management and oversight of secretariat procurements consistent with all applicable procurement laws, regulations and policies and procedures as established by the Assistant Secretary and the goals and objectives of the Commonwealth's Supplier Diversity Program. The Plan shall also address, at a minimum, the following:

- The amount of funds, from all sources, whether operating, capital, trust or otherwise, expended in Fiscal Year 2011 and previous two fiscal years on the purchase of goods and services within the secretariat;
- The types of goods and services routinely purchased by the secretariat;
- The secretariat and department procurement personnel, if any, specifically assigned to manage and oversee and conduct procurements within the secretariat and their job titles and areas of responsibility;
- The projected spending for the current and upcoming fiscal year on the purchase of goods and services broken out by spending category;
- Best practices, strategies, policies, procedures and a specific action plan that the secretariat will be implementing to accomplish an approximate 3% reduction in secretariat spending on goods and services in Fiscal Year 2012 in support of the administration's Fiscal Year goal of generating approximately \$30 million in savings by Executive Department on goods and services in Fiscal Year 2012 and the projected reduction in future fiscal years;
- Recommendations for the staffing and the organizational structure or restructure of procurement personnel within the

secretariat and any savings that will result from implementing these recommendations;

- Opportunities for inter-secretariat coordination and collaboration on purchasing of goods and services to achieve cost-savings and enhanced quality;
- Recommendations for specific goods and services that the secretariat would request OSD to procure or to designate a department to procure on statewide contracts;
- Recommendations of secretariat and/or agency procurement personnel to actively participate on OSD, secretariat or agency Procurement Management Teams ("PMTs") from the top ten consumer agencies as determined by contract usage in the prior fiscal year; and
- Recommendations for policy, practice, or regulatory changes or other reforms that the Commonwealth should consider implementing to improve the efficiency and quality of statewide and secretariat/department procurements.

Section 6. Beginning April 1, 2012, and thereafter modified based on and after the budget for the upcoming fiscal year is enacted, and annually by April 1 thereafter, the SCPO shall provide an annual Secretariat Procurement Plan to the Assistant Secretary and the Executive Office for Administration and Finance ("ANF") that, at a minimum, contains the following:

- An annual secretariat spending plan that identifies the expected level of spending on the purchase of goods and services within the secretariat;
- Major purchases anticipated for the fiscal year;
- The fiscal year goal for secretariat spending with minority-owned and women-owned businesses;
- Recommendations for reforms, cost-savings and efficiencies in the procurement practices within the secretariat; and
- Recommendations for Commonwealth-wide reforms, cost-savings and efficiencies in the procurement process.

Section 7. There shall be a Procurement Advisory Board ("PAB") established to advise ANF and the Assistant Secretary on Commonwealth-wide strategic sourcing opportunities and

procurement reforms, with the goal of meaningfully reducing the cost and improving the quality, value, efficiency, techniques and trends of purchasing goods and services within the Commonwealth. The PAB shall be chaired by the Assistant Secretary and comprised of the SCPOs, the Assistant Secretary for Access and Opportunity or his/her designee, and such other members identified by ANF and/or the Assistant Secretary. The PAB shall endeavor to include members from the Judicial and Legislative branches, other constitutional offices, Commonwealth cities and towns, higher education and the quasi-public authorities to enhance the opportunity for aggregate purchasing, standardization of processes, efficiencies and other coordination and collaborative procurement reforms.

The PAB shall meet at least quarterly and shall provide ANF with a quarterly report during its first year and thereafter an annual report regarding its activities, recommendations and progress towards initially reforming and thereafter ensuring the high quality of procurement in the Commonwealth. The PAB shall, without limitation, take the following actions:

- Provide input and recommend improvements to the Assistant Secretary on the Commonwealth's standard terms and conditions and other procurement terms;
- Share best practices among and between secretariats for purchasing;
- Establish a Business Advisory Board, comprised of members of the PAB and business community, which will meet at least twice per year and will provide input from the business community to the PAB about whether the Commonwealth's procurement process creates unnecessary barriers to or burdens associated with doing business with the Commonwealth; provided that at least two members of the Supplier Diversity Office Advisory Board, as defined in section 6 of Executive Order 524, shall be appointed to serve on the Business Advisory Board. The PAB shall also solicit from the Business Advisory Board whether any procurement and contract terms result in unnecessary increased risk and/or cost to businesses, which may result in increased prices paid by the Commonwealth or cause certain businesses not to bid, thereby

limiting competition or inhibiting attainment of the Commonwealth's supplier diversity goals;

- Develop a tracking list of anticipated major purchases and monitor closely these major purchases to ensure that the procurement results in the lowest prices and/or best values for the Commonwealth;
- Consider further organizational, staffing and administrative actions that would improve the procurement process and results in the Commonwealth; and
- Assist the Assistant Secretary in identifying other successful state procurement models and practices and in implementing such best procurement practices in the Commonwealth.

Section 8. By July 1, 2011, the Assistant Secretary shall appoint an eProcurement Advisory Board including the Assistant Secretary for Access & Opportunity or his/her designee, the Commonwealth's Chief Information Officer ("CIO") or his/her designee, the Comptroller of the Commonwealth or his/her designee, the Secretariat CIO of the Executive Office for Administration and Finance, the OSD CIO and the OSD Director of eProcurement for the purpose of:

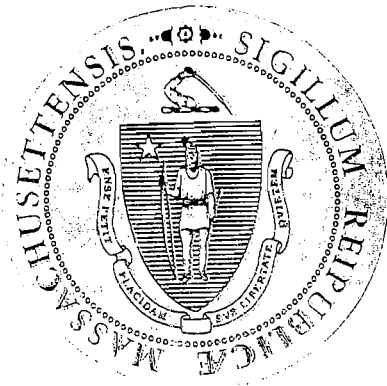
- Reviewing all currently available procurement-related systems and tools, including but not limited to Comm-PASS, to determine capabilities and limitations;
- Assessing which improvements and reforms can be implemented immediately and longer-term through existing systems;
- Reviewing systems and tools used by other states or offered by solution providers;
- Developing a strategic plan for funding, specifying and implementing an eProcurement solution which streamlines business processes including aggregation, lowers barriers to competition, collects procurement level information, facilitates the goals and objectives of the Commonwealth's Supplier Diversity Program, eliminates paper and provides public transparency; and
- Consulting with the Commonwealth CIO and the ANF SCIO in order to ensure that all proposed systems align with the Commonwealth and Secretariat goals and priorities, and comply with ITD enterprise policies and standards.

Section 9. Where appropriate, and with the approval of the Secretary for Administration and Finance, the Assistant Secretary shall have the authority to enforce this Executive Order by determining and imposing remedial courses of action in instances of secretariat or agency non-compliance with this Order's requirements.

Section 10. The Assistant Secretary shall report annually, beginning August 1, 2011, to ANF concerning: (a) progress made by the Executive Department towards statewide and secretariat procurement reform; (b) the results of such reforms; (c) opportunities for additional reforms in the Executive Department's procurement statutes, regulations, policies, practices and standards; (d) goals for the upcoming fiscal year for cost-savings and efficiencies with the anticipated purchasing actions, with a specific action plan containing steps to bring about an annual reduction in spending on goods and services, including approximately \$30 million in savings by Executive Department on goods and services in Fiscal Year 2012; and (e) the major purchases anticipated in the Executive Department in the upcoming year and steps being taken to manage effectively and efficiently all purchasing decisions.

Section 11. Nothing in this Executive Order shall be construed such that any recommended policies, processes or actions are inconsistent with section 5 of Executive Order 526 (Non-discrimination, Diversity, Equal Opportunity, and Affirmative Action) or shall be implemented in a manner that is inconsistent with the goals and objectives of Executive Order 524 (Massachusetts Supplier Diversity Program), Executive Order 515 (Environmental Purchasing Policy), Executive Order 527 (Office of Access and Opportunity within the Executive Office of Administration and Finance) or Executive Order 523 (Massachusetts Small Business Purchasing Program), unless repealed.

Section 12. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order.



Given at the Executive Chamber  
in Boston this 9<sup>th</sup> Day of May in  
the Year of our Lord two thousand  
and eleven, and of the  
Independence of the United States  
of America two hundred and thirty-  
five.

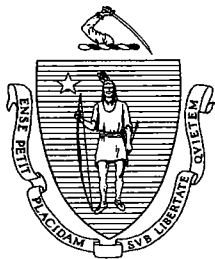
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DEVAL L. PATRICK, GOVERNOR  
Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin", written over a horizontal line.

WILLIAM FRANCIS GALVIN  
Secretary of the Commonwealth

**GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS**



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
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**DEVAL L. PATRICK**  
GOVERNOR

**TIMOTHY P. MURRAY**  
LIEUTENANT GOVERNOR

**By His Excellency**

**DEVAL L. PATRICK**  
**GOVERNOR**

**EXECUTIVE ORDER NO. 537**

**STRENGTHENING THE LEVEL OF PARTNERSHIP AND  
COLLABORATION BETWEEN STATE GOVERNMENT  
AND CITIES AND TOWNS**

**(Revoking and superseding Executive Order No. 480)**

WHEREAS, cities and towns are the primary service providers for the residents of the Commonwealth;

WHEREAS, cities and towns are a vital partner in creating the conditions under which economic development flourishes throughout Massachusetts;

WHEREAS, cities and towns have the primary responsibility of educating children throughout the Commonwealth and providing children with the foundation that will enable them to compete in a global marketplace;

WHEREAS, the most crucial and visible interactions between government and citizen – education, public safety, transportation, public health, technology, finance, business development, conservation, recreation and more – occur locally;

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REGULATIONS DIVISION

WHEREAS, cities and towns have been burdened under a statutory and regulatory scheme that often stifles innovation, reduces flexibility and in many instances leaves local government wholly dependent upon state government;

WHEREAS, regionalization of local services provides municipalities the opportunity to form strong, lasting and mutually beneficial partnerships, and fostering and improving these partnerships are important goals; and

WHEREAS, the revitalization of cities and towns will begin with an emphasis on greater service collaboration between local and state government, enhanced opportunities for regional collaboration, a renewed emphasis on providing cities and towns with the flexibility to address their unique challenges and a direct and daily forum to foster regular, honest and open communication between local government and the executive branch of government.

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, hereby order as follows:

Section 1. There is hereby established within the Executive Office of Administration and Finance, a Municipal Affairs Coordinating Cabinet.

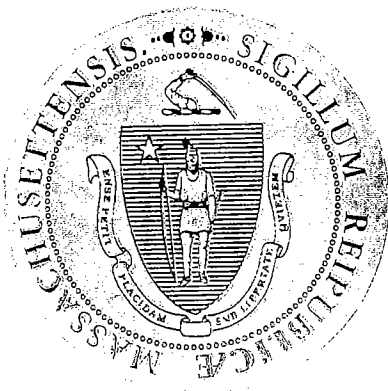
Section 2. The cabinet shall be chaired by the deputy commissioner for local services of the department of revenue. The cabinet may also include the state purchasing agent, the state chief information officer, the commissioner of capital asset management and maintenance, the executive director of the group insurance commission, the personnel administrator, the chairman of the civil service commission, any member of the Governor's Cabinet or their designee and any other person whom the Secretary of Administration and Finance may designate.

Section 3. The cabinet shall have the following responsibilities:

- a. to implement policies and coordinate activities throughout the executive branch that are designed to enhance the partnerships between local and state government;

- b. to assess ways in which state government may provide assistance to local government in the provision of services, including, but not limited to, technology, procurement, construction, employee benefits and other areas where the assets of state government may be utilized to assist local governments; and
- c. to assist in interpretation and implementation of the various municipal partnership bills signed into law over the past five years in order to assist cities and towns in reducing costs, streamlining operations and generating revenue.

Section 4. This Executive Order shall take effect immediately and shall continue in effect until amended, superseded or revoked by subsequent Executive Order.



Given at the Executive Chamber  
in Boston this 14<sup>th</sup> day of  
September in the year of our Lord  
two thousand and eleven, and of  
the Independence of the United  
States of America two hundred  
and thirty five.

A handwritten signature in black ink, appearing to read "Deval Patrick", is written over a horizontal line.

DEVAL L. PATRICK  
GOVERNOR  
Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin", is written in a cursive style.

WILLIAM FRANCIS GALVIN  
Secretary of the Commonwealth

**GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS**

## **First Comprehensive Report on Savings from Municipal Health Reform**

**Data shows potential for savings of \$250 million statewide, more than double any and all savings estimates.**

### **\$205 million in savings achieved**

Since Governor Patrick proposed municipal health reform in January 2011, 204 municipalities and regional school districts came to agreements with employees, either by using the new reform process or negotiating outside of the reform, achieving over \$200 million in premium savings.

- 165 municipalities (47 percent) took action to address health care costs, saving over \$193 million in total premium costs.
- 39 regional school districts (46 percent) took action to address health care costs, saving over \$12 million in total premium costs.

### **Potential for nearly \$50M more in first year savings**

70 entities (56 municipalities and 14 regional school districts) that did not take action reported maximum possible savings totaling \$45 million if they had used the reform process to the fullest extent possible.

### **Potential for nearly \$2.8B in cumulative savings by FY2022**

According to the Massachusetts Taxpayers Foundation, this reform could produce as much as \$2.8 billion in cumulative savings over 10 years if implemented by all communities and school districts.

## **Municipal Health Insurance Reform**

On July 12, 2011, Governor Patrick signed municipal health care reform legislation that is providing significant and immediate savings to cities and towns, while preserving a meaningful role for employee unions in the process and protecting health care quality for retirees and municipal employees. Local governments now have the choice of using a new, expedited process under the reform legislation to implement changes to existing local health care plan design or join the state's health insurance pool, the Group Insurance Commission (GIC). Local governments may share up to 25 percent of first-year savings with employees ("mitigation"). This reform is one of the most significant measures to assist cities and towns in the past 30 years.

More than a year later, local governments have far exceeded all anticipated savings estimates. The successful implementation of municipal health care reform has achieved real results and substantial savings for cities and towns across Massachusetts to help preserve essential local government jobs and services.

## **Great results in first year of reform: Use of municipal health care reform in its first year**

81 cities, towns, and school districts completed the new reform process.

- 74 implemented changes to their local plan offerings.
- 7 joined the GIC.
- See Appendix A for listing of savings reported by municipalities and regional school districts.

The resulting changes to employee health plans or joining the Group Insurance Commission (GIC) produced \$70 million in total premium savings for employers and employees.

- Employers and employees share almost equally in the nearly \$70 million in reform savings after accounting for sharing of savings with employees through mitigation programs in addition to direct employee premium savings.

The reform process' review panel closure mechanism has only been needed in one municipality (Falmouth).

- The other 80 cities, towns, and regional school districts and their employees reached agreement during the reform's 30-day negotiation phase.

## **Even more savings achieved through traditional bargaining inspired by reform option**

In addition, 122 cities, towns, and school districts have used the new law as leverage to negotiate health plan insurance changes with local unions without actually adopting the reform, yielding more than \$137 million in total premium savings for employers and employees in the first year.

- 113 made changes to their local plan offerings or contribution rates.
- 9 joined the GIC.
- See Appendix B for listing of savings reported by municipalities and regional school districts.

## **Local government participation in GIC reaches landmark**

Since the new reform was made law, an additional 16 cities, towns, and school districts agreed to join the 27 cities, towns, and school districts already in the GIC.

- The GIC now has over 45,000 municipal subscribers, triggering the addition of a second municipal representative and an additional labor representative to the Commission.

### **Data Notes**

Data for this report was self-reported by local governments and has not been independently verified.



# GATEWAY PLUS ACTION GRANT FINAL REPORT



Massachusetts  
Department of  
Housing & Community  
Development

**Community  
Assistance Unit**

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Deval L. Patrick  
Governor

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Timothy P. Murray  
Lieutenant Governor

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Gregory Bialecki  
Secretary

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Tina Brooks  
Undersecretary

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# Gateway Plus Action Grant

## Final Report

2010

### Community Planning for Neighborhood Revitalization

#### A Message from The Department of Housing & Community Development

Dear Friends:

I am pleased to present this report on the activities and recommendations of DHCD's Gateway Plus Action Grant. These grants, awarded to 18 Gateway Plus Cities, spurred successful civic engagement with residents and other stakeholders, produced implementation plans addressing the major needs of these cities and their neighborhoods, and served as a catalyst for greater involvement with nonprofit organizations, businesses and institutions in the region to help these cities improve local conditions.

The planning undertaken by these cities demonstrates that residents want to be involved in community decision making and value the opportunity to identify those concerns most affecting their quality of life, whether they be poor pedestrian access to downtown, lack of sidewalks or traffic signals, housing in need of rehabilitation, or design of multi-purpose park space.

The Gateway Plus revitalization plans will serve as an excellent starting point for these cities to set priorities for improvements, pursue funding opportunities and sustain neighborhood dialogue. We are pleased to report that actions are already underway to realize the vision of these plans in several cities, including:

- ◆ Fitchburg: \$700,000 in federal Neighborhood Stabilization Program funding for the acquisition and rehabilitation of foreclosed and abandoned properties, primarily in the Elm Street Neighborhood.
- ◆ Lawrence: \$480,465 from EOEEA's Parkland Acquisition and Renovations for Communities (PARC) program to support upgrades at Howard Playstead, a popular ball field in the Arlington Neighborhood.
- ◆ Leominster: \$500,000 in state historic tax credits to rehabilitate the historic Whitney building for housing in the Comb and Carriage Neighborhood.
- ◆ Lowell: \$13M Growth District Initiative grant from EOHED and \$35.6M in loans from MassHousing to support the Appleton Mills project, creating 130 new affordable live/work spaces in the historic Hamilton Canal District.
- ◆ Westfield: nearly \$4.6M in federal stimulus funding to support rehabilitation of 3 downtown buildings for affordable housing and commercial uses.

DHCD welcomes these efforts and looks forward to continuing our collaboration with the Gateway Plus Cities.

Tina Brooks,  
Undersecretary



# GATEWAY PLUS ACTION GRANT

## Community Planning for Neighborhood Revitalization

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### Final Report

#### Introduction

DHCD awarded grants of up to \$75,000 each, for a total of \$1.35M, in November 2008 to 18 Gateway Plus Cities: Chelsea, Chicopee, Fitchburg, Haverhill, Holyoke, Lawrence, Leominster, Lowell, Lynn, Methuen, New Bedford, Pittsfield, Revere, Salem, Springfield, Taunton, Westfield, and Worcester (see Page 4 for descriptions). The grants were used for strategic planning in target neighborhoods to:

- ◆ Increase diversity of housing options
- ◆ Expand economic opportunities
- ◆ Foster and strengthen civic engagement
- ◆ Promote neighborhood stability

These cities worked with consultants to complete plans responsive to locally identified needs and that included neighborhood visioning, feasibility and market analyses of specific sites, neighborhood/downtown improvement strategies, redevelopment of foreclosed and vacant properties, and urban renewal. Goals and objectives were developed with active involvement of neighborhood residents and other stakeholders, including: lower income populations; ethnic and linguistic minorities; community-based organizations; social service providers; property and business owners; and institutional partners (e.g., colleges, hospitals). Gateway Plus Action Grant plans identified (1) short, medium and long-term strategies for addressing identified neighborhood needs and (2) the parties responsible for implementation (e.g., city department, service provider, state).

#### Program Design and Requirements

The Gateway Plus Action Grant resulted in a true neighborhood planning process that was enthusiastically supported by stakeholders, grantee cities and consultants. This grant was unique and highly successful because the program design:

- ◆ Allowed each city to select its own target neighborhood and planning approach
- ◆ Required that grantees hire consultants pre-qualified by DHCD to conduct the planning process and produce the final plans
- ◆ Required broad-based civic engagement that was integral to the planning process and resulted in active stakeholder involvement

DHCD compiled a master list of pre-qualified consultants that expedited the selection process for participating cities, thus allowing planning activities to get underway quickly. By pre-qualifying consultants, DHCD ensured high quality work performance and product. DHCD staff was also very involved in grant activities, including assisting communities with their civic engagement efforts.

The short time frame of grant implementation (generally 6-7 months) also contributed to a more dynamic civic engagement process, as neighborhood input was followed quickly by consultant feedback, i.e., visioning was quickly translated into proposed actions. This quick turn-around of information facilitated faster decision making by both the cities and consultants and resulted in a focused planning process. The time frame did not allow for distractions or tangents. Residents saw results of their participation in each phase of the process and consequently, became more active.

## Distinct Study Areas

Grantee cities identified three types of target neighborhoods for their planning efforts.



### Downtown

These plans focus on commercial sector activity, attracting tourism, creation or revitalization of arts venues, institutional uses, and retention of housing, often in mixed-use settings.

Chicopee  
Holyoke

Methuen  
New Bedford

Taunton  
Westfield

### Neighborhoods adjacent to Downtown

Many of these neighborhoods serve or can serve as “gateways to downtown.” Plans focus on quality of life issues, maintenance of housing, and reuse of buildings no longer appropriate for neighborhood settings (e.g., older factories, warehouses).

Fitchburg  
Haverhill  
Leominster

Lowell  
Lynn  
Pittsfield

Salem  
Worcester



## A Distinct Neighborhood

These neighborhoods serve the housing, commercial and recreational needs of their residents. They often serve as home to the cities’ newcomer/immigrant populations. Plans focus on the need for more attractive open space to beautify the area and serve the needs of the neighborhood for both play space and quiet enjoyment of green areas, and address city service needs (e.g., code enforcement, public safety, access to services) cited by residents. In addition, plans suggest ways to promote cultural understanding and cooperation.

Chelsea

Revere

Lawrence

Springfield



## Other Influences Affecting Gateway Plus Cities

These cities have been characterized as missing out on many of the economic gains of the 1990s and as having had more difficulty attracting and retaining economic activity during the previous several decades. They face low or negative population growth, populations older than the state average, older housing stock (much built before 1950), and incidences of overcrowding, abandonment and foreclosure. There is little current demand for housing or commercial space; lack of financing options in the private sector hinders housing efforts; and most proposed housing projects cannot go forward without subsidy assistance for both the developers/contractors and occupants (e.g., rental assistance subsidies, first time homebuyer assistance).

There are vacant storefronts and underutilized buildings in downtown areas. Most target neighborhoods have average incomes lower than the city as a whole; several of these neighborhoods have a modest to moderate segment of the population living below the poverty level. Several have industrial buildings that are unsuited for locations that are now primarily residential and/or commercial. Many also serve the newcomer/immigrant population and have a high need for various social services, such as homelessness prevention, job training, Adult Basic Education, and English language classes.

### Revere: Demographics of the Shirley Avenue Neighborhood

By mining the available data sources, the final plan for the improvement of the Shirley Avenue neighborhood provides an excellent statistical picture of the neighborhood's residents. The neighborhood is younger than the city as a whole, with more residents under age 45. The majority of the neighborhood's residents earn less than \$50,000/year, with over 20% earning below \$15,000; few have an education beyond a high school degree; and they own fewer cars than the overall city population. In addition, the neighborhood has the highest proportion of city residents employed in service and sales positions. Such information can be useful to the City in prioritizing services, attracting education and training programs to serve these populations, and developing programs and outreach services for youth.

Some of the target neighborhoods are affected by other state actions or proposed development/redevelopment, including:

- ◆ Salem — waterfront park to be developed by the MA Department of Transportation
- ◆ New Bedford — Route 18 redesign and presence of National Historic Park
- ◆ Lawrence — plans for storm water management and flood mitigation
- ◆ Revere — proposed redevelopment of Wonderland Park
- ◆ Taunton — construction of a trial court complex and a commuter rail station
- ◆ Westfield — working actively with Westfield State College for a college presence

## Neighborhood Perspectives

Establishing or improving a neighborhood's identity (and in some instances a downtown's identity) is an overarching theme in each Gateway Plus City. Their plans emphasize improving target neighborhoods, but also honoring their unique qualities (e.g., cultural/ethnic diversity, mix of commercial uses, access to downtown and/or public transportation). A better physical appearance, the perception of safety, and/or showcasing distinct features (e.g., preservation of historic structures, signage, murals or other public art, a community garden) were viewed as fostering and sustaining a special sense of the target neighborhood.

	Project Descriptions
<b>Chelsea</b>	<b>Addison-Orange Neighborhood Revitalization Plan:</b> Recommendations for foreclosure assistance and homeownership opportunities, infrastructure improvements, public safety measures, enhancements to major gateways, new open/green spaces, and measures to integrate benefits of proposed development in the adjacent Everett Avenue urban renewal area.
<b>Chicopee</b>	<b>Chicopee Downtown Revitalization Plan:</b> Strategic plan to increase housing options downtown, including homeownership and rental opportunities, homelessness prevention, and the redevelopment of an underutilized site for mixed-use development. The plan also addresses the beautification of the Center Street Gateway and the need for a strategic market plan.
<b>Fitchburg</b>	<b>Elm Street Neighborhood Revitalization Plan:</b> Tracks critical property information for foreclosed and abandoned properties, recommending actions to support housing stabilization.
<b>Haverhill</b>	<b>Haverhill Lower Acre Revitalization Strategy:</b> Vision plan recommending quality of life improvements and revitalization strategies, including improvements to the Winter Street gateway to downtown.
<b>Holyoke</b>	<b>Holyoke's Center City Vision Plan:</b> Comprehensive study to guide the preparation of an urban renewal plan, including data collection and analysis to identify key parcels for housing, commercial and industrial development.
<b>Lawrence</b>	<b>The Arlington Neighborhood Revitalization Strategy:</b> Revitalization strategy, addressing foreclosures and focusing on housing, commercial development, public improvements, zoning, and quality of life.
<b>Leominster</b>	<b>Comb &amp; Carriage/French Hill Gateway Plus Action Plan:</b> Revitalization strategy, including land use, housing rehabilitation, and infrastructure improvements (streets, sidewalks, intersections, and gateways).
<b>Lowell</b>	<b>A City-Building Vision for the Hamilton Canal District and the Neighborhoods:</b> Vision Plan examining the housing, physical and economic development connectivity of four surrounding neighborhoods to the Hamilton Canal District; making recommendations to harness positive and mitigate negative impacts posed by this redevelopment project.
<b>Lynn</b>	<b>Downtown Market Street Vision Plan:</b> Redevelopment strategy, addressing housing, business development, green space, and infrastructure improvements to connect this area to ongoing revitalization efforts in downtown.
<b>Methuen</b>	<b>Methuen Development Feasibility Analysis:</b> Redevelopment feasibility of three sites, two for mixed-income housing and one in downtown for mixed-use.
<b>New Bedford</b>	<b>Downtown New Bedford Revitalization &amp; Redevelopment Study:</b> Assessment of redevelopment potential of downtown, recognizing the need for infrastructure improvements, creating a pedestrian friendly downtown, encouraging mixed uses, and building partnerships with the National Park Service and area institutions of higher education.
<b>Pittsfield</b>	<b>Housing Needs Analysis &amp; Development Recommendations -- Westside and Morningside Neighborhoods:</b> Assessment of housing needs in two neighborhoods adjacent to downtown and an action plan addressing those needs, including assembling blighted vacant property for future development, housing rehabilitation and open space development.
<b>Revere</b>	<b>Shirley Avenue Gateway Initiative:</b> Strategic plan to improve many "quality of life" features, including streets, sidewalks, parks, and other open space; to address housing conditions, especially for renters; and to enhance the commercial vitality of area.
<b>Salem</b>	<b>Bridge Street Neck Neighborhood Revitalization Plan:</b> Vision plan identifying preferred strategies to stabilize and revitalize mixed-use neighborhood.
<b>Springfield</b>	<b>South End Urban Renewal Plan Amendment #8:</b> Proposed amendment to existing urban renewal plan to allow for expansion and redevelopment of Emerson Wight Park, including land use changes, permitting requirements and relocation plan.
<b>Taunton</b>	<b>Downtown Taunton Development Study:</b> Downtown development study, including the redevelopment feasibility of three key historic sites for mixed-use development, including affordable housing.
<b>Westfield</b>	<b>Re-thinking Downtown Westfield: Comprehensive Downtown Housing and Economic Development Action Plan:</b> Revitalization plan that prioritizes strategies and actions, including expanding housing opportunities and creating a mixed-use downtown.
<b>Worcester</b>	<b>The Beacon/Federal Neighborhood Revitalization Plan and Project:</b> Market analysis of existing housing and building stock and potential housing opportunities; recommendations to create a sustainable, mixed-use, walkable, and safe destination for business and living.

## KEY FINDINGS AND RECOMMENDATIONS

### Housing: Integral To Neighborhood Fabric And Identity

The plans identify housing as integral to the future viability of the neighborhood or downtown, and generally, the cities seek to retain a diverse housing supply. Recommendations include:

- ◆ Expand and improve code enforcement
- ◆ Support the repair/rehabilitation/restoration of older housing stock
- ◆ Create and maintain affordable rentals, perhaps through reuse of underutilized industrial and institutional structures
- ◆ Promote neighborhood stabilization by encouraging owner-occupancy of small multi-unit buildings and single-family homes through homebuyer counseling, affordability criteria, and specific mortgage products to support ownership and restoration
- ◆ Respond to foreclosed properties (often cited was eligibility for the Neighborhood Stabilization Program funded by the U.S. Department of Housing and Urban Development and administered by DHCD, MassHousing and MHP.)
- ◆ Demolish structures considered too damaged for rehabilitation
- ◆ Add more market-rate housing options to establish mixed-income neighborhoods



### Fitchburg: Retain and Improve Neighborhood's Diverse Housing Supply

Fitchburg's Elm Street Neighborhood Revitalization Plan includes recommendations that address neighborhood housing concerns, including foreclosure, abandonment and blight. The Plan identifies four housing goals:

- ◆ Increase home ownership
- ◆ Improve or eliminate blighted and unsafe properties
- ◆ Improve government responsiveness to problems
- ◆ Improve landlord & tenant capacity, communication and accountability

The planning team evaluated more than 65 properties (30% of neighborhood's residential properties) and grouped properties of interest into three different categories for their redevelopment potential: single and two-family properties for homeownership; three-family or larger properties for rental; and properties in the worst physical condition for demolition or placement in receivership.

## Infrastructure Improvements: Create “Livable” Neighborhoods

The plans reveal residents’ ongoing concerns with the appearance and condition of their neighborhoods, emphasizing to a significant degree the need for basic physical improvements to make these areas safer and more attractive. Among the most commonly cited improvements needed are:

- ◆ Sidewalks — repair, widening, building, improving features for the disabled
- ◆ Streetscapes — trees and plantings
- ◆ Signage
- ◆ Street lights
- ◆ Parking
- ◆ Traffic management/circulation
- ◆ Pedestrian circulation, including intersections and crosswalks



### Leominster: Infrastructure Improvements Key to Neighborhood Revitalization

Leominster’s Comb & Carriage/French Hill Gateway Plus Action Plan recommends infrastructure improvements to stimulate neighborhood revitalization, including:

- ◆ Repair, replace or install sidewalks, curbs and crosswalks throughout the neighborhood
- ◆ Create pocket parks, landscaped areas and reconfigured intersections to enhance the gateway to the neighborhood from downtown
- ◆ Implement a Monoosnoc Brook Greenway Action Plan to install new pathways, including pedestrian bridges, enhanced entrances and new signage

## Parks/Open Space: Benefits Of Beautification and Public Space

The need for trees, parks and other open spaces are among the recommendations to restore neighborhoods, draw in new residents and visitors, and establish more “civic pride.” Recommendations for improvements include:

- ◆ Expand/redesign/renovate existing parks
- ◆ Build new parks
- ◆ Create public plazas or “gathering spaces”
- ◆ Start community gardens
- ◆ Plant trees and do landscaping

## **Commercial Activity: More Stable, Attractive, Cohesive Commercial Areas**

Most of the target neighborhoods have commercial activities that the residents seek to maintain; most contained small businesses, some in need of storefront façade improvements and/or beautification. Many of the downtowns also serve as regional arts and entertainment venues. Those cities focusing on their downtowns recognize the need to attract “niche” businesses, respond to daily users of downtown, including businesses and residents, and “brand” downtown to draw residents from the region. Another recommendation is to develop strategic marketing plans for commercial districts to encourage more business patronage and attract new commercial development.

Some cities note the need to relocate certain businesses from commercial/residential areas, mostly warehouse or industrial uses, to support more compatible development/redevelopment in target neighborhoods.

## **Job Creation/Retention: Recognizing The Needs Of Low-Income Populations**

Current economic conditions greatly inhibit the potential for job growth in these Gateway Plus Cities. However, the need for job training, including Adult Basic Education and English language training, and entrepreneurial training is a particular need among the newcomer/immigrant populations in many of these cities. Several cities place a high priority on creating satellite campuses of public colleges downtown to provide the rungs of “the opportunity ladder” for their lower-income and newcomer/immigrant populations.



## **Zoning/Land Use: Denser Development, Well Planned To Complement Neighborhood**

Some of the plans recommend changes to zoning and land use as an initial step in attracting desired development/redevelopment. Recommendations include:

- ◆ Adoption of design guidelines
- ◆ Creation of 40R districts
- ◆ Revision of zoning to concentrate commercial development along specific corridors/areas
- ◆ Allowing in-fill and mixed-use development

Adopting zoning responsive to neighborhood vision is one step that cities may take to attract the development/redevelopment that would add to the vibrancy of the area, while maintaining those neighborhood characteristics seen as most beneficial.

### **Holyoke: “Purpose” Nodes in Downtown Planning and Revitalization**

The Holyoke Downtown Revitalization Plan examines development/redevelopment options for four nodes that would make specific contributions to a revitalized urban center:

- ♦ **Municipal Node** — anchored by City Hall and planned expansion of an adjacent park, could serve as the civic space of the City and a venue for cultural events
- ♦ **Learning Node** — location of the City’s library, a public school and planned park
- ♦ **TOD Node** — potential for mixed-use development in area of anticipated passenger rail; allow for higher density housing use and connection to downtown via Dwight Street
- ♦ **Cabot and Main Street Node** — “activate the street” with mixed-use development compatible with the neighborhood; enhance the connections of this area to the South Holyoke neighborhood

### **Service Needs: Plan Can Guide City’s Response To Neighborhood Service Needs**

As noted in the above discussion on job creation/retention, service needs in these areas are high, often due to lower incomes and presence of newcomer/immigrant populations. Accessing needed services may be difficult for those with limited English-speaking ability. They may also lack information about the types of services available.

Recommendations include:

- ♦ Creation/expansion of programs and activities serving youth
- ♦ Increased police presence
- ♦ Improved communication on the roles and responsibilities of landlords and tenants
- ♦ Improve city’s understanding of neighborhood needs
- ♦ Improved dissemination of information about, and access to, city services

There is a role for nonprofits serving these areas to expand their presence, perhaps beyond the neighborhoods or cities where they currently work. In addition, those city departments and agencies offering services need to be made aware of the needs of residents in these areas. These cities are strapped in terms of staff and resources to devote to such efforts, and may need to reach out to area employers and institutions to coordinate responses to such service demands.

### **Resource Use: Cities Can Use The Plans’ Guidance To Allocate Grant Resources**

Many of the Gateway Plus Cities already have access to resources that could be devoted to some of the priorities for improvement described in their plans. Among the resources are:

- ♦ Community Development Block Grant Funds (federal): housing rehabilitation, infrastructure improvements, park development, brownfields remediation, social services
- ♦ Neighborhood Stabilization Program (federal): response to abandonment, disrepair caused by foreclosure
- ♦ Low Income Tax Credits and HOME (federal): competitive grants for federal housing subsidy funds to support redevelopment/reuse of properties for affordable housing
- ♦ MassHousing (state): construction financing, first-time homebuyer mortgage products, and loans for deleading.
- ♦ Massachusetts Housing Partnership (state): financing packages to encourage affordable rental development

Some Gateway Plus Cities recently received state funding from the Executive Office of Energy and Environmental Affairs (EEA) for park and trail development from the Gateway City Parks Program. Other eligible cities should

consider applying for funds in future grant rounds, since most of the cities identify improved open space as a vital element of their neighborhood improvement efforts.

### **Haverhill: Useful Insights for Determining Resource Allocation**

Planning for Haverhill's Lower Acre Neighborhood Revitalization Strategy began with the formation of a steering committee comprised of neighborhood stakeholders, including organizations serving the neighborhood, e.g., the YMCA, social service providers and faith-based organizations. One member, the Haverhill Community Violence Prevention Coalition (HCVPC), used the services of a group of their students (living in the neighborhood) from a summer youth work program to collect "on the ground" observations of area conditions, engaging residents in discussions about the neighborhood and providing information about the Gateway Plus planning process. Students produced a "Housing Conditions Survey" and "Parks Condition Survey" that provide useful data for the City to use when determining what resources can be brought to the neighborhood to respond to the needs identified.

### **Build/Expand Partnerships With State Entities: Coordination And Complementary Actions Can Bring New Vitality To These Cities**

Several cities are already working with various state agencies/authorities on projects that could be major lynchpins to revitalization in or near their target neighborhoods. Others are seeking new or stronger state agency/authority partners to move forward on other actions identified as high priorities in their plans. Examples include:

- ◆ Chelsea — Everett Avenue Urban Renewal Plan (DHCD)
- ◆ Holyoke — historic tax credits (Massachusetts Historical Commission)
- ◆ New Bedford — campus for Bristol Community College (in college's capital plan)
- ◆ Springfield — South End Urban Renewal Plan (DHCD)
- ◆ Taunton — campuses for Bristol Community College and Bridgewater State College
- ◆ Taunton — historic tax credits (Massachusetts Historical Commission)

### **Salem: Connecting Bridge Street Plan To Other Projects and Plans**

Salem has a unique opportunity to link its new Bridge Street Revitalization Plan to projects being undertaken by the MA Department of Transportation (MassDOT). DOT will build a waterfront park in the area to complement an existing bike trail, as well as examine road and sidewalk conditions and road design/traffic management issues. By sharing this plan with MassDOT, Salem can bring neighborhood preferences and priorities to the forefront of the state's own planning effort. Another possible link to MassDOT will be the City's examination of the potential for a 40R housing district on Bridge Street. Given that a busy commuter rail station is at the southern end of the street, the project could attract residents in need of nearby reliable transportation, while enjoying the access to recreation and the waterfront that the new park will provide. A possible spin-off benefit would be the creation of an established customer base for Bridge Street commercial businesses, allowing them to grow by providing neighborhood-oriented services.

## Civic Engagement: Meaningful Engagement Of Stakeholders In The Planning Process

Making civic engagement a requirement of the grant, providing funds for outreach and organizing activities, overseeing implementation of civic engagement efforts (e.g., DHCD staff approval of consultant work plans and staff attendance at community meetings), and espousing it as a value resulted in participation of new populations/stakeholders, new venues for participation (e.g., picnics, tours and site visits), and new channels for communication between the cities and their neighborhood stakeholders. The final plans emerged from a variety of neighborhood engagement efforts.

A wide range of outreach techniques to inform stakeholders of the planning process and to solicit their input were used. A few of the cities also engaged public school students, groups of at-risk youth and university/college students to do outreach, provide translation services and collect data. Other outreach techniques included:

- ◆ Advisory committees
- ◆ Surveys
- ◆ Web-sites and blogs
- ◆ One-to-one stakeholder interviews
- ◆ Stakeholder focus groups
- ◆ Visioning and design workshops
- ◆ Public meetings at different times of the day and on weekends
- ◆ Coordination with churches, social service agencies, local organizations/clubs
- ◆ Media coverage

Neighborhood meetings facilitated communication between cities and stakeholders. Staffs from the cities were very surprised to learn from residents and other stakeholders that the cities' knowledge of target neighborhoods was frequently incomplete and their assumptions about needs and appropriate city actions were sometimes incorrect. The meetings provided an opportunity for the cities to explain their actions and proposals. Stakeholders were surprised to learn from city staffs about the availability of existing resources to address some of their concerns (e.g., CDBG funding for housing rehabilitation and commercial sign and façade improvements). With stakeholder input providing valuable assessments of conditions, needs and preferences, the final plans were more responsive to the neighborhoods' perspectives.



## Newcomer/Immigrant Populations

Newcomer/immigrant populations live and work in these Gateway Plus City neighborhoods. They bring an entrepreneurial spirit to these cities, starting small businesses and providing jobs for neighborhood residents. Many arrive with advanced degrees and professional experience. Their efforts, as well as their enthusiasm, ideas and perspectives, create a new foundation for economic and community development and contribute to neighborhood vitality. (See MA Office of Refugees and Immigrants report, *New Americans Agenda*, for additional information.)

In many cities newcomer/immigrant populations became actively involved in Gateway Plus Action Grant planning activities. These populations were often more engaged than longer-term residents who appeared to suffer from "planning fatigue." However, some cities appeared less equipped than others to engage newcomer/immigrant populations in the planning process due to linguistic and cultural barriers, as well as the lack of existing connections/relationships.

## Chicopee: A Partnership Emerges From Civic Engagement Process

Chicopee's focused on downtown as its target neighborhood. The President of the Chicopee Savings Bank, located in downtown, served as chairman of the grant's planning group and hosted monthly meetings to facilitate the creation of the Downtown Revitalization Plan. The planning group included city officials, business owners, educational and nonprofit representatives, and residents. As the findings began to point to the need for rehabilitation of housing units in the downtown area, the bank stepped forward to provide a "jump start" to the revitalization process with a mortgage/rehabilitation product for area residents. To realize the ongoing value of the civic engagement effort, the President agreed to host monthly meetings at the bank with stakeholders to monitor the implementation of the downtown plan.

Community development corporations (CDC) and other community-based organizations played significant roles in outreach to stakeholder populations in cities/neighborhoods where they are already active. They were also partners in the planning process. It appeared more difficult to foster and/or sustain stakeholder participation in those neighborhoods without active CDCs or other community-based organizations.

Some cities did not fully engage potential institutional partners beyond individual stakeholder interviews. Consequently, these potential partners did not participate in neighborhood meetings or in discussions with residents or other neighborhood stakeholders. Cities that more actively engaged these partners may find more opportunities to leverage additional resources to assist with plan implementation.

Recommendations to foster/strengthen civic engagement include:

- ◆ Encourage creation of neighborhood organizations where they currently don't exist or are not currently active (NOTE: Establishing neighborhood organizations to both advocate for area needs and encourage protection/enhancement of neighborhood assets, was an almost universal recommendation.)
- ◆ Continue to expand outreach efforts of existing CDCs and other community-based organizations
- ◆ Invite successful CDCs and other community-based organizations from nearby cities to work in the target neighborhoods on efforts where they may have expertise (e.g., subsidized housing development)
- ◆ Support establishment of business owner associations
- ◆ Coordinate with the MA Office of Refugees and Immigrants, Voluntary Agencies and/or Mutual Assistance Associations to assist with outreach to newcomer/immigrant populations.

**HỌP MẶT KHU VỰC BEACON/ FEDERAL**

**Thời gian và địa điểm:**

Ngày: Thứ Hai, Ngày 18 Tháng 5, 2009

Giờ: 5:00 – 7:30 Chiều

**Địa điểm:**  
Radley Apartments  
667 Main Street  
Worcester, MA 01610  
Parking in Rear

**Để biết thêm chi tiết xin liên hệ:**  
Rebecca Dean  
City of Worcester  
Division of Neighborhoods and Housing  
44 Front Street, Suite 520  
Worcester, MA 01608  
(508) 799-1400 x 253  
[rebecca@city.worcester.ma.us](mailto:rebecca@city.worcester.ma.us)  
[www.ci.worcester.ma.us](http://www.ci.worcester.ma.us)


Kính thưa quý vị,

Khu phố của quý vị quan trọng như thế nào với quý vị? Có điều gì quý vị muốn thay đổi? – hoặc hi vọng không bao giờ thay đổi? Kính mời quý vị tới dự buổi họp ngày 20 tháng 5 để:

- Tìm hiểu xem chúng tôi biết gì về khu vực của cộng đồng, và để
- Cho chúng tôi biết nên làm gì

Chương trình nghiên cứu về khu phố Beacon/ Federal được điều hành bởi Chi nhánh Khu Phố và Gia cư xem xét các nhà ở, cơ sở hạ tầng và các phương thức để khuyến khích đầu tư tư nhân. Chương trình được tài trợ bởi Bộ Gia Cư và Phát Triển Cộng Đồng.

■ All - Adaptive Housing  
■ Green  
■ Brown  
■ Redneck




The Downtown Taunton Redevelopment Study looks at ways to bring new life and energy into the City's core and includes a downtown property database, a housing needs analysis, and a parking and pedestrian analysis. In addition, three historic landmark sites on Main Street were studied for their redevelopment potential as mixed-use spaces, including the Union Block, an example of early Victorian Italianate architecture and one of the most impressive commercial buildings along Main Street. During the study process, two owners of adjacent properties comprising the Union Block decided to work together in collaboration with the Neighborhood Corporation, a CDC, and the Heart of Taunton, a downtown business organization, to form a Union Block Project Development Team for the redevelopment of this property. Reuse of the upper floors and the integration of previously separated sections of the structure could provide options for mixed-income housing with commercial space on the lower floor.

Completion of the Gateway Plus Action Grant planning process provided the 18 participating cities with new strategies to revitalize and rebuild target neighborhoods. Vibrant neighborhoods are characterized by decent and affordable housing; sound infrastructure; safe walkable streets; green/recreation spaces; viable commercial activity; and a shared sense of place. DHCD recognizes that well-conceived revitalization goals require sustained efforts by cities to realize their visions and to move from planning to implementation.

## Lower Acre Community Meeting

All residents, business, and property owners please join us on August 11 at 6:00 pm  
Havenhill YMCA - 81 Winter Street



We have heard from some of you, we want to hear from all of you. Help us develop a plan of activities and programs to address the issues of importance to you some of which are:

- Improving Conditions and Perceiving Frustrations
- Reducing Housing Costs
- Parking, sidewalks, and recent loss
- Public transportation routes
- Parks and open space activities

These activities will make possible an effort for the City of Portland to address Lower Acre Planning Commission's needs and concerns.

Location: 81 Winter Street, 2nd Floor, 2nd Floor, 2nd Floor

## City Seal "Creating a Vision for Holyoke's Urban Core"



**Project Background:**  
The City of Holyoke is undertaking a comprehensive planning study of the Holyoke Urban Core. The study is being undertaken in order to develop a vision for the Urban Core and to provide the City with a plan for the Urban Core. The study is being undertaken in order to develop a vision for the Urban Core and to provide the City with a plan for the Urban Core.


**We Need your input:**  
The first step in this process will be the preparation of a community vision plan for the Urban Core. This plan will require the input of the community and the Urban Core. The plan will require the input of the community and the Urban Core.

**Stakeholder Interviews**

**What will we discuss?**

## SOUTH END REVITALIZATION COALITION MEETING

MEETING DE LA COALICIÓN PARA REVITALIZAR EL SUD-EST



**What:** South End Revitalization Coalition Meeting  
**When:** Thursday, July 10, 2008  
**Where:** 100 South End Street, 100 South End Street, 100 South End Street

## COMMUNITY VISIONING MEETING #2

Join us for the Downtown Area Neighborhood Community Visioning Meeting #2

August 11, 2008, 6:00 pm - 7:30 pm  
Downtown Area Neighborhood Community Visioning Meeting #2

Requirements for community visioning are:

- Visioning
- Code Enforcement
- Public Safety
- Social Services

Updates on Holyoke Area Neighborhood Planning Study

## Mt. Carmel Area Planning

Event: Community Meeting  
Where: Senior Center  
77 Lowell Street  
Medway, MA  
When: June 18, 2008, 7 PM


On behalf of the City of Medway and with the support of the Community Development Department of the Commonwealth Department of Transportation and Construction, the City of Medway is pleased to announce a series of community meetings to discuss the development of the Mt. Carmel Area.

Community meetings are held to discuss the development of the Mt. Carmel Area.

## REUNIÓN DE VECINOS

para la presentación de la ESTRATEGIA DE REVITALIZACIÓN EN EL BARRIO ARLINGTON

27 de agosto, 2008, 5pm - 6:30pm  
Lawrence Senior Center, 155 Havenhill Street



El Ayuntamiento de Lawrence invita a todos los residentes de Arlington a la presentación de la Estrategia de Revitalización en el Barrio Arlington. La presentación se llevará a cabo el 27 de agosto, 2008, a las 5pm - 6:30pm en el Lawrence Senior Center, 155 Havenhill Street.

## RE-THINKING WESTFIELD

downward design WORKSHOPS

**vision**  
opening event!

**explore**  
downward design

**develop**  
downward design

## Downtown Taunton Development Study

Sharing the Vision

The Taunton Development Study is a project to provide information and resources to the City of Taunton. The study is being undertaken in order to develop a vision for the Urban Core and to provide the City with a plan for the Urban Core.

Study Team Presentation: Thursday, August 13, 2009, 11:00 am  
44 Taunton Green, Taunton

Free and open to the public. The study is being undertaken in order to develop a vision for the Urban Core and to provide the City with a plan for the Urban Core.

## For Gateway Plus Cities

- ◆ Showcase plan recommendations to maintain public awareness/support and funder interest
- ◆ Use plan recommendations to reprioritize and reprogram funds to implement projects
- ◆ Improve disseminate of information about available resources and services to address immediate concerns
- ◆ Support creation of neighborhood associations and area business organizations
- ◆ Foster/strengthen partnerships to leverage additional resources

## For DHCD

- ◆ Prioritize Gateway Plus Action Grant projects for implementation funding
- ◆ Coordinate state/quasi resources and funding
- ◆ Work with nongovernment partners to leverage additional resources and funding
- ◆ Develop incentives to support housing development in Gateway Plus Cities, including market rate housing
- ◆ Track city efforts to implement their revitalization plans

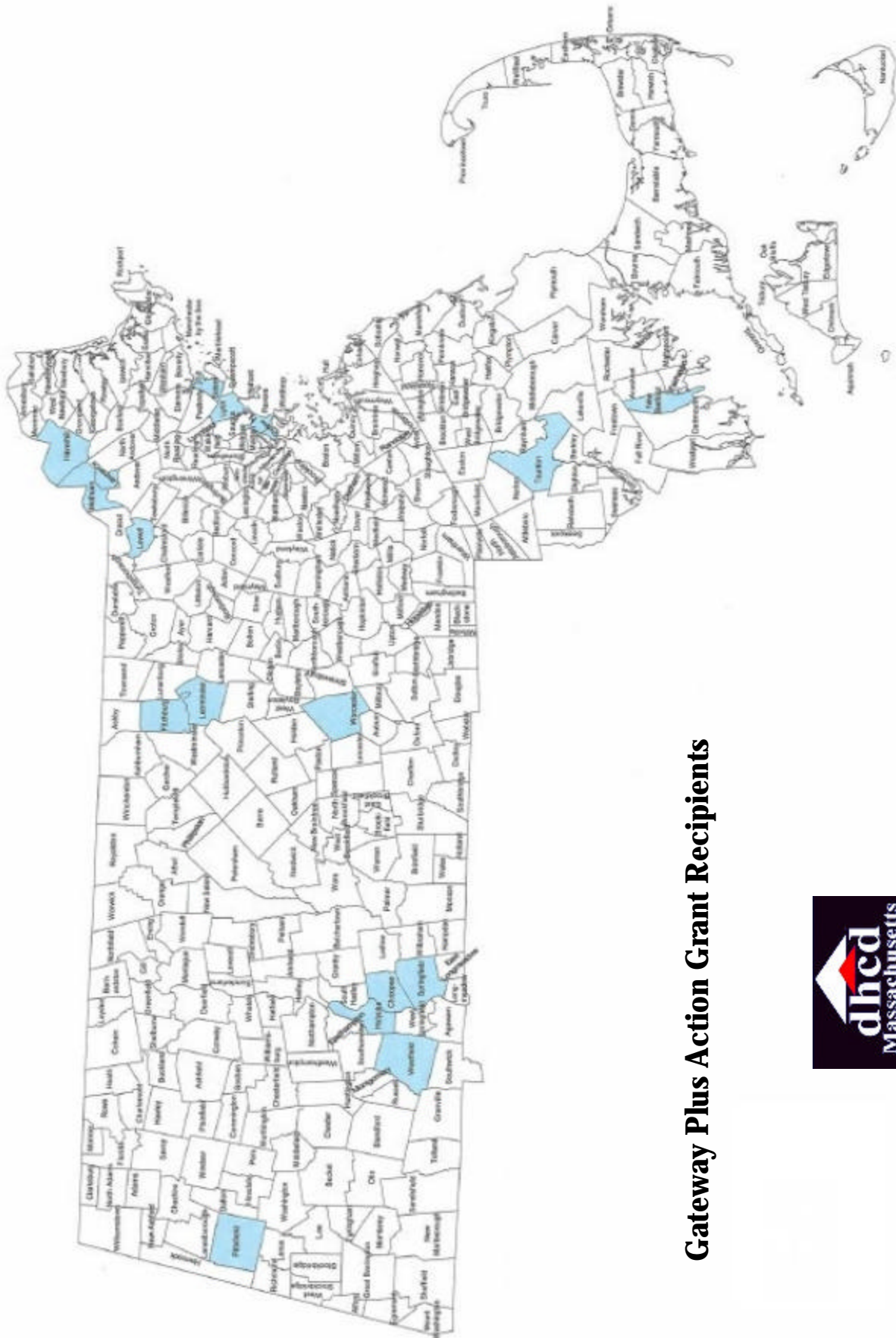
## For Community Assistance Unit

- ◆ Provide ongoing technical assistance to implement plans and recommendations
- ◆ Coordinate government and nongovernment partners to make additional resources available
- ◆ Provide information and referral to cities and partners
- ◆ Share information about best practices



## FOR ADDITIONAL INFORMATION

Community Assistance Unit  
Department of Housing and Community Development  
100 Cambridge Street, Suite 300  
(617) 573-1353  
[www.mass.gov/dhcd](http://www.mass.gov/dhcd)



## Gateway Plus Action Grant Recipients



## GATEWAY PLUS ACTION GRANT PROJECT DESCRIPTIONS

COMMUNITY	REQUEST	TARGET AREA	PROJECTED OUTCOMES	PROJECT DESCRIPTION
<b>Chelsea</b>	\$75,000	Addison-Orange Neighborhood	Assist City to focus its resources and address affordable housing needs	<b>Addison-Orange Neighborhood Study:</b> Review foreclosure problem, look at infrastructure and open space needs, and determine benefits to neighborhood of planning efforts now underway in the adjacent Everett Avenue urban renewal area.
<b>Chicopee</b>	\$75,000	Downtown	Strategic plan to be implemented over 3-5 years; Support efforts to create 40R District	<b>Brick and Mortar:</b> Strategic plan to increase housing options downtown, including housing above storefronts, mixed uses in underutilized mills, rehabilitating an aged housing stock, and building on vacant land.
<b>Fitchburg</b>	\$75,000	Elm Street	Enable City and its partners to take timely and appropriate actions on specific properties	<b>Elm Street Neighborhood Revitalization Initiative:</b> Track critical property information for foreclosed and abandoned properties, recommend appropriate actions and assist in the implementation of these actions.
<b>Haverhill</b>	\$75,000	Lower Acre Neighborhood	Bring planning/reinvestment momentum of Downtown to adjacent neighborhood	<b>Mount Washington/Lower Acre Renaissance Initiative:</b> Bring stakeholders together to review area's current strengths, weaknesses, opportunities, and threats.
<b>Holyoke</b>	\$75,000	Four lower census tracts - Downtown neighborhoods of: the Flats, Churchill, So Holyoke, Prospect Heights, and Downtown	Pre-planning for Urban Renewal Plan; Support update to Master Plan	<b>Holyoke Urban Renewal Planning:</b> Comprehensive study, including data collection and analysis to identify key parcels for housing, commercial and industrial development.
<b>Lawrence</b>	\$75,000	Arlington Neighborhood	Recommendations of available options for the acquisition and reuse of foreclosed properties	<b>Addressing Foreclosure Impact in Arlington Neighborhood:</b> Develop a strategic approach to a broad range of issues, including an operational plan addressing the acquisition and reuse of foreclosed properties.
<b>Leominster</b>	\$75,000	Comb-Carriage Neighborhood	Create a plan addressing substandard housing, industrial sites and need for neighborhood services.	<b>Comb &amp; Carriage Revitalization Initiative:</b> Investigate the foreclosure issue and its impact on the neighborhood, including opportunities for new and rehabilitated housing; maintain present diverse population while addressing needs of this lower income neighborhood.
<b>Lowell</b>	\$75,000	Neighborhoods of: Hamilton Canal District, Downtown, Jackson/Appleton/Middlesex, Lower Highlands, Acre, and Back Central	Frame goals & action steps to improve connectivity of City's inner city neighborhoods to Hamilton Canal district and Gallagher Terminal	<b>Expanding the Hamilton Canal District Vision Session Process to Improve the Connectivity of Lowell's Inner Urban Neighborhoods:</b> Examine the housing, physical and economic development connectivity of the Hamilton Canal District and the Gallagher Terminal to the surrounding neighborhoods.
<b>Lynn</b>	\$75,000	Market Street area of Downtown	Master Plan for Market Street	<b>Market Street Gateway Initiative:</b> Develop strategy for the redevelopment of Market Street for housing, business development, green space, and infrastructure improvements to connect this area to ongoing efforts to revitalize downtown.
<b>Methuen</b>	\$75,000	Downtown	Develop a mixed-use/residential plan to increase diversity of housing stock and percentage of affordable housing	<b>Methuen Downtown – Affordable Housing Opportunities:</b> Identify viable sites, housing types and appropriate densities for affordable housing; also look at impact of foreclosures.

## GATEWAY PLUS ACTION GRANT PROJECT DESCRIPTIONS

COMMUNITY	REQUEST	TARGET AREA	PROJECTED OUTCOMES	PROJECT DESCRIPTION
<b>New Bedford</b>	\$75,000	Downtown	Design a Vision and Implementation Plan to link housing, business development and educational opportunities	<b>Live, Work, Play and Learn: A Revitalization Strategy for Downtown New Bedford:</b> Develop a revitalization action strategy that includes documenting existing conditions; developing a preliminary land use assessment for residential, mixed-use and capital projects; preparing a market assessment for business development; creating a vision for 4 priority sites; and developing an implementation plan.
<b>Pittsfield</b>	\$75,000	Westside and Morningside Neighborhoods	Develop an Urban Housing Action Plan that encourages a broad range of housing opportunities and identifies supporting actions	<b>Urban Center Housing Plan:</b> A comprehensive assessment of housing needs and an action plan for addressing those needs.
<b>Revere</b>	\$75,000	Shirley Avenue Neighborhood	Neighborhood improvement strategy to position lower-income and minority neighborhood residents to benefit from nearby major mixed-use TOD	<b>Shirley Avenue Gateway Initiative:</b> A multifaceted strategic plan concentrating on affordable housing creation, rehabilitation and preservation measures, including foreclosures and abandoned housing units; creating physical and programmatic links between the neighborhood and new TOD development.
<b>Salem</b>	\$75,000	Bridge Street/Rt 1A corridor	Identify City and private actions that can encourage village type economic and housing development in a pedestrian-oriented environment	<b>Bridge Street Neck Revitalization Plan:</b> Analysis of existing conditions, development of a vision for the neighborhood and strategies to stabilize and revitalize this mixed-use neighborhood.
<b>Springfield</b>	\$75,000	South End Neighborhood	Urban Renewal Plan	<b>South End Urban Renewal Plan Replacement:</b> Development of a new urban renewal plan, including land use and a permitting structure to allow redevelopment as proposed in the South End Revitalization Initiative.
<b>Taunton</b>	\$75,000	Downtown	Complete feasibility studies of up to 3 key sites	<b>Downtown Development Study:</b> Downtown development study to identify and assess the feasibility of mixed-use development, including architectural and financial analyses of up to three key sites.
<b>Westfield</b>	\$75,000	Downtown	Two products: A Comprehensive Downtown Housing Needs Assessment and A Downtown District Plan and Action Steps	<b>Comprehensive Downtown Housing and Development Needs Assessment, District Plan and Action Steps:</b> A comprehensive planning process to prioritize strategies and actions, including expansion of housing opportunities and creating a mixed-use downtown.
<b>Worcester</b>	\$75,000	Beacon/Federal Neighborhood	Provide justification for creating new housing in area that is a largely untested market	<b>Beacon/Federal Neighborhood Housing Initiative:</b> A market analysis of existing housing and building stock and potential housing opportunities, including creation of a housing plan/strategy with potential financing packages and available subsidies for developers.
<b>AWARD TOTAL</b>	<b>\$1.35M</b>			



**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)

**TITLE VII** CITIES, TOWNS AND DISTRICTS

**CHAPTER 40** POWERS AND DUTIES OF CITIES AND TOWNS

**Section 4J** Public safety mutual aid agreement; procedure for joining agreement; requests to receive assistance; rights and responsibilities of requesting and sending parties

Section 4J. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

“Agency”, the Massachusetts emergency management agency.

“Agreement”, the statewide public safety mutual aid agreement established in subsection (b).

“Authorized representative”, in the case of a city or town, the mayor, city manager, town manager, town administrator, executive secretary, police chief or on-duty shift commander of the police department, fire chief or on-duty shift commander of the fire department, health director or chairperson of the board of health and the emergency management director and, in the case of a governmental unit that is not a city or town, the chief executive officer or his designee.

“Employee”, a person employed full-time or part-time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

“Governmental unit”, a city, town, county, regional transit authority established under chapter 161B, water or sewer commission or district established under chapter 40N or by special law, fire district, regional health district established under chapter 111, a regional school district or a law enforcement council.

“Incident command system”, the standardized national incident management system that establishes an on-scene management system of procedures for controlling personnel, facilities, equipment and communications from different agencies at the scene of an emergency or other event for which mutual aid assistance is provided.

“Law enforcement council”, a nonprofit corporation comprised of municipal police chiefs and other law enforcement agencies established to provide: (i) mutual aid to its members pursuant to mutual aid agreements; (ii) mutual aid or requisitions for aid to non-members consistent with section 8G of this chapter or section 99 of chapter 41; and (iii) enhanced public safety by otherwise sharing resources and personnel.

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“Mutual aid assistance”, the cross-jurisdictional provision of emergency services, materials or facilities from 1 party to another when existing resources are, or may be, inadequate.

“Party”, a governmental unit that has joined the agreement.

“Public safety incident”, an event, emergency or natural or man-made disaster, that threatens or causes harm to public health, safety or welfare and that exceeds, or reasonably may be expected to exceed, the response or recovery capabilities of a governmental unit including, but not limited to, a technological hazard, planned event, civil unrest, health-related event and an emergency, act of terrorism and training and exercise that tests and simulates the ability to manage, respond to or recover from any such event.

“Requesting party”, a party that requests aid or assistance from another party pursuant to the agreement.

“Sending party”, a party that renders aid or assistance to another party under the agreement.

(b) There shall be a statewide public safety mutual aid agreement to create a framework for the provision of mutual aid assistance among the parties to the agreement in the case of a public safety incident. The assistance to be provided under the agreement shall include, but not be limited to, fire service, law enforcement, emergency medical services, transportation, communications, public works, engineering, building inspection, planning and information assistance, resource support, public health, health and medical services, search and rescue assistance and any other resource, equipment or personnel that a party to the agreement may request or provide in anticipation of, or in response to, a public safety incident.

(c)(1) If a city or town wishes to join the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chairman of the board of selectmen with the approval of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the director of the agency in writing. The municipality shall be a party to the agreement 30 days after receipt by the agency of the written notification.

A city or town that has joined the agreement may opt out of the agreement in the same manner as provided for joining the agreement and by notifying the agency in writing of its intention to opt out. The removal of the municipality from the agreement shall take effect 10 days after receipt by the agency of the written notification.

(2) If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the director of the agency in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the agency of the written notification.

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If a governmental unit that is not a city or town has joined the agreement but wishes to opt out of the agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the agreement by notifying the agency in writing. The removal of the municipality from the agreement shall take effect 10 days after receipt by the agency of the written notification.

(d)(1) A request by a party to receive mutual aid assistance under the agreement shall be made, either orally or in writing, by an authorized representative of the requesting party and shall be communicated to an authorized representative of the sending party or to the agency; provided, however, that if the request is communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party or to the agency at the earliest possible date, but not later than 72 hours after making the oral request. A party to the agreement may request mutual aid assistance during, in anticipation of or as a result of a public safety incident.

(2) An oral or written request for mutual aid assistance under the agreement shall include the following information:

(i) a description of the public safety incident;

(ii) the nature, type and amount of personnel, equipment, materials, supplies or other resources being requested;

(iii) the manner in which the resources shall be used and deployed;

(iv) a reasonable estimate of the length of time for which the resources shall be needed;

(v) the location to which the resources shall be deployed; and

(vi) the requesting party's point of contact.

(3) A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

(e) The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by a sending party consistent with the incident command system. The sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and the sending party. During the course of rendering mutual aid assistance under the agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

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(f)(1) All expenses incurred by the sending party in rendering mutual aid assistance pursuant to the agreement shall be paid by the sending party; provided, however, that a requesting party and a sending party may enter into supplementary agreements for reimbursement of costs associated with providing mutual aid assistance incurred by a sending party.

(2) A sending party shall document its costs of providing mutual aid assistance under the agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs and the costs of materials and supplies. A sending party shall also document the use of its equipment and the quantities of materials and supplies used while providing mutual aid assistance under the agreement.

(3) Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to the public safety incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

(g) While providing mutual aid assistance under the agreement, employees of a sending party shall: (i) be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location; and (ii) receive the same salary, including overtime, that they would be entitled to receive if they were operating in their own governmental unit. In the absence of an agreement to the contrary, the sending party shall be responsible for all such salary expenses, including overtime.

(h)(1) While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

(2) Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid assistance under the agreement, including travel outside of its jurisdiction.

(3) Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

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(i) This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the agreement including, but not limited to, those established pursuant to section 4A or 8G. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.



**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)

**TITLE VII** CITIES, TOWNS AND DISTRICTS

**CHAPTER 40** POWERS AND DUTIES OF CITIES AND TOWNS

**Section 4K** Public works municipal mutual aid agreement; procedure for joining agreement; advisory committee; requests to receive assistance; rights and responsibilities of requesting and sending parties

Section 4K. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Advisory committee”, the statewide public works municipal mutual aid advisory committee established in subsection (d).

“Agreement”, the statewide public works municipal mutual aid agreement established in subsection (b).

“Employee”, a person employed full-time or part-time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

“Governmental unit”, a city, town, county or district, however constituted, or water or sewer commission established under the provisions of chapter 40N or any other general or special law.

“Mutual aid assistance”, cross-jurisdictional provision of services, materials or facilities from 1 party to another when existing resources are, or may be, inadequate.

“Party”, a governmental unit that has joined the agreement.

“Public works incident”, a foreseeable or unforeseeable event, emergency or natural or manmade disaster that affects or threatens to affect the public works operations of a governmental unit.

“Requesting party”, a party that requests aid or assistance from another party pursuant to the agreement.

“Sending party”, a party that renders aid or assistance to another party under the agreement.

(b) There shall be a statewide public works municipal mutual aid agreement to facilitate the provision of public works resources across jurisdictional lines in the case of a public works incident that requires mutual aid assistance from 1 or more municipalities. The mutual aid assistance to be provided under

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the agreement shall include, but not be limited to, services related to public works, personnel, equipment, supplies and facilities to prepare for, prevent, mitigate, respond to and recover from public works incidents.

(c)(1) If a city or town wishes to join the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chair of the board of selectmen upon approval by a majority vote of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the advisory committee in writing. The municipality shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a city or town has joined the agreement but wishes to opt out of the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chair of the board of selectmen upon approval by a majority vote of the board of selectmen in the case of a town, may act on behalf of the city or town to opt out of the agreement by notifying the advisory committee in writing. The removal of the municipality from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(2) If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the advisory committee in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a governmental unit that is not a city or town has joined the agreement but wishes to opt out of the agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the agreement by notifying the advisory committee in writing. The removal of the governmental unit that is not a city or town from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(3) If a governmental unit in a state contiguous to the commonwealth wishes to join the agreement, the governmental unit may join the agreement by notifying the advisory committee in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a governmental unit in a state contiguous to the commonwealth has joined the agreement but wishes to opt out of the agreement, the governmental unit may opt out of the agreement by notifying the advisory committee in writing. The removal of the governmental unit from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(d) There shall be a statewide public works municipal mutual aid advisory committee to consist of the secretary of public safety and security or his designee, who shall serve as chair of the committee; and 1 member appointed by the secretary of public safety and security from each of the following: the

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Massachusetts Highway Association; the New England Chapter of the American Public Works Association, who shall be a resident of the commonwealth; the New England Water Environment Association, who shall be a resident of the commonwealth; the Massachusetts Tree Wardens' and Foresters' Association; the Massachusetts Water Works Association; and the Massachusetts Municipal Association.

The advisory committee shall develop procedural plans, protocols and programs for intrastate and interstate cooperation to be used by public works agencies in response to a public works incident. The advisory committee shall be responsible for the administration and coordination of the statewide mutual aid agreement. The advisory committee shall develop and make available to parties forms to facilitate requests for aid, including a form to track the movement of public works equipment and personnel.

(e) Each party shall identify not more than 3 points of contact to serve as the primary liaison for all issues relating to the agreement.

(f)(1) A request by a party to receive mutual aid assistance shall be made, either orally or in writing, by the chief executive officer of the requesting party or by 1 of its designated points of contact and shall be communicated to the chief executive officer or 1 its designated points of contact from the sending party; provided, however, that if the request is communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party at the earliest possible date, but not later than 72 hours after making the oral request. (2) A requesting party may request the assistance of 1 or more parties to assist with or manage a public works incident, including recovery-related exercises, testing or training.

(2) An oral or written request for mutual aid assistance under the agreement shall include the following information:

- (i) a description of the public works incident response and recovery functions for which assistance is needed;
- (ii) the nature, type and amount of public works services, personnel, equipment, materials, supplies or other resources being requested;
- (iii) the manner in which the resources shall be used and deployed;
- (iv) a reasonable estimate of the length of time for which the resources shall be needed;
- (v) the location to which the resources shall be deployed; and
- (vi) the requesting party's point of contact.

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(3) A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested by the requesting party; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

(g) The requesting party shall be responsible for the overall operation, assignment and deployment of resources, equipment and personnel provided by a sending party. The sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and the sending party. During the course of rendering mutual aid assistance under the agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

(h)(1) All expenses incurred by the sending party in rendering mutual aid assistance pursuant to the agreement shall be paid by the sending party; provided, however, that a requesting party and a sending party may enter into supplementary agreements for reimbursement of costs associated with providing mutual aid assistance incurred by a sending party.

(2) A sending party shall document its costs of providing mutual aid assistance under the agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs and the costs of materials and supplies. A sending party shall also document the use of its equipment and the quantities of materials and supplies used while providing mutual aid assistance under the agreement.

(3) Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to the public works incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

(4) While providing mutual aid assistance under the agreement, employees of a sending party shall: (i) be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location; (ii) be considered similarly licensed, certified or permitted in the requesting party's jurisdiction if the employee holds a valid license, certificate or permit issued by the employee's governmental unit; and (iii) receive the same salary, including overtime, that they would be entitled to receive if they were operating in their own governmental unit. In the absence of an agreement to the contrary, the sending party shall be responsible for all such salary expenses, including overtime.

*[There is no subsection (i).]*

(j)(1) While in transit to, returning from and providing mutual aid assistance under the agreement,

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employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

(2) Each party to the agreement shall waive all claims and causes of action against all other parties that may arise out of their activities while rendering or receiving mutual aid assistance under the agreement, including travel outside of its jurisdiction.

(3) Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

(4) All equipment requested and deployed pursuant to the statewide municipal mutual assistance agreement shall be insured by the sending party.

(k) This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the agreement including, but not limited to, those established pursuant to section 4A. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.



**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)

**TITLE VII** CITIES, TOWNS AND DISTRICTS

**CHAPTER 40V** HOUSING DEVELOPMENT INCENTIVE PROGRAM

**Section 1** Definitions

*[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]*

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Certified housing development project”, a housing development project that has been approved by the department for participation in the housing development incentive program.

“Department”, the department of housing and community development as established by chapter 23B.

“Gateway municipality”, gateway municipality as defined in section 3A of chapter 23A.

“Housing development incentive program” or “HDIP”, a program designed to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within housing development zones in gateway municipalities.

“Housing development project”, a multi-unit residential rehabilitation project that is located in a gateway municipality and once rehabilitated, shall contain at least 80 per cent market rate units.

“Housing development zone” or “HD zone”, a zone designated by a gateway municipality which shall be characterized by a need for multi-unit market rate residential properties.

“Market rate residential unit”, a residential unit priced for households above 110 per cent of the area’s household median income.

“Qualified substantial rehabilitation expenditure”, the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by the department that the structure meets the definition of certified housing development project; (ii) a second certification by the department, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work meets the standards required for a certified rehabilitation; and (iii) a final certification by the department, issued when the property is leased or sold by the taxpayer.

“Sponsors”, sponsors, as defined in section 25 of chapter 23B.

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“Substantial rehabilitation” and “substantially rehabilitated”, the needed major redevelopment, repair and renovation of a property, excluding the purchase of the property, as determined by the department of housing and community development.

**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)**TITLE VII** CITIES, TOWNS AND DISTRICTS**CHAPTER 40V** HOUSING DEVELOPMENT INCENTIVE PROGRAM**Section 2** Designation of gateway municipality as an HD Zone; contents of application

*[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]*

Section 2. The department may from time to time designate 1 or more areas of a gateway municipality as an HD Zone and take any and all actions necessary or appropriate to such a designation, upon receipt of a municipal application requesting such designation and representing in its application that the municipality, based on its own independent investigation, has determined that the area proposed for designation has a need for multi-unit residential properties. The application shall include a plan which shall include a detailed description of the construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such zone as of the date of the adoption of the zone plan.



<b>PART I</b> ADMINISTRATION OF THE GOVERNMENT (Chapters 1 through 182)
<b>TITLE VII</b> CITIES, TOWNS AND DISTRICTS
<b>CHAPTER 40V</b> HOUSING DEVELOPMENT INCENTIVE PROGRAM
<b>Section 3</b> Approval of application for tax exemption for housing development project under Sec. 59 of chapter 59

*[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]*

Section 3. Under section 5M of chapter 59, the department may approve a municipality’s application for a tax exemption for a housing development project located within an approved housing development zone.



**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)

**TITLE VII** CITIES, TOWNS AND DISTRICTS

**CHAPTER 40V** HOUSING DEVELOPMENT INCENTIVE PROGRAM

**Section 4** Criteria for eligibility to be a certified housing project; approval of certified housing development project designation

*[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]*

Section 4. (a) A project may be eligible to be a certified housing development project under this chapter; provided, however, that the proposed project:

- (i) contains 2 or more residential units; provided, however, the project may be a mixed-use development that includes commercial uses in addition to residential units;
- (ii) contains not more than 50 market rate residential units;
- (iii) is located in a designated or proposed HD zone;
- (iv) contains at least 80 per cent market rate units upon completion of the rehabilitation, to be sold or leased;
- (v) has received from the municipality a property tax exemption under section 5M of chapter 59; and
- (vi) is a substantial rehabilitation of an existing property.

(b) The department may from time to time approve 1 or more housing development projects, located in HD zones designated as certified projects under section 2 and take any and all actions necessary or appropriate to such a designation, upon compliance with the following:

- (i) receipt of a project proposal for such a designation requesting such designation from the municipality, submitted in a timely manner, in such form and with such information as the department prescribes, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the sponsors;
- (ii) receipt of an executed agreement by the municipality which contains a tax exemption under section 5M of chapter 59 and this section so long as the municipality has determined and incorporated in a formal written determination, based on the information submitted with the project proposal and such additional investigation as the municipality shall make, that the project as described in the proposal

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and all documentation submitted with the proposal:

(A) is consistent with and can reasonably be expected to benefit significantly from the gateway municipality's plans relative to the project property tax exemption;

(B) together with all other projects previously certified and located in the same project HDIP zone, shall not overburden the municipality's supporting resources; and

(C) together with the municipal resources committed to the project, shall, if certified, have a reasonable chance of increasing residential growth, diversity of housing supply, supporting economic development and promoting neighborhood stabilization in 1 of the municipality's housing development zones of the municipality as advanced in the proposal; and

(iii) receipt with such written approval by the municipality of a request for a designation of the project as a certified project for a specified number of years, which shall be not less than 5 years and not more than 20 years.

(c) The department shall evaluate and either grant or deny any project proposal not later than 90 days from the date of its receipt of a complete project proposal and failure to do so by the department shall result in approval of such project for a term of 20 years. Approval of a project due to the department's failure to act within 90 days shall not constitute approval by the department of any tax incentives provided under chapter 62 or 63.

(d) The department may impose a fee for the processing of applications for the certification of any project under this section.

(e) The department shall review such certified project at least once every 2 years. A certified project shall retain its certification for the period specified by the department in its certification decision unless such certification is revoked prior to the expiration of the specified period. The certification of a project may be revoked only by the department and only upon: (i) the petition of the municipality that approved the project proposal, if the petition satisfies the authorization requirements for a municipal application or the petition of the director of the department; and (ii) the independent investigation and determination of the department that representations made by the sponsors in its project proposal are materially at variance with the conduct of the sponsors subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance. Upon such a revocation, the commonwealth and the municipality, may bring a cause of action against the sponsors for the value of any economic benefit received by the sponsors prior to or subsequent to such revocation.

Under this section, revocation shall take effect on the first day of the tax year in which the department determines that a material variance commenced. The commissioner of revenue may, as of the

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effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification under this section. The commissioner shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section.

Annually, on or before the first Wednesday in December, the department shall file a report detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the commissioner of revenue, to the joint committee on revenue and the joint committee on housing and community development.



**PART I** ADMINISTRATION OF THE GOVERNMENT  
(Chapters 1 through 182)

**TITLE VII** CITIES, TOWNS AND DISTRICTS

**CHAPTER 40V** HOUSING DEVELOPMENT INCENTIVE PROGRAM

**Section 5** Award of tax credits to sponsor of a certified project

*[Text of section applicable as provided by 2010, 240, Sec. 199. See 2010, 240, Sec. 195.]*

Section 5. The department may award to a sponsor of a certified project tax credits available under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 not to exceed 10 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units in the project. The amount and duration of the credit awarded shall be based on the following factors:

- (i) the need for residential development and diversity of housing supply in the gateway municipality;
  - (ii) the extent to which the project will encourage residential development, expansion of diversity of housing supply, support neighborhood stabilization, and promote economic development in the zone; and
  - (iii) the percentage of market rate units contained in the project.
- (b) The department may, limit any incentive or credit available to a project under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner deemed appropriate by the department.

# HOUSING DEVELOPMENT INCENTIVE PROGRAM

M.G.L. CHAPTER 40V  
760 CMR 66.00

July 2012



Regulatory Requirements

# HOUSING DEVELOPMENT INCENTIVE PROGRAM

- Chapter 40V created in Chapter 240 of the Acts of 2010
  - ▣ Included in Economic Development Reorganization Bill
  - ▣ **HOUSING IS AN ECONOMIC DEVELOPMENT ISSUE**
- Implementation regulations, 760 CMR 66.00 published in June 2012

# GOALS



Support planning and housing development that will:

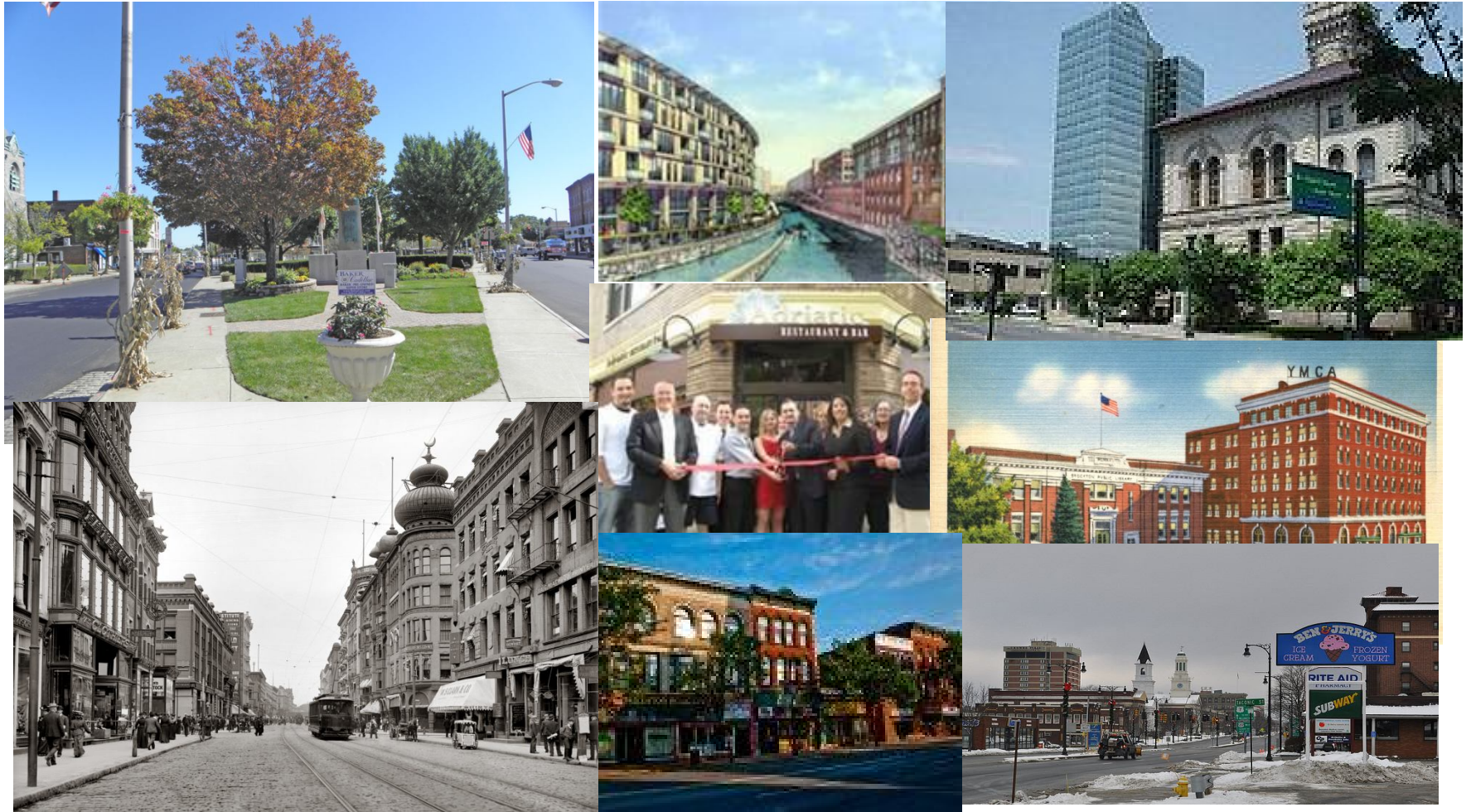
- Increase residential growth
- Expand diversity of housing stock
- Support economic development
- Promote neighborhood stability

# OVERVIEW

Provides two tax incentives to developers to undertake substantial rehabilitation of properties in Gateway Cities for sale or lease as multi-unit market rate housing:

- A local option property tax exemption on all or part of the increased value resulting from improvements related to market rate units
- A state tax credit for substantial rehabilitation costs of market rate units

# GATEWAY CITIES



# GATEWAY CITIES

M.G.L. Chapter 23A section 3A:

- ❑ A population greater than 35,000 and less than 250,000
- ❑ Median household income below state average
- ❑ Rate of educational attainment of bachelor's degree or above that is below state average

# GATEWAY CITIES

Barnstable

Holyoke

Pittsfield

Brockton

Lawrence

Quincy

Chelsea

Leominster

Revere

Chicopee

Lowell

Salem

Everett

Lynn

Springfield

Fall River

Malden

Taunton

Fitchburg

Methuen

Westfield

Haverhill

New Bedford

Worcester

# GATEWAY CITIES



Housing Development Incentive Program 

# Why Focus on Gateway Cities?

Look beyond problems to opportunities:

- ❑ Smart locations with walkable downtowns, existing infrastructure and mass transit
- ❑ Amenities like rivers and waterfronts
- ❑ Cultural assets
- ❑ Mill buildings and historical structures
- ❑ Affordability of housing stock
- ❑ Universities and community colleges
- ❑ Immigrant populations

# OVERVIEW

## PROGRAM IMPLEMENTATION

### Municipality

- ❑ Local community planning and civic engagement
- ❑ Local approval of HD Zone designation
- ❑ Local approval of HD Zone Plan
- ❑ Negotiation of HD Tax Increment Exemption Agreement with Sponsor for proposed HD Project
- ❑ DHCD approval of HD Zone & HD Zone Plan
- ❑ Execution of HD Tax Increment Exemption Agreement with Sponsor

# OVERVIEW

## PROGRAM IMPLEMENTATION

### Sponsor

- DHCD approval of Preliminary Certification – Site & Building
- DHCD approval of Conditional Certification – Rehabilitation Plans
  - ▣ Conditional approval of HD Tax Increment Exemption Agreement
  - ▣ Conditional award of HD Tax Credits
- Construction of HD Project begins
- Construction completed with 80% occupancy of market rate units
- DHCD approval of Final Certification of HD Project and QSREs
- DHCD approval of HD Tax Increment Exemption Agreement
- DHCD award of HD Tax Credits
- DHCD notification to DOR of Final Certification
- Takes HD Tax Increment Exemption and HD Tax Credits

# DEFINITIONS

- HD Zone
- HD Zone Plan
- HD Project
- Substantial Rehabilitation
- HDIP Pricing Area
- HD Tax Increment Exemption
- Qualified Substantial Rehabilitation Expenses
- Certified HD Project
- Pricing of Market Rate Units
- HD Tax Credits

# HD ZONE

- ❑ Geographic area where tax incentives are available to support market rate housing production
- ❑ No restrictions on location
- ❑ Need for multi-unit market rate housing
- ❑ Minimum size requirement
  - ▣ 2 or more contiguous parcels
  - ▣ Larger than number of parcels comprising HD Project
- ❑ May be located in one or more adjacent Gateway Cities
- ❑ May include one or more HD Projects

# HD ZONE PLAN

- Detailed description of proposed development and redevelopment activities, both public & private for HD Zone
- Impact of implementation of proposed plan on HDIP goals

# HD PROJECT

- Substantial rehabilitation of an existing property resulting in:
  - ▣ Two or more units for sale or lease as market rate housing
  - ▣ Maximum of 62 total housing units
  - ▣ Maximum of 50 market rate units
  - ▣ Minimum of 80% of total units as market rate
  - ▣ One or more buildings on one or more contiguous parcels of land permitted and financed as single undertaking
- May be mixed-use, including commercial

# SUBSTANTIAL REHABILITATION

- Major redevelopment, repair and renovation of existing property
- Limited new construction:
  - ▣ Addition of upper stories
  - ▣ Expansion of footprint by building out
  - ▣ Redevelopment of site after demolition of existing building(s) - if it occurs after preliminary certification
- Prohibits new construction on existing vacant land
- Construction costs per unit of no less than \$30,000

# MARKET RATE UNITS

- **Units priced for households >110% of HDIP AMI**
  - ▣ Calculated for locally identified HDIP Pricing Area
- No ceiling on rents or sales
- No income restrictions for unit occupants
- Must be affirmatively marketed

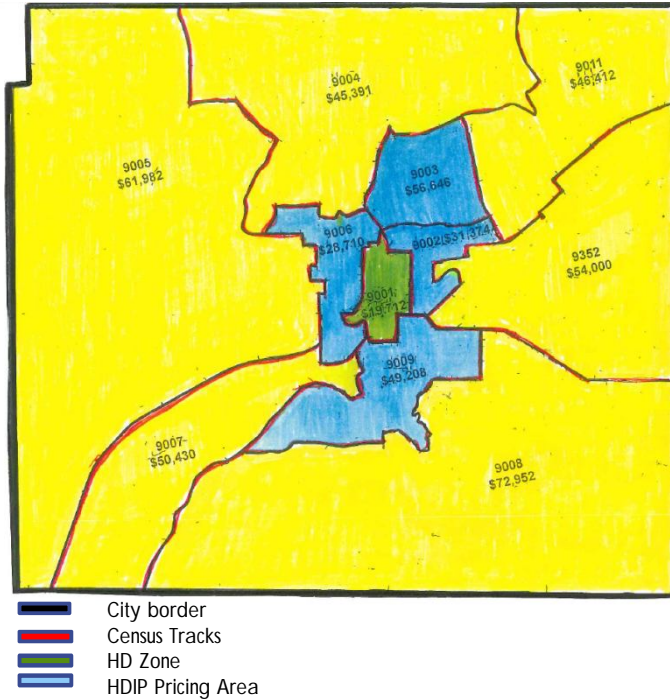
# HDIP PRICING AREA

- Geographic area used by City to establish HDIP AMI
  - ▣ Identified locally
  - ▣ Proposed HD Zone or other relevant area contiguous to and inclusive of HD Zone - e.g., citywide, census tract, combination of census tracts
  - ▣ No size or location requirements
  - ▣ May include contiguous areas in one or more municipalities
- $\text{HDIP AMI} \times 110\% = \text{Target Median Household Income for pricing the market rate units}$ 
  - ▣ Must be  $> 60\%$  of HUD AMI
  - ▣ Must be set at a level to meet HDIP goals

# HDIP PRICING AREA

- Specific to each City's unique market conditions
- Sponsors set rents/purchase prices for Target Median Household Income
- Provides flexibility
  - City with strong market demand can plan for households with higher incomes

# Example of HD Pricing Area



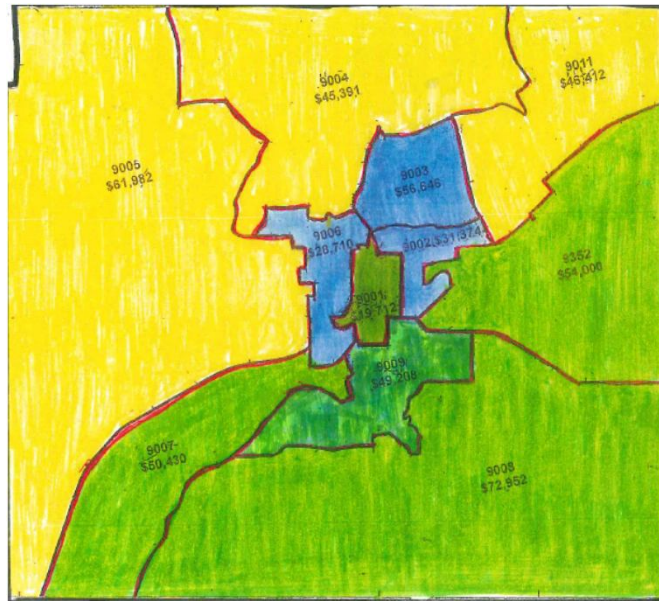
City considers using the following contiguous tracts




- 9001 \$19,712
- 9006 \$28,710
- 9002 **\$31,374**
- 9009 \$49,208
- 9003 \$56,646

$$\$31,374 \times 110\% = \$35,511 < 60\% \text{ HUD AMI}$$

Citywide AMI = \$43,118  
 HUD 60% AMI = \$46,560.

# Example of HD Pricing Area



 City border  
 Census Tracts  
 HDIP Pricing Area

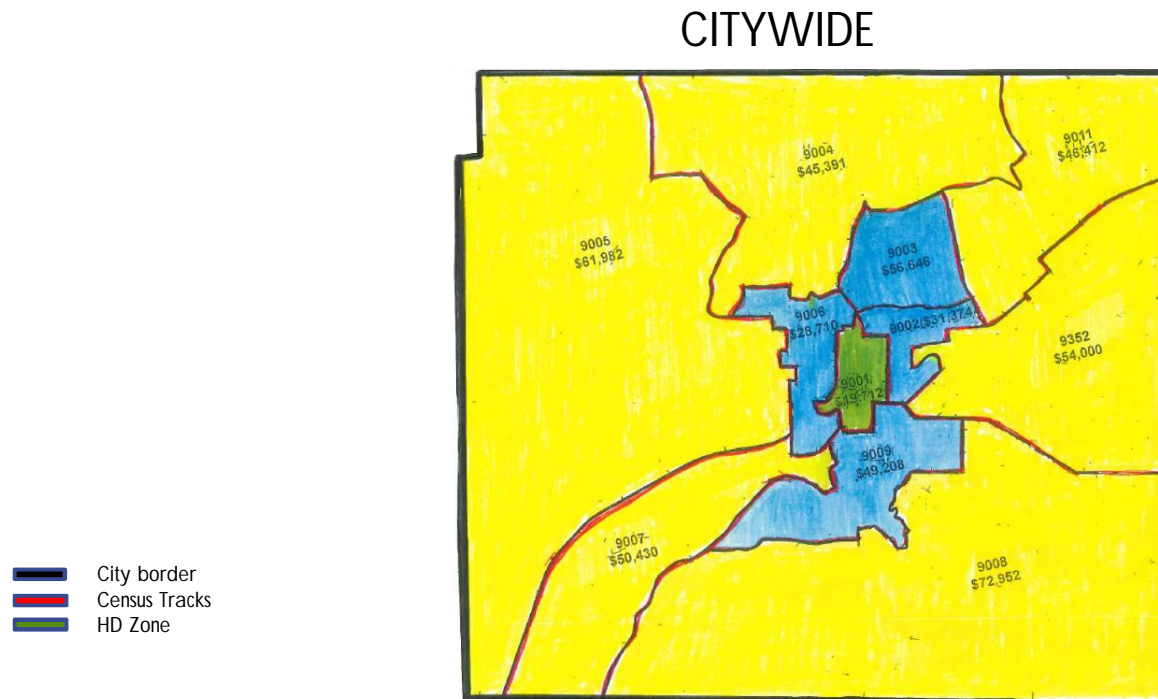
City consider using the following tracks:

□ 9001	\$19,712
□ 9009	\$49,208
□ 9007	<b>\$50,430</b>
□ 9352	\$54,000
□ 9008	\$72,952

$$\$50,430 \times 110\% = \$55,473 > 60\% \text{ HUD AMI}$$

Citywide AMI = \$43,118  
 HUD 60% AMI = \$46,560.

# Example of HD Pricing Area



Citywide AMI \$43,118 X 110% = **\$47,506** > HUD 60% AMI \$46,560.

# HD ZONE APPLICATION

- Location and rationale for boundaries
- Documentation of need for multi-unit market rate housing
- Maps depicting existing conditions
- HD Zone Plan

# HD ZONE PLAN

- ❑ Detailed description of construction, reconstruction, rehabilitation, and related activities, public & private, proposed for HD Zone
- ❑ Description of how implementation of HD Zone Plan will meet HDIP goals
- ❑ Maps depicting proposed (re)development activities
- ❑ Comparison of existing to proposed zoning requirements
- ❑ Identification of HDIP Pricing Area and Target Household Income for market rate units
- ❑ Implementation schedule for (re)development activities
- ❑ Compliance to affirmative fair housing obligations
- ❑ Consistency with other local/regional plans and initiatives
- ❑ Duration of HD Zone Plan

# DHCD APPROVAL

- Application is complete
- There is a documented need for multi-unit market rate housing in the proposed HD Zone
- The proposed HD Zone is appropriately located to support the objectives of the HD Zone Plan
- Implementation of the proposed HD Zone Plan will meet the goals of HDIP
- The HDIP AMI used by the City to calculate the Target Household Income for pricing market rate housing units in HD Projects is appropriate

# HD TAX INCREMENT EXEMPTION

- Following local approval City negotiates and executes HD Tax Increment Exemption Agreements with interested Sponsors
- The amount of the Exemption is determined by applying the exemption percentage to the increment on the property tax
- The increment is calculated based on usable square feet of market rate unit
- HD Tax Increment Exception Agreements approved by DHCD are made part of the HD Zone Plan

# HD TAX INCREMENT EXEMPTION

- HD Tax Increment Exemption Agreement authorizes annual exemption from local property tax
- Exemption percentage of 10-100% of incremental value of market rate units
  - ▣ % may vary among HD Projects
  - ▣ % may change from year-to-year for individual HD Projects
  - ▣ Duration of Agreement 5-20 years
  - ▣ Effective as of the 1<sup>st</sup> fiscal year following DHCD's certification of HD Project and approval of Agreement
  - ▣ DHCD will also approve Agreements for HD Projects not seeking/not awarded HD Tax Credits

# HD TAX INCREMENT EXEMPTION

HD Tax Increment Exemption Agreement becomes effective if:

- ❑ It has been executed by the City and the Sponsor
- ❑ DHCD approves the housing development project as a Certified HD Project
- ❑ It has been approved by DHCD
- ❑ Notice of certification is recorded with the appropriate registry of deeds or land court registry

# APPLICATION TO DHCD

- Following DHCD approval of HD Zone and HD Zone Plan, Sponsor apply for:
  - DHCD Certification of HD Project
  - DHCD approval of locally executed HD Tax Increment Exemption Agreement
  - DHCD award of HD Tax Credits to Sponsor

# OVERVIEW

## PROGRAM IMPLEMENTATION

### Sponsor

- DHCD approval of Preliminary Certification – Site & Building
- DHCD approval of Conditional Certification – Rehabilitation Plans
  - ▣ Conditional approval of HD Tax Increment Exemption Agreement
  - ▣ Conditional award of HD Tax Credits
- Construction of HD Project begins
- Construction completed with 80% occupancy of market rate units
- DHCD approval of Final Certification of HD Project and QSREs
- DHCD approval of HD Tax Increment Exemption Agreement
- DHCD award of HD Tax Credits
- DHCD notification to DOR of Final Certification
- Takes HD Tax Increment Exemption and HD Tax Credits

# PRELIMINARY CERTIFICATION

- Application includes:
  - ▣ Site plans
  - ▣ Photographs of building(s)
  - ▣ Evidence of need for substantial rehabilitation
  - ▣ Narrative description of proposed substantial rehabilitation, including number and % of market rate units
  - ▣ Cost estimates
  - ▣ Evidence of site control
  - ▣ Request by City for DHCD approval of project as HD Project
  - ▣ Vote authorizing City to enter into HD Tax Increment Exemption Agreement
- DHCD approval - proposed building meets standards of a Certified HD Project in present state or upon substantial rehabilitation

# CERTIFIED HD PROJECTS

- Only Sponsors of Certified HD Projects can utilize local property tax increment exemption and state tax credit
- Certification for duration of 5-20 years
- 3 distinct stages with separate applications for DHCD approval
  - ▣ Preliminary Certification
  - ▣ Conditional Certification
  - ▣ Final Certification

# CONDITIONAL CERTIFICATION

- ❑ May be submitted with Application for Preliminary Certification
- ❑ Submitted prior to construction
- ❑ Application includes:
  - ❑ Construction plans, specifications, cost estimates, and schedule
  - ❑ Commitment from all financing sources
  - ❑ Letter of interest from syndicator/investor, as applicable
  - ❑ Evidence that market rate units will be priced for household incomes of not less than 110% of HDIP AMI, including methodology for setting prices
  - ❑ Documentation demonstrating marketability of market rate units
  - ❑ Marketing strategies and plan, including affirmative fair housing outreach
  - ❑ Executed HD Tax Increment Exemption Agreement
  - ❑ Evidence of local support

# MARKET RATE UNITS

- Units priced for households  $>110\%$  of HDIP AMI
  - ▣ Calculated for locally identified HDIP Pricing Area
- No ceiling on rents or sales
- No income restrictions for unit occupants
- Must be affirmatively marketed

# SUBSTANTIAL REHABILITATION

- Major redevelopment, repair and renovation of existing property
- Limited new construction:
  - ▣ Addition of upper stories
  - ▣ Expansion of footprint by building out
  - ▣ Redevelopment of site after demolition of existing building(s) - if it occurs after preliminary certification
- Prohibits new construction on existing vacant land
- Construction costs per unit of no less than \$30,000

## QUALIFIED SUBSTANTIAL REHABILITATION EXPENDITURE (QSRE)

- ❑ Total hard and soft costs relating to development of market rate units only
  - ❑ Includes demolition costs for interior and roof & wall demolition associated with building up or out
  - ❑ Excludes other demolition costs
  - ❑ Excludes land acquisition
- ❑ Cost Certification by CPA upon project completion
  - ❑ if tax credit awarded or if required by city
- ❑ Approved by DHCD and used to determine amount of HD Tax Credit award

# CONDITIONAL CERTIFICATION

DHCD approval:

- Proposed HD Project meets definition of Substantial Rehabilitation and if completed as proposed meets standards of a Certified HD Project and QSREs
- Approval of HD Tax Increment Exemption Agreement and award HD-Tax Credits, subject to project completion and Final Certification

# HD TAX CREDITS

- DHCD approval of amount and credit period
- Award of up to 10% of QSREs of market rate units
- Claimed in taxable year DHCD notifies DOR of certification of HD Project
- May be carried forward for 5 years
- Transferable in whole or in part
- Total annual program cap of \$5M
  - ▣ Inclusive of new awards & carry forwards of credits from prior years
  - ▣ Per project cap on award of \$1M

# HD TAX CREDITS

Award criteria include:

- ❑ Extent of need for housing development & diversity of housing supply
- ❑ Impact of HD Project on HD Zone
- ❑ Number and % of market rate units
- ❑ Integration with other (re)development in HD Zone
- ❑ Strength of development team and prior performance
- ❑ Consistency with Sustainable Development Principles
- ❑ Effect of award on geographic balance in allocation of HD Tax Credits

# FINAL CERTIFICATION

- Submitted when project is complete and 80% of the market rate units have been leased or sold
- Application includes:
  - ▣ Cost Certification by CPA, if applicable
  - ▣ Photographs of completed work - exterior & interior
  - ▣ Certificates of occupancy for entire project
  - ▣ Pricing of market rate units
  - ▣ Evidence of compliance with Affirmative Fair Housing Marketing Plan approved by DHCD

# FINAL CERTIFICATION

DHCD:

- ❑ Designates HD Project as Certified HD Project
- ❑ States amount of QSREs for calculating HD Tax Credit award
- ❑ States duration of the Certification
- ❑ Approves HD Tax Increment Exemption Agreement
- ❑ Approves HD Tax Credit award
- ❑ Issues Eligibility Statement for submission by taxpayer to DOR
- ❑ Notifies DOR within 10 days following Certification

# HD TAX CREDIT EXAMPLE

Approach similar to Historic Tax Credits:

- For HD Project with 50 market rate units
  - \$200,000 per unit of qualified rehabilitation expenditures = \$10M total
  - Value of tax credit is 10% of qualified rehabilitation expenditures = \$1M
- If sold at \$.84 equity would = \$840,000

# CERTIFIED HD PROJECT

Completed HD Project approved by DHCD, including:

- Approval of HD Tax Increment Exemption Agreement
- Approval of QSREs
- Award of HD Tax Credits

# APPROVAL PROCESS

- ❑ Local approval of HD Zone and HD Zone Plan
- ❑ DHCD approval of HD Zone and HD Zone Plan
- ❑ DHCD Certification of HD Project
- ❑ DHCD approval of locally executed HD Tax Increment Exemption Agreement
- ❑ DHCD award of HD Tax Credits to Sponsor

# CONTACT US

Department of Housing and Community Development  
100 Cambridge Street, Suite 300  
Boston, MA 02114  
617-573-1100

[www.mass.gov/dhcd](http://www.mass.gov/dhcd) search keyword: HDIP

Miryam Bobadilla  
Senior Technical Assistance Coordinator  
Office of Sustainable Communities  
(617)573-1356  
[Miryam.Bobadilla@state.ma.us](mailto:Miryam.Bobadilla@state.ma.us)

Andrew Nelson  
Director HIF/FCF  
Division of Housing Development  
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[Andrew.Nelson@state.ma.us](mailto:Andrew.Nelson@state.ma.us)



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY



MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY

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Deval L. Patrick  
Governor

Timothy P. Murray  
Lieutenant Governor

Mary Elizabeth Heffernan  
Secretary

Kurt N. Schwartz  
Director

August 17, 2011

TO: Elected Municipal Officials  
Town/City Managers and Administrators  
Police Chiefs  
Fire Chiefs  
Emergency Management Directors  
Public Works Directors

Dear Municipal Official:

In a letter to you in January of 2011, I encouraged your city/town to formally adopt the Statewide Public Safety Mutual Aid Law (GL C. 40, §4J) that was enacted earlier in 2010. The Public Safety Mutual Aid Law provides a comprehensive multi-discipline mutual aid system for cities and towns which are impacted and overwhelmed by a public safety incident or disaster to ask for, and receive assistance from municipalities that may have resources to share. The Commonwealth is not immune to disasters: in the past 16 months we have received Presidential Disaster or Emergency Declarations for flooding (March 2010), a massive potable water shortage resulting from a failure in the MWRA system (May 2010), a threatened hurricane (September 2010), a record breaking snowstorm (January 2011), and tornadoes (June 2011). The Statewide Public Safety Mutual Aid Law enables cities and towns to request and receive mutual aid from other municipalities during these types of disasters and other public safety incidents, *but only if the city/town has formally opted-in as required by the law.*

Since I wrote to you in December of 2010, almost 100 cities and towns across the Commonwealth have opted-in to the Statewide Public Safety Mutual Aid Law. (See the current list attached to this letter.) Today, these cities and towns are able to request help from municipalities across the Commonwealth: in an emergency, municipal resources including emergency management; emergency medical services; building inspectors; engineers; health agents and inspectors; water and sewer officials; transportation officials and resources; communications capabilities; highway, parks and cemetery workers and equipment, Medical Reserve Corps and Community Emergency Response Teams, and police and fire are available to help respond to, and recover from disasters and other public safety incidents.

If your municipality has not opted-in to the Statewide Public Safety Mutual Aid Law, I urge you to do so: our comprehensive mutual aid system needs the participation of all 351 cities and towns in the Commonwealth.

I also would like to introduce you to another mutual aid law: the Public Works Municipal Mutual Aid Law (GL C. 40, §4K). This mutual aid law, which also was enacted in 2010, differs from the Statewide Public Safety Mutual Aid Law in that it allows municipal officials to share public works resources in support of every day, non-emergency operations. Participants in the Public Works Mutual Aid Law may be able to realize efficiencies and savings by sharing public works resources across municipal boundaries.

Like the Comprehensive Statewide Mutual Aid Law, the Public Works Mutual Aid Law requires a city, town or other governmental unit to affirmatively “opt-in” in order to participate in and enjoy the benefits of the law: a municipality may not ask for, or receive assistance under the law until it affirmatively acts.

The Public Works Mutual Aid Law established a statewide Advisory Committee consisting of the secretary of public safety, who serves as chair of the committee and representatives of each of the following public works professional associations: the Massachusetts Highway Association; the New England Chapter of the American Public Works Association, who is a resident of the commonwealth; the New England Water Environment Association, who is a resident of the commonwealth; the Massachusetts Tree Wardens' and Foresters' Association; the Massachusetts Water Works Association; and the Massachusetts Municipal Association. The Advisory Committee is responsible for the administration and coordination of the statewide mutual aid agreement. The advisory committee will be developing and making available to parties forms to facilitate requests for aid, including a form to track the movement of public works equipment and personnel.

The Advisory Committee has reviewed the Public Works Mutual Aid Law and unanimously recommends that all cities and towns in the Commonwealth participate by affirmatively opting-in. Ultimately, my hope is that your jurisdiction will opt-in to the Public Works Mutual Aid Law by taking the required vote.

With the enactment of the Public Safety and Public Works mutual aid laws, the Commonwealth has comprehensive multi-discipline mutual aid statutes that provide a mechanism, or system for cities and towns which are impacted and overwhelmed by a public safety incident or disaster to ask for, and receive assistance from municipalities that may have resources to share. In addition, the new Public Works mutual aid law allows communities to share public works resources in support of every day, non-emergency work.

***Each of these mutual aid laws require a city, town or other governmental unit to affirmatively “opt-in” in order to participate in and enjoy the benefits of these mutual aid agreements.*** Each statute spells out the vote that a jurisdiction must take to opt-in to these mutual aid statutes. In order to maintain a central registry of cities and towns that have opted in to the mutual aid agreements, we ask that each jurisdiction notify MEMA, in writing, using the enclosed form, once it takes the required votes to opt-in to one or all of the mutual aid agreements.

Opting in to either of these agreements does not require a jurisdiction to provide mutual aid if doing so is not reasonable and practicable. A jurisdiction is permitted to withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction or if it does not wish to bear the expense of providing mutual aid. Opting in to the Public Safety or Public Works mutual aid agreements **does not** affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements. Additionally, a party may enter into supplementary mutual aid agreements with other parties or jurisdictions. A jurisdiction may also opt out of the Public Safety and Public Works agreements at any time by providing 10 days written notice to MEMA.

In closing, I urge your jurisdiction to opt-in to these three mutual aid statutes by taking the required votes. I have enclosed the following documents to facilitate your jurisdiction's review of the three mutual aid statutes:

- Summaries of the two mutual aid statutes (Attachment A);
- Instructions on the steps/actions your jurisdiction must take to opt-in to the mutual aid agreements (Attachment B);
- Notification Form to complete and return to MEMA after your jurisdiction opts-in to one or more of the mutual aid agreements (Attachment C);

Should you have any questions, please contact MEMA's statewide mutual aid coordinator Allen Phillips at 508-820-1426 or at [allen.phillips@state.ma.us](mailto:allen.phillips@state.ma.us).

Very truly yours,



Kurt N. Schwartz  
Undersecretary for Homeland Security & Emergency Management  
Director, Massachusetts Emergency Management Agency  
Executive Office of Public Safety & Security

## **ATTACHMENT A**

### **Summaries of Mutual Aid Laws**

#### **Chapter 40, Section 4J: Statewide Public Safety Mutual Aid**

Creates a statewide public safety mutual aid agreement. Assistance provided under the agreement includes, but is not limited to, fire service, law enforcement, emergency medical services, transportation, communications, public works, engineering, building inspection, planning and information assistance, resource support, public health, health and medical services, search and rescue assistance and any other resource, equipment or personnel that a party to the agreement may request or provide in anticipation of, or in response to, a public safety incident.

Opt-in mutual aid agreement – If a city/town/governmental unit wishes to join the Agreement they must notify MEMA in writing. The city/town/governmental unit shall become a party to the agreement 30 days after MEMA's receipt of the written notification.

A city/town/governmental unit that has joined the agreement may opt out of the agreement by notifying MEMA in writing of its intention to opt out. A city/town/governmental unit's removal from the agreement takes effect 10 days after MEMA's receipt of the written notification.

A request by a party to receive mutual aid under this agreement shall be made, either orally or in writing, by an authorized representative of the requesting party to an authorized representative of the sending party or to MEMA. All oral requests shall be reduced to writing by the requesting party and delivered to the sending party at the earliest possible date, but not later than 72 hours after making the oral request.

The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by the sending party consistent with the incident command system. Unless otherwise agreed to, the sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party. Unless the requesting and sending parties agree otherwise, the sending party shall be responsible for the operation of its equipment and for any damage thereto.

Unless the requesting and sending parties agree otherwise, the sending party shall pay all expenses, including salary and overtime, incurred by the sending party. A sending party shall document its costs of providing mutual aid assistance under the agreement. Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the cost of responding to the public safety incident. The requesting party and each sending party shall receive,

based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

While providing mutual aid assistance under the agreement, employees of the sending party shall be afforded the same powers and duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location.

While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they would otherwise have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid under the agreement.

Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage and personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

#### **Chapter 40, Section 4K: Statewide Public Works Municipal Mutual Aid**

Creates a statewide public works municipal mutual aid agreement. Assistance provided under the agreement includes, but is not limited to, services related to public works, personnel, equipment, supplies and facilities to prepare for, prevent, mitigate, respond to and recover from public works incidents. Participation in the agreement is also available to governmental units in states contiguous to the Commonwealth. Creates a statewide public works municipal mutual aid advisory committee to be chaired by the secretary of public safety and security or his designee.

Opt-in mutual aid agreement – If a city/town/governmental unit wishes to join the Agreement they must notify the mutual aid advisory committee in writing. The city/town/governmental unit shall become a party to the agreement 30 days after the advisory committee's receipt of the written notification.

A city/town/governmental unit that has joined the agreement may opt out of the agreement by notifying the advisory committee in writing of its intention to opt out. A city/town/governmental unit's removal from the agreement takes effect 10 days after the advisory committee's receipt of the written notification.

A request by a party to receive mutual aid under this agreement shall be made, either orally or in writing, by the chief executive officer of the requesting party or one of its designated points of contact to the chief executive officer or a designated point of contact of the sending party. All oral requests shall be reduced to writing by the requesting party and delivered to the sending party at the earliest possible date, but not later than 72 hours after making the oral request.

A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested by the requesting party; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by the sending party. Unless otherwise agreed to, the sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party. Unless the requesting and sending parties agree otherwise, the sending party shall be responsible for the operation of its equipment and for any damage thereto.

Unless the requesting and sending parties agree otherwise, the sending party shall pay all expenses, including salary and overtime, incurred by the sending party. A sending party shall document its costs of providing mutual aid assistance under the agreement. Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the cost of responding to the public works incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

While providing mutual aid assistance under the agreement, employees of the sending party shall be afforded the same powers and duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location. While providing mutual aid assistance under the agreement, employees of the sending party shall be considered similarly licensed, certified or permitted in the requesting party's jurisdiction if the employee holds a valid license, certificate or permit issued by the employee's governmental unit.

While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they would otherwise have under the law if they were acting within the scope of their employment under the direction of their employer. A sending

party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid under the agreement.

Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage and personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

All equipment requested and deployed pursuant to this agreement shall be insured by the sending party.

This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

**ATTACHMENT B  
MUTUAL AID "OPT-IN" INSTRUCTIONS**

**The statutory requirements for jurisdictions to opt-in to the mutual aid agreement(s) are set forth below.**

**MGL c. 40, §§ 4J & 4K – Public Works & Public Safety Mutual Aid Agreements**

If a city or town wishes to join the Public Safety or Public Works agreement(s), the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chairman of the board of selectmen with the approval by a majority of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the director of MEMA in writing.

If a governmental unit that is not a city or town wishes to join the agreement(s), the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the director of MEMA in writing.

Once a jurisdiction has properly authorized joining any or all of the above listed mutual aid agreements please complete each applicable section of the attached form. Upon completion, please return the form to:

Massachusetts Emergency Management Agency  
400 Worcester Road  
Framingham, MA 01702-5399  
Attn: Allen Phillips

**CITIES AND TOWNS THAT  
HAVE OPTED-IN TO THE  
PUBLIC SAFETY MUTUAL AID  
AGREEMENT AS OF AUGUST  
17, 2011**

Abington  
Agawam  
Amesbury  
Ashburnham  
Ashland  
Auburn  
Belmont  
Berlin  
Blackstone  
Boxborough  
Boylston  
Brewster  
Brookfield  
Carver  
Charlemont  
Charlton  
Chelmsford  
Chester  
Chesterfield  
Conway  
Cummington  
Dartmouth  
Egremont  
Essex  
Franklin  
Gill  
Gloucester  
Goshen  
Grafton  
Granville  
Halifax  
Hardwick  
Hardwick  
Holliston  
Hudson  
Huntington  
Kingston  
Lancaster

Lawrence  
Leicester  
Leyden  
Lowell  
Ludlow  
Lynnfield  
Marlborough  
Melrose  
Merrimac  
Middleborough  
Milford  
Millbury  
Millville  
Montgomery  
Mount Washington  
Nahant  
NEMLEC (NE Law Enforcement)  
New Bedford  
New Braintree  
Orange  
Peabody  
Pelham  
Petersham  
Plymouth  
Reading  
Rehoboth  
Revere  
Rochester  
Rockland  
Russell  
Sandisfield  
Savoy  
Seekonk  
Sheffield  
Southbridge  
Spencer  
Springfield Water & Sewer

Sterling  
Stow  
Sutton  
Tolland  
Townsend  
Truro  
Uxbridge  
Walpole  
Ware  
Wayland  
Wellesley  
West Boylston  
West Newbury  
Westhampton  
Whately  
Wilbraham  
Williamsburg  
Yarmouth



**THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY**



**MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY**

**400 Worcester Road, Framingham, MA 01702-5399**

**Tel: 508-820-2000 Fax: 508-820-2030**

**Website: [www.mass.gov/mema](http://www.mass.gov/mema)**

Deval L. Patrick  
Governor

Timothy P. Murray  
Lieutenant Governor

Mary Elizabeth Heffernan  
Secretary

Kurt N. Schwartz  
Acting Director

January 21, 2011

TO: Elected Municipal Officials  
Municipal Managers & Administrators  
Police & Fire Chiefs  
Emergency Management Directors  
Public Works and Public Health Directors  
Building Officials  
Other Appointed Municipal Officials

On July 27, 2010, Governor Deval Patrick signed into law Chapter 188 of the Acts of 2010 (An Act Relative to Municipal Relief). This legislation created, among other provisions, two new statewide mutual aid laws. I am writing to promote awareness of these new mutual aid laws and to urge your jurisdiction's participation in them and the long-established Fire Mutual Aid law. The citations for these mutual aid laws are as follows:

Statewide Public Safety Mutual Aid: (MGL c. 40, §4J);  
Statewide Public Works Municipal Mutual Aid: (MGL c. 40, §4K);  
Fire Mutual Aid: (MGL c. 48, §59A).

While there is substantial overlap among these three mutual aid laws, there are important differences between them that warrant jurisdictions joining each of the three agreements. For example, only the Public Works and Fire mutual aid laws permit crossing into adjoining states to send and receive assistance. The Fire mutual aid law also permits aid to any federal jurisdiction in the Commonwealth and serves as the backbone of the Statewide Fire Mobilization Plan. The Public Works mutual aid law permits mutual aid to support every day, non-emergency, operations while the Public Safety mutual aid law limits the provision of mutual aid under the agreement to "public safety incidents" as defined in the law.

Region I  
P.O. Box 116  
365 East Street  
Tewksbury, MA 01876  
Tel: 978-328-1500 Fax: 978-851-8218

Region II  
P.O. Box 54  
12-1 Rear Administration Road  
Bridgewater, MA 02324-0054  
Tel: 508-427-0400 Fax: 508-697-8869

Region III / IV  
1002 Suffield Street  
Agawam, MA 01001  
Tel: 413-821-1500 Fax: 413-821-1599

With the recent enactment of the Public Safety and Public Works mutual aid laws, the Commonwealth has, for the first time, comprehensive multi-discipline mutual aid statutes that provide a mechanism, or system for cities and towns which are impacted and overwhelmed by a public safety incident or disaster to ask for, and receive assistance from municipalities that may have resources to share. In addition, the new Public Works mutual aid law allows communities to share public works resources in support of every day, non-emergency work.

Even in strong economic times, most cities and towns do not have sufficient personnel and resources to quickly and effectively respond to and manage: mass casualties, widespread damage to infrastructure, numerous persons displaced from their homes, mass vaccinations or decontaminations, establishing food and water distribution sites, and the many other demands that large, and even small disasters place on municipal government. And, these are not strong economic times. Now, more than ever, cities and towns must rely on neighbors in times of emergency.

Likewise, state resources, once mustered, may not be sufficient to meet all urgent needs and demands in the aftermath of a widespread natural or man-made disaster that impacts many cities and towns.

What we know from experiences here in the Commonwealth and in other parts of the country, is that we need a strong, reliable mutual aid system that provides the platform for cities and towns to dispatch personnel and resources to other communities that are in need. We are not just talking about police and fire; we are talking about emergency management; emergency medical services; building inspectors; engineers; health agents and inspectors; transportation, water, sewer, highway, forestry, parks and cemetery personnel and resources; and communications capabilities.

Think back to the December 2008 widespread ice storm that left roads impassable in dozens of small communities in the central and western parts of the state. Just imagine how much more quickly we could have cleared downed utility lines and trees, and reopened roads if we could have drawn dump trucks, plows, chain saws, and highway department workers from the cities and towns in the southeastern and eastern parts of the state that were not touched by the storm.

Think further back to the explosion that rocked Danvers just a few years ago. With hundreds of buildings damaged or destroyed, Danvers had an urgent need for building inspectors to go building to building, and street to street, to assess the levels of damage, and overall safety of the impacted structures. While some municipal building inspectors from neighboring towns volunteered their services, they did so with significant liability and jurisdictional questions unanswered.

More recently, we anxiously monitored a strong hurricane (Hurricane Earl) that was threatening to make landfall on the Cape or Islands. This time we were fortunate—the storm took a more easterly path and weakened before it reached our area. But had this storm made landfall in Massachusetts as a Category 3 or Category 4 hurricane, damage to roads, bridges, utility systems, homes and businesses would have been extensive. Emergency services in the southeast part of the state would have been out straight, and demand for all types of public safety and municipal services would have exceeded capacity. Moreover, the everyday informal and formal systems of neighbor to neighbor mutual aid would not have worked because every community in the southeastern part of the state would have been in the same situation – not enough resources to meet the urgent needs of their residents.

Today, we have comprehensive mutual aid statutes that can facilitate mutual aid from neighboring cities and towns and communities in other parts of the state. By utilizing these statutes, impacted jurisdictions can quickly ask for and receive an array of resources such as police and fire personnel, municipal workers to staff shelters and food distribution sites, building inspectors, health inspectors, dump trucks, front-end loaders, generators, chain saws, Community Emergency Response Teams, and Medical Reserve Corps.

***Each of these three mutual aid laws require a city, town or other governmental unit to affirmatively “opt-in” in order to participate in and enjoy the benefits of these mutual aid agreements.*** Each statute spells out the vote that a jurisdiction must take to opt-in to these mutual aid statutes. In order to maintain a central registry of cities and towns that have opted in to the mutual aid agreements, we ask that each jurisdiction notify MEMA, in writing, using the enclosed form, once it takes the required votes to opt-in to one or all of the mutual aid agreements.

Opting in to any of these agreements does not require a jurisdiction to provide mutual aid if doing so is not reasonable and practicable. A jurisdiction is permitted to withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction or if it does not wish to bear the expense of providing mutual aid. Opting in to the Public Safety or Public Works mutual aid agreements **does not** affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements. Additionally, a party may enter into supplementary mutual aid agreements with other parties or jurisdictions. A jurisdiction may also opt out of the Public Safety and Public Works agreements at any time by providing 10 days written notice to MEMA.

Ultimately, my hope is that your jurisdiction will opt-in to these three mutual aid statutes by taking the required votes. Today, I am urging you to move forward and adopt two of the mutual aid laws: the Statewide Mutual Aid Law and the Fire Mutual Aid Law. The third (the Statewide Public Works Mutual Aid Law) is not quite ready to be implemented; the Advisory Board that oversees its operation is still working on the necessary implementation documents.

I have enclosed the following documents to facilitate your jurisdiction's review and acceptance of the two mutual aid statutes:

- Summaries of the mutual aid statutes (the Public Works Mutual Aid Law also is summarized) (Attachment A);
- Instructions on the steps/actions your jurisdiction must take to opt-in to the Statewide Mutual Aid Agreement and the Fire Mutual Aid Agreement (Attachment B);
- Notification Form to complete and return to MEMA after your jurisdiction opts-in to one or both of the mutual aid agreements;

Should you have any questions, please contact MEMA's statewide mutual aid coordinator Allen Phillips at 508-820-1426 or at [allen.phillips@state.ma.us](mailto:allen.phillips@state.ma.us).

Very truly yours,

A handwritten signature in black ink that reads "Kurt N. Schwartz". The signature is written in a cursive, flowing style.

Kurt N. Schwartz

Undersecretary, Law Enforcement & Fire Services

Acting Director, Massachusetts Emergency Management Agency

Executive Office of Public Safety & Security

**ATTACHMENT A**  
**Summaries of Mutual Aid Laws**

**Chapter 40, Section 4J: Statewide Public Safety Mutual Aid**

Creates a statewide public safety mutual aid agreement. Assistance provided under the agreement includes, but is not limited to, fire service, law enforcement, emergency medical services, transportation, communications, public works, engineering, building inspection, planning and information assistance, resource support, public health, health and medical services, search and rescue assistance and any other resource, equipment or personnel that a party to the agreement may request or provide in anticipation of, or in response to, a public safety incident.

Opt-in mutual aid agreement – If a city/town/governmental unit wishes to join the Agreement they must notify MEMA in writing. The city/town/governmental unit shall become a party to the agreement 30 days after MEMA's receipt of the written notification.

A city/town/governmental unit that has joined the agreement may opt out of the agreement by notifying MEMA in writing of its intention to opt out. A city/town/governmental unit's removal from the agreement takes effect 10 days after MEMA's receipt of the written notification.

A request by a party to receive mutual aid under this agreement shall be made, either orally or in writing, by an authorized representative of the requesting party to an authorized representative of the sending party or to MEMA. All oral requests shall be reduced to writing by the requesting party and delivered to the sending party at the earliest possible date, but not later than 72 hours after making the oral request.

The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by the sending party consistent with the incident command system. Unless otherwise agreed to, the sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party. Unless the requesting and sending parties agree otherwise, the sending party shall be responsible for the operation of its equipment and for any damage thereto.

Unless the requesting and sending parties agree otherwise, the sending party shall pay all expenses, including salary and overtime, incurred by the sending party. A sending party shall document its costs of providing mutual aid assistance under the agreement. Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the cost of responding to the public safety incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

While providing mutual aid assistance under the agreement, employees of the sending party shall be afforded the same powers and duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location.

While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they would otherwise have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid under the agreement.

Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage and personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

#### **Chapter 40, Section 4K: Statewide Public Works Municipal Mutual Aid**

Creates a statewide public works municipal mutual aid agreement. Assistance provided under the agreement includes, but is not limited to, services related to public works, personnel, equipment, supplies and facilities to prepare for, prevent, mitigate, respond to and recover from public works incidents. Participation in the agreement is also available to governmental units in states contiguous to the Commonwealth. Creates a statewide public works municipal mutual aid advisory committee to be chaired by the secretary of public safety and security or his designee.

Opt-in mutual aid agreement – If a city/town/governmental unit wishes to join the Agreement they must notify the mutual aid advisory committee in writing. The city/town/governmental unit shall become a party to the agreement 30 days after the advisory committee's receipt of the written notification.

A city/town/governmental unit that has joined the agreement may opt out of the agreement by notifying the advisory committee in writing of its intention to opt out. A city/town/governmental unit's removal from the agreement takes effect 10 days after the advisory committee's receipt of the written notification.

A request by a party to receive mutual aid under this agreement shall be made, either orally or in writing, by the chief executive officer of the requesting party or one of its designated points of contact to the chief executive officer or a designated point of contact of the sending party. All oral requests shall be reduced to writing by the requesting party and delivered to the sending party at the earliest possible date, but not later than 72 hours after making the oral request.

A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested by the requesting party; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by the sending party. Unless otherwise agreed to, the sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party. Unless the requesting and sending parties agree otherwise, the sending party shall be responsible for the operation of its equipment and for any damage thereto.

Unless the requesting and sending parties agree otherwise, the sending party shall pay all expenses, including salary and overtime, incurred by the sending party. A sending party shall document its costs of providing mutual aid assistance under the agreement. Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the cost of responding to the public works incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

While providing mutual aid assistance under the agreement, employees of the sending party shall be afforded the same powers and duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location. While providing mutual aid assistance under the agreement, employees of the sending party shall be considered similarly licensed, certified or permitted in the requesting party's jurisdiction if the employee holds a valid license, certificate or permit issued by the employee's governmental unit.

While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they would otherwise have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid under the agreement.

Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage and personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

All equipment requested and deployed pursuant to this agreement shall be insured by the sending party.

This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

#### **Chapter 48, Section 59A: Fire Mutual Aid Law**

M.G.L. Chapter 48, Section 59A authorizes cities and towns to voluntarily participate in rendering mutual aid fire response to another city, town, fire district or area under federal jurisdiction in the Commonwealth or an adjoining state.

Cities, towns, and fire districts may authorize such mutual aid by passing an ordinance or by-law or by vote of the aldermen, selectmen, or prudential committee or other boards exercising such powers.

Each city, town, or district wishing to participate in fire department mutual aid, must, at a minimum, vote to accept the provisions of Chapter 48, Section 59A. The jurisdiction may also authorize its department to enter into mutual aid agreements with any other city, town, or district or in adjoining states, or impose conditions or restrictions on rendering mutual aid. There should be a policy authorizing the fire department to participate in the statewide mutual aid plan, regional plans, or other plans, as approved by the city, town, or district.

Mutual aid covers the extinguishment of fire or rendering of any emergency aid or detail as ordered by the Head of the Fire Department. However, the ordinance, by-law or vote may place conditions or restrictions on the rendering of such aid.

Members of fire departments, while performing their duty in extending mutual aid, shall have the immunities and privileges as if performing those duties within their respective cities, towns or districts. (This includes immunity under the provisions of the Massachusetts Tort Claim Act, M.G.L. Chapter 258 as well as the Good Samaritan provisions for EMT's rendering treatment pursuant to Chapter 111C, section 21.)

In the absence of any agreement to the contrary, the municipality rendering aid is responsible for: damage to its own equipment; personal injury sustained or caused by a member of its fire department, and any payment it is required to make to a member of its fire department or their widows or dependants due to injury or death.

**ATTACHMENT B  
MUTUAL AID "OPT-IN" INSTRUCTIONS**

**The statutory requirements for jurisdictions to opt-in to the mutual aid agreement(s) are set forth below.**

**MGL c. 40, §§ 4J: Public Safety Mutual Aid Agreement**

If a city or town wishes to join the Public Safety agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chairman of the board of selectmen with the approval by a majority of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the director of MEMA in writing.

If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the director of MEMA in writing.

**MGL c. 48, § 59A – Statewide Fire Mutual Aid Agreement**

Cities, towns and fire districts may, by ordinance or by-law, or by vote of the board of aldermen, selectmen or of the prudential committee or board exercising similar powers, authorize their respective fire departments to go to aid another city, town, fire district or area under federal jurisdiction. Any such ordinance, by-law or vote may authorize the head of the fire department to extend such aid, subject to such conditions and restrictions as may be prescribed therein.

Once a jurisdiction has properly authorized joining one or both of the above listed mutual aid agreements, please complete each applicable section of the attached form (See Attachment C). Upon completion, please return the form to:

Massachusetts Emergency Management Agency  
400 Worcester Road  
Framingham, MA 01702-5399  
Attn: Allen Phillips



## Administration and Finance

Home > Budget, Taxes & Procurement > Working For You > Community Innovation Challenge Grant > Massachusetts Municipal Performance Management Program

### Massachusetts Municipal Performance Management Program



Managed by the Collins Center at the University of Massachusetts at Boston, this program provides direct assistance to municipalities in the Commonwealth interested in establishing new programs or refining existing ones. The original program, funded through the CIC program, launched in August, 2012 and included 20 municipalities. To staff the work of the program, the Collins Center hired and trained five analysts, each of whom supported four municipalities.

The first six months of the program focused on police and public works departments. As part of the program, the Collins Center and participating municipalities are developing a toolkit of templates, reports, and best practices based upon lessons learned, as well as common indicators that can be used across municipalities. The program continues to expand and added additional communities in the Spring of 2013.

In the first year of the program, the Collins Center and participating municipalities realized multiple accomplishments, including:

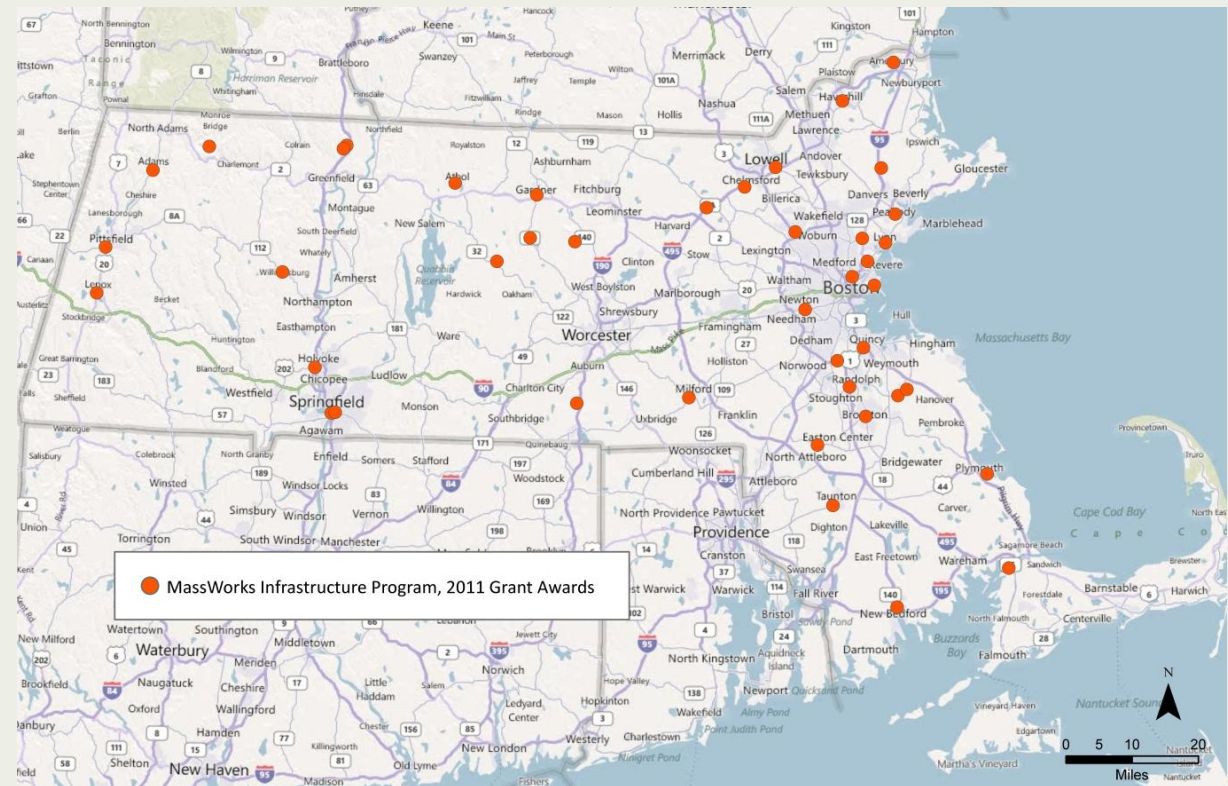
- Holding over 60 performance-based meetings in nearly 40 departments across all 20 participating municipalities;
- Designing new workload and efficiency measures to help departments improve performance management efforts;
- Changing data coding to allow for better data analysis, including categorizing overtime to identify causes and redesigning regular crime reports provided to patrolmen;
- Increasing inter- and intra- municipality collaboration on best practices and problem solving;
- Helping municipal employees to learn new technical or software skills, including ways to reduce data entry inefficiency and improve accuracy;
- Completing significant analyses on usage of sick time and overtime;
- Analyzing injuring on duty, which led to new safety training for most common injuries and monthly safety reports; and
- Working on collecting lessons learned and building templates for a toolkit and on developing common indicators and measures to improve data comparability.

Participating communities include: Arlington, Greenfield, Wilmington, Westfield, Wrentham, Amesbury, Andover, Braintree, Brookline, Cambridge, Chatham, Chicopee, Dartmouth, Holliston, Lowell, Medway, New Bedford, Northampton, Orange, Revere, Salem, Shirley, Somerville, Woburn, and Worcester

*To learn more about either of these programs, please contact the Collins Center directly at (617)-287-4824 or [collins.center@umb.edu](mailto:collins.center@umb.edu).*

## MassWorks Infrastructure Program: 2011 In Summary

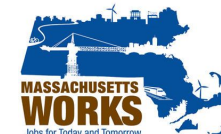
- In 2011, the MassWorks Infrastructure Program awarded 42 infrastructure grants totaling \$63.5M to support housing, economic development and road safety in communities across the state.
- During the 2011 funding round, the average grant amount was \$1.5M and grants were awarded to municipalities of all sizes ranging in population from 1,000 to over 150,000.
- Over 158 applications were submitted requesting more than \$400M in public infrastructure grants.
- Applications were considered by a team of state reviewers representing a diversity of disciplines and evaluated for consistency with Program priorities, including readiness and consistency with the state's Sustainable Development Principles.
- 100% of awards directed to the South Coast Region were consistent with the South Coast Rail Land Use Corridor Plan, and 66% of total awards were directed to projects identified in a regional growth plan.
- The 2011 portfolio of investments met or exceeded 5 of the 6 program spending targets established for the program upon its inception (see chart below).



## Spending Targets

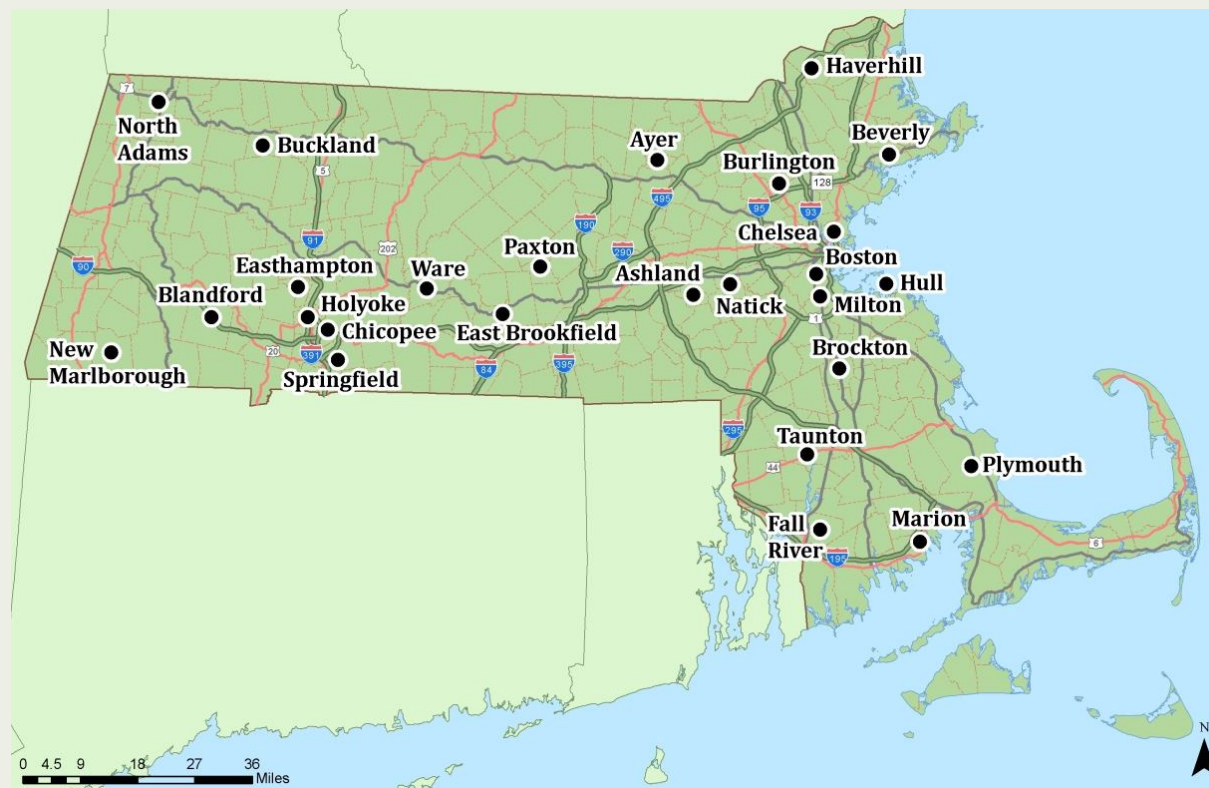
	Gateway City	Transit-Oriented Development	Reuse Previously Developed Sites	Mix of Residential and Commercial Uses	Density of Housing	Regional Projects (2+ communities)
2011 Spending Portfolio	50%	60%	86%	57%	100%	67%
Program Spending Targets	50%	67%	80%	50%	100%	25%

# MassWorks Infrastructure Program



## MassWorks Infrastructure Program: 2012 In Summary

- In 2012, the MassWorks Infrastructure Program awarded 26 infrastructure grants totaling \$38.5M to support housing, economic development and road safety in communities across the state.
- During the 2012 funding round, the average grant amount was \$1.5M and grants were awarded to municipalities of all sizes ranging in population from 1,200 to over 625,000.
- Over 130 applications were submitted requesting more than \$323M in public infrastructure grants.
- Applications were considered by a team of state reviewers representing a diversity of disciplines and evaluated for consistency with Program priorities, including readiness and consistency with the state's Sustainable Development Principles.
- Awards were reviewed for consistency with regional plans, regional priorities and with priority development area designations.
- The 2012 portfolio of investments met or exceeded all but one of the program spending targets including the requirement that 10 percent of funding go towards projects in rural communities.



## Spending Targets

	Gateway City	Transit-Oriented Development	Reuse Previously Developed Sites	Mix of Residential and Commercial Uses	Density of Housing	Regional Projects (2+ communities)
2012 Spending Portfolio	49%	77%	90%	63%	100%	51%
Program Spending Targets	50%	67%	80%	50%	100%	25%

B-153



The Official Website of the Governor of Massachusetts

## Governor Deval Patrick

[Home](#) > [The Administration](#) > [Councils, Cabinets and Commissions](#) > [Municipal Affairs Coordinating Cabinet](#)

### Municipal Affairs Coordinating Cabinet

As Chair of the Municipal Affairs Coordinating Cabinet, former Lt. Governor Murray led more than 30 listening tours in communities across the Commonwealth. In September 2011, former Lt. Governor Murray requested an updated Executive Order, amending the Cabinet to formally include efforts to promote regionalization within the Cabinet's mission. This updated Executive Order then led to a series of forums with the Cabinet focused on regionalization and ultimately the release of the state's new [Community Innovation Challenge Grants](#).

Our new fiscal reality demands that we find new and more efficient ways to deliver local services, much as we are doing at the state level to change the way government does business. The Patrick Administration's new Community Innovation Challenge Grant Program invests in and incentivizes innovation among local governments through regionalization and other reforms and efficiencies to maintain critical local services and stretch every tax payer dollar as far as possible.

As Chair of the Municipal Affairs Coordinating Cabinet, former Lt. Governor Murray also led policy discussions with municipal managers and local planners that have helped to implement key initiatives and assistance for cities and towns. These discussions helped to form the Municipal Partnership Act, proposed by Governor Patrick and former Lt. Governor Murray during their first term. The initiatives originally introduced in the Municipal Partnership Act have provided critical relief for communities on issues like municipal health care cost containment, pension reform, and local option meals and hotel tax. During very challenging fiscal times, Governor Patrick has also continued to make Chapter 70 education funding for cities and towns a top priority.

#### Contact

For more information about the cabinet please contact the Division of Local Services at 617-626-2300 or [dlswebcontacts@dor.state.ma.us](mailto:dlswebcontacts@dor.state.ma.us)

#### Additional Resources

Executive Order No. 537

**Issued: September 14, 2011**

Strengthening the Level of Partnership and Collaboration Between State Government and Cities and Towns

Executive Order No. 480

**Issued: February 15, 2007**

Strengthening the level of partnership and collaboration between state government and cities and towns.

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#### Press Releases

Lt. Governor Murray Announces Investments

Essex County 911 Facility

South Shore Regional 911 Center Nears Completion

Federal Funding for Health Services Announced

**Ch. 188 MUNICIPAL RELIEF**

**An Act Relative to Municipal Relief.** *Effective July 27, 2010 unless otherwise noted.*

**§ 1 Special Education Tuition Rates.** Amends G.L. c. 7, § 22N to require that the Operational Services Division notify school superintendents of the estimated rate of inflation in the prices of special education and other social service programs by October 1. Previously, the notification deadline was December 1.

**§§ 2-3, 70 State Cultural Districts.** Amend G.L. c. 10, § 52 and add a new section 58A to c. 10 to facilitate the development of state-designated cultural districts under guidelines established by the Massachusetts Cultural Council. The council is to establish criteria for the districts, develop an application process for municipalities seeking to create districts and identify state incentives and resources to support the development of the districts.

**§§ 4-15, 62-63 Sound Bidding Practices and Flexibility.** Amend G.L. c. 30B and c. 149, which govern local procurement of supplies, services, real property and public construction. In some cases, local governments will be able to purchase goods and services specified under United States General Services Administration (GSA) federal supply schedules from authorized GSA vendors, conduct a “reverse” auction bidding process and engage in intergovernmental cooperative purchasing under contracts let by the federal government, another state, or any political subdivision of the Commonwealth or another state. Also define sound business practices for c. 30B purposes. For construction contracts, the dollar thresholds applicable to payment bonds and use of sound business practices were increased.

**§§ 16-19, 71 Pension Funding Relief.** Add a new section 22F to G.L. c. 32, to allow local retirement systems to extend their funding schedules to 2040 subject to the approval of PERAC and certain minimum payment requirements. Payments for any year under the revised schedule cannot be less than the payment in a prior year under the current schedule. Any increase in the amortization component required by the schedule cannot be more than four percent. Amends G.L. c. 32, § 21 to require actuarial valuations at least once every two years rather than every three years. Amends G.L. c. 32, § 22D to require that any yearly payment under a funding schedule established under that section shall be no less than 95 percent of the amount appropriated in the prior fiscal year. Also amends G.L. c. 32, § 103 to add a local option subsection (j) that allows retirement systems to increase in multiples of \$1,000 the maximum base for calculating cost of living adjustments on pension payments. Currently, that base is \$12,000.

**§ 20-21 Municipal Life Insurance.** Amend G.L. c. 32B, § 11A, to eliminate restrictions on the maximum amount of optional life and accidental death insurance benefits for municipal employees based on salary. The maximum amount is \$150,000. Previously, it was \$74,000.

**§ 22 Municipal Leases.** Amends G.L. c. 40, § 3 regarding the leasing of public buildings under certain procedures. Those leases may now be up to 30 years. Previously, the maximum term was 10 years.

**§ 23 Intermunicipal Agreements.** Amends G.L. c. 40, § 4A, which authorizes agreements among governmental entities to jointly perform governmental services and functions, to limit approval of the agreements, i.e., the decision to enter, to the entities’ elected officials.

**§ 24 Mutual Aid Agreements.** Adds sections 4J and 4K to G.L. c. 40, to establish statewide mutual aid agreements that allow municipalities to share fire, police, emergency medical services, public works and other local services in the case of a public safety incident (G.L. c. 40, § 4J) and public works personnel, equipment, supplies and facilities in the case of a public works incident (G.L. c. 40, § 4K).

**§ 25 Triennial Certification Schedule.** Amends G.L. c. 40, § 56, which requires the Department of Revenue (DOR) to certify that a municipality's local assessments are at full and fair cash valuation every three years as a prerequisite to use of a classified tax system. The amendment allows DOR to revise the three-year schedule to balance the number of certifications each year, facilitate or implement regional or other cooperative assessing agreements and improve assessment performance.

**§ 26 Joint or Regional Assessing Agreements.** Amends G.L. c. 41, § 30B, which permits joint or cooperative assessing agreements, to allow cities and towns to share assessors as well as assessing department staff. Municipalities will now be able to form a single assessing department to share all departmental staff and perform all administrative functions or designate one person, one of their boards of assessors, or a regional board of assessors, to act as the assessors for all of them. The other boards would then terminate for the duration of the agreement. Parties to an agreement are responsible for sharing the costs of benefits provided personnel who serve during its term.

**§§ 27, 29, 30-33, 56 and 57 Flexibility in Municipal, Improvement District and Regional School District Borrowing.** Amend G.L. c. 44, § 7 to allow municipalities and improvement districts to borrow within their debt limits for: (1) other public works, improvements or assets not specifically described in that section, for up to five years; (2) the dredging of rivers, streams, harbors, channels and tide waters, for up to 10 years; (3) the construction or reconstruction of seawalls, revetments, breakwaters and other related structures, for up to 20 years; (4) the funding of loans to property owners for renewable energy and energy conservation projects on their property under a local program created under G.L. c. 44, § 53E<sup>3/4</sup> for up to 20 years; and (5) the cleanup or prevention activities at municipal facilities under G.L. c. 21E relating to the release of oil and hazardous materials, or G.L. c. 21H relating to solid waste, for up to 10 years. Cleanup and prevention plans must be approved by the Department of Environmental Protection (DEP). Also amend G.L. c. 44, §§ 7 and 8 (outside debt limit), c. 70B, § 6(d) (School Building Authority approved projects) and c. 71, § 16(d) (regional school districts) to allow municipalities, improvement districts and regional school districts to borrow for some projects over a term matching the useful life of the asset being financed, not to exceed 30 years, as determined under guidelines issued by the Division of Local Services (DLS) within DOR. Approval of emergency borrowings under G.L. c. 44, § 8(9) will now be approved by the municipal finance oversight board (MFOB), not the emergency board. Municipalities and districts may now use level debt service, or a schedule providing for more repaid amortization of principal, under G.L. c. 44, § 19.

**§§ 28, 36, and 64 Renewable Energy Revolving Fund and Betterment Loan Program.** Amend G.L. c. 44, § 7, to allow cities, towns and other governmental entities, to borrow for up to 20 years to fund loans to property owners for renewable energy and energy conservation projects on their property under a local program. Also add a new section 53E<sup>3/4</sup> to G.L. c. 44 that authorizes creation of local energy loan programs, creates a special revenue fund for the borrowed monies and provides for the loans to be treated as betterments and repaid over 20 years as part of the property owners' annual property tax bills. The loans are secured by municipal liens, which have priority over mortgages and other liens.

**§ 35 Elimination of Fee for State House Notes.** Repeals G.L. c. 44, § 26 and eliminates the fee charged cities, towns and districts for the processing of state house notes by the Director of Accounts.

**§ 37 Voter Information.** Adds a new local option section 18B to G.L. c. 53, which governs elections. If accepted, municipalities may send information on local binding and non-binding referenda questions to voters before local elections. Binding referenda questions would include Proposition 2½ overrides, underrides, debt exclusions or capital exclusions. The information to be provided is similar to that provided by the Secretary of State before each biennial state election, *i.e.*, a fair summary of the question prepared by municipal counsel and arguments by proponents and opponents.

**§ 38 Expedited Abatement Authority.** Amends G.L. c. 58, § 8, which allows the DOR to authorize the board of assessors, or other board or officer, to abate taxes or charges where they no longer have the legal power to abate because the taxpayer did not timely apply for abatement. The DOR will now be able to issue guidelines authorizing local officials to abate in some circumstances on an expedited basis without having to obtain prior approval of each individual abatement. The delegation is subject to annual reporting and audit requirements and may be withdrawn.

**§ 39 Interest Rate on Financial Hardship Deferral.** Amends G.L. c. 59, § 5(18A), which authorizes a board of assessors to grant temporary property tax deferrals to taxpayers experiencing financial hardships, to allow cities and towns to reduce the interest rate that accrues on the deferred taxes. The statutory rate is eight percent, but the legislative body will now be able to set a rate as low as zero percent. Any change in rate must be voted no later than July 1 of the fiscal year to which the tax relates.

**§§ 40-42 Property Tax Exemptions.** Amend two clauses in G.L. c. 59, § 5, which sets out the real and personal property exempt from local taxes. Section 40 amends Clause 22E, which provides a \$1000 exemption for veterans, or their spouses and surviving spouses, who have a 100 percent disability rating as determined by the United States Department of Veteran Affairs (VA) and are incapable of working as determined by assessors. The amendment eliminates the incapable of working requirement for veterans applying for Clause 22E exemptions beginning in fiscal year 2012. Section 41 amends Clause 41C½, which is one of the local option variations of the Clause 41 exemption for seniors. Under the amendment, beginning in fiscal year 2012, the combined gross receipts of married applicants and their spouses must meet the limit found in the statute. Previously, the limit applied to just the applicant's income. Section 42 adds two new local option exemptions, Clauses 56 and 57. If accepted, Clause 56 allows assessors to exempt up to 100 percent of the real and personal property taxes assessed to Massachusetts national guardsmen and reservists for any fiscal year they are deployed overseas. Assessors may establish eligibility criteria for the exemption and the exemption expires two years after acceptance unless extended by vote of the legislative body subject to charter. If accepted, Clause 57 will allow assessors to grant exemptions to seniors who qualify for the state circuit breaker income tax credit for their domicile. Exemptions would be up to the amount of the credit, but are subject to an annual allocation ("appropriation") of overlay to the exemption.

**§ 43 Senior Work Abatements.** Amends G.L. c. 59, § 5K, which authorizes communities to establish senior work-off abatement programs where seniors provide services to the community at an hourly rate no higher than the state minimum wage and their earnings are credited to reduce their property tax bills. The maximum reduction is \$1,000. Under the amendment, however, that

maximum may be based on 125 hours of service, rather than \$1,000. In addition, a proxy may now perform the services on behalf of a senior who is physically unable to perform them.

**§§ 44-46, 49-53 Audit of Personal Property.** Add a new section 31A to G.L. c. 59 that allows local assessors to subpoena and audit the records of taxpayers required to file annual returns of their taxable personal property in order to verify that the returns are complete and accurate. The assessors will have three years after the return was due or was filed, whichever is later, to audit the records. If taxable property is discovered, they will have three years and six months after the return was due or was filed, whichever is later, to make an omitted or revised assessment under G.L. c. 59, §§ 75 or 76. Previously, assessors could only make additional assessments for certain unintentional clerical or data processing errors by June of the same fiscal year. Also add section 42A to G.L. c. 59 to give the DOR the same power to subpoena and audit the records of pipeline and telephone or telegraph companies subject to central valuation. If taxable personal property is discovered, the Commissioner can make an amended certification. The assessors will have two months to make the additional assessment and the companies will then have one month to appeal to the appellate tax board in the same manner as the original certification. Also amends G.L. c. 59, § 29 to make the last date for granting an extension to file local returns the same as the due date for abatement applications, amends G.L. c. 59, § 32 to allow companies hired by the assessors or commissioner to value or audit personal property to review the returns, which are otherwise confidential, and amends G.L. c. 59, § 61 to make compliance with audit requests a condition for obtaining an abatement.

**§ 47 and 48 Pre-assessment Information Returns.** Amend G.L. c. 59, § 38D, which requires property owners to provide the assessors with requested information to help determine the fair cash value of real property. Commercial and industrial property owners who fail to comply with the requests will now be subject to a penalty of \$250. Previously, that penalty was \$50. In addition, if the property owner appeals the assessors' denial of an application for abatement on the property to the appellate tax board, or county commissioners if applicable, the owner's non-compliance with the request will be grounds for automatic dismissal. The appeal may still proceed, however, if the owner was unable to comply for reasons beyond the owner's control or had made a good faith attempt to respond.

**§ 54 Electronic Billing and Joint Bills.** Amends G.L. c. 60, § 3A, which governs the form, content and mailing of the annual property tax bill. Under the amendments, local tax collectors may now display on the actual tax bill certain personal exemptions granted to seniors, blind persons, veterans, surviving spouses and minors with deceased parents, as well as the amount of net tax due. In addition, collectors may implement voluntary e-billing programs subject to the approval of the selectboard or mayor. Bills for other municipal charges, such as those for water, sewer, solid waste and light plant services, may be included in the same envelope or e-billing as the tax bill, if authorized by by-law or ordinance and the bills for the other charges are separate and distinct. The by-law or ordinance may also provide that bills for an independent water and sewer commission operating in the municipality may be included as well.

**§ 55 Motor Vehicle Excise Bills.** Amends G.L. c. 60A, § 2 to require that motor vehicle excise bills display the date the excise is due.

**§ 58 Regional School District Stabilization Funds.** Amends G.L. c. 71, § 16G½, which governs regional school district stabilization funds. Under the amendment, districts may spend stabilization funds by a two-thirds vote of all members of the district school committee. Previously, districts wanting to make expenditures from the fund could not do so until after complying with the debt

approval procedure applicable in the district under G.L. c. 71, § 16(d) or (n). In addition, use of stabilization funds for a purpose other than a purpose for which the district may borrow must now be approved by the director of accounts, rather than the emergency finance board which was abolished in 2003.

**§ 59 Shared School Superintendents.** Amends G.L. c. 71, § 37 to allow municipal and regional school districts to share superintendents.

**§ 60 Special Education Mileage Reimbursement for Parents.** Amends G.L. c. 71B, § 8 to allow school committees to adopt a program to reimburse parents who voluntarily choose to transport their disabled child to an approved out of district placement, provided the municipality can demonstrate savings in transportation costs.

**§ 61 Ambulance Staffing.** Adds a new section 25 to G.L. c. 111C that modifies current requirements regarding staffing of ambulances with licensed emergency medical technicians.

**§ 65 Abandoned and Unclaimed Checks.** Amends G.L. c. 200A, § 9A, the alternative procedure for municipal treasurers to follow in order to retain uncashed and abandoned checks (tailings) for the municipal treasury. The local procedure is now a local option statute. If accepted, it allows cities and towns to print a one year expiration date on checks it issues. Previously, checks had to remain uncashed for three years to be considered abandoned. Treasurers will still notify apparent owners of the checks of the procedure for claiming them by mail and by posting on the municipality's web site, if any. If unclaimed within 60 days, the treasurer must still publish a list in a newspaper of general circulation. However, an additional publication must be made for those checks of \$100 or more that are not claimed within 60 days. Claims must still be made within one year of publication.

**§ 66 Optional Early Retirement Program.** Creates a local option early retirement program for municipal employees. If accepted, the chief executive of the city, town or light plant will have to limit the total number of employees who can participate and submit a plan to PERAC by September 28, 2010 (two months after effective date of act). The plan may include a grant of years and service up to 3 years. The municipality must demonstrate the value of its plan to PERAC. If approved, the plan must be submitted to the legislative body at the next meeting. Eligible employees must have at least 20 years of service and be members of a municipal, regional or county system. Participants must give up the right to accrued sick and vacation time and the monies saved must be used to offset the increased pension liabilities under the program. The increased pension liabilities must be amortized over 10 years and there are limits on filling the positions vacated.

**§ 67 Massachusetts Water Resources Authority (MWRA) Water Supply.** Exempts the three Chicopee Valley Aqueduct (CVA) communities, which receive their water supply from the MWRA, from the standard MWRA application process for certain types of expansions or extensions of water service.

**§ 68 Local Option Tax Amnesty Program.** Allows cities and towns to establish temporary tax amnesty programs, which must end by June 30, 2011. If accepted, municipalities may waive a uniform percentage up to 100 percent of collection costs and accrued interest due on outstanding property taxes, motor vehicle excises and boat excises, with some exceptions. The taxpayer must pay the principal amount owed and cannot have been subject of a criminal investigation for failure to pay taxes.

**§ 69 School District Reporting Requirements.** Requires the Department of Elementary and Secondary Education to revise and consolidate reporting requirements imposed on local school districts.

**§ 72 School District Regionalization Commission.** Creates a 16 member special commission to study efficient and effective strategies for collaboration and regionalization among school districts. The commission is to report to the legislature by March 31, 2011.

# Municipal Unemployment Insurance (UI) Task Force Report

November 15, 2012



## Task Force Members

Secretary Joanne F. Goldstein (EOLWD) (Chair)  
Mayor Kim Driscoll (Salem) (President, MA Mayors' Association)  
Mayor Setti Warren (Newton)  
Senator Dan Wolf  
Representative David Torrisi  
Michael Widmer (MA Taxpayers Association)  
Hon. Raya Dreben, Associate Justice of the Appeals Court (Ret.)  
Paul Toner (MA Teachers Association)  
Jenn Springer (MA AFL-CIO)

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## **EXECUTIVE SUMMARY**

The Municipal Unemployment Insurance (UI) Task Force was convened by Governor Deval Patrick in March 2012 to review UI issues raised by municipalities, determine which issues were systemic and broad-based, and reach conclusions and legislative, administrative, and procedural recommendations to address these issues. The Task Force members are: Secretary Joanne F. Goldstein (EOLWD) (Chair); Mayor Kim Driscoll (Salem) (President, MA Mayors' Association); Mayor Setti Warren (Newton); Senator Dan Wolf; Representative David Torrisi; Michael Widmer (MA Taxpayers Association); Hon. Raya Dreben, Associate Justice of the Appeals Court (Ret.); Paul Toner (MA Teachers Association), and Jenn Springer (MA AFL-CIO).

The Task Force met 5 times, during which it reviewed the issues presented by municipalities, materials provided by the Department of Unemployment Assistance (DUA), comments by municipalities and their associations, such as the Massachusetts Municipal Association (MMA), and additional data that it requested of DUA.

The issues clustered around several categories of public employees, which represent only .5% of all UI claims in the Commonwealth. The Task Force focused on those that had widespread applicability among municipalities and were frequently raised as challenges that affected the largest number of cities and towns.

After careful consideration of each of these categories, which included a review of current state and federal law, U.S. Department of Labor mandates, municipal-specific issues, DUA practice and policy, practices and perceptions of municipalities, and impact on both public and private employers and employees, the Task Force reached the following conclusions and recommendations.

### **RETIREES:**

- **Issue:** payment of UI benefits to public sector retirees who return to work for their previous employer, from whom they receive a defined benefit pension, and then stop working when they reach a statutory cap based on either hours or wages (referred to as 960-hour employees) or to “critical needs” educators, who have no cap, when their positions end. The other issue involves public employees who apply for and receive UI benefits on being mandatorily retired at age 65.
- **Recommended Solution:** a statutory change that would reduce the UI benefits of all retirees, public and private, who receive a defined benefit pension, when their post-retirement wages are paid by an employer for whom they worked at least 75% of the time period covered by the defined benefit pension. The proposed legislation would reduce the retiree’s weekly UI benefits by 65% of the retiree’s weekly pension payment. This 65% deduction recognizes that the

employee has also substantially contributed his/her own earnings to the pension plan in the offset as well as the economic concerns regarding retirees with minimal pensions.

- Key Outcome: Covered individuals whose annual pension is \$53,920 or higher would not receive any UI benefits, even though technically eligible, because their pension offset would be the same or greater than their UI benefit amount. Even below that threshold amount, most retirees would receive zero or minimal UI benefits, based on the factors that go into the calculation of the offset.

#### SCHOOL BASED EMPLOYEES:

- Issue: payment of UI benefits to three categories of school-associated employees: (1) non-tenured educators who do not receive a reasonable assurance of a contract renewal for the subsequent school year; (2) school-based employees who are paid by the municipality directly and not by the school department (such as crossing guards or school bus drivers), and (3) substitute teachers.
- Recommended Solution:
  - For school-based employees who are not paid directly by the school department, a statutory change is recommended to make them ineligible for UI even if there is no work available (i.e., summer or other school vacation) by including them in existing “reasonable assurance” exceptions, the same as school-associated employees who are paid directly by the school department.
  - No state statutory changes are available under federal law to alter “reasonable assurance” for the summer break. But the Task Force recommends two policy/administrative changes for DUA and better management of reasonable assurance policy and practice by municipalities that will reduce UI benefit payments to educators and school-associated staff over the summer months and during school year vacation breaks, thereby assisting cities and towns with managing their UI costs.
  - Substitute teachers will be included in the reasonable assurance policy changes noted above and will also be subject to additional limitations on UI benefits as on call employees, noted below.
- Key Outcome: all public employees providing services to a public school who have a reasonable assurance of continued employment would be ineligible for UI benefits when there is no work available because school is not in session, whether over the summer or during breaks throughout the school year. Further, those employees who, having been initially laid off, later receive reasonable assurance of re-employment, will thereafter no longer be eligible for UI benefits. UI eligibility for substitute teachers is significantly restricted.

#### SEASONAL EMPLOYEES:

- Issue: How to ensure that the seasonal certification exemption from UI is properly managed and how to revise seasonal certification regulations so that municipalities and other employers can transfer seasonally-certified employees to other positions without transferring seasonal wages towards UI eligibility.
- Recommended Solution: It is recommended that DUA clarify its rules and procedures for certification of seasonal employment, especially as it relates to a certified seasonal employee transfer to non-seasonal employment. It is also recommended that DUA allow a municipality to amend its seasonal certification mid-season to request up to the maximum 16 weeks.
- Key Outcome: Will allow municipalities to better manage their seasonal needs, ensure that defined seasonal employees are not UI eligible at the end of the season, that individuals fulfill all statutory requirements if receiving UI benefits, and that municipalities, and other employers, will be able to transfer certified seasonal employees to non-seasonal positions without UI implications.

#### ELECTION DAY WORKERS:

- Issue: Individuals who work intermittently only on election days and are currently eligible for UI benefits.
- Recommended Solution: Statutory change to exempt the service performed as an election official or election worker, if the wages received by the individual during the calendar year serving in this capacity are less than \$1,000.
- Key Outcome: Municipalities would no longer be charged for UI benefits to election workers who earn less than \$1,000 per calendar year.

#### ON-CALL EMPLOYEES:

- Issue: There are two categories of on-call employees: (1) on-call firefighters and EMTs, who are currently statutorily exempt from receiving UI benefits and (2) a more general group of assorted classifications of on-call employees, including substitute teachers.
- Recommended Solution:
  - For on-call firefighters and EMTs, the DUA has issued and disseminated (on March 20, 2012) a Guidance Letter that explains how municipalities can avoid UI charges for these groups of employees by properly identifying them when they file claims.
  - For other on-call employees, including substitute teachers, it is recommended that DUA affirm and uniformly apply the rule that a part-

time, intermittent employee is disqualified from receiving UI benefits for any week in which the employer offers at least one hour of work or the employee actually works for one hour or more.

- Key Outcome: With additional education and training, municipalities should be able to completely eliminate UI benefits to appropriately designated on-call firefighters and EMTs and better control and reduce UI costs to other on-call employees through increased coordination and reporting of when work is offered or accepted.

#### METHOD OF CONTRIBUTION TO UI SYSTEM BY MUNICIPAL EMPLOYERS:

- Issue: Consideration of whether municipal employers are best served, in general, by self-classifying as reimbursable or contributory employers and the implications of the classification selection. “Contributory employers” (private companies are required to be contributory employers) contribute to the UI Trust Fund based on an insurance model of paying a quarterly UI assessment based on an experience rating. “Reimbursable employers” (available only to non-profits and public employers) essentially self-insure their UI costs since each UI claim is paid and covered, dollar-for-dollar, by the reimbursable employer.
- Recommended Solution: After review and analysis, it was determined that no changes be recommended at this time. The vast majority of municipalities choose to be reimbursable employers and the analysis demonstrated that over time significant savings were achieved by electing and remaining reimbursable employers.
- Key Outcome: While it is recognized that the reimbursable model has presented some financial challenges to municipalities in recent years, largely due to the recent recession, it is still the economically preferable method for most municipalities to manage and control their UI costs. Municipalities are, nevertheless, encouraged to reach out to DUA to discuss the advantages and disadvantages of selecting between the contributory or reimbursable model.

#### PROCESS, POLICY, AND PRACTICE:

- Issue: Ensuring best practices at the DUA so that its requirements are uniform and understood by employers, while providing the appropriate balance between employers and claimants. Ensuring best practices within municipalities, so that municipalities can best manage their UI costs.
- Recommended Solutions: The Task Force recommends a number of policy and procedural changes that DUA either has or will implement to ensure better access by municipalities, uniform policies and enforcement, and greater responsiveness to municipalities. It also recommended to municipalities that they better manage

their UI issues, which would include better coordination within local government, increased responsiveness to DUA, and ensuring that local officials and third party agents are coordinating their efforts. Included in these best practices are continuing collaboration between DUA and municipalities, a DUA unit dedicated to municipal issues, formal educational seminars, webinars, and regular dialogue.

- Key Outcome: The ability on all sides to work through issues, recognize responsibility, and implement changes will lead to better communication, management, and outcomes and will help control the cost of UI charges to municipalities.

#### SUMMARY AND CONCLUSION:

The Task Force is confident that it has addressed the major issues raised by municipalities and has fulfilled its mandate from the Governor. The combination of legislative changes, DUA policy and procedural changes and commitment to enforcement, and municipalities' recognition of their need to better manage their UI costs will lead to a better system that is collaborative and fair and that will provide economic relief to cities and towns. The result of these reforms will be of great benefit to municipalities and taxpayers by reducing their UI costs.

## **INTRODUCTION**

Governor Patrick established the Municipal Unemployment Insurance Task Force (Task Force) in March 2012 to consider several issues involving municipalities<sup>1</sup> and the eligibility of their employees, including retired public employees, for Unemployment Insurance (UI) benefits. The Governor charged the Task Force with making recommendations that would provide relief to municipalities while maintaining the integrity of the UI system, respecting the rights of unemployed workers with valid claims, and ensuring the UI system's continuing conformity with federal requirements. The Task Force has taken its mandate seriously and issues this report with recommendations which meet the Governor's stated goals.

Governor Deval Patrick initiated this review after receiving a letter from a town in March, 2012, requesting his assistance in addressing several concerns regarding the payment of UI benefits to municipal employees. The letter highlighted a case involving a retired police officer who was called back to work and, after stopping work, applied for and was awarded UI benefits based on his post retirement earnings.<sup>2</sup> The letter also raised several additional UI issues. It was signed by officials from 17 additional cities and towns. (Attachment 1)

Upon receipt of the letter, the Governor's office forwarded it for review and response to the Executive Office of Labor and Workforce Development (EOLWD), the Secretariat in which the Department of Unemployment Assistance (DUA)<sup>3</sup> is situated. EOLWD undertook a review of the issues raised and began the process of addressing them.

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<sup>1.</sup> The term municipalities includes all local public employers, cities and towns, school districts, water districts and all other local public entities that hire employees and are under the UI system.

<sup>2.</sup> Although identifying information about a particular claimant and this case were published in local media and discussed publicly, the Task Force is unable to address the particular case. DUA did not present any individual cases to the Task Force and confidentially handled any that were raised. Chapter 151A, § 46 contains stringent requirements to make "confidential and for the exclusive use and information of the department [DUA]" all information regarding specific claimants, employers, and claims. Because § 46 prohibits the disclosure of such information, the Task Force did not consider and is unable to discuss particular cases in this report, regardless of the accuracy or inaccuracy of what has been publicized.

<sup>3.</sup> DUA is the state agency which administers the UI program for all employers and all claimants in the Commonwealth.

EOLWD identified the following eight categories:

1. retired public employees who are called back to work by municipalities and then reach either the statutory cap of 960 hours of work or a formula-based earnings cap in a calendar year, often referred to as “960 employees”;
2. public safety employees who retire upon reaching the statutorily mandated retirement age of 65;
3. nontenured public school teachers who receive notice that their contracts will not be renewed for the subsequent school year, but over the summer the teacher is rehired by that school system or another public school system;<sup>4</sup>
4. retired public school educators who are rehired or hired by a school system due to a critical need of that municipality, and are therefore without any earnings limitation, and then replaced or laid off;
5. school bus drivers, paid by municipalities rather than directly by school departments, for periods when the schools are closed, including summers, school vacations, and professional development days;
6. call firefighters, who work for a municipality on a part-time basis and have a full-time job with a different employer, when they lose their full-time job;
7. part-time municipal employees who were laid off from their other, primary employers, and for whom the municipality was charged part of the cost of the employee’s UI benefits because the primary employer had reached its maximum required contribution to the UI benefit; and
8. individuals employed as reserve police officers who are hired as full-time officers but later returned to reserve status because they fail to obtain a passing grade from the police academy.<sup>5</sup>

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<sup>4</sup> The statutory date for notification to educators of non-renewal is June 15. Any earlier date is applicable if collectively bargained between the municipality and the teachers’ union.

<sup>5</sup> This particular concern seems to be situation-specific and did not emerge as a theme or problem to municipalities more broadly. Therefore, it was not part of the deliberations of the Task Force.

Once these issues were raised, the Administration quickly and effectively moved to address them. A comprehensive approach was developed by EOLWD to make sure that all the issues raised would be reviewed.

Accordingly, the following steps were taken:

1. In March 2012, EOLWD Secretary Joanne Goldstein wrote to all 351 cities and towns and a number of school districts, recognizing their frustration when claimants receive UI benefits improperly or due to statutory or regulatory requirements and acknowledging the financial burden those cases place on municipalities. She confirmed EOLWD's commitment to address these issues and invited all municipalities to provide information on individual cases that they found problematic and their interest in and positions on a number of the thematic issues that had been brought to the attention of EOLWD. (Attachment 2)

EOLWD received responses from 109 municipalities. The responses ranged from no issues with DUA or UI to responses that included concerns or questions about specific cases or UI policy issues.

2. On March 7, 2012, the Governor filed legislation, entitled "An Act Disqualifying Certain Persons Subject to G.L. c. 32, Section 91(b) from Receiving Unemployment Insurance Benefits" which would disqualify the 960 employees from UI eligibility. (Attachment 3)
3. On March 14, 2012, Secretary Goldstein extended an open invitation to all 351 Commonwealth cities and towns to attend a town hall meeting scheduled for March 20, 2012 to discuss the municipal UI issues that had been identified, raise any additional concerns, and hear a presentation by DUA Acting Director Michelle Amante on municipal UI issues. (Attachments 4, 5)
4. The meeting was held on March 20, 2012 at the Boston Public Library. Twenty-two cities and towns sent representatives. In addition to the discussion and presentation, DUA provided to all participants a guidance letter, dated March 20, 2012, on the exemption of UI benefits and charges for On-Call Firefighters and EMTs. This letter summarized the current legal status of these employees; namely, when properly reported as such to DUA, cities and towns are not charged and employees are not eligible for UI benefits based on these wages. The guidance letter was also posted on DUA's website. (Attachment 6) Those municipal officials who were present were also provided with the aggregate statistical data on case volume and outcomes and other statistical and procedural information regarding municipalities. (Attachment 7)

5. Based on a suggestion of a participant at the meeting, DUA reestablished a dedicated telephone line for municipalities to utilize for questions or concerns regarding UI. That number is 617-626-6262. The line remains fully operational and DUA intends to maintain it, along with a special team for municipal UI issues.
6. On March 29, 2012, Secretary Goldstein again reached out to all 351 cities and towns, providing an update on the identified issues, distributing the materials from the March 20, 2012 meeting and noting that all individual cases brought to DUA's attention were being reviewed. (Attachment 8)
7. On March 31, 2012 the Governor formed the Municipal UI Task Force and requested it to fully consider and review the UI issues that had been raised by municipalities and provide a summary, conclusions and recommended actions in a final report.

The Task Force is chaired by Secretary Goldstein. Its members are: Mayor Kim Driscoll (Salem), president of the Massachusetts Mayors' Association; Mayor Setti Warren (Newton); Hon. Raya Dreben, Associate Justice of the Appeals Court (ret); Michael Widmer, president of the Massachusetts Taxpayers Association; Paul Toner, president of the Massachusetts Teachers Association; Jennifer Springer, Vice President, Massachusetts AFL-CIO; Senator Daniel Wolf (Harwich); and Representative David Torrisi (North Andover). Representative Torrisi was appointed by House Speaker Robert DeLeo. Senate President Therese Murray appointed Senator Wolf. All other members were appointed by Governor Patrick.

8. On April 18, 2012 the Task Force held its first meeting.
9. On April 19, 2012, the Joint Committee on Public Service held a public hearing on the Governor's proposed bill (H. 3980). Secretary Goldstein, a Massachusetts Municipal Association (MMA) panel consisting of four representatives, and several others testified in support of the proposed legislation.
10. On May 2, 2012, Secretary Goldstein made a further inquiry of all cities and towns with respect to the number of retired employees who have received UI benefits from subsequent public employment. (Attachment 9) Thirty-one municipalities responded, identifying 21 cases.
11. Subsequent meetings of the Task Force were held on May 8, 2012, June 5, 2012, September 6, 2012 and October 25, 2012.

12. Since March, EOLWD and DUA have also engaged with interested stakeholders on these issues. There have been meetings and conversations with legislators and their staff, the MMA and several of its committees and subcommittees, other municipal organizations, unions representing public employees, municipalities, employees, retirees, taxpayers and other interested parties. DUA has responded to every inquiry, request, or concern presented by a municipality over the past six months. EOLWD and DUA have expressed their continued receptivity to comments, concerns, and suggestions from all interested parties. Further, DUA has conducted research and analyses of the issues in order to provide the Task Force with the information necessary to make informed and meaningful decisions and recommendations. DUA also had multiple conversations with the U.S. Department of Labor staff to ensure that the Task Force's recommendations would be acceptable under federal law.

This report sets forth the findings, conclusions, and recommendations of the Task Force. It includes proposed changes, both legislative and those that can be accomplished by regulation or policy. It recognizes the changes in policies and procedures already implemented by DUA, and recommends some additional ones. It also suggests ways that municipalities can better manage their UI costs, by more closely monitoring the claims process, sending timely and accurate responses to DUA, and improving internal communication within relevant municipal departments.

The Task Force also endorses the proposed collaboration between DUA and municipalities for continuing partnership, education, dialogue, cooperation, and attention to unique municipal issues and needs within the UI system.

## **DUA REVIEW OF SPECIFIC CASES REPORTED BY MUNICIPALITIES**

As part of its outreach to municipalities, DUA invited them to identify particular cases of concern. The 109 municipalities identified a total of 473 claimants dating back to 2002. DUA assigned a team of four staff members to review every case that had sufficient identifying information. In each of these cases, the team conducted a full review. DUA has the statutory authority to make adjustments to claims within one year of the original determination, and therefore, the 401 cases that had been decided within that time frame were reviewed and, if warranted, adjusted. DUA made 44 case adjustments as a result of its review. The adjusted cases primarily involved: situations where the municipality had not received the claim approval notice, firefighter/EMT wages that had to be removed or cases where the municipality was not properly identified as a subsidiary employer.

For claims where DUA concluded that a correct decision had been made, or where the applicable statute of limitations for a redetermination had run, DUA provided explanations directly to the municipality. Additionally, DUA carefully examined all of the issues raised in these cases, whether procedural or substantive, and incorporated these results in its findings to the Task Force. DUA continues to invite municipalities to voice concerns on particular cases.

## **METHOD OF CONTRIBUTION AS FACTOR IN MUNICIPAL UI COSTS**

The UI system, which recently observed its 75<sup>th</sup> anniversary, was established by Congress through the Social Security Act in 1935 as a safety net of benefits for individuals who become unemployed through no fault of their own. The system, which is a federal-state partnership, is funded through assessments on employers directly and by the federal government. It is an insurance system for the private sector and either an insurance or self insurance system for nonprofit and public employers, who may elect either option.

In Massachusetts, private sector employers pay unemployment contributions on the first \$14,000 of wages per employee per year. The contribution rate applied to employees' wages is calculated through a formula that takes into account:

- the amount of contributions the employer paid into the system for the previous year, and
- the unemployment benefits that were charged to that employer's account during the previous year.

These monies are deposited into the UI Trust Fund to pay benefits to claimants. As these employers contribute monies to the UI Trust Fund, they are referred to as "contributory employers". They also pay a solvency surcharge into the Solvency Fund to cover excess charges for dependency allowances, training benefits, charges assessed as subsidiary employers, and benefits incorrectly paid to claimants.

In addition, each private sector employer pays a FUTA (Federal Unemployment Tax Act) contribution to the federal government. These funds are distributed by the U.S. Department of Labor to all states for the operation of the state's UI system.<sup>6</sup>

Federal UI law allows nonprofit (501(c)(3)) and governmental employers<sup>7</sup> the option of paying for UI benefits under either the contributory model, somewhat similar to the one used by private employers, or through the reimbursable method.<sup>8</sup> If a governmental employer elects the contributory model, its calculated contribution rate is applied to its

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<sup>6</sup> Municipalities do not make FUTA contributions, which fund the operation of DUA.

<sup>7</sup> The vast majority of employers in the UI system are in the private sector – 97.1%. Only 0.5% is public sector and 2.4% are nonprofits.

<sup>8</sup> The term reimbursable employer is used throughout the report to describe an employer that utilizes the reimbursable method of payment, not an employer that is reimbursed by DUA.

full payroll, not just on the first \$14,000 of annual wages per employee. Sixty seven cities and towns have elected the contributory model.<sup>9</sup>

The other option for municipalities and nonprofits is to pay dollar-for-dollar for UI benefits, which is known as the reimbursable method of payment since the employer reimburses the UI Trust Fund for every allowed claim. The vast majority of public employers and nonprofits choose this option, essentially self-insuring their UI costs.

Historically, the reimbursable method has been financially advantageous for municipalities to cover their UI costs. Since municipalities have a fairly stable workforce and are not generally subject to wide fluctuations in staffing levels and have fewer layoffs, the reimbursable method of UI coverage has over time cost municipalities less than they would have paid as contributory employers. Although costs are not predictable from year to year, they have been sufficiently low and manageable.

That changed in 2008 when the recession hit. Cities and towns were not immune to the economic downturn and when faced with declining revenues, many municipalities reduced their workforces. As reimbursable employers, most municipalities had to cover unemployment benefits paid, dollar for dollar. This significantly increased municipalities' UI costs.

Municipalities also faced UI charges based on “subsidiary employment”. When an individual works two or more jobs, one is treated as primary and additional jobs as subsidiary. During the recession, some part-time municipal employees were laid off from their primary jobs, which may have resulted in municipal employers being required to share in the UI costs for these employees. This occurs when the primary employer reaches the maximum amount it can be charged. In these situations, the municipality, as the subsidiary employer, must share in the cost of the UI benefits paid, even if the individual is still employed by the city or town. At most, the maximum charge to a municipality as a subsidiary employer is only 36% of the wages it paid to the employee during the base period of the claim.<sup>10</sup>

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<sup>9</sup> Governmental employers can transfer between contributory and reimbursable methods of payment by filing with DUA a notice of the election to switch between December 1 – 31st for the following calendar year. Once changed, the employer is obligated to stay with that system/method for a two-year period before it can again change its election. If the governmental employer switches its method of payment from reimbursable to contributory, its first two years are set at a federally mandated rate. This option is not often exercised.

<sup>10</sup> A number of towns expressed frustration that they were responsible for UI benefits for part-time employees, particularly when they were still employed by the municipalities and on UI because they had been laid off from their primary employment. The Task Force recognizes the concern but would note that (1) in over half of these cases the municipality was not actually charged any costs as a subsidiary employer, (2) even when the municipality was charged, in most cases, only a small amount was involved since the maximum charged was only 36% of the part-time municipal wages paid and (3) as reimbursable employers, there is no other source of money available to pay these benefits.

Finally, reimbursable employers are liable for certain UI costs not charged directly to contributory employers. These costs include the weekly dependency allowance (\$25 per dependent), training benefits, and benefits incorrectly paid, irrespective of the reason, until the claimant pays back the improperly paid benefits.<sup>11</sup> These charges are incurred by reimbursable employers, because, unlike contributory employers, they do not pay into the UI Solvency Fund which covers these costs, and there is no other fund or source from which to pay these mandated benefits.

The Task Force found that the UI statutory system is complex and can be difficult to navigate. Under the existing, long-standing state benefit structure, UI claimants in Massachusetts are entitled to up to 30 weeks of benefits<sup>12</sup>, paid by the employer through the state system. In 2009, the American Recovery and Reinvestment Act established a structure for Emergency Unemployment Compensation (EUC), which has been paid in four separate tiers. These benefits were covered 100% by the federal government for all UI claimants. In addition, after the state unemployment rate reached a certain percentage, it triggered Extended Benefits, which was a 13 or 20 week program, depending upon the state unemployment rate. When an extension is in effect, regular benefits are paid through week 26; extension benefits begin on week 27 of the claim.

At the depth of the recession (November 2009), up to 99 weeks of unemployment benefits were available to eligible claimants. Below is a breakdown of the extensions that allowed for the maximum 99 weeks of benefits:

- Regular UI benefits from the Massachusetts unemployment program – 26 weeks
- EUC Tier 1 – 20 weeks<sup>13</sup> (still in effect)
- EUC Tier II – 14 weeks (still in effect)
- EUC Tier III – 13 weeks (ended June 2012)
- EUC Tier IV – 6 weeks (ended December 2010)
- Extended Benefits (EB)- 20 week program (ended July 2011), 13 week program (ended April 2012)

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<sup>11</sup> DUA already participates in the Department of Revenue Tax Offset Program which allows it to capture state tax refunds to offset UI benefits improperly paid. One of the proposals, as noted in section “Steps Taken by DUA” is a legislative proposal that would allow DUA to participate in the US Treasury Offset Program, thereby intercepting federal tax refunds as well. Once these monies are recovered from public employees, they are repaid to the municipality.

<sup>12</sup> It should be noted that due to federal extensions, no Massachusetts employer, private, public or non-profit has paid weeks 27 through 30 since November 2008. Those weeks have been paid by the federal government for all claimants.

<sup>13</sup> Tier I has been reduced to 14 weeks for new claimants effective September 2, 2012. Both Tier I and Tier II will expire for the week ending December 29, 2012, absent any vote by Congress to further extend these benefits.

Under these extensions, contributory private employers were charged for weeks 1-26; all subsequent benefits were paid by the federal government. Governmental reimbursable employers were charged for weeks 1-26, the federal government paid for all Tiers of the EUC program, but municipalities were then responsible for the 13 to 20 weeks of Extended Benefits, the last weeks to be paid on the claim (weeks 79 through 99). This responsibility became costly for municipalities.

Many municipalities were unaware that they were responsible for paying Extended Benefits. Since Extended Benefits are the last to be paid, there could have been a lag as long as a full year between the time when the municipality's responsibility for regular benefits of 26 weeks ended and its responsibility for Extended Benefits began. This unanticipated cost was a source of frustration to many municipalities.

Municipalities also voiced complaints regarding their responsibility when benefits are initially disbursed but later determined to be incorrectly paid. Reimbursable employers are only entitled to a refund of these payments, called "overpayments"<sup>14</sup>, when the Commonwealth recovers the payment from the claimant. Overpayments can occur for many reasons: an original determination reversed at a hearing; a claimant's failure to report earnings in a particular week; or the municipality's failure to present accurate or thorough information at the time of the initial determination. DUA has advised that it will continue to aggressively pursue recovery of overpayments. DUA already has the statutory authority to intercept state tax refunds to recover benefit overpayments. The Task Force is recommending legislation that would also authorize DUA to participate in a federal program that allows the interception of federal tax refunds to recover benefit overpayments.

While the cost of UI was high for municipalities in 2009, 2010 and to a lesser extent in 2011, this cost will unlikely continue to be the same financial drain on municipalities in 2012 and beyond (Attachment 10). As Massachusetts has successfully come out of the recession and its unemployment rate continues to hold steady at around 6%, the maximum number of weeks of UI benefits available to claimants has correspondingly decreased. The precise declination in number of weeks is noted above and as of this date the number of weeks is now down to 54. The EB program ended as of April 7, 2012 so this cost is no longer incurred by municipalities. This is likely to reduce municipal UI costs further.

It should be noted that cities and towns, as well as all nonprofits, may protect themselves against future UI spikes by shifting to a contributory model. Analysis by DUA for the Task Force suggests that such a change is unlikely to be financially beneficial for most public employers. (Attachment 11) Looking back since 1999, and amortizing UI costs

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<sup>14</sup> An overpayment is a technical term used to describe a weekly payment that was ultimately determined erroneous or for an amount in excess of what should have been paid.

over that period, most reimbursable cities and towns paid less in UI costs than they would have as contributory employers even with the higher costs incurred during the recession. The Task Force nevertheless urges all cities and towns to evaluate and determine which system best meets their particular needs. DUA has offered to assist interested cities and towns with this analysis.

The Task Force recognizes that the reimbursable model has presented some financial challenges to municipalities in recent years, largely due to the recent recession, but concludes that it is still the preferable method for municipalities to manage and control their UI costs. Although an initial look at the contributory model has appeal for municipalities, when its requirements, such as a fully taxable wage base, the rate of contribution, and the two year lock are considered, in light of the municipality's historic UI costs, most municipalities will likely decide to remain with the reimbursable model.

The Task Force also considered two additional ideas on the reimbursable/contributory issue for municipalities. The first idea was to redesign the current contributory model for governmental employers to make it more affordable while still enabling the model to sustain the costs of municipal UI. The second, either as part of the first, or a stand-alone possibility, was to create a Reimbursable Employer UI Solvency Fund, which would be built up to the financial point where it could cover excess municipal UI costs. The Task Force concluded that neither of these options is currently feasible but should be kept in mind as ideas for possible future development. The effort and cost necessary to design a new contributory model is enormous and may not yield sufficient benefits to warrant this overhaul. It would entail a full financial analysis of the system, a determination of appropriate wage base rates, legislation and an assurance that the model would be economically sustainable. The establishment of a solvency fund would require an assessment on municipalities and other reimbursable employers. The Task Force unanimously concurs that this is not the time to put an additional financial burden on municipalities and that there is little interest among municipalities to create such a fund. However, the Task Force suggests the concept of a municipal employer solvency fund remain available for possible future consideration.

## **PUBLIC SECTOR RETIREMENT ISSUES**

The Task Force considered issues of particular concern to municipalities regarding the eligibility for UI benefits of three groups of retired municipal employees. The first group consists of retired public employees who return to public employment but then stop working because of statutory limits on the number of hours public retirees may work for a municipality—960 hours in any calendar year—and on the amount a retiree may earn during a year.<sup>15</sup> The second group is made up of public employees, principally firefighters and police officers, whom state law compels to retire when they reach age 65. The third group consists of retired public school educators who, in the event of a “critical shortage of certified teachers,” may be hired without regard to the otherwise generally applicable caps on hours and earnings.<sup>16</sup> In considering these issues, the Task Force has been mindful of the federal requirement that, with limited exceptions, private and public employees must be treated equally regarding UI eligibility and benefits. The Task Force is proposing a single legislative change that addresses all three issues and would apply to both public and private sector retirees.

### **960-Hour Employees**

Of particular concern to municipalities is an exception that allows public pensioners to be employed in public service for not more than 960 hours in any calendar year, provided that the wages paid, when added to the individual’s pension, “do not exceed the salary that is being paid for the position from which [the individual] was retired . . . plus \$15,000[.]”<sup>17</sup> These rules apply on a year-by-year basis, so a public pensioner who reaches a cap in one year may again be employed and paid, subject to these limits, in a subsequent calendar year.

Some municipalities object to paying UI benefits to these 960-hour employees, because the separation from work is not the municipality’s decision; rather, it is mandated by § 91(b). Under federal law, however, this mandate is not a disqualification for UI eligibility. Generally, employees who are out of work through no fault of their own are entitled to UI benefits. This principle applies regardless of whether the cessation of work is due to a statutory mandate, an action of the employer, or some independent reason not attributable to the employee.

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<sup>15</sup> G.L. c. 32, § 91(b).

<sup>16</sup> G.L. c. 32, § 91(e).

<sup>17</sup> G.L. c. 32, § 91(b). During the first year of retirement, the earnings limitation does not include the additional \$15,000. *Id.*

### Public Safety Employees who are Mandatorily Retired at Age 65

Under current law, a public safety employee who is compelled to retire on reaching age 65 is entitled to UI benefits, if otherwise eligible.<sup>18</sup> In most cases, public retirees are subject to a pension offset in their first year after retirement, because the public employer from whom they retired will have been primarily responsible for their pension<sup>19</sup>. When the offset applies, 50% of the employee's weekly pension amount is deducted from his/her weekly unemployment benefit.<sup>20</sup>

### Critical Needs Educators

Under current law, "in any period during which there is a critical shortage of certified teachers available for employment in a school district," the district may employ a retired educator<sup>21</sup> without regard to the 960-hours and earnings limitations.<sup>22</sup> When that post-retirement employment ends, the "critical needs" educator, if otherwise eligible, is considered entitled to UI benefits because the separation from work came about through no fault of the educator.

On March 7, 2012, the Administration filed legislation to address the 960-hour employees' UI eligibility. At the time of filing, the Administration noted that the 960-hour employee issue was only one of several regarding public employee retirees. The bill was referred to the Joint Committee on Public Service Committee, which held a hearing on April 19, 2012. The Administration committed at the time to providing a more comprehensive resolution of these issues once it had been thoroughly reviewed and discussed with the Task Force. This report contains a recommendation for a more comprehensive bill, which addresses multiple issues involving public sector retirees and would supplant the initial legislation filed in March.

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<sup>18</sup> G.L. c. 151A, § 25(e) (third paragraph). The Supreme Judicial Court enforced this provision in *White v. Director of Div. of Employment Security*, 382 Mass. 596, 598 (1981), and *O'Reilly v. Director of Div. of Employment Security*, 377 Mass. 840, 845 n.13 (1979).

<sup>19</sup> To the extent that DUA is able to track UI benefit eligibility to public retirees, it found that the number of claimants who also had pensions in 2011 was negligible. A review of 2011 claims indicated that less than 1% of all municipal claims, or just over 100 claimants, could potentially be claiming UI benefits while receiving a pension from a city or town.

<sup>20</sup> G.L. c. 151A, § 29(d).

<sup>21</sup> Although the statute uses the term teachers, administrators are also included and this report references the larger group as educators.

<sup>22</sup> G.L. c. 32, § 91(e). The earnings limitation does apply during the first two years following a teacher's retirement. *Id.*

### Proposed Solution

The issues involving retirees are the most complex presented to the Task Force. Municipalities argue that it is fundamentally unfair to require the payment of both UI and pension benefits from the same public employer. Retirees, retiree representatives, and public employee unions claim that post-retirement employment is a matter of financial necessity for some workers, because the average annual public employee pension is only \$28,000. They also say that the municipality chooses whom to hire and benefits from hiring a public sector retiree because that person brings expertise to the position at a lower cost than someone to whom higher wages and/or additional benefits would also have to be paid. Finally, they argue that public employee retirees are being singled out and treated differently than most retirees in the private sector, who often return to work, albeit usually for a different employer, and may be eligible for UI benefits based on their post-retirement wages.

In addition to the complexities mentioned above, the Task Force had to consider the requirement that Massachusetts UI legislation be compliant with federal law as required by the United States Department of Labor (US DOL). The US DOL staff has consistently advised DUA that any change in UI eligibility for public sector retirees must also apply to similarly situated private sector retirees. This required extended deliberation by the Task Force, knowing that its recommendations would also apply to employers and claimants in the private sector.

After a thorough review of data, arguments and proposals, the Task Force is recommending a statutory change that would address the issues raised with respect to retiree eligibility for UI benefits, consistent with US DOL mandates and provide a fair and balanced result for retirees as well as for those employers, both public and private, who contributed to the pension plan. The legislation would reduce or eliminate the UI benefits of all retirees, public and private, who receive a defined benefit pension, when their post-retirement wages are paid by an employer who contributed to the defined benefit pension as long as seventy five percent or greater of their years of service were for said pension contributing employer. Although such a retiree would continue to be eligible for UI benefits, the proposed new section (§ 29(d)(7)) would reduce the retiree's weekly UI benefits by an amount equal to 65% of the retiree's weekly pension payment.<sup>23</sup> This 65% deduction takes into account the fact that the employee has also contributed his/her own earnings to the pension plan and should not have his/her own contribution offset.

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<sup>23</sup> The Task Force concluded that the 65-35% ratio provides the appropriate balance and equity to the calculation of the contribution and risk factors in a defined benefit plan and takes into account the employee contribution to his/her own pension plan. The amount of the employee contribution may be higher than 35%, but the employer, through the pension plan, assumes the liability for the full pension based on actuarially based risk factors. Since it is impossible to calculate each retiree's exact contribution or foresee the actual interest calculation, it was necessary to do a pre-determined, universal amount in a balanced manner.

The Task Force's proposed solution addresses all three of the issues raised with respect to public sector retirees and it treats private and public sector employees similarly.<sup>24</sup> The proposed statutory language is as follows:

SECTION 1. Section 29 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (d)(6) the following new subsection (d)(7):

(7) Notwithstanding any of the foregoing provisions of this subsection, the amount of benefits otherwise payable to an individual for any week that begins in a period with respect to which such individual is receiving governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment from a defined benefit plan that is based on the previous work of such individual for the separating employer or for a base period employer shall be reduced by an amount equal to 65% of the amount of such payment that is reasonably attributable to such week; provided, however, that such reduction shall apply only when such separating or base period employer employed the individual for at least 75% of the individual's total length of service on which the defined benefit plan is based; and provided, further that such reduction shall apply only if, and to the extent, then consistent with section 3304(a)(15) of the Internal Revenue Code of 1954. Payments received under the Social Security Act shall not be subject to this paragraph.

### Expected Outcome

After careful consideration, the Task Force has concluded that its recommended statutory change best addresses the issues raised by municipalities while preserving the integrity of the UI law and the state's obligation to meet U.S. Department of Labor requirements. Further, under the proposed offset ratio, only those retirees with smaller pensions are potentially able to receive UI benefits. Individuals whose annual pension allowance is \$53,920 or higher would not receive any UI benefits, even though technically eligible, because their pension offset would be the same or greater as their UI benefit amount.<sup>25</sup> Further, as noted in Attachment 12, UI eligible retirees, even with smaller pensions, will

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<sup>24</sup> Like all of the Task Force's proposed legislative changes, the proposals will need to be approved by U.S. Department of Labor and be compliant with federal unemployment tax law.

<sup>25</sup> This amount is based on the current maximum weekly benefit amount, which is subject to change on an annual basis. The Task Force concluded that this is an appropriate threshold, addressing the concerns expressed for public retirees who receive small pensions and those who are receiving pension benefits of a larger amount.

not receive UI benefits when the ratio of their earnings to their UI benefits is at a certain threshold. The Task Force is mindful of the concern that an individual not receive a double benefit from the same employer; namely a pension and later UI benefits.<sup>26</sup> Its proposed solution addresses this concern. If an employer was the majority contributor to the defined benefit pension plan, its contribution is offset against the UI benefit. As such, an individual is only getting a single benefit from a particular employer. Overall, the Task Force has concluded that this statutory change manages the issue of public and private sector retirees with a balanced, fair and fiscally responsible approach.

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<sup>26</sup> Although the public often views all public employees as belonging to one pension system, in fact, most municipalities have their own municipal pension systems for their employees. This proposal recognizes that reality and ensures that municipalities who primarily fund the pension are largely protected from paying UI benefits for their retirees.

## ISSUES INVOLVING SCHOOL DEPARTMENTS AND SCHOOL-BASED EMPLOYEES

Before 1970, the Federal Unemployment Tax Act (FUTA) did not require states and municipalities to pay UI benefits to employees of educational institutions. When Congress amended FUTA to require states to amend their laws to cover these employees, Congress also provided a “reasonable assurance exception” that prohibits the payment of benefits in specified circumstances where a school employee, employed directly by the school department, who is out of work between academic terms (such as the summer) or during an established vacation period or holiday recess, has a reasonable assurance of reemployment following the break. In 1972, Massachusetts enacted this reasonable assurance prohibition in G. L. c. 151A, § 28A. (Attachment 13)

Three issues concerning school-based employees were brought to the attention of the Task Force. The first involves individuals who perform services for a school department but who are employed and paid by a non-school municipal agency. Since these employees are not employed directly by the school department, the reasonable assurance exception does not apply. The second concerns the entitlement of educators who have not received reasonable assurance but do draw a paycheck and health care benefits and receive UI benefits over the summer. The third, involving on-call substitute teachers and reasonable assurance to that category of teachers, is discussed in the On-Call Employees Section.

### *Individuals Performing Services for a School Department Who Are Not Employed by the School*

Many municipalities noted that the reasonable assurance exception does not extend to school department employees—particularly bus drivers, crossing guards, food service workers, and custodians—who work in the schools but are employed and paid directly by other municipal departments. Hence they are eligible for UI benefits when not working, regardless of whether school is in session or there is work to be performed, and regardless of whether they have an expectation of returning to employment. Cities and towns have expressed particular concerns about school crossing guards employed by police departments and school bus drivers employed by municipal departments other than the public schools. This has become an increasing concern as many municipalities have shifted non-instructional school employees to non-school municipal payrolls.

Public employees working in school related positions should be treated alike for purposes of UI eligibility, regardless of whether they are paid under a municipal or school department budget. This provides consistency among and within municipalities for categories of employees working in the schools regardless of which municipal department is technically budgeted to pay the employees. The Task Force recommends

amending Section 28A of Chapter 151A to apply the reasonable assurance exception to all municipal employees who provide services for the municipality's schools.<sup>27</sup>

### Legal Framework and Analysis

As noted above, § 28A does not cover non-school department employees who perform services in or for the public schools. This is the view of both the U.S. Department of Labor and the Supreme Judicial Court.<sup>28,29</sup>

But FUTA permits, and the Task Force proposes, extending the reasonable assurance exception to employees of non-educational governmental employers, such as a municipal government, its police department, or its department of public works, who provide services “to or on behalf of an educational institution[.]”<sup>30</sup>

Two members of the Task Force, Senator Wolf and Jenn Springer, noted their dissent on this proposed solution for non-school based public employees who provide services to schools. They note that many individuals in these categories of employees are vulnerable and low wage workers, for whom the UI benefits have become part of their income and on which they depend to exist. Municipalities are fully aware that these employees receive UI benefits and consider them in setting wages, and therefore, Senator Wolf and Ms. Springer are unable to endorse this proposal as a matter of public policy and fairness and equity to these employees. However, recognizing that the majority of the Task Force supports it, they would suggest that the enactment or effective date of this legislative proposal be sufficiently postponed so that collective bargaining can occur that would take into account this sudden change in total compensation to these employees.

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<sup>27</sup> The Task Force is aware that many municipalities contract out school bus service to private companies and, therefore, those school bus drivers are private sector employees. There are structural differences between public and private bus drivers. Drivers who work for municipalities or school departments are public employees with both the rights and restrictions of said employment. The drivers who work for private companies have a different pay and benefit structure. Issues concerning private sector bus drivers were outside the scope of this report.

<sup>28</sup> The U.S. Department of Labor's view is based on communications from the State Conformity and Compliance Team in the U.S. Department of Labor (citing as an example U.S. Department of Labor Unemployment Insurance Program Letter No. 41-83 (Amendments Made by P.L. 98-21 (Social Security Act Amendments of 1983), Which Affect the Federal-State Unemployment Compensation Program) (Sept. 13, 1983)).

<sup>29</sup> Based on the current language of § 28A, the Supreme Judicial Court rejected as “wholly untenable” the argument that a school bus driver working for a private entity, or even for the municipality (but not directly for the school department), should be ineligible for unemployment insurance benefits on the grounds that she had a reasonable assurance of reemployment the following school year. *Milton v. Director of the Division of Employment Security*, 386 Mass. 831, 833 (1982).

<sup>30</sup> 26 U.S.C. § 3304(a)(6)(v).

### Proposed Solution

Amend G. L. c. 151A, § 28A, to insert a new subsection (e). As amended, § 28A would read, in pertinent part:

Benefits based on service in employment as defined in subsections (a) and (d) of section four A shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter, except that:

(e) with respect to any services described in subsections (a) and (b) that are provided by municipal employees to or on behalf of an educational institution, benefits shall not be paid to any individual under the same circumstances as described in subsections (a) through (c).

### Expected Outcome

The proposed amendment solves the current problem by extending the reasonable assurance prohibitions of § 28A to all public employees who provide services to public schools, such as crossing guards, cafeteria workers, and bus drivers, regardless of whether they are on the direct payroll of the school department or on another municipal payroll. As a result, all public employees providing services to a public school who have a reasonable assurance of continued employment would be ineligible for UI benefits when there is no work available because school is not in session, whether over the summer or during breaks throughout the school year. This ensures consistency and uniformity for all school employees within and among all municipalities in the Commonwealth.

### Reasonable Assurance over Summer Break

Under the Massachusetts education statute, G. L. c. 71, § 41, an educator is eligible for UI benefits if the educator is notified by June 15<sup>th</sup> or an earlier date if collectively bargained, that he/she will not be renewed for the subsequent school year. Although the statutory notice is structured so that educators must be notified if they are not going to be re-employed, it is more commonly talked about in terms of “reasonable assurance.” Under § 41, the failure to give a non-renewal notice constitutes a “reasonable assurance” that makes the teacher ineligible for UI benefits over the summer break. Educators who are timely notified that they will not be reemployed do not have a reasonable assurance and, therefore, are eligible for unemployment benefits.<sup>31</sup>

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<sup>31</sup> This is a requirement of federal law. A teacher receiving timely notice of non-reemployment “would not. . . have a reasonable assurance of employment for the next school year and[,] accordingly, could not be denied benefits ‘between terms’.” Supplement #1 -- Questions and Answers Supplementing Draft Language and Commentary to Implement the Unemployment

The Task Force heard many concerns from municipalities about this UI eligibility factor. An issue frequently mentioned is the UI eligibility of public school educators over the summer break when school is not in session and therefore no work is available. It was noted that teachers may choose to have their salary paid in equal installments throughout the year, including over the summer break, and that they are able to continue on their group health care insurance over the summer break. Although the Task Force is mindful of these concerns, it recognizes that these benefits are statutory and that wage installments or insurance coverage are not factors in UI eligibility. The Massachusetts education statute mandates that “compensation paid to such [public school] teachers shall be deemed to be fully earned at the end of the school year, and proportionately earned during the school year.”<sup>32</sup> Because a public school educator does not actually earn any compensation from employment as an educator over the summer following the end of the school year,<sup>33</sup> the receipt of previously-earned salary and health insurance benefits during the summer does not bar eligibility for UI benefits.

The Task Force also notes that UI entitlement for educators over the summer break only affects a small percentage of employees; namely, those with fewer than three years of service. All tenured educators have a reasonable assurance of reemployment and are ineligible for UI benefits over the summer break.

### Legal Framework and Analysis

In reviewing its policy and practices for presentation to the Task Force, DUA reports that in many situations, educators who were denied reasonable assurance at the conclusion of the school year were paid UI benefits throughout the summer, regardless of whether they later received reasonable assurance or a new position. The fact that an educator may start the summer break without a reasonable assurance of reemployment, and, therefore, be eligible for UI benefits, does not mean that the educator must be entitled to collect benefits throughout the entire summer. Under § 28A(a) a reasonable assurance becomes effective from the time it is given. The reason is that the disqualification applies only to “any week” during which a covered individual has a contract or reasonable assurance. Hence an educator given a timely lay-off notice who later receives a reasonable assurance would be entitled to UI benefits, if otherwise eligible, only for the weeks preceding the

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Compensation Amendments of 1976-P.L. 94-566, p. 19. The State Conformity and Compliance Team in the U.S. Department of Labor confirm the continuing vitality of this principle.

<sup>32</sup> G.L. c. 71, § 40. “Other language in G.L. c. 71, § 40, makes it clear that the words ‘school year’ used in § 40 refer to the period during which school is in session.” *South Hadley v. Director of the Div. of Employment Security*, 389 Mass. 399, 401 n.3 (1983).

<sup>33</sup> See *South Hadley*, 389 Mass. at 401.

reasonable assurance. This interpretation of § 28A(a) is consistent with the U.S. Department of Labor’s understanding of FUTA.<sup>34</sup>

Also, a condition of eligibility is that one “[b]e capable of, available, and actively seeking work in his usual occupation or any other occupation for which he is reasonably fitted[.]”<sup>35</sup> In order to receive UI benefits, therefore, a teacher claiming UI benefits because of the absence of a reasonable assurance needs to be actively seeking and available for suitable work during the summer break to receive benefits during that time period, as well as for the subsequent school year to continue to receive benefits thereafter.

### *Proposed Solution*

While the Task Force is mindful of the deep concern and frustration of municipalities that educators can receive UI benefits over the summer even though school is not in session and there is no work, federal law prevents the Commonwealth from statutorily disqualifying these educators from UI eligibility. After much discussion and efforts to narrow UI eligibility for educators during the summer months and other school breaks, DUA has proposed two significant actions, both of which the Task Force endorses. These two actions by DUA will greatly reduce the number of weeks of benefits for employees who successfully claim eligibility for UI benefits over the summer break and correspondingly reduce the charges incurred by the cities and towns.

First, DUA is implementing a system to ensure that, once a school department employee is provided reasonable assurance, the school wages can no longer be used for establishing or continuing benefits on an unemployment claim. This addresses the concern regarding educators who are offered re-employment during the summer. Once that offer is made, regardless of whether it is accepted, no further UI benefits will be paid on the claim.

Second, if an educator is offered a comparable position in another school system during the summer months, that offer will be considered under the reasonable assurance framework and no further UI benefits will be paid on the claim.

In order to implement these two policies, DUA has issued additional guidance and provided training to its staff to explain when the reasonable assurance exception applies and to ensure consistency among adjusters and review examiners. Specifically, DUA will no longer grant unemployment benefits to educators based on the school wages, once DUA is notified and confirms that a reasonable assurance has been provided.

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<sup>34</sup> U.S. Department of Labor, Employment and Training Administration, Supplement #1—Questions and Answers Supplementing Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976–P.L. 94–566 (December 7, 1976) 19. This is still the Department of Labor’s policy, according to the State Conformity and Compliance Team in the U.S. Department of Labor.

<sup>35</sup> G.L. c. 151A, § 24(b).

Under this new policy, claimants are entitled to benefits only until the reasonable assurance is provided.

In addition to affirming these policies with DUA staff, DUA will develop a system to advise all school department employees who apply for benefits over the summer break as a result of a non-renewal notification, that they must notify DUA if they are later recalled to their school department position or are hired for such a position in a different system at any time during the summer. The notice will also explain that benefits will cease as of that date.

DUA also intends to advise all school departments<sup>36</sup> through an annual letter of the need to notify DUA when a non-renewed teacher is rehired during the summer for the next school year or when a school department is hiring a teacher not renewed by another school department. This is necessary to ensure that the educator will no longer be eligible for UI benefits based upon the notice of reasonable assurance. These systems will be developed in the coming months and implemented for the summer of 2013.

DUA is also emphasizing to DUA staff that the reasonable assurance exception in § 28A applies when a teacher is offered employment for the following school year by a different educational institution than the one that gave notice of non-renewal. From the time the offer is given, the teacher has a reasonable assurance of a comparable job and is no longer entitled to unemployment benefits. This is based on DUA's interpretation of both the federal and state statutes, which state clearly that the reasonable assurance exception applies "if there is a contract or a reasonable assurance that [the non-renewed teacher] will perform services [in an instructional capacity] for **any** educational institution in the [following school year.]"<sup>37</sup>

Finally, DUA will advise all educators and school department employees that entitlement to UI benefits during the summer months or other breaks in the school year carries an obligation to be available for and actively seeking work while receiving UI benefits and that DUA will carefully monitor compliance with this requirement.

### *Expected Outcome*

The Task Force believes that effective implementation of these initiatives by DUA, especially when combined with cooperation by affected municipalities, will limit the extent of payment of UI benefits to educators over the summer break. This will significantly reduce municipalities' UI liability for school department employees over the

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<sup>36</sup> Several Task Force members noted concern from outside stakeholders that these proposed revisions could potentially lead to some municipalities using the reasonable assurance exceptions improperly to affect UI eligibility. DUA has not seen any evidence of this and will monitor the UI claims under reasonable assurance to make sure it does not occur.

<sup>37</sup> G.L. c. 151A, § 28A(a) (emphasis added).

summer months and more fully maintain the intent and integrity of the reasonable assurance law and its implementation. Since federal law prohibits restricting all UI eligibility and benefit payments for educators during the summer months, the DUA initiatives outlined herein and the increased enforcement and compliance efforts will do as much as is legally possible to reduce UI costs for this category of claimants.

## ELECTION DAY WORKERS ISSUE

Several municipalities raised concerns that the wages of election workers have been used to obtain UI eligibility, which has resulted in UI benefit charges to municipalities. Since these wages alone are rarely sufficient to reach the threshold of UI eligibility, they become relevant as subsidiary wages (See Section “Method of Contribution as Factor in Municipal UI Costs”). Although not significant in terms of the amount of charges, municipalities object to inclusion of these wages in determining UI eligibility, because of the nature, duration and infrequency of the work.

### Legal Framework and Analysis

Although the Federal Unemployment Tax Act (FUTA) generally requires that employees of state and local government be eligible for unemployment compensation in an equal manner as employees of private employers,<sup>38</sup> there are exceptions, most of which are already included in chapter 151A.<sup>39</sup> Massachusetts has not yet adopted a federally permitted exception applicable to service performed as an election official or election worker if the wages received by the individual during the calendar year serving in this capacity are less than \$1,000[.]<sup>40</sup>

### Proposed Solution

Amend G. L. c. 151A, § 6A, to add a new subsection (7). As amended, § 6A would read, in pertinent part:

The term “employment” shall not include service performed by an individual in the employ of the commonwealth or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of any of the foregoing and one or more states or political subdivisions or Indian tribes if such individual performed such services as:

...

- (7) an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000.

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<sup>38</sup> 26 U.S.C. § 3304(a)(6)(A).

<sup>39</sup> One exception that Massachusetts has already adopted is to exclude service by elected officials from UI eligibility. M.G.L. c. 151A § 6A(1)

<sup>40</sup> 26 U.S.C. § 3309(b)(3)(F).

*Expected Outcome*

If adopted, this statutory change would address the concerns expressed by municipalities. Municipalities would no longer be responsible for UI benefits based upon wages paid to election workers of less than \$1,000 per calendar year.

## ON-CALL EMPLOYEES

A number of municipalities raised concerns that “on-call” workers have been determined eligible for UI benefits even though the nature of their employment is sporadic and unscheduled, and the employees have no expectation of regular, consistent employment. On-call employees actually fall into two distinct groupings that have different statutory requirements so they will be discussed separately in this report.

### *On-Call Firefighters and On-Call Emergency Medical Technicians (EMTs)*

Workers “serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency<sup>41</sup>” are expressly barred from using their pay for such service to qualify for or calculate UI benefits.<sup>42</sup> When on-call firefighters and on-call EMTs provide services on a temporary basis in response to emergencies, their services are excluded from the statutory definition of “employment.”<sup>43</sup> This exclusion results in their being barred from receiving UI benefits based on these services because G.L. c. 151A, § 6A(5) excludes on-call emergency services from the definition of “employment”; therefore, payment for these services does not count towards establishing eligibility for UI benefits.

It is important to note that this exclusion applies to on-call firefighters and on-call EMTs who are paid on an “on-call basis”, that is, per response to an event, either at a flat rate or by the hour. The exclusion does not apply to firefighters or EMTs who are paid daily or weekly, even if it is to be on-call.

To avoid UI benefits and charges, a municipal employer must identify the on-call status of a firefighter or EMT when filing its response to a claim with DUA.<sup>44</sup> It should also be noted that these wages are excluded from UI coverage even when the claimant works for the same municipality and has other, UI eligible wages. Otherwise, DUA will be unaware that the exclusion should apply. To clarify the process for municipalities, on March 20, 2012, DUA issued a guidance letter to cities and towns detailing the necessary procedures. DUA also posted the guidance letter on its website and discussed the issue at a number of forums for municipal employers. (Attachment 6)

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<sup>41</sup> Although the statute has primarily been applied to firefighters and EMTs, as is referenced in the Guidance Letter, DUA has advised the Task Force that it will also apply it to claims involving the other listed emergencies, which occur far less frequently.

<sup>42</sup> G.L. c. 151A, § 6A(5).

<sup>43</sup> *Id.*

<sup>44</sup> These on-call wages are excluded regardless of whether the individual has additional employment with the municipality or another municipality.

### *Proposed Solution*

DUA has already addressed this concern by issuing the previously-mentioned Guidance Letter regarding On-Call Firefighters and EMTs. The Guidance Letter, detailing the necessary procedures for notifying DUA of exempt call firefighter and EMT wages, has been in circulation. DUA will continue to publicize the Guidance Letter so that cities and towns are fully aware of how to respond to claims within this category of employees. This Guidance Letter has been sent via email to all cities and towns, distributed at multiple meetings, posted on the DUA website, and is available upon request. In addition, DUA issued an internal memorandum to staff reiterating these wage exemptions and the processing procedures for these claims and has included “On-Call firefighters and EMTs” in the municipal curriculum for staff. This will also be a topic in DUA’s internal training module for municipalities starting in 2013.

### *Expected Outcome*

Municipalities will be better informed of the UI status of on-call firefighters and on-call EMTs and better able to manage any UI claims that are filed. They will have access to all necessary information to complete the process and ensure that benefits are not paid to ineligible employees. DUA will continue to provide support, guidance and education to municipal leaders on this issue and will ensure that its internal procedures are properly managed. As noted above, these measures have been in place since April 2012, and DUA has already seen a decline in the number of on-call firefighters and EMTs approved for UI benefits.

### *Substitute Teachers and Other On-Call Workers*<sup>45</sup>

The category of all other on-call or intermittent workers is complex and subject to several different statutory provisions and policy issues within DUA. This has resulted in uncertainty and often times confusion on how to manage UI claims for this diverse group of employees. Most of the cases brought to DUA’s attention involve substitute teachers although other occupations are noted as well.

On-call is defined as having an employment status where an employee works for an employer on an as-needed basis and has no set schedule of hours. When an individual files for UI benefits, both the employee and the employer must indicate “on-call” as the reason for separation. DUA is then charged with reviewing the claimant’s status in deciding eligibility.

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<sup>45</sup> Employees who hold regular, part time positions with set hours are categorized differently under UI law. Therefore, they are not included in this section and in fact, were not raised as a significant concern by municipalities. Their eligibility and entitlement to benefits is similar to regular full time employees, albeit generally on less wages.

If a claim is open and eligibility is established, the claimant can only receive UI benefits in a given week if he/she did not work at all in the week (even one hour of work is a disqualifying event) or was not offered any suitable work. Employers must monitor their employment practices to ensure that employees do not receive UI benefits in weeks when they are ineligible. In particular, employers must review benefit charge statements to verify that any week in which work was offered or wages were paid to an on call employee was reported to DUA and did not result in charges.

### Legal Framework and Analysis

The Supreme Judicial Court's 1984 decision in *Mattapoisett v. Director of the Division of Employment Security*, 392 Mass. 546 (1984), addressed the issue of on-call employees and established the standard for UI eligibility going forward. The court held that "that the Legislature did not intend a part-time employee whose hours vary from week to week to be considered in partial unemployment<sup>46</sup> for any week in which he does not work as many hours as a full-time employee."<sup>47</sup>

At a minimum, under *Mattapoisett* the offer of any amount of work in a week disqualifies an on-call employee from receiving unemployment insurance benefits for that week. Further, although *Mattapoisett* did not address the claimant's eligibility in weeks when the town did not offer him any work, the opinion does not foreclose the possibility that the as-needed nature of the employment contract precludes eligibility even in weeks when no work is offered: "Under the terms of his employment contract he was to work whenever he was needed. The claimant understood that if no work was available in a given week he would not work."<sup>48</sup> A subsequent Appeals Court opinion is to the same effect: "In the *Mattapoisett* case, the Supreme Judicial Court held that a part-time police officer, hired to work irregular hours on a less than full-time basis as a fill-in for absent regular officers, was not entitled, while so employed, to unemployment compensation benefits from his part-time employer." *Bourne v. Director of Div. of Employment Security*, 25 Mass. App. Ct. 916, 916 (1987) (rescript).

DUA takes the position, with which the Task Force agrees, that a part-time, intermittent employee is disqualified from receiving UI benefits for any week in which the employer offers at least some work, even if only one hour, or the employee actually works.<sup>49</sup>

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<sup>46</sup> "Partial unemployment" is a term of art under DUA statutes.

<sup>47</sup> *Id.* at 549

<sup>48</sup> *Id.* at 547.

<sup>49</sup> Substitute teachers also may be disqualified over the summer break and school vacations under the reasonable assurance prohibition in G. L. c. 151A, § 28A (discussed in a previous section of this report).

An example that surfaced in many communities is the lack of communication between the school department employee who calls or monitors the calls for substitute teachers daily with the municipal official who reports to DUA whether the employee has worked or refused work in a particular week. Without that information from municipalities, DUA must rely solely on claimants self-reporting this information on their weekly claim for benefits.

### *Proposed Solution*

The Task Force recommends that municipal employers respond promptly to UI claims of intermittent, part-time workers, and include information alerting DUA to the part-time, intermittent nature of the claimant's work. They also should review charge statements to verify that they have not been charged for any week in which they offered work or paid wages to an intermittent, part-time worker.

DUA has already issued an internal memorandum clearly defining the on-call policy, including substitute teachers. Therefore, in all cases for on-call employees where work was offered or wages paid, the claimant will be ineligible for benefits. DUA will have uniform guidelines for handling all on-call employees which will result in consistent determinations and decisions and eliminate confusion among employers. DUA recognizes that there have been some unintended, inconsistent applications, whether based on regions, different stages in the process or just individuals' differing understandings of the application of the law in this area. DUA has also included information regarding on-call employees as part of the municipal curriculum for staff.

On-call substitute teachers are subject to both on-call rules and the reasonable assurance statute, G. L. c. 151A, § 28A. This means that if there is implied reasonable assurance that the substitute will be performing services in the "period" after a school break, the teacher should be ineligible for benefits. DUA previously interpreted "period" to be one week. Therefore if a substitute teacher did not work or was not offered work the week immediately preceding a school break or the week following a break, the teacher was entitled to benefits for all weeks in which there was no work, including the school break week. DUA has revised its interpretation of the statute. Going forward, when evaluating reasonable assurance for substitute teachers over a school break, "period" will be interpreted as a semester. Therefore, if an on-call substitute works or was offered work in any day in the semester before or after the school break, reasonable assurance applies and he/she is not eligible for benefits.

DUA will provide a more consistent and clear reading of the law for on-call employees. In addition, municipalities will have to provide timely and better information to DUA. A historic review of municipal cases for on-call employees found that cities and towns have often been unresponsive to DUA's requests for information, filed erroneous or incomplete information or failed to identify the claimant as an on-call employee or

substitute teacher. Without more accurate reporting, it is difficult for DUA to make fully informed decisions on these claims.

These procedural reforms have been discussed with the MMA, the Massachusetts Mayors' Association and other municipal groups. As noted below in section "Revised Protocol and Procedures," DUA, the MMA and other municipal groups as well as all interested municipal leaders will continue to partner to ensure that this issue is addressed and only individuals truly in unemployment will be eligible for UI benefits.

## SEASONAL EMPLOYMENT

A number of cities and towns expressed reservations about the nature of seasonal work exemptions, the scope of its exclusion from UI coverage and how seasonal work is treated. Massachusetts is actually one of only fifteen states<sup>50</sup> to have any limitation on seasonal wages counting towards UI coverage.

In Massachusetts, an employer is allowed to apply for seasonal certification which exempts employees working during the seasonal period from receiving UI benefits at the conclusion of the season.

Seasonal status exempts employment in either of the below categories:

- The entire business is in operation for less than 16 weeks in a calendar year.
- The employer has a functionally distinct occupation within the business that is seasonal, due to the fact that the assigned duties or activities as a whole are identifiably distinct under the usual and customary practice of the industry. These duties or activities are performed during a period of less than 16 weeks in a calendar year due to the climate or nature of the products or services.

There are defined procedures and deadlines for employers who want to obtain seasonal certification and exempt employees from UI benefits.

Municipalities identified several issues regarding seasonal employees. The first question raised was whether there is any benefit to municipalities by expanding the statutory season from 16 to 20 weeks. After careful deliberation, the Task Force concluded that such an extension in season would not provide sufficient benefit to municipalities and could impact the private sector significantly, which is beyond the mandate of this Task Force.

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<sup>50</sup> U.S. Department of Labor 2011 Comparison of State Unemployment Insurance Laws.

The second concern was the uncertainty and firmness by DUA around the application process and deadlines for seasonal certification. Since non-compliance with the proper procedures could result in seasonal wages being included in UI coverage, municipalities indicated an interest in a better, more collaborative approach to seasonal certification.

Further, municipalities requested that DUA do a more thorough job of ensuring that claimants who had worked seasonally, but are not exempt due to the length or nature of their positions, adhere to the actively seeking and available for work requirements, especially if they are out of state in the off season.

Finally, municipalities wanted a clearer demarcation between seasonal work and non seasonal work so that they could hire or retain seasonally certified workers in other departments and positions, which benefit the municipalities as well as the individual.

### Legal Framework and Analysis

Under G.L. c. 151A, § 24A(a), a seasonal employee is ineligible to receive UI benefits based on that service, “unless the claim is filed within the operating period of the seasonal employment.” If a claim is filed outside the seasonal period, “benefits may be paid on the basis of nonseasonal wages only.”

An employer may be certified as a seasonal employer if, “because of climatic conditions or the nature of the product or service, [it] customarily operates all or a functional distinct occupation within its business only during a regularly recurring period or periods of less than sixteen weeks for all seasonal periods during a calendar year[.]”<sup>51</sup> An employer seeking seasonal certification must submit the DUA application at least 60 days prior to the beginning of the season.<sup>52</sup> The employment may be considered to be certified as seasonal only after the determination is made by the Agency. An application must be submitted for each distinct seasonal period. An employer who is denied has the right to appeal the determination within ten days. If a certified employer operates its seasonal business for sixteen weeks or more during a calendar year, it loses its seasonal status.<sup>53</sup> There are also procedural requirements placed on the employer so that employees fully understand that they are seasonal employees.

### Proposed Solution

It has become clear that there is a great deal of confusion and concern about the seasonal certification process, its requirements, and implications. DUA has not always

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<sup>51</sup> G.L. c. 151A, § 1(z).

<sup>52</sup> *Id.*

<sup>53</sup> G.L. c. 151A, § 24A(e).

communicated fully or clearly enough with municipalities, and some municipalities have been lax in submitting the necessary paperwork to obtain seasonal certification.

To address the expressed concerns, the Task Force requests that the following steps be taken:

- DUA will issue a Guidance Letter clarifying this process for employers and answering some frequently asked questions.
- DUA will more formally address those situations where municipalities (as well as all other employers) transfer employees from seasonal to non seasonal work, or vice versa. The following criteria will apply:
  - (1) There must be a break in service between the seasonal and non seasonal work; and
  - (2) The additional work cannot continue in, be part of or connected to the seasonal operation; and
  - (3) There is no intent to improperly avoid UI liability.

These criteria will provide more flexibility for municipalities in their ability to retain seasonal employees in other employment. Then the seasonal employment will not be counted as base wages towards UI eligibility.

- Beginning in 2013, DUA will schedule two webinars annually, one for summer seasonal work to be scheduled in February and one for winter seasonal work to be scheduled in September. All employers will be notified and invited to participate.
- DUA will allow for modifications of seasonal certification applications if a municipality is able to extend its season, beyond the time frame originally requested, still within the 16 week limitation. This could occur, for example, if a municipality requested a 12 week season for a municipal swimming pool season but later wanted to keep the pool open for additional weeks because of community circumstances or increased funding.
- Finally, DUA will more closely monitor those employees who have worked “seasonally” for a municipality but in a department or position that did not qualify for seasonal certification. These individuals are not exempt from UI benefits because their work did not fall within the framework of seasonal certification. However, DUA will take extra steps to ensure that these claimants fulfill their obligations to be actively seeking and available for work.

*Expected Outcome*

The Task Force is confident that the implementation of all of the steps identified above will allow municipalities to better manage their seasonal needs, ensure that truly seasonal employees are not UI eligible and that individuals fulfill all statutory requirements if receiving UI benefits.

## STEPS TAKEN BY DUA

One of the noteworthy findings of the Task Force is the degree to which municipal UI costs can be reduced through policy and administrative changes by both DUA and the municipalities themselves. The Task Force recognizes the changes already implemented by DUA and recommends that it continue to evaluate its policies and procedures going forward. The changes either already made or in process by DUA include:

1. The establishment of a dedicated municipal UI unit having oversight of municipal cases with its own direct phone line available to municipalities. In addition, DUA will commit to having specialized Review Examiners to hear municipal cases.
2. DUA has proposed legislation, included in Attachment 14, which would allow it to participate in the U.S. Treasury Offset Program and collect unpaid UI benefits improperly paid to claimants, as it now does with state tax refunds. This is of particular importance to municipalities as all monies collected would go directly into their accounts.
3. The provision of additional training to DUA Adjudicators and Review Examiners on municipal UI benefits. In particular DUA developed a municipal module for its comprehensive UI training program, which it included for the first time in the spring of 2012. This training will continue for staff through the fall of 2012. DUA will continue to provide on-going training to staff on municipal UI issues as warranted.
4. The issuance of a DUA guidance letter on “On-Call Firefighters and EMTs”. DUA will continue to issue guidance letters to municipalities, as needed.
5. The revisions of certain policies, particularly regarding on-call employees, substitute teachers, seasonal employees and reasonable assurance, as noted in the appropriate sections above. Additionally, DUA is revising its internal case management manuals to reflect these clarifications and will do outreach to relevant stakeholders to inform them of these revisions.
6. The continuing review of DUA forms, for both claimants and municipal employers. Where greater clarity is possible, the agency will revise them accordingly.
7. Increasing outreach to municipalities to achieve the proper treatment of claims by educators who, although initially laid off at the end of a school year, obtain a reasonable assurance of employment during the summer for the upcoming school year.

8. Increasing recovery efforts for UI benefits improperly paid to claimants so that cities and towns can recoup a greater percentage of charges for benefits that are later rescinded. DUA will be recommending legislation, as noted above that would authorize DUA to participate in a federal program that allows the interception of federal tax refunds to recover benefit overpayments.
9. Responding to all 109 municipalities who sent requests for clarification on UI policies or specific claimants in March 2012. These interactions and dialogues increased a sense of collaboration and partnership between DUA and municipalities.
10. The establishment of two annual webinars hosted by DUA to which all municipalities will be invited so that they can be kept abreast of the requirements for seasonal certification. One will be held in February for summer seasonal certification and the other in September in anticipation of winter seasonal certification. The Task Force encourages all municipalities considering seasonal certification to participate in these webinars.
11. Engaging municipalities, public sector unions, the MMA, and other organizations representing varying aspects of municipal finance, personnel, and UI since March 2012. EOLWD and DUA have led seminars, conducted educational programs, written for publications, and met with municipal stakeholders, whether on particular cases or policy and practices generally. These meetings have been very productive for all parties. The ability to work through issues, recognize responsibility, and implement changes, on all sides, will lead to better communication, management, and outcomes.

The Task Force has also had the opportunity to review and analyze the ways in which municipalities manage their UI claims. The Task Force appreciates the concerns voiced by many municipalities over the law, its application, the unexpected financial hardships caused by the recession, and some delays and difficulties at DUA. It also recognizes that municipalities must remain proactive and responsive to DUA to ensure the most efficient management of their UI costs.<sup>54</sup>

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<sup>54</sup> When this awareness has been raised by DUA with municipalities, the response has often been that municipalities claim it is fruitless to appeal, because the claimant always wins. An analysis of municipal UI claims in 2011 does not support this perception. For the calendar year 2011 municipal employers did not respond or responded late on 7,338 out of 21,468 claims filed (34%). Despite this, claimants only prevailed in about half of all claims filed against municipalities. This is significant because it demonstrates that even with no or limited information from municipal employers, claimants were not automatically conferred benefits. However, municipalities are urged to be responsive to DUA, fully participate in hearings and all DUA proceedings to maximize their chances of success.

The Task Force suggests the following recommendations to municipalities:

1. Create a systemic approach for managing UI costs, for example, by designating one municipal official (including for the school department) to be responsible for and manage UI claims. Municipalities have been forthcoming that there are often challenges integrating the school and municipal departments with respect to managing UI claims and costs. The Task Force suggests that better coordination between these departments will help manage the UI cases of the municipality.
2. Respond timely to every request made by DUA, particularly when filing Forms 1062/1074, the Requests for Wage and Separation Information.
3. If using a Third Party Administrator (TPA), make sure that the TPA is accountable to the municipality and that oversight is provided by the town official responsible for UI costs.
4. Review benefit charge statements monthly. If the charges are inaccurate, immediately request a review of the charges.
5. Develop an internal system so that all municipal officials who are involved with UI claims coordinate their efforts and information. One frequent example was the lack of communication between the school department official who calls in substitute teachers and the municipal official who needs to report the work or refusal of work by substitutes to DUA. When that coordination is absent, the work or refusal to work often goes unreported to DUA, and the claimant is awarded benefits even when he/she is actually ineligible.
6. Report to DUA all information available to municipalities that will enable DUA to better respond to their claims. For example, municipalities should notify DUA when educators are offered positions for subsequent school years, when individuals are offered additional work hours, or when the municipality has information that an individual has commenced work elsewhere or declined work. Having this information will assist DUA in properly determining UI eligibility.
7. Participate in educational workshops, webinars and seminars on municipal UI issues by DUA or other entities.
8. Be prepared with the proper information and appropriate and knowledgeable witnesses at all hearings before Review Examiners; remember that all evidence and arguments must be presented at the hearing, regardless of what may have previously been presented at the adjudication stage. If there is sufficient interest among municipalities, DUA will work with the MMA to hold a seminar on how to present a case at DUA.

9. Report to DUA all suspected fraud, reemployment and other factors that impact employee eligibility for UI benefits.

## **CONCLUSION**

The Task Force is confident that implementation of its suggestions, recommendations and legislative changes<sup>55</sup> will result in a significant improvement of the municipal UI system. This report demonstrates that DUA now has a better understanding of the issues and challenges faced by municipalities and that the agency has developed procedures, employee educational modules, policy changes and clarifications, external educational opportunities for municipalities, and a greater willingness and capacity to interface with cities and towns.

The Task Force also believes that one of the positive aspects of the spotlight on municipal UI costs and issues has been that municipalities are more aware of the tools available to them to better manage their approach to UI issues and more fully engage in the process to better control their UI costs.

The Task Force believes that the combination of these approaches and their successful implementation will result in better outcomes for municipalities, better management of municipal UI costs, and a better UI system for claimants and their public employers.

The Task Force urges that a review of its recommendations be undertaken in January of 2014 at which time it is anticipated that its recommendations will have been fully integrated and operational. The Task Force would welcome the opportunity to undertake that review.

Further, the Task Force wants to applaud all parties involved for their hard work, willingness to engage in this complex and comprehensive review, openness in recognizing their roles in the issues, and willingness to be part of the solution.

Finally, the Task Force wants to thank Governor Deval Patrick, Senate President Therese Murray, Speaker Robert DeLeo and Secretary Joanne Goldstein for entrusting this important task to us. We took our role on this Task Force very seriously and understood its significance to the Commonwealth, its cities and towns, and public employees. We have endeavored to discharge our duty fairly and impartially, with consideration and deliberation over all of the issues. To the best of our ability, we have provided conclusions and recommendations that, in our judgment, provide balanced solutions to the issues presented. We appreciate and value the opportunity we had to serve.

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<sup>55</sup> The draft bill which includes all of the proposed statutory changes by the Task Force is attached as Attachment 14.

# Attachment 1



# Town of **LYNNFIELD**

ARTHUR J. BOURQUE III, Chairman  
ROBERT P. MacKENDRICK, Selectman  
AL MERRITT, Selectman

WILLIAM J. GUSTUS  
Town Administrator

## BOARD OF SELECTMEN

February 27, 2012

His Excellency Deval L. Patrick  
Governor of Massachusetts  
Room 280  
State House  
Boston, Massachusetts 02133

RE: Municipal Unemployment Compensation Expense

Dear Governor Patrick,

We are writing to ask your assistance in addressing some unfinished business with respect to your efforts at municipal finance reform. We are all grateful for your recent efforts in providing municipalities with additional tools to raise revenue and the recently passed health insurance and pension reforms that will save cities and towns tens of millions of dollars this year alone and stabilize our benefit costs well into the future. However, some remaining municipal liabilities in the area of unemployment compensation seem unjust to us. We believe that, in general, unemployment compensation was set up to provide people with "temporary financial assistance after having lost a job through no fault of their own."

We regularly have to review unemployment claims made against our cities and towns. Recently, one of us was presented with a case that just seems to defy the laws of sanity. To our great surprise, we have come to learn through communication with each other that, this case is just the tip of a very large iceberg of unintended consequences leading to, in our view, the unjust enrichment of many individuals at the expense of their former and current municipal employers.

Unemployment compensation payments are a direct expense to municipalities. Given the relatively stable nature of public employment and the strong due process policies found in most municipalities, layoffs and wrongful terminations are unusual. Therefore, most communities choose to self-fund unemployment and, consequently, these types of cases are killing us financially. Herein-below are outlined a number of specific cases which highlight the types of situations we have faced in the recent past and continue to face on a regular basis.

In one community, a retired police officer is collecting unemployment under what we would consider to be an unfair application of the unemployment compensation law. This individual enjoys a healthy town-funded pension, and he is allowed to work details for the town to supplement his public pension by about \$25K. Due to state law, he is restricted to this amount of

extra income without having his pension reduced by earnings beyond this statutory limit. The retirement system requires that we notify him when he has reached his outside-income limit and that thereafter, for the remainder of the calendar year, he will be subject to a dollar-for-dollar reduction to his pension if he continues to work. So, what does he do? He stops working and files an unemployment claim and surprisingly, his claim is approved. The town asked for a hearing to dispute his claim and after this hearing, the hearing officer found that, because the law says he can't keep working for the town, that this is a loss of a job through no fault of his own and affirmed that he is entitled to unemployment compensation at the town's expense. Then to make matters even worse, the retired officer starts taking details again in January, since the new year has begun and he can earn another \$25k in details beyond his \$37k/yr pension, but his unemployment claim remains open and for every week in which his detail earnings are less than his weekly unemployment benefit, the town has to pay him the difference as well.

Upon posting this on a list-serve we subscribe to made up of municipal finance officers across the state, we learned of many other questionable cases. We have heard that in many communities, when public safety employees reach the mandatory retirement age of 65 and retire on healthy pensions, many apply for unemployment and collect not only their full pension but also 99 weeks of at least partial unemployment benefits at the expense of the municipality. Once again the law caused the loss of their job. This places communities in an impossible situation. On the one hand, state retirement officials tell us we can't continue to employ these individuals but, since they are now unemployed, we have to pay them unemployment compensation. As you know, most public safety officers who must retire at age 65, retire with pensions equal to 80% of what they were earning when they were actually working. In short, for this group, it is more lucrative to be retired. Is this really the "temporary financial assistance" contemplated by the authors of our unemployment compensation laws?

These inequities are not limited to public safety workers. We also learned that many school teachers avail themselves of unemployment compensation in ways we believe were not intended. As we understand it, teachers are given one-year contracts each September which run through the end of the following August. According to virtually every collective bargaining agreement and state law, if an individual teacher's contract is not going to be renewed, they must be notified on or before May 15 of any given year. Given the financial uncertainty over the past few years and the fact that municipal budgets are often not settled by May 15, many school districts must send out these notices to a number of teachers, just to protect themselves against the effects of budget cutbacks. However, once a teacher gets one of these notices, and despite the fact that the municipality must continue to pay them through the end of August and continue to provide health coverage, some of these teachers file a claim for unemployment. They then collect all summer and, after the budget is set, most of them are rehired for the next school year. They can do this because they have the option to take a lump-sum salary payment in June, for the whole summer. They then go down to the unemployment office and truthfully say that they received a notice that their contract will not be renewed and that they won't be seeing any more checks. So, for the entire summer, the town will have paid their salary and paid them unemployment as well.

There is another little-known way that some retired teachers are able to collect unemployment. It is possible, and it actually occurs pretty regularly, where a teacher can retire and, if they teach in an area of critical need, may return to teach after they retire at full pay without any income

limitations or pension offsets. While this may be necessary in some instances, what seems to us to be unnecessary is that, after the school district finally finds someone to fill the position, someone who is not retired and collecting a full pension and a full salary, the retiree is now eligible to collect unemployment for losing their job as a critical employee.

There is also a class of school bus drivers that regularly collect unemployment for the whole summer, all school vacations, professional development days when the schools are closed, and even the day after Thanksgiving. These school bus drivers are paid out of the town side of the budget instead of the school budget. If they were paid by the school department, they would be ineligible for unemployment but, since they work for the town, they may collect and, do collect unemployment compensation. In our view, a school bus driver is a school bus driver and their ability to collect unemployment should not be based on whether they are paid out of the school budget or the town budget.

Many communities have been charged for unemployment compensation paid to call firefighters who have lost their full-time jobs. This is a considerable expense to the cities and towns that have call or combination fire departments. Call firefighters work for the town on an as-needed basis. They usually have full-time jobs as well. Due to a quirk in the unemployment law, when call firefighters lose their full-time jobs and file for unemployment, the municipality gets billed for a portion of their unemployment compensation, even though they continue to perform and get paid for their call firefighter work. In a similar case, we have heard of a community that hired a number of unemployed people for part-time jobs in an effort to help some local residents ride out the recession. When their prior employers failed, the town ended up paying their unemployment as well, even as they continued to work part-time for the community.

The frustration of local finance officials regarding all of this is real, and we respectfully request your assistance in addressing these concerns. In one last example, we offer the case of a community that decided to hire a reserve police officer as a full-time patrolman. After he was hired, they paid him as a full-time officer and then paid for his training and his full salary as a recruit at the police academy for probably close to six months. Unfortunately for the town, their investment was wasted, since the officer did not receive a passing grade from the academy. This individual was then returned to reserve officer status. He then applied for, and was granted, unemployment benefits because he was deemed to be "underemployed."

We stand ready to assist you in any way possible to provide documentation of these cases and to work with you to find sensible solutions to these issues. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bill Gustus", written over a circular stamp or seal.

Bill Gustus  
Lynnfield Town Administrator

Listed below are a number of local officials who have indicated support for these reforms and have authorized me to add their names to this letter.

Kathleen Benevento  
Director of Finance  
Town of Boxford

Thomas Moses  
Finance Director  
City of Lowell

Carl Valente  
Town Manager  
Town of Lexington

Linda D. Carr, CGA  
Town Accountant  
Town of Southwick

Mariellen Murphy  
Finance Director  
Town of Dedham

David Withrow  
Finance Director  
Town of Orleans

Robin Neal Craver  
Town Administrator  
Town of Charlton

Kevin Paicos  
Town Manager  
Town of Foxborough

Susan Wright  
Finance Director  
City of Northampton

Mary C. Day  
Treasurer/Collector  
Town of Lincoln

Melanie Phillips, CMMT  
Finance Director  
Town of Medway

Joanne DeGray  
Town Accountant  
Town of Wilbraham

Sandy Pooler  
Finance Director  
Town of Amherst

James Del Signore  
Director of Finance  
City of Worcester

Patricia Schaffer  
Director of Finance  
City of Peabody

William Keegan  
Town Administrator  
Town of Dedham

Randy Scollins  
Finance Director  
Town of Foxborough

Suzanne Kennedy  
Town Administrator  
Town of Medway

Dennis P. Sheehan  
Asst. Treasurer-Collector  
Town of Andover

Elaine Markham  
Town Accountant  
Town of Sturbridge

Sheryl Strother  
Finance Director  
Town of Wellesley

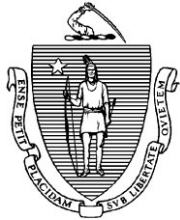
Susan Milne  
Director of Finance  
Town of Yarmouth

Brian Turbitt  
Finance Director  
Town of Millbury

# Attachment 2

**HOUSE . . . . . No. 3980**

Message from His Excellency the Governor recommending legislation relative to  
Disqualifying Certain Persons Subject to G.L. c. 32, § 91(b) from Receiving Unemployment  
Insurance Benefits. March 7, 2012.

**The Commonwealth of Massachusetts**

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT  
STATE HOUSE • BOSTON 02133  
(617) 725-4000

March 7, 2012.

To the Honorable Senate and House of Representatives:

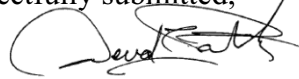
I am filing for your consideration a bill entitled “An Act Disqualifying Certain Persons Subject to G.L. c. 32, § 91(b) from Receiving Unemployment Insurance Benefits.”

This legislation addresses certain individuals who, while collecting a public pension, return to work for a public employer and then apply for and collect unemployment benefits when that employment ends. Public pensioners who return to work for a public employer are permitted by statute to work up to 960 hours per calendar year. They cannot, however, earn more than the difference between the current salary for the position they retired from and the amount of their pension.

This legislation disqualifies those individuals from receiving unemployment benefits once they reach either the hourly or earnings limits. By doing so, it strengthens our unemployment system and strikes the right balance between the interests involved: allowing public employers to utilize retired employees without incurring UI liability – so long as the employee works the full 960 hours or reaches the earnings cap -- and allowing employees to continue to serve the public.

I share your commitment to ensuring that the unemployment system helps the people it was intended to, and rooting out all fraud and abuse. This legislation, coupled with other actions the administration is taking, is an important first step to achieving our collective goals. I urge your prompt and favorable consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK,  
*Governor.*

# The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand Twelve.  
\_\_\_\_\_

## AN ACT DISQUALIFYING CERTAIN PERSONS SUBJECT TO G.L. C. 32, § 91(B) FROM RECEIVING UNEMPLOYMENT INSURANCE BENEFITS.

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

- 1 SECTION 1. Section 25 of chapter 151A of the General Laws, as appearing in the 2010 Official
- 2 Edition, is amended by inserting after subsection (j) the following new subsection (k):
- 3 (k) Any week in which the individual is barred from working for, or being paid by, the employing unit
- 4 by reason of the provisions of section 91(b) of chapter 32.

# Attachment 3



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK  
GOVERNOR

JOANNE F. GOLDSTEIN  
SECRETARY

TIMOTHY P. MURRAY  
LT. GOVERNOR

Dear City/Town Official:

As you may know, a number of cities and towns wrote to Governor Patrick last week expressing frustration about Unemployment Insurance (UI) payments to certain categories of public employees under varying circumstances.

The Patrick-Murray Administration shares your concern when claimants improperly receive UI benefits and recognizes the burden this places on municipalities and the taxpayers.

My office is committed to addressing these issues. We are reaching out to all 351 municipalities in the Commonwealth inviting you to send all cases on these issues directly to my office. If possible, I would request that this information be provided by March 16<sup>th</sup>. We will, of course, review any materials regardless of when they are forwarded, however, by establishing a target date we will be better able to broadly assess the situation sooner. I am scheduling a follow-up meeting with municipalities for Tuesday, March 20<sup>th</sup> (time and location TBD).

The Department of Unemployment Assistance is conducting an analysis of cases on the following topics:

- School department employees (i.e. teachers, cafeteria workers and bus drivers);
- Employees who received UI benefits from a municipal account while on a pension from that municipality;
- Call fire fighters who received UI benefits;
- Members appointed to a board or commission appointees who received UI benefits as a result of having a term expire or not being re-appointed;

In your response please provide us with information related to these topics so we can coordinate our analysis with yours.

This information can either be mailed, e-mailed or faxed to:

Municipal Feedback  
Executive Office of Labor and Workforce Development  
One Ashburton Place, Suite 2112  
Boston, MA 02108  
E-mail: [municipalfeedback@state.ma.us](mailto:municipalfeedback@state.ma.us)  
Fax: 617-727-1090

Although we cannot publicly discuss particular cases except with the parties to the actual case, we can discuss issues in the aggregate.

If you have any questions or would like to discuss these matters with me, please call me at 617-626-7100. EOLWD looks forward to a meaningful and strategic partnership with concerned municipalities and the MMA on these very important issues.

Sincerely,

A handwritten signature in cursive script that reads "Joanne F. Goldstein".

Joanne F. Goldstein

cc: Governor Deval Patrick  
Mass Municipal Association

# Attachment 4



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK  
GOVERNOR

JOANNE F. GOLDSTEIN  
SECRETARY

TIMOTHY P. MURRAY  
LT. GOVERNOR

Dear City/ Town Official:

I am writing to share additional information on the meeting I mentioned in my recent letter to you. The meeting will take place on:

**March 20<sup>th</sup> from 2:30PM to 4PM  
at the Rabb Lecture Hall in the Boston Public Library.**

We will discuss the following topics:

- Recent and proposed actions taken by the Administration, including filing legislation;
- Department of Unemployment Assistance's (DUA) analysis of trends and practices dealing with the topics originally highlighted in the letter municipalities sent to Governor Patrick;
- DUA Employer Best Practices;
- Unemployment Insurance integrity efforts and activities at DUA;
- Your concerns and suggestions for improving the Unemployment Insurance system.

The meeting will be open to city and town representatives. Following the meeting, which is closed to press, Secretary of Labor & Workforce Development, Joanne F. Goldstein and Acting Director of the Department of Unemployment Assistance, Michelle Amante will be available to the media. Any city or town representative that would like to stay and participate is encouraged to do so.

If you plan to attend, kindly R.S.V.P to this email or by calling Christina Wescott at 617-626-7114.

I hope that you will consider joining us on the 20<sup>th</sup> as your meaningful and constructive participation is valuable for improving the UI system.

Sincerely,

A handwritten signature in black ink that reads "Joanne F. Goldstein".

Joanne F. Goldstein

ONE ASHBURTON PLACE • SUITE 2112 • BOSTON, MA 02108  
TEL: 617-626-7100 • TTY: 617-727-4404 • FAX: 617-727-1090  
[www.mass.gov/eolwd](http://www.mass.gov/eolwd)

# Attachment 5



## Commonwealth of Massachusetts Executive Office of Labor and Workforce Development

# Participating in the Unemployment Insurance Program

Deval L. Patrick, Governor  
Timothy P. Murray, Lt. Governor  
Joanne F. Goldstein, Secretary



# Unemployment Insurance Background

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- On August 14, 1935 President Roosevelt signed the Social Security Act, which laid the foundation for the national Unemployment Insurance (UI) program.
- UI is the primary safety net for jobless workers in MA and across the country.
- The UI program provides temporary income protection for workers who have lost their jobs and are:
  - Able to work,
  - Available for work, and
  - Actively seeking employment.
- In all states, the system is a federal-state joint venture. Employers either pay premiums in the form of state employment taxes, or self-insure, reimbursing the state dollar-for-dollar for benefits paid.
- UI is one of the most effective economic stabilizers, having a beneficial impact on individual workers and the communities where they live. The Urban Institute estimates that for every \$1 distributed in unemployment compensation, \$2 of economic activity is generated.



# **Employer Responsibilities**

- Respond timely to requests for wage and separation information (1062/1074 forms)
- Respond timely to fact finding requests and requests for additional information
- Review monthly charges and formally request a review if there are inaccuracies
- Report employment and wage detail quarterly
- Report fraud
- Participate in the Hearings process
- Provide oversight to Third Party Administrators



# Wage and Separation Information

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- When a claimant files an unemployment claim, all employers within the last 15 months will receive a request for wage and separation information (Form 1062).
- For the employer to maintain its rights as an interested party to the claim, this form must be postmarked within 10 days of the mail date of the form.
- This form verifies or provides wage information and enables the employer to state the reason for separation.
- In many cases this information will trigger the creation of an issue or an additional investigation.
- In cases where a claimant has separated from a job during his/her benefit year, we will send a wage and separation request (Form 1074) to the separating employer.
  - Because a claimant can earn partial wages while being on an active unemployment claim, it is important that you complete this information even if you are currently paying wages to the claimant.



## Fact Finding Requests

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- When DUA is investigating a separation or other eligibility issue, we will ask you to participate in the process by providing an official statement either by mail or via a telephone interview.
- It is critical that you respond to this request timely so that you have an opportunity to present your information to DUA.
- If you do not provide information timely, DUA must make a decision based upon the information provided by the claimant.



## **Review Monthly Charges**

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- You will receive a statement for each month that benefits are charged to your account.
- This statement will list each claimant and the total charges per claimant, per week, for that specific month.
- You have the right to request a review of charges that are inaccurate within 30 days of the mail date of the reimbursable statement.



# **Employment and Wage Detail**

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- Every employer is required to report quarterly employment and wage detail information to DUA (G. L. c. 151A, § 14P).
- These reports are used to verify wage information for claims and process claims in a timely manner.



# Report Fraud

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- We welcome information from concerned individuals and employers who have credible information about suspected fraud.
- You can report cases of suspected fraud through one of the following methods:
  - Calling the Fraud Hotline — 1-800-354-9927
  - Emailing [uifraud@detma.org](mailto:uifraud@detma.org)
  - Writing to the U.I. Program Integrity Department, P.O. Box 8610, Boston, MA 02114
  - Faxing information to 617-723-5312
- We will investigate all fraud claims; however, not every case will result in a fraud determination.
- Because of the confidentiality of claims, we cannot report the outcome of the fraud investigation unless you are an interested party on the claim.



# Participate in Hearings Process

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- It is critical that employers participate in the hearings process. Hearings are “de novo,” which means that either party may present new evidence.
- A hearing is the employer’s opportunity to provide key information and rebut the claimant’s evidence.



# Oversight of Third Party Administrators

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- Third Party Administrators (TPAs) provide valuable services to municipalities by assisting them with their employment and wage detail reports as well as management of their claims.
- While TPAs provide these services on behalf of municipalities, it is the municipality that is ultimately responsible for the timeliness of requests and the quality of wage and separation information.
- Municipalities must actively manage their TPAs to ensure that information requests are returned timely and sufficient information is provided to DUA in order to avoid inaccurate charges.



# Combating Fraud

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- Protecting the integrity of the UI program and trust fund is a responsibility that DUA takes seriously.
- In addition to welcoming external information, we seek information from our DUA departments (Revenue, Hearings, Board of Review) as well as external agencies such as courts and police departments.
- We regularly perform cross-matches against external databases such as the National New Hire Directory and Department of Homeland Security to detect claimants who may be fraudulently collecting.
- DUA has established a Cross-Agency Task Force to proactively identify additional ways in which our Agency can prevent improper benefit payments and detect fraud.



# Recovering Overpayments

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- An “overpayment” is a payment that was made for a week that was ultimately determined ineligible or for an amount in excess of an adjusted weekly benefit payment.
- MA has the lowest overpayment rate in the nation. We continue to take proactive measures to reduce the amount of overpayments that occur.
- DUA utilizes multiple methods to recover overpayments:
  - Offsets of future benefit payments
  - Department of Revenue tax intercept
  - Monthly billing process
  - Criminal prosecution



## Appealing a Determination – Hearings Level

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- Eligibility, monetary, and separation determinations are provided to employers and claimants via mail and can be appealed to the DUA Hearings Department.
- Employers and claimants must appeal a determination within 10 days of the mail date unless there is a compelling reason for the delay.
- Employers who fail to provide wage and separation information timely will lose their rights as a party to the appeal.



## Appealing a Determination – BOR and District Court

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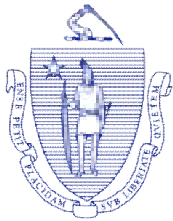
- Any party dissatisfied with the Hearings decision may appeal to the Board of Review within 30 days of the date the decision is mailed.
- The Board has 21 days to decide whether to hear the appeal.
- Any party aggrieved by a Board decision, including a decision not to hear an appeal of the Hearings decision, may appeal to District Court within 30 days of the mailing date of the Board decision.



# **Tips to Help Manage UI Costs**

- Forecast and budget for UI payments based upon trends and projections.
- Monitor your UI online account summary statement and monthly statements of benefits charged for accuracy.
- Call back separated workers if work becomes available.
- Report to DUA if one of your former employees returns to work.
- Document the circumstances surrounding each separation for reasons other than lack of work.
- Keep detailed records and respond to all requests for information timely.

# Attachment 6



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LT. GOVERNOR

JOANNE F. GOLDSTEIN  
SECRETARY

MICHELLE R. AMANTE  
ACTING DIRECTOR

March 20, 2012

**ON-CALL FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS**

Cities and towns are exempt from charges and paying Unemployment Insurance (UI) benefits for individuals working for them as on-call firefighters or on-call emergency medical technicians (EMTs), provided they properly and timely complete the required forms.

“On-call” means there is an agreement between the employee and employer that the employee will work on an as-needed basis with no set schedule of hours. Pertaining to on-call firefighters and on-call EMTs, in accordance with Chapter 151A, § 6A(5), wages earned by those working in this capacity on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency, and who are paid solely on a per incident basis, are exempt and cannot be included in determining an employee’s unemployment insurance benefit rate.

**There are three critical actions a municipality must take to receive the exemption and to preserve its appeal rights on this claim as required by G.L. c. 151A, § 38(a).**

**Indicate the employee’s employment status as “still employed” and provide wage information on the Wage and Separation Information form (Form 1062) as requested.**

**Write in the comments section on the form that the employee is an on-call fire fighter or an on-call EMT paid per call or event (whether on a flat rate or hourly basis).**

**Return the form within the ten days as prescribed by law to the Department of Unemployment Assistance (DUA).**

DUA will process the returned Wage and Separation Information form. Checking the box next to “Still employed” will prompt a review of the claim and, once verified, these wages will not be included in determining the wage base of the claimant. If benefits are awarded and the municipality believes the determination was erroneous, the municipality must appeal the determination within the mandated time-frame.

During the benefit year, a claimant may need to “reopen” his/her claim due to a benefit year separation. In this circumstance the municipality will need to recertify that the claimant is still working as an on-call firefighter or EMT. It is important that you again return the wage and separation form sent to you to ensure that these wages will not be included and so you can preserve your appeal rights.

# Attachment 7



## Municipality Statistics – Calendar Year 2011

- 21,468 claims were filed against municipalities. Of those, only 11,236 had charges applied.
- In 7338 cases, out of 21,468 claims, (34%) municipal employers either did not respond or responded late to the 1062 (Request for Wage and Separation Information).

### Hearings Review

- There were 769 hearings decisions involving a municipality in 2011. This represented 3.5% of the total case load (the vast majority of cases involve private employers).\*
- There were 190 cases in which the employer did not participate in the hearing (25%). Of these cases the claimant prevailed 59% of the time and employers still prevailed 41%.
- Overall claimants were the prevailing party in 56% of the cases.
- The most common issues were Reasonable Assurance (28.6%), Voluntary Quit (27.4%), and Discharge (23.5%).
- 167 cases were appealed to the BOR. Of these: 122 were affirmed; 22 decisions were reversed; 14 are pending; 4 were remanded, 3 were dismissed and 2 were modified.

\*Note: The 769 figure represents some claims that were filed in 2010. A portion of claims filed in 2011 will have hearings conducted in 2012. However this number has been consistent during the recessionary years and provides a snapshot of our case load. Only 3.6% of claims filed against municipalities were appealed.

# Attachment 8



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LT. GOVERNOR

JOANNE F. GOLDSTEIN  
SECRETARY

March 29, 2012

Dear City/ Town Official:

Thank you for continuing to participate in the dialogue over municipal unemployment issues.

In addition to requesting materials from you on cases, concerns and suggestions, we held a meeting with all interested municipalities on March 20<sup>th</sup>, have filed legislation to address the post retirement "960 employees", and established a Task Force to consider and make recommendations of other issues you brought to our attention.

We have established a dedicated phone line for municipalities at the Department of Unemployment Assistance. That number is 617-626-6262. For your convenience, we have also attached a telephone directory which lists other important telephone numbers you may need to access in the future.

We were also able to clarify the situations under which cities and towns are exempt from responsibility for UI benefits for call firefighters and EMTs. The attached guidance letter provides the details.

I have attached the PowerPoint presentation which Michelle Amante, DUA Acting Director, delivered at the March 20<sup>th</sup> meeting. I think you will find this useful.

As we approach the spring and summer when seasonal employees are often hired, I urge you to review the section on seasonal employment in the PowerPoint which describes how to exempt these employees from UI eligibility.

We are continuing to review all cases you have brought to our attention and will get back to you as we complete the reviews. I would note, however, that the review is separate from the UI process and it is critical that you continue to respond timely to all requests for wage and separation information via the proper forms and existing UI processes in order to maintain your rights.

Thank you again for partnering with EOLWD and DUA to dialogue and address the outstanding concerns about the system.

Sincerely,

A handwritten signature in cursive script that reads "Joanne F. Goldstein".

Joanne F. Goldstein

# Attachment 9



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LT. GOVERNOR

JOANNE F. GOLDSTEIN  
SECRETARY

May 2, 2012

Dear City/Town Official:

I write to update you on recent developments regarding Unemployment Insurance (UI) and municipalities and to request your assistance in compiling data that will better help us address some of the issues that you have raised.

Since I last communicated with you, the following has occurred:

- The Department of Unemployment Assistance (DUA) established a dedicated telephone line for municipal officials with UI questions. That number is (617) 626-6262. Please feel free to use it as questions arise.
- Governor Patrick established a Task Force to look at many of the UI issues raised by municipalities. We held the first meeting on April 18<sup>th</sup> and had a productive discussion on many of the outstanding UI issues.
- On April 19<sup>th</sup>, the Massachusetts Joint Committee on Public Service held a public hearing on Governor Patrick's proposed legislation to restrict so-called "960-hour" employees from UI eligibility. (House Bill 3980, An Act Disqualifying Certain Persons Subject to G.L. c. 32, § 91(b) from Receiving Unemployment Insurance Benefits)

I also want to note that we are continuing to review all of the specific cases that were mentioned in your submissions and will respond to each municipality as soon as possible. Over 100 municipalities provided information on approximately 450 cases. DUA has assigned a team of subject matter experts to review these cases and determine the appropriate response. We appreciate your patience as we conduct that review.

One of the requests made at the Public Service Committee hearing was for concrete data on the number of public employee retirees who are actually collecting unemployment benefits.

DUA would like to be responsive to the Committee and is compiling data to respond to its requests. To be as definitive as possible, we are asking you to provide us with your

data, to cross-reference our numbers. We will, of course, provide you with the aggregate results.

Specifically, at this time, we are looking at the following categories for the calendar years 2010 and 2011:

- The number of retirees receiving public pensions who have filed a claim and received UI benefits (from a municipality) after serving as a so-called 960-hour employee and reaching the hours or earning cap.
- The number of retirees who have filed a claim and received UI benefits (from a municipality) because they retired at a mandatory retirement age (primarily public safety employees).
- The number of teachers/administrators, receiving public pensions, who have filed a claim and received UI benefits (from a municipality) after returning to work as "critical needs" teachers. Please include information that would indicate whether the teacher/administrator completed a school year or was replaced during a school year.

It would be most helpful if you could return the enclosed questionnaire by Monday, May 14, 2012 so we can compile all of this information in a timely manner. In order to facilitate the collection of this data, we have enclosed a form to fill out and return to us.

Thank you for your continued participation and cooperation in our combined efforts to address the UI issues raised by and affecting municipalities.

Sincerely,

A handwritten signature in black ink that reads "Joanne F. Goldstein". The signature is fluid and cursive, with the first name "Joanne" and last name "Goldstein" clearly legible.

Joanne F. Goldstein

cc: Massachusetts Municipal Association  
Municipal UI Task Force Members

# Attachment 9A

## Attachment 9A

## QUESTIONNAIRE

Please return form by fax (617-727-8796) or electronically  
[\(\[municipalfeedback@state.ma.us\]\(mailto:municipalfeedback@state.ma.us\)\)](mailto:municipalfeedback@state.ma.us)

Name of Municipality:

Contact Info (name of person filling out questionnaire and how to reach):

1. 960-hour employees who received UI benefits after reaching 960 hours or the earnings cap in a calendar year. Please also include each employee's name, last four digits of their Social Security Number (SSN) and effective date of their claim

2010					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

2011					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

2. Employees who retired at age 65 (or another age, if mandatory) and then received UI benefits

2010					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

2011					
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded benefits and municipality appealed, results of appeal	Any other information?

3. Teachers/school administrators who retired and received a public pension; were rehired due to critical need; and then collected UI benefits:

2010						
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded and appealed, results of appeal	How long did the critical need employee work until they were replaced?	Any other information?

2011						
Name	Last 4 SSN	Contested? (Y/N)	Denied benefits?	If awarded and appealed, results of appeal	How long did the critical need employee work until they were replaced?	Any other information?

Please return form by fax (617-727-8796) or electronically  
[\(\[municipalfeedback@state.ma.us\]\(mailto:municipalfeedback@state.ma.us\)\)](mailto:municipalfeedback@state.ma.us)

# Attachment 10

## Municipal\* UI Benefit Charges

	Reimbursable Charges	Contributory Charges	Total Charges	Average Total Unemployment Rates
2005	\$ 24,384,588.92	\$ 4,160,603.58	\$ 28,545,192.50	4.80%
2006	\$ 18,253,214.19	\$ 3,055,840.39	\$ 21,309,054.58	4.80%
2007	\$ 27,355,241.15	\$ 3,926,244.19	\$ 31,281,485.34	4.50%
2008	\$ 30,130,275.24	\$ 4,987,942.79	\$ 35,118,218.03	5.30%
2009	\$ 65,387,277.78	\$ 8,653,933.24	\$ 74,041,211.02	8.20%
2010	\$ 51,567,381.30	\$ 8,296,152.01	\$ 59,863,533.31	8.30%
2011	\$ 50,657,080.48	\$ 8,771,392.27	\$ 59,428,472.75	7.40%
2012 (through August)	\$ 26,524,387.29	\$ 5,491,764.03	\$ 32,016,151.32	6.40%

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\*Charges include those attributed to all local public employers, cities and towns, school districts, water districts and all other local public entities that hire employees and are under the UI system.

# Attachment 11

## Sample Governmental Tax Analysis

City A (population 28,000)				
	Reimbursable benefits paid	Contributions Owed If Rate Was Calculated	Contributions Owed If Paid at 1% New Gov. Employer Rate	Contributions Owed If Paid at 5.4% (Newly Rated Private Employer Rate)
2010	\$ 187,615.34	\$ 108,990.25 (.4% rate)	\$ 272,475.62	\$ 367,842.06
2011	\$ 173,745.40	\$ 120,207.62 (.4% rate)	\$ 300,519.04	\$ 405,700.70
TOTA	\$ 361,360.74	\$ 229,197.87	\$ 572,994.66	\$ 773,542.76

\*Reimbursable benefits paid in 1999: \$29,546 / 2000: \$30,308 / 2001: \$62,983 / 2002: \$183,027 / 2003: \$193,136 / 2004: \$87,779 / 2005: \$65,306

City B (population 23,000)				
	Reimbursable benefits paid	Contributions Owed If Rate Was Calculated	Contributions Owed If Paid at 1% New Gov. Employer Rate	Contributions Owed If Paid at 5.4% (Newly Rated Private Employer Rate)
2010	\$ 102,147.94	\$ 136,695.02 (.3% rate)	\$ 455,650.06	\$ 565,833.28
2011	\$ 134,491.91	\$ 92,835.07 (.2% rate)	\$ 464,175.37	\$ 626,636.74
TOTA	\$ 236,639.85	\$ 229,530.09	\$ 919,825.42	\$ 1,192,470.01

\*Reimbursable benefits paid in 1999: \$9,666 / 2000: \$12,770 / 2001: 10,414 / 2002: \$34,038 / 2003: \$66,367 / 2004: \$131,693 / 2005: \$47,608

City C (population 11,500)				
	Reimbursable benefits paid	Contributions Owed If Rate Was Calculated	Contributions Owed If Paid at 1% New Gov. Employer Rate	Contributions Owed If Paid at 5.4% (Newly Rated Private Employer Rate)
2010	\$ 58,393.80	\$ 72,310.36 (.3% rate)	\$ 241,034.53	\$ 325,396.48
2011	\$ 141,585.89	\$ 50,379.97 (.2% rate)	\$ 251,899.87	\$ 340,064.81
TOTA	\$ 199,979.69	\$ 122,690.33	\$ 492,934.41	\$ 665,461.29

\*Reimbursable benefits paid in 1999: \$21,109 / 2000: \$34,534 / 2001: \$15,547 / 2002: \$35,642 / 2003: \$68,848 / 2004: 29,292 / 2005: \$43,582

# Attachment 12

## Pension Deduction Examples

1. Police officer retires at 65, with an annual salary of \$65,000. She retires after 30 years and receives 80% of her salary in pension. She returns to work part-time (20 hours per week) in a desk job at the station at \$25 per hour. Within her 44th week, she reaches her earnings cap and must stop working. She files for UI.

- Weekly Benefit Amount (WBA) = \$437
- Weekly Pension Amount = \$1000
- Pension Deduction = \$650 (1000 X 65%)
- **Benefit Payment = \$0 (\$437 - \$650 = -\$213)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

2. A firefighter is forced to retire at 65, with an annual salary of \$71,000. He receives 76% of his salary in pension. He files for UI.

- Weekly Benefit Amount (WBA) = \$674
- Weekly Pension Amount = \$1037.69
- Pension Deduction = \$674.49 (\$1036.92 X 65%)
- **Benefit Payment = \$0 (\$674 - \$674 = \$0)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is the same as the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

3. Teacher's Aide retires. At the time of his retirement, he is making \$35,000. He retires after 30 years and receives 80% of his salary in pension. The school district asks him to come back to work on a part-time basis (30 hours per week). He will be brought back at \$15 per hour. After 32 weeks, the Aide reaches the 960 hour cap.

- Weekly Benefit Amount (WBA) = \$280
- Weekly Pension Amount = \$538.46 (average amount in state)
- Pension Deduction = \$350 (538.46 X 65%)
- **Benefit Payment = \$0 (\$294 - \$350 = -\$56)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

4. An elevator constructor retires after working for 40 years at Company X. His salary was \$70,000 a year, and he will receive 80% of that amount in pension. Company X asks the constructor to come back to assist with proposal work for 20 hours a week at \$30 an hour. After 6 months, Company X is forced to lay off the employee due to a budget shortfall.

- Weekly Benefit Amount (WBA) = \$673
- Weekly Pension Amount = \$1076.92
- Pension Deduction = \$700 ( $1076.92 \times 65\%$ )
- **Benefit Payment = \$0 (\$673-\$700 = -\$27)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

5. An Administrative Assistant worked her last 2 years for City B. Her previous 25 years were with City A. When she retires, her salary is \$25,000. City B asks her back for 20 hours a week at \$10 per hour. She reaches the earnings cap after 42 weeks.

- Weekly Benefit Amount (WBA) = \$170
- Weekly Pension Amount = \$384.62
- Pension Deduction = \$0
- **Benefit Payment = \$170**

In this scenario, City B did not contribute 75% or greater of the pension amount, therefore there is no deduction.

6. A teacher retires, but he is asked to return to the same school district in a critical needs capacity as the school is facing a teacher shortage. He will be paid a salary of \$60,000 per year (the same salary that he received before retiring). After 1 year his assignment is over, and he files for UI benefits.

- Weekly Benefit Amount (WBA) = \$576
- Weekly Pension Amount = \$923.08
- Pension Deduction = \$600 ( $923.08 \times 65\%$ )
- **Benefit Payment = \$0 (\$576-\$600 = -\$24)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

7. A CFO retires from Company Y at a salary of \$150,000 per year. She receives 50% of her salary in pension. Company Y asks the employee to come back as an Advisor, full time at a rate of \$100 per hour. This work ends after 18 months, and the employee files for unemployment.

- Weekly Benefit Amount (WBA) = \$674
- Weekly Pension Amount = \$1442.31
- Pension Deduction = \$937.50 ( $1442.31 \times 65\%$ )
- **Benefit Payment = \$0 (\$674 - \$937.50 = -\$263.50)**

In this scenario, the claimant would not receive any UI benefits, because the amount of the deduction is greater than the claimant's WBA. Because there are no benefits paid, the employer would not be charged.

# Attachment 13



THE 187<sup>TH</sup> GENERAL COURT OF

THE COMMONWEALTH OF MASSACHUSETTS

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<b>PART I</b>	<b>ADMINISTRATION OF THE GOVERNMENT</b> (Chapters 1 through 182)	<a href="#">PREV</a> <a href="#">NEXT</a>
<b>TITLE XXI</b>	<b>LABOR AND INDUSTRIES</b>	<a href="#">PREV</a> <a href="#">NEXT</a>
<b>CHAPTER 151A</b>	<b>UNEMPLOYMENT INSURANCE</b>	<a href="#">PREV</a> <a href="#">NEXT</a>
<b>Section 28A</b>	<b>Employees of commonwealth, political subdivisions, or religious, charitable, educational, or other tax exempt organizations</b>	<a href="#">PREV</a> <a href="#">NEXT</a>

Section 28A. Benefits based on service in employment as defined in subsections (a) and (d) of section four A shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter, except that:

(a) with respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid on the basis of such services for any week commencing during the period between two successive academic years or terms, or when an agreement provides instead for a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) with respect to services performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week commencing during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms; provided that, if such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely because of a finding that such individual had reasonable assurance of performing services in the second of such academic years or terms;

(c) with respect to services described in subsections (a) and (b), benefits shall not be paid to any individual on the basis of such services for any week commencing during an established

and customary vacation period or holiday recess if such individual performs such services in

the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess;

(d) with respect to any services described in subsections (a) and (b) benefits shall not be paid as specified in subsections (a), (b), and (c) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for the purpose of this clause the term "educational service agency" means a governmental agency or governmental entity, including an educational collaborative board established by section four E of chapter forty, which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

# Attachment 14

An Act relative to municipal unemployment insurance.

*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. Section 29 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (d)(6) the following new subsection (d)(7):-

(7) Notwithstanding any of the foregoing provisions of this subsection, the amount of benefits otherwise payable to an individual for any week that begins in a period with respect to which such individual is receiving governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment from a defined benefit plan that is based on the previous work of such individual for the separating employer or for a base period employer shall be reduced by an amount equal to 65% of the amount of such payment that is reasonably attributable to such week; provided, however, that such reduction shall apply only when such separating or base period employer employed the individual for at least 75% of the individual's total length of service on which the defined benefit plan is based; and provided, further that such reduction shall apply only if, and to the extent, then consistent with section 3304(a)(15) of the Internal Revenue Code of 1954. Payments received under the Social Security Act shall not be subject to this paragraph.

SECTION 2. Section 28A of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (d) the following new subsection (e):-

(e) with respect to any services described in subsections (a) and (b) that are provided to or on behalf of an educational institution, benefits shall not be paid to any individual under the same circumstances as described in subsections (a) through (c).

SECTION 3. Section 6A of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is amended by inserting after subsection (6) the following new subsection (7):-

(7) an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000.

SECTION 4. Section 1 of chapter 62D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, after line 55, the following definition:-

“Federal tax refund payment”, any overpayment of Federal taxes to be refunded to the person making the overpayment after the Internal Revenue Service makes the appropriate credits as provided in 26 U.S.C. § 6402(a) and 26 CFR § 6402-3(a)(6)(i) for any liabilities for any Federal tax on the part of the person who made the overpayment.”

SECTION 5. Section 1 of chapter 151A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, between lines 313 and 314, the words “[There is no subsection (v).]”, and inserting in place thereof, the following subsection:-

(v) “Unemployment compensation debt”, an amount owed to the Department as a result of (1) an erroneous payment of benefits as described in section 69 of this chapter, also referred to as an overpayment; (2) an uncollected contribution to the Unemployment Compensation Fund, for which the Director has determined an individual to be liable, along with any penalties and interest on such debt as determined under section 15 of this chapter; and (3) fees authorized under the Treasury Offset Program described in 26 U.S.C. § 6402(f)(5)(B), and 31 CFR § 285.8(h).

SECTION 6. Chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting after Section 14P the following section:-

Section 14Q. Treasury Offset Program. The Director may enter into an agreement with the Secretary of the Department of Treasury, under the provisions of 26 U.S.C. § 6402(f) and 31 CFR § 285.8, to transmit valid, unpaid, and overdue unemployment compensation debts to the Financial Management Service, a bureau of the U.S. Department of the Treasury, for collection by offset of Federal tax refund payments through the Treasury Offset Program. If the Director chooses to participate in the Treasury Offset Program to recover unemployment compensation debt, the Director shall adhere to all rules, policies, and guidance as required by the U.S. Department of the Treasury and the U.S. Department of Labor in implementing and administering the program. The Director may promulgate such regulations as needed to implement this section.

SECTION 7. Section 15 of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting, at the end, the following new subsection (f):-

(f) If an assessment, or any administrative decision upon review thereof has become final and the contributions, payments in lieu of contributions, interest, or penalties thereby assessed remain unpaid, the Director may refer the unpaid and overdue amount to the Secretary of the Department of Treasury for collection under the provisions of 26 U.S.C. § 6402(f), the Treasury Offset Program, provided that all procedures for notice and opportunity to present evidence as required by 31 CFR § 285.8 have been followed.

SECTION 8. Section 53A of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by striking “and” at the end of subsection (1), line 4, and inserting in place thereof the following subsection:-

(2) withdrawn for payment of fees authorized under the Treasury Offset Program described in section 14Q of this chapter and paid to the Financial Management Service, a bureau of the U.S. Department of the Treasury, and

SECTION 9. Said section 53A of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby further amended by renumbering the former subsection (2), beginning with the word “requisitioned” as:- (3)

SECTION 10. Section 69B of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby amended by inserting, before the first sentence in line 1, the following subsection heading:- (a)

SECTION 11. Said section 69B of chapter 151A of the General Laws, as so appearing in the 2010 Official Edition, is hereby further amended by inserting, at the end, the following subsection:-

(b) In addition to any other remedy provided by this chapter, the Director may request that the amount payable to the department by an individual resulting from an overpayment of unemployment benefits which has become final as specified in 430 CMR 6.12 be set off against any Federal tax refund payment owed such individual by the U.S. Department of Treasury, in accordance with the requirements of the Treasury Offset Program described in section 14Q of this chapter.

## Patrick Administration Commitment to Communities

Since taking office in 2007, the Patrick Administration has made an unprecedented commitment to building strong partnerships with cities and towns to Massachusetts' 351 cities and towns, including Providing the tools and resources to support municipalities in managing through the fiscal crisis and beyond, with the overarching goal of preserving local services for residents and taxpayers, and stretching every taxpayer dollar as far as possible.

Working together, the Patrick Administration and municipalities have:

- Created a process for cities and towns to continue to provide quality health care for workers while ensuring meaningful savings for communities, which has saved 204 communities and school districts more than \$200 million to date.
- Made the pension system more sustainable and creditable for the long term, which will generate an estimated \$2 billion in pension funding savings over 30 years for cities and towns, moved under-performing local pension systems to the state system, and gave municipalities the authority to extend their funding schedules, worth up to \$200 million in budget relief in the first year alone.
- Made investments in local roads, rails, bridges, broadband expansion, public and affordable housing in cities and towns across Massachusetts.
- Eliminated the tax exemption on telephone poles and wires, generating potential for \$26 million in new property tax revenues annually for cities and towns across Massachusetts.
- Gave municipalities the option to raise local meals and hotel taxes, with potential to generate over \$200 million in new local revenue statewide each year.
- Continually supported our public schools through Chapter 70 funding, at \$4.171 billion in FY13, the highest level of K-12 education funding in the history of the Commonwealth.

## **Open Dialogue with Cities and Towns**

Since 2007, the Governor and Lieutenant Governor have visited local leaders across the state from North Adams to Cape Cod.

For many communities, these visits were the first by any Governor or Lieutenant Governor in recent memory. The meetings have proven successful in engaging local officials on a range of important issues that affect cities and towns and strengthening the partnership between communities and state government. These conversations in communities and regions across the state have led to significant policy initiatives for communities including the Municipal Partnership Act I and II legislation and regionalization incentive programs.

## **Landmark Health Care Reform – Municipal Health Care**

In keeping with Governor Patrick's commitment to provide cities and towns with cost-saving tools to help them deliver critical local services, the landmark municipal health care reform law the Governor proposed in his FY12 budget and supported by the Legislature has delivered significant savings to municipalities without sacrificing a meaningful role for organized labor in the process.

Municipal health insurance reform is the most powerful tool to benefit cities and towns in decades. The results of first year of reform demonstrate that the law is a major success in every corner of Massachusetts, saving taxpayers millions of dollars, preserving essential local services, and protecting the jobs of teachers, police officers, firefighters and key employees across the state.

More than 204 communities and school districts across the Commonwealth have collectively saved more than \$200 million in health insurance premiums to date as a result of the landmark municipal health care reform law enacted in July 2011, far exceeding all anticipated savings estimates.

The FY12 budget signed by the Governor also reduced municipal health benefit costs by requiring that local governments transfer Medicare-eligible retired employees into Medicare as their primary source of health insurance, saving an estimated \$100 million if municipalities move both eligible retired teachers and municipal employees into Medicare. (The state already required this of their employees.) Previously, municipalities had the option of moving eligible retirees to Medicare, but a significant fraction of cities and towns had not done so, leaving retirees in the community's health plan, at considerable and unnecessary expense to local taxpayers.

## **Pension Reform**

Since taking office in 2007, Governor Patrick has proposed and signed into law three separate pension reform bills to help curb abuses, make the system more fair and equitable for taxpayers and all state workers, and more sustainable and creditable and restore the public's trust in state and municipal retirement systems. These pension reform measures are another way in which the Administration is working to help cities and towns achieve real, meaningful savings. They will generate over \$5 billion in pension funding savings over 30 years, including an estimated \$2 billion for cities and towns.

## **Innovation for our Communities**

The Patrick Administration is committed to helping municipalities find new and more efficient ways to deliver local services, much as we are doing at the state level to change the way government does business.

In 2010, the 19-member Regionalization Advisory Commission, chaired by Lieutenant Governor Tim Murray, recommended the development of several tools to assist our municipal partners in meeting this challenge.

Out of this Commission, the Patrick Administration proposed and the Legislature supported a new annual Community Innovation Challenge (CIC) Grant program. The CIC Grant Program invests in and incentivizes innovation among local governments through community collaborations, regionalization, and other reforms and efficiencies to maintain critical local services and stretch every taxpayer dollar as far as possible.

Since its launch in November 2011 the CIC program has provided over \$6 million in grants to nearly 200 communities for initiatives to improve municipal performance management, modernize technology, implement energy efficiencies, consolidate regional schools and enhance regional service delivery.

### **Citizens Connect Smartphone Application**

Funded through the CIC Grant Program and led by the City of Boston, this project adapts the Citizens Connect Smart App used by Boston into a tool for municipalities of any size and implemented this tool in more than 50 municipalities of all sizes across the state at no initial cost as part of a pilot program. Citizens Connect is the City of Boston's award-winning effort to empower residents to be the City's "eyes and ears." Residents can alert the City of Boston to neighborhood issues such as potholes, damaged signs, and graffiti using a smart phone app that identifies the location of the issue and alerts the City of the complaint.

The Administration is committed to providing communities with tools and resources to improve the delivery of services our citizens want, and this project demonstrated how we are creating innovative ways to empower the people of Massachusetts to build stronger and safer communities.

### **Investing in Education**

The Patrick Administration has continually invested in education in order to create opportunity across the Commonwealth and to keep the Massachusetts economy growing.

Since taking office, Governor Patrick has increased the K-12 Chapter 70 aid to cities and towns by \$445 million, the highest levels in the history of the Commonwealth. In FY14, Governor Patrick proposed a \$225 million increase in Chapter 70 aid.

Maintaining a strong investment in education is a crucial component of the Patrick-Murray Administration's efforts to close the achievement gap and to make Massachusetts a national leader in educational achievement.

In May of 2013, the Patrick-Administration announced the 25 recipients of \$1.1 million in Vocational School Equipment grants to benefit Massachusetts vocational schools. This program provides grant funding to qualifying institutions to purchase necessary equipment to prepare their students for the modern workforce. The 25 recipients of FY 2013 Vocational School Equipment grants include 184 cities and towns across Massachusetts. The recipients reflect geographic diversity across the Commonwealth, including several Gateway Cities.

Through this grant program and in partnership with many private sector matches, we will help improve the tools and resources that are valuable to the students' learning experience and preparedness in gaining 21st century job skills.

### **New Local Revenues**

Since taking office, the Patrick Administration has proposed reasonable, responsible strategies for helping cities and towns address fiscal challenges on the local level.

Through the FY10 budget process, Governor Patrick proposed and signed into law a provision eliminating the exemption on telephone poles and wires, generating \$26 million in new local property tax revenue annually for communities.

In 2010, Governor Patrick signed into law a local option meals tax of 0.75. 172 cities and towns have adopted the local option meals tax, with revenues for those cities and towns totaling more than \$230 million to date.

Also, in 2010, the Governor proposed and signed into law an increased local option room occupancy tax of additional 2%. To date, 101 cities and towns have adopted the increase. Since 2008, over \$660 million in total local room tax revenue has been generated for cities and towns.

### **Investments in Infrastructure and Economic Development**

The Patrick Administration has made unprecedented investments in Chapter 90 for cities and towns. Since taking office in 2007, our Administration has invested a total of \$255 million in annual increases to Chapter 90.

In addition, since taking office in 2007, the Patrick Administration has increased the level of State capital investments in the Commonwealth's infrastructure by about 200% over the Romney Administration in a fiscally responsible, targeted and transparent manner.

Under this Administration, the Commonwealth's capital funding level for community investments has increased by \$69 million (35%) to \$265 million, providing historic levels of investment in infrastructure projects including municipal grant programs, municipal roads and bridges, seaports, municipal libraries, water infrastructure, public housing, economic development, and more.

Through the Commonwealth's commitment of \$31.2 million in capital funding, Massachusetts has leveraged over \$83 million in federal stimulus funding for broadband infrastructure and improvement projects to connect homes, businesses and community anchor institutions in more than 120 towns in the western, north central, and Cape Cod regions.

Each year, the Patrick Administration works closely with cities and towns to spur economic development. Whether through targeted tax credits through the Economic Development Incentive program, Gateway Plus Action Grants for planning and development assistance, or MORE grants, Growth District funds, Public Work Economic Development (PWED), and Community Development Action Grants, the Administration recognizes the need to invest in cities and towns, knowing that our communities remain the economic engines for the Commonwealth.

In particular, the Patrick Administration has supported the 24 Gateway communities, plus an additional two more that came on line in early 2013, with more than \$1 billion in funding for education, parks, housing and other development initiatives. Our Administration has made it a priority to provide

critical funding to these cities and towns through grant programs, like the Executive Office for Housing and Economic Development's MassWorks and Economic Development Incentive Programs.

## **Municipal Finance**

Proposed and signed into law tools allowing enhanced flexibility and improved processes in municipal finance, including increased borrowing flexibility that allows communities to finance capital projects in a more rational, cost-effective way, extending municipal lease term limits, eliminating fees for State House Notes borrowing program, streamlining process by which assessors can grant abatements, and providing procedures for municipalities to enforce fines imposed for violations of housing, sanitary, or municipal snow and ice removal requirements

## **Municipal Performance Management**

The Patrick Administration has implemented a program to enhance performance management, accountability and transparency for local governments, just as the Administration implemented performance management for the state. This initiative is overseen by municipal leaders and administration officials with the support of the Collins Center for Public Management at University of Massachusetts, Boston.

## **One-Stop Grant Index for Municipalities**

The Administration now offers a new one-stop listing of state grant programs for cities and towns. Municipal officials seeking opportunities for state resources to support local initiatives will be able to find these resources without needing to search state agency by state agency.

## **Municipal Procurement Reform and Purchasing Assistance**

The Operational Services Division (OSD) now assists municipalities with large procurements, eliminating the need for individual bidding processes, and providing long-term, competitive contracts, thus saving taxpayer dollars while obtaining the best goods and services possible.

Enacted legislation that increased efficiency in municipal procurement processes through increased thresholds for municipal procurements and construction payment bonds, allowing use of reverse auctions to provide a method of acquiring best pricing from qualified bidders while providing environmental and financial benefits, and allowing for greater flexibility for municipalities and bidders. Provided for use of reverse auctions to provide a method of acquiring best pricing from qualified bidders while providing environmental and financial benefits, and allowing for greater flexibility for municipalities and bidders.

Purchasing assistance for municipalities through statewide contracts which specifically assist municipalities by achieving aggregated savings on large procurements, eliminating the need for individual bidding processes, and providing long-term, competitive contracts never before managed on a statewide level. Identifying common needs and aggregating purchasing power at a statewide level is becoming increasingly attractive to our cities and towns based on the need to save taxpayer dollars while obtaining the best goods and services possible.

## **Regionalization**

Proposed and signed into law tools to encourage and facilitate regionalization of municipal services including elimination of collective bargaining requirement for joining a regional entity, expanded collective purchasing opportunities, mutual aid agreements, shared superintendents, and joint

assessing services. Created the Regionalization Advisory Commission, which examined opportunities for communities to achieve cost savings, efficiencies and improve services.

### **Statewide Mutual Aid**

Cities, towns and other governmental units in Massachusetts can now join a statewide mutual aid agreement to provide police, fire, emergency medical, and other public safety assistance to other municipalities.

### **State Support for Municipal IT Challenges**

The Administration now partners with local governments to address local government information technology (IT) challenges, by leveraging existing state resources needed by communities, as well as sharing expertise. Activities include:

- Developing a series of IT models for the benefit of local governments, based upon successful IT-focused CIC Grant projects;
- Promoting the Springfield Data Center (SDC) to municipalities;
- Establishing a State-Local IT Committee to develop working relationships and identify new opportunities; and
- Developing and marketing an IT “toolkit” of services that the state can provide to municipalities.
- The state’s MassGIS mapping and planning service now provide online tools for cities and towns, eliminating the burden on cities and towns to purchase and manage their own local systems.

## **PENSION REFORM**

Since taking office in 2007, Governor Patrick has proposed and signed into law three separate pension reform bills to help curb abuses, change the system to make it more fair and equitable for taxpayers and all state workers, make the pension system more sustainable and creditable over time and restore the public's trust in state and municipal retirement systems.

### **Pension Reform I – Signed June 2009**

- Closes the One Day/One Year provision.
- Eliminates “King for a Day” provision.
- Eliminates pension credit for unpaid positions.
- Limits regular compensation to exclude benefits like housing, lodging, and travel.
- Reforms dual service pensions to prevent the combination of two positions.
- Prohibits consultants from collecting pensions and receiving full-time salaries.
- Stops elected officials from claiming “termination allowances”.
- Changes vesting requirements for elected officials from 6 to 10 years.

### **Pension Reform II – Signed June 2010**

- Imposes a cap on earnings for the purpose of calculating pension benefits.
- Requires that if a retiree worked for two different employers, both employers would share the costs for the retiree's health insurance.
- Requires Supreme Court Justices to pay into the pension system.

### **Pension Reform III – Signed November 2011**

- Increases the retirement age for virtually all state workers and eliminates early retirement subsidies.
- Introduces anti-spiking rule to limit annual increases in pensionable earnings.
- Eliminates the ability to receive a pension and compensations for the same elected position unless the individual does not hold the elected off for at least one year after retiring.
- Pro-rates pension benefits for new employees based on employment history
- Increases the period for averaging earnings for purposes of calculating a member's retirement allowance from three to five years.

## **SAVINGS**

- These reform measures will generate over \$5 billion in pension funding savings over 30 years, including an estimated \$2 billion for cities and towns.

RECIPIENT NAME:Massachusetts Technology Park

B-269

AWARD NUMBER: NT10BIX5570070

DATE: 05/08/2013

OMB CONTROL NUMBER: 0660-0037

EXPIRATION DATE: 12/31/2013

## QUARTERLY PERFORMANCE PROGRESS REPORT FOR BROADBAND INFRASTRUCTURE PROJECTS

### General Information

<b>1. Federal Agency and Organizational Element to Which Report is Submitted</b>  Department of Commerce, National Telecommunications and Information Administration	<b>2. Award Identification Number</b>  NT10BIX5570070	<b>3. DUNS Number</b>  147368641
<b>4. Recipient Organization</b>  Massachusetts Technology Park 75 North Drive , Westborough, MA 01581-3335		
<b>5. Current Reporting Period End Date (MM/DD/YYYY)</b>  03-31-2013	<b>6. Is this the last Report of the Award Period?</b>  <input type="radio"/> Yes <input checked="" type="radio"/> No	
<b>7. Certification:</b> I certify to the best of my knowledge and belief that this report is correct and complete for performance of activities for the purposes set forth in the award documents.		
<b>7a. Typed or Printed Name and Title of Certifying Official</b>	<b>7c. Telephone (area code, number and extension)</b>	
	<b>7d. Email Address</b>	
<b>7b. Signature of Certifying Official</b>	<b>7e. Date Report Submitted (MM/DD/YYYY):</b>	

**Project Indicators (This Quarter)**
**1. Please describe significant project accomplishments completed during this quarter (600 words or less).**

MassBroadband 123 accomplishments for the quarter ending March 31st, 2013:

**Agreements and Administration**

- Executed overlash agreement with Russell Municipal Cable TV & Internet
- Executed pole attachment agreement with Time Warner Cable Northeast, LLC
- Executed Indefeasible Rights of Use agreement with Chicopee Electric Light Department
- Executed Indefeasible Rights of Use agreement with Holyoke Gas & Electric Department
- Executed permitting agreement with Pan Am Railways
- Executed permitting agreement with New England Central Railroad
- Submitted 4th formal Award Action Request for modification of construction plans pending NTIA approval of route adjustments

**Make Ready and Licensing**

- Received 3,002 Verizon pole licenses for a total of 31,603 (96% complete)
- Received 3,218 electric utility pole licenses for a total of 29,428 (97% complete)
- Released 155 fully-licensed fiber miles to construction for aerial installation for a total of 895 miles for the project (96% complete)
- Received licenses for 14 miles conduit for a total of 39 miles to date (93% complete)

**Network Design and Construction**

- Installed 305 miles of messenger strand for a total of 775 miles for the project (83% complete)
- Installed 388 miles of aerial fiber optic cable for a total of 676 miles for the project (72% complete)
- Installed 8,131 feet of conduit for a total of 15,312 feet for the project (32% complete)
- Completed designs for 8 Community Anchor Institutions for a total of 790 locations (97% complete)
- Completed 44 Community Anchor Institution site installations for a total of 582 locations for the project (72% complete)
- Completed 81 Community Anchor Institution fiber terminations for a total of 260 locations for the project (32% of locations complete)
- Completed 6 Point of Interconnection and collocation site equipment installations for a total of 17 to date (63% complete)

**Network Testing and Turnover**

- Completed turnover of first network segment to Network Operator, connecting 3 Points of Interconnection and 2 regeneration sites

**Sustainability**

- Executed 4 Letters of Intent with an Internet Service Providers for a total of 31, as well as signing 5 connecting agreements to total 13 connecting agreements for the project

**Jobs Created or Retained**

- The total number of jobs created or retained during the quarter was 103.91

**2. Please provide the percent complete for the following key milestones in your project. Write "0" in the Percent Complete column and "N/A" in the Narrative column if your project does not include this activity. If you provided additional milestones in your baseline plan, please insert them at the bottom of the table. Unless otherwise indicated in the instructions, figures should be reported cumulatively from award inception to the end of the most recent reporting quarter. Please provide a narrative description if the percent complete is different from the target provided in your baseline plan (300 words or less).**

	Milestone	Percent Complete	Narrative (describe reasons for any variance from baseline plan or subsequent written updates provided to your program officer)
2a.	Overall Project	100	Throughout this report, we are calculating Percentage Complete with reference to the approved NTIA budget. Costs are now projected to be higher than that approved budget, and MTC has secured additional non-federal funds from the Commonwealth of Massachusetts to cover those amounts that exceed the approved NTIA budget. In comparison to the new project budget, 80% of the budget has been spent.
2b.	Environmental Assessment	100	Complete and at baseline projection. Compliance requirements with environmental mitigation included in Design-Build RFP and the Owner's Project Manager will oversee work
2c.	Network Design	100	Ahead on budgeted expenditures by 5%, due to front-loaded focus of Owner's Project Manager, Design Builder and other consultants as network design progressed and due to aforementioned higher costs
2d.	Rights of Way	100	On par with baseline budget as pole survey work and make ready application costs are essentially complete

	Milestone	Percent Complete	Narrative (describe reasons for any variance from baseline plan or subsequent written updates provided to your program officer)
2e.	Construction Permits and Other Approvals	100	On par with baseline percentage; high costs offset by additional matching funds from the Commonwealth of Massachusetts
2f.	Site Preparation	58	Behind on budgeted expenditures by 42% due to costs being allocated in other categories. Costs will be less than baseline projection
2g.	Equipment Procurement	100	On par with baseline percentage; high costs offset by additional matching funds from the Commonwealth of Massachusetts
2h.	Network Build (all components - owned, leased, IRU, etc)	72	Behind on budgeted expenditures by 24%. Design Build work has caught up with delays to close gap of expenditures, while some work continues to be delayed while MTC awaits NTIA approval of route and installation type changes. Additionally, some costs included in the baseline report under this category are being captured under Network Design
2i.	Equipment Deployment	100	On par with baseline percentage; high costs offset by additional matching funds from the Commonwealth of Massachusetts
2j.	Network Testing	18	Behind by 49% due to the aforementioned construction delays that have subsequently delayed the anticipated testing schedule
2k.	Other (please specify):	100	Ahead on budgeted expenditures by 2% due to costs including: -Federal Compliance Staff -BTOP Non-Construction Staffing -Application and Post Application Submission Costs included in approved budget -Staff, Consulting, and legal costs Costs will be offset by additional matching funds from the Commonwealth of Massachusetts

**3. To the extent not covered above, please describe any challenges or issues faced during this past quarter in achieving planned progress against the project milestones listed above. In particular, please identify any areas or issues where technical assistance from the BTOP program may be useful (600 words or less).**

MTC had anticipated being able to re-engage underground construction activities in mid-March, based on town moratoriums on road construction being lifted and a delay in asphalt plant production. Due to late winter weather it is now anticipated that construction will not fully re-engage until the end of April. It will be critical to have a productive crew count during May and the beginning of June to meet schedule needs.

MTC submitted its fourth Award Action Request regarding route adjustments in February 2013. As of the end of March it had not yet been approved and NTIA has anticipated a 4-6 week lead time on that approval. The work affected will become critical path starting in early April and cause a day-for-day delay in project completion. MTC will continue to work with NTIA in any way possible to facilitate the expedited review and approval of the Award Action Request. MTC will also be submitting, under the guidance of NTIA, a schedule extension request due to the aforementioned delays across the project

**4. Please report the following information regarding network build progress. Write "0" in the Total column and "N/A" in the Narrative column if your project does not include this activity. Unless otherwise indicated in the instructions, figures should be reported cumulatively from award inception to the end of the most recent reporting quarter. Please provide a narrative description if the total is different from the target provided in your baseline plan (600 words or less).**

Indicator	Total	Narrative (describe your reasons for any variance from the baseline plan or any other relevant information)
New network miles deployed	775	Behind on baseline projection by 175 miles due to slower-than-expected make ready completion and temporary construction hold instituted by NTIA. MTC has worked with its construction contractor to compress construction schedule and believes it will make up for the delays without them becoming critical path to completion
New network miles leased	193	Behind on baseline projection by 114 miles. Lease miles reduced from 307 to 192.5 per approved AAR due to switch to all dark fiber IRUs. 39 additional miles via IRU expected to become leased mileage in a future quarter

Indicator	Total	Narrative (describe your reasons for any variance from the baseline plan or any other relevant information)
Existing network miles upgraded	57	Ahead on mileage projection in baseline by 2 miles. The 57 miles along I91 were officially active as in-kind contribution on 6/29/12. The extra 2 miles are from on added section from I91 to the internet point of presence in Springfield
Existing network miles leased	0	N/A
Number of miles of new fiber (aerial or underground)	968	Behind on baseline projection by 289 miles as described in the preceding new network miles deployed and leased. The 289 miles do not include 55 additional miles from the baseline categorized as existing network miles upgraded
Number of new wireless links	0	N/A
Number of new towers	0	N/A
Number of new and/or upgraded interconnection points	2	Behind on baseline projection by 21. MTC has completed the new connection at internet Point of Presence at 1 Federal St. in Springfield, as well as a second internet Point of Presence in Boston. MTC has 17 Points of Interconnections with equipment installed, and aims to have connections achieved during the next quarter as testing is completed

For questions 5 and 6 please include information relating to agreements that you are negotiating or have entered into, or that your sub recipient, contractor or subcontractor is negotiating or entered into.

5a. If applicable, please provide the following information with regard to agreements with broadband wholesalers and/or last mile providers as a result of your project.

Indicators	
Number of signed agreements with broadband wholesalers or last mile providers	13
Number of agreements currently being negotiated with broadband wholesalers or last mile providers	18
Average term of signed agreements (in quarters)	70

5b. Please list the names of the wholesale and last mile providers with whom you have signed agreements (100 words or less). Providers:

-Axia Networks, USA  
-Massachusetts Information Technology Division (ITD)  
-Crocker Communications  
-FTG Technologies  
-Center for Education Leadership (CELT)  
-Access Plus  
-Community WISP, Inc.  
-Streamline Networks  
-Cornerstone Communications  
-Holyoke Gas & Electric  
-MECnet  
-Ayacht Technology Solutions  
-Warwick Broadband Service

5c. What wholesale services are being provided by this project? Please describe below. As an attachment to this report, please provide pricing plans (in \$ per month) associated with each wholesale service provided by your product (100 words or less). Wholesale services description:

Wholesale services currently being provided are:

-Ethernet-100 Service - Ethernet-based bandwidth services that provide up to 100% of the line rate speed of the physical connection. It services a single User Network Interface (UNI) and a single Virtual Private Network membership (VPN)  
-NNI (Network-to-Network Interface Service) - one port in Springfield and one port in Cambridge. Allows customers to access "off-net" services such as determined by the customer network.  
-Gigabit Ethernet Boston Transport Service - Provides connectivity from either network Regional Gateway (Springfield Internet Point of Presence) to the Boston Global Gateways (Cambridge and Boston Points of Interconnection).

5d. If you have designated a third party to operate all or a portion of your network, please provide the name and contact information for this third party, indicate if this entity is a sub recipient, contractor, and/or subcontractor, and describe with specificity the portion of your network this third party operates (600 words or less).

MTC has hired Axia NGNetworks USA as a contractor to run the entirety of the MassBroadband 123 network. They will also assist with equipment specifications and network and fiber design during the construction period. Tim Scott, Vice President, may be contacted at

Tim.Scott@axia.com

6. Please provide the data according to the type of subscriber. Write "0" in the Total column and "N/A" in the Narrative column if your project does not pass or serve a particular subscriber type. Unless otherwise indicated in the instructions, figures should be reported cumulatively from award inception to the end of the most recent reporting quarter. Please provide a narrative description if the total is different from the target provided in your baseline plan (300 words or less).

Subscriber Type	Access Type	Total	Narrative (describe your reasons for any variance from the baseline plan or any other relevant information)
Broadband Wholesalers or Last Mile Providers	Providers with signed agreements receiving new access	13	Ahead on baseline by 11; interest of service providers has exceeded expectations held at the time of grant submission. While 13 wholesaler or last mile agreements have been executed; many additional letters of intent have been signed (18) and will lead to connecting agreements. Agreements originally categorized as "receiving improved access" are being categorized as "receiving new access" based on updated interpretation of the baseline category.
	Providers with signed agreements receiving improved access	0	Behind on baseline by 7. MTC interpreted the baseline differently and is now categorizing all signed agreements as "receiving new access" and does not expect to categorize any agreements as "receiving improved access".
	Providers with signed agreements receiving access to dark fiber	0	Per NTIA guidance, MTC now lists service providers who receive access to both lit and dark services on the primary method they will use to obtain services. MTC now anticipates that all service providers will primarily receive lit services, causing the value to remain at zero.
	Please identify the speed tiers that are available and the number of subscribers for each	1	5Mbps 10Mbps 20Mbps 100Mbps 1Gbps 5Gbps - 0 subscribers 10Gbps - 1 Subscriber
Community Anchor Institutions (including Government institutions)	Total subscribers served	1	In preparing the baseline, MTC considered CAI connections as occurring upon installation of systems, but is now reporting based on when Community Anchor Institutions are capable of connecting to its serving POI, resulting in a delay in the metrics. 796 installations have been performed vs. the projected 911 sites.
	Subscribers receiving new access	1	In preparing the baseline, MTC considered CAI connections as occurring upon installation of systems, but is now reporting based on when Community Anchor Institutions are capable of connecting to its serving POI, resulting in a delay in the metrics. MTC anticipates 1184 CAIs receiving "new access".
	Subscribers receiving improved access	0	In preparing the baseline, MTC considered CAI connections as occurring upon installation of systems, but is now reporting based on when Community Anchor Institutions are capable of connecting to its serving POI, resulting in a delay in the metrics. MTC anticipates 107 CAIs receiving "improved access".
	Please identify the speed tiers that are available and the number of subscribers for each	1	5Mbps 10Mbps 20Mbps 100Mbps 1Gbps 5Gbps - 0 subscribers 10Gbps - 1 Subscriber
Residential / Households	Entities passed	0	N/A
	Total subscribers served	0	N/A
	Subscribers receiving new access	0	N/A
	Subscribers receiving improved access	0	N/A
	Please identify the speed tiers that are available and the number of subscribers for each	0	N/A
Businesses	Entities passed	0	N/A
	Total subscribers served	0	N/A
	Subscribers receiving new access	0	N/A
	Subscribers receiving improved access	0	N/A

Subscriber Type	Access Type	Total	Narrative (describe your reasons for any variance from the baseline plan or any other relevant information)
	Please identify the speed tiers that are available and the number of subscribers for each	0	N/A

**7. Please describe any special offerings you may provide (600 words or less).**  
MTC offers a 15% discount off of wholesale rates to our state partners, Information Technology Division and Executive Office of Public Safety and Security. Our state partners contributed matching funds to the MassBroadband 123 grant application and they have committed to being an anchor tenant on the new network.

**8a. Have your network management practices changed over the last quarter?** ☐ Yes ☒ No

**8b. If so, please describe the changes (300 words or less).**  
n/a

**9. Community Anchor Institutions:**  
Using the table below, please provide a list by service area of the community anchor institutions (including Government institutions) connected to your network as a result of BTOP funds. Figures should be reported for the most recent reporting quarter only (NOT cumulatively). Also indicate whether your organization is currently providing broadband service to the anchor institution. Finally, provide a short narrative description with examples of how institutions are using BTOP-funded infrastructure (300 words or less).

Institution Name	Service Area (town or county)	Type of Anchor Institution (as defined in your baseline)	Are you also the broadband service provider for this institution? (Yes / No)	Narrative description of how anchor institutions are using BTOP-funded infrastructure
Second Data Center	Springfield	Other Government Facilities	No	The CAI is using a 10Gbps circuit on BTOP funded infrastructure to establish a cost-effective link between the Commonwealth's data centers in eastern and western Massachusetts.

#### Project Indicators (Next Quarter)

**1. Please describe significant project accomplishments planned for completion during the next quarter (600 words or less).**

Administrative  
-Execute Pole Attachment and Conduit Agreement with Massachusetts Department of Conservation and Recreation, Time Warner Cable, City of Pittsfield, and PJ Keating Company  
-Obtain NTIA approval of all remaining route and installation type changes to ensure remaining work on hold may be released for installation/construction  
-Obtain NTIA approval for project time extension

Design and Engineering  
-Finalize approvals for all remaining permits and route designs

Construction  
-Continue to install network equipment at Community Anchor Institution sites. Goal is to reach 85% of installations complete  
-Continue to perform fiber terminations at Community Anchor Institution sites. Goal is to reach 50% of terminations complete  
-Continue to install network equipment at Points of Interconnection. Goal is to complete the remaining 7 points of Interconnection  
-Install messenger strand as utility pole licenses become available; estimated to reach 95% completion  
-Install fiber optic cable as messenger strand is completed; estimated to reached 90% completion  
-Install fiber optical cable in existing and new conduit as conduit becomes available

Acceptance Testing  
-Complete testing and turnover of Segment 1 of the network  
-Complete testing and turnovers of two (2) Points of Interconnection and co-location sites  
-Expected to connect 78 Community Anchor Institutions across 53 unique locations

Sustainability  
-Negotiate additional Letters of Intent with Internet Service Providers and work towards contracts to provide service. Expected to sign three (3) additional Connecting Agreements  
-Conduct Community Outreach meetings in the service area

**2. Please provide the percent complete for the following key milestones in your project. Write "0" in the Planned Percent Complete column and "N/A" in the Narrative column if your project does not include this activity. If you provided additional milestones in your baseline plan, please insert them at the bottom of the table. Unless otherwise indicated in the instructions, figures should be reported cumulatively from award inception to the end of the next reporting quarter. Please provide a narrative description if the percent complete is different from the target provided in your baseline plan (300 words or less).**

	Milestone	Planned Percent Complete	Narrative (describe reasons for any variance from baseline plan or any other relevant information)
2a.	Overall Project	100	Throughout this report, we are calculating Percent Complete with reference to the original NTIA budget. Costs are now projected to be higher than that original budget, and MTC has secured additional non-federal funds from the Commonwealth of Massachusetts to cover those amounts that exceed the original NTIA budget. Against new budget with extra funds, expected to be at 90% complete
2b.	Environmental Assessment	100	Environmental Assessment completed. No further expenditures planned. Compliance requirements with environmental mitigation included in the Design Build Request For Proposal and the Owner's Project Manager will oversee work
2c.	Network Design	100	On par with baseline percentage; costs projected to be higher than baseline budget and accounted for with additional funds from the Commonwealth of Massachusetts
2d.	Rights of Way	100	On par with baseline percentage; costs projected to be higher than baseline budget and accounted for with additional funds from the Commonwealth of Massachusetts
2e.	Construction Permits and Other Approvals	100	On par with baseline percentage; costs projected to be higher than baseline budget and accounted for with additional funds from the Commonwealth of Massachusetts
2f.	Site Preparation	79	Behind on projected expenditures by 21% based on work being categorized in other budget categories
2g.	Equipment Procurement	100	On par with baseline percentage; costs projected to be higher than baseline budget and accounted for with additional funds from the Commonwealth of Massachusetts
2h.	Network Build (all components - owned, leased, IRU, etc.)	87	Behind on projected expenditures by 13% due to (a) some projected costs accounted for under other categories, (b) schedule recovery from the delay pending NTIA approval of Award Action Requests.
2i.	Equipment Deployment	100	On par with baseline percentage; costs projected to be higher than baseline budget and accounted for with additional funds from the Commonwealth of Massachusetts
2j.	Network Testing	82	Behind on projected expenditures by 18% due to construction delays which have pushed back the anticipated progress of testing, and the subsequent payment milestones
2k.	Other (please specify):	100	On par with baseline percentage no significant expenditures planned next quarter which aligns with PPR projections and baseline. Costs include: <ul style="list-style-type: none"> <li>• Federal Compliance Staff</li> <li>• BTOP Non-Construction Staffing</li> <li>• Application and Post Application Submission Costs</li> <li>• Staff, Consulting and Legal Costs with procurements</li> </ul>

**3. Please describe any challenges or issues anticipated during the next quarter that may impact planned progress against the project milestones listed above. In particular, please identify any areas or issues where technical assistance from the BTOP program may be useful (600 words or less).**

Because of the aforementioned moratoriums on underground construction, progress during the upcoming quarter will be critical to the schedule and in making up for the delays. In addition, NTIA approval of the Award Action Request for route adjustments is important for several areas of route and CAI installation that have become critical path items. MTC will coordinate closely with NTIA regarding any schedule extensions and associated items as they arise.

### Activity Based Expenditures (Infrastructure)

Budget for Entire Project				Actuals from Project Inception through End of Current Reporting Period			Anticipated Actuals from Project Inception through End of Next Reporting Period		
Cost Classification	Total Cost (plan)	Matching Funds (plan)	Federal Funds (plan)	Total Cost	Matching Funds	Federal Funds	Total Costs	Matching Funds	Federal Funds
a. Administrative and legal expenses	\$1,871,196	\$598,342	\$1,272,854	\$2,380,725	\$818,977	\$1,561,748	\$2,511,412	\$895,220	\$1,616,192
b. Land, structures, right-of-ways, appraisals, etc.	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
c. Relocation expenses and payments	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
d. Architectural and engineering fees	\$9,317,022	\$2,979,253	\$6,337,769	\$13,001,906	\$4,669,276	\$8,332,630	\$15,496,891	\$6,124,851	\$9,372,040
e. Other architectural and engineering fees	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
f. Project inspection fees	\$2,218,560	\$709,417	\$1,509,143	\$258,854	\$105,492	\$153,362	\$489,841	\$240,249	\$249,592
g. Site work	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
h. Demolition and removal	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
i. Construction	\$51,193,858	\$19,660,308	\$31,533,549	\$47,998,725	\$21,871,378	\$26,127,347	\$53,312,596	\$24,971,425	\$28,341,171
j. Equipment	\$7,044,808	\$2,252,680	\$4,792,129	\$9,323,284	\$3,819,265	\$5,504,019	\$10,193,254	\$4,326,805	\$5,866,449
k. Miscellaneous	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
l. SUBTOTAL (add a through k)	\$71,645,444	\$26,200,000	\$45,445,444	\$72,963,494	\$31,284,388	\$41,679,106	\$82,003,994	\$36,558,550	\$45,445,444
m. Contingencies									
n. TOTALS (sum of l and m)	\$71,645,444	\$26,200,000	\$45,445,444	\$72,963,494	\$31,284,388	\$41,679,106	\$82,003,994	\$36,558,550	\$45,445,444

**2. Program Income:** Please provide the program income you listed in your application budget and actuals to date through the end of the reporting period.

**a. Application Budget Program Income: \$0**

b. Program Income to Date: \$469,677

# Regionalization

BY TIMOTHY P. MURRAY



*Lieutenant Governor Tim Murray holds a proclamation declaring Massachusetts Regionalization Month during the first "Regionalization Tool Kit" conference in September 2009.*

COURTESY PHOTO

# Can **Preserve** Essential Services and **Streamline** Service Delivery

**As a Worcester native and former mayor** of the city, I understand what hometown pride is all about. In Massachusetts, we cherish our individual communities, and rightfully so. We often display this pride during high school sporting events and local town parades.

Yet Braintree and Quincy, two cities that still debate the birthplace of John Adams, managed to put aside their lingering debate and hometown pride to band together and negotiate a revolutionary trash-collecting alliance that would make John Adams proud. Joining with Weymouth, the three communities increased their bargaining power for a new trash contract, and as a result, the bidders sharpened their pencils and produced a money-saving deal. The payoff was worth it, with the first-year savings of \$410,000. Taxpayer savings over the course of the nine-year contract are projected at \$3.65 million. That's a big impact for those communities, especially during these difficult economic times.

Governor Deval Patrick and I understand that if we remain too parochial about

providing local services, we risk duplicating efforts and spending limited taxpayer dollars unnecessarily. We know that's an unsustainable model for Massachusetts.

Even before the economic and fiscal crisis, the administration had made it a priority to partner with cities and towns to find new ways to provide essential municipal services. Since 2008, for example, the Executive Office of Public Safety and Security's 911 Department has been providing grants to encourage the development of regional 911 public safety call centers. Massachusetts currently has 262 public safety call centers spread across the state—that's one for every 24,000 residents. And yet in Maryland, a state with a population and land area comparable to Massachusetts, there are only twenty-four call centers, or one for every 233,000 residents. By offering incentives to Massachusetts communities to share this kind of local service, we can deliver services more efficiently and effectively.

As we move ahead on the road to economic recovery, we have an opportunity to move even more swiftly on a range of fronts, including joining forces to provide services on a regional basis that historically have been provided by each community individually. By creating partnerships large and small, neighboring

municipalities can engage in shared services, inter-municipal agreements, municipal collaborations, consolidations, mutual aid, and regional planning. These concepts may seem high-minded or even evoke concerns about a loss of local control, but in reality regionalization means working together—reaching out to your neighbor to get the job done together. Regionalization can create better means for accomplishing services that municipalities need and can lead to cost-savings and more efficient processes. Pooled resources will help preserve essential services and streamline service delivery.

## **Regionalization Advisory Commission**

This past year, I chaired the Regionalization Advisory Commission and had the opportunity to bring together representatives from the Executive Branch, legislators, local officials, and regional partners to study a range of opportunities, benefits, and challenges of sharing local government services, similar to the efforts of Braintree, Quincy and Weymouth.

With 351 cities and towns spanning the Commonwealth, there are countless opportunities to collaborate and work together to maintain important local services and deliver those services effectively and

*Timothy P. Murray is the lieutenant governor of the Commonwealth and a former mayor of Worcester.*

efficiently. The Regionalization Advisory Commission focused on the variety of opportunities within education, elder services, municipal finance, green communities, housing, information technology, libraries, public health, public safety, transportation and public works, and veterans' services.

The Report of the Regionalization Advisory Commission, released this past spring, cites examples of successful collaborations already under way and makes a number of recommendations to further support regionalization efforts on a broad scale as well as within several targeted areas.

A primary recommendation of the commission is to have existing regionalization resources—such as sample agreements, best practices, and success stories—compiled in a centralized loca-

### Leading by Example

The Regionalization Advisory Commission report examines the current status of regionalization in Massachusetts and how other states are addressing the issue. For example, the state of Texas, with a population more than three times that of Massachusetts, has only 107 local public health departments, while Massachusetts has 351. Each Massachusetts city and town has its own board of health responsible for providing (or assuring access to) a set of services defined by state law and regulations. Massachusetts ranks thirteenth in the nation in population and forty-fourth in land area, but it has more local health departments than any other state in the country.

In the summer of 2009, Melrose and Wakefield took a major leap forward when they signed a three-year contract to

Following the release of the Regionalization Advisory Commission report, the administration partnered with the Legislature's Joint Committee on Municipalities and Regional Government and the Massachusetts Association of Regional Planning Agencies to continue the dialogue about municipal collaborations with municipal officials and interested residents by holding a series of public hearings across the state in May.

This past session, the Patrick-Murray administration filed a municipal relief bill with the Legislature that included several provisions to support regionalization. The bill that was passed included our proposals to encourage collaborative purchasing efforts and strengthen the ability of municipalities to enter into inter-municipal agreements or join a regional entity. Our bill also included provisions to require state agencies to prioritize grants for municipalities that apply jointly in regional efforts.

Though the Regionalization Advisory Commission has fulfilled its legislative duty by completing its report, I am continuing the work set out by the commission. This administration wants to position the state to facilitate and encourage regionalization. On June 30, Governor Deval Patrick signed the fiscal 2011 state budget, which includes \$2 million for the District Local Technical Assistance Program. Through this program, the state partners with regional planning agencies to fund regional initiatives by applying a relatively small allocation of funds to expand collaboration among communities.

As the Patrick-Murray administration continues its efforts to encourage regionalization of local services and to explore a blueprint for regionalization in the Commonwealth, at the end of the day, the state can do only so much. To get to the next level of sharing local services in Massachusetts, all of us have to separate hometown pride from the nuts and bolts of delivering public services. We have to look to our neighbors, get them across the table, and start the conversations that are necessary to work together for the benefit of each community and the entire Commonwealth. ■

This administration wants to position the state to facilitate and encourage regionalization.

tion. Organizing these resources in one location, such as a website, would allow municipalities interested in exploring regionalization and sharing services to learn a great deal by studying past regionalization efforts.

Franklin County, the state's leader in sharing services and creating economies of scale, has many best practices and success stories that can benefit other communities. When county government in Massachusetts was, in essence, dissolved, the twenty-six communities in Franklin County realized they needed one another. They were stronger and more efficient working together than separately. Franklin County's model for sharing local services, including accounting, inspection, public health, planning, and cooperative purchasing, has delivered savings and increased efficiencies. It is a model that can be replicated in other regions of the Commonwealth.

Additional recommendations in the report will help municipalities move closer to sharing services with their neighbors.

combine the two public health departments. Under the agreement, Melrose's health director now directs the Melrose-Wakefield Health Department. The agreement maintains each town's local board of health as a policy-making entity, but offers opportunities to provide more efficient and effective services, such as combined flu clinics and tobacco control efforts. The Regionalization Advisory Commission hopes such a model can be replicated in other communities across the state.

That fall, more than 300 municipal and planning leaders from across the state, representing 135 cities and towns, attended a conference called "The Regionalization Tool Kit: A Practical Guide to Sharing Municipal Services." These leaders listened, learned and shared their experiences about reaching across borders to save money and maintain vital services. As recommended by the report, the Patrick-Murray administration held the second annual statewide regionalization conference in Worcester on September 2.

**Relevant excerpts and summaries from Session Laws, Chapter 27 of the Acts of 2009 “An Act Making Appropriations for the Fiscal Year 2010 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements”**

***Approved June 29, 2009***

**§§ 25 and 149 Taxation of Telecommunications Corporations Poles and Wires on Public Ways.**

*Effective as of January 1, 2009 for fiscal years beginning on or after July 1, 2009.*

**SECTION 25.** Clause Fifth of section 18 of said chapter 59, as so appearing, is hereby amended by adding the following 2 sentences:- Poles, underground conduits, wires and pipes of telecommunications companies laid in or erected upon public or private ways and property shall be assessed to their owners in the cities or towns where they are laid or erected. For purposes of this clause, telecommunications companies shall include cable television, internet service, telephone service, data service and any other telecommunications service providers.

**SECTION 149.** Section 25 shall take effect as of January 1, 2009 and shall apply to property taxes assessed for fiscal years beginning on or after July 1, 2009. Notwithstanding any general or special law to the contrary, for fiscal year 2010, the assessors

of any city or town may assess taxes for any personal property taxable under section 25 not included in the fiscal year 2010 annual tax assessment to its owner in the manner and within the time provided by section 75 or 76 of chapter 59 of the General Laws.

**Summary:** Section 25 amends G.L. c. 59, § 18, Fifth, to eliminate the historical exemption from local taxation for poles and wires owned by telephone and telegraph, cable television, internet, data service and other telecommunications corporations and located on public ways that was based on court decisions. In effect, it makes the 2008 decision of the Appellate Tax Board (ATB) that determined the poles and wires of centrally valued telephone corporations located on public ways are subject to tax applicable to all centrally and locally valued telecommunications corporations beginning in FY10. (*Verizon New England, Inc. Consolidated Central Valuation Appeals*, ATB Docket No. C273560). In addition, Section 149 permits assessors who are unable to obtain information from locally valued cable and other telecommunications corporations about these assets and complete valuations before the fiscal year 2010 actual commitment, to use the omitted and revised assessment procedure to make assessments for FY10.

**§§ 50-52 and 154 Local Room Occupancy Excise.**

*Effective for occupancies on or after August 1, 2009.*

**SECTION 50.** The first paragraph of section 2 of chapter 64G of the General Laws, as so appearing, is hereby amended by striking out clause (b) and inserting in place thereof the following clause:-  
(b) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that this exemption shall not apply to accommodations provided by any such institution at a hotel or motel operated by the institution.

**SECTION 51.** Section 3A of said chapter 64G, as so appearing, is hereby amended by striking out, in line 5, the word "four" and inserting in place thereof the following figure:- 6

**SECTION 52.** Said section 3A of said chapter 64G, as so appearing, is hereby further amended by striking out, in line 10, the figure "4.5 " and inserting in place thereof the following figure:- 6.5

**SECTION 154.** Sections 50, 51 and 52 shall take effect on August 1, 2009.

**Summary:** Section 50 amends G.L. c. 64G, § 2, which exempts certain occupancies from the room occupancy excise. Rooms occupied in hotels or motels operated by public or private educational institutions will now be subject to the excise. Sections 51

and 52 amend G.L. c. 64G, § 3A, which allows a city or town, by local acceptance, to impose a local room occupancy excise. The local excise is in addition to the state excise imposed on room occupancies. Communities may now set a local rate up to six percent (six and one-half for Boston). Previously, the maximum local rate was four percent (four and one-half for Boston).

## **§§ 60 and 156 Local Meals Excise.**

*Effective for sales of restaurant meals on or after October 1, 2009.*

**SECTION 60.** The General Laws are hereby amended by inserting after chapter 64K the following chapter:-

### **CHAPTER 64L. *Local Option Meals Excise***

Section 1. As used in this chapter, the following words shall have the meaning assigned to them in paragraph (h) of section 6 of chapter 64H: "honor snack tray", "meals" and "restaurant".

"Commissioner", the commissioner of revenue.

"Sale", a sale of meals by a restaurant for any purpose other than resale in the regular course of business.

"Vendor", shall have the meaning assigned to it in section 1 of chapter 64H.

Section 2. (a) A city or town which accepts this section in the manner provided in section 4 of chapter 4 may impose a local sales tax upon the sale of restaurant meals originating within the city or town by a vendor at a rate of .75 per cent of the gross receipts of the vendor from the sale of restaurant meals. No excise shall be imposed if the sale is exempt under section 6 of chapter 64H. The vendor shall pay the local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

(b) All sums received by the commissioner under this section shall, at least quarterly, be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has accepted this section in proportion to the amount of the sums received from the sales of restaurant meals in that city or town. Any city or town seeking to dispute the commissioner's calculation of its distribution under this subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax was distributed by the commissioner to the city or town.

(c) This section shall take effect in a municipality on the first day of the calendar quarter following 30 days after its acceptance by the municipality or on the first day of a later calendar quarter that the city or town may designate.

(d) Notwithstanding any provisions in section 21 of chapter 62C to the contrary, the commissioner may make available to cities and towns any information necessary for administration of the excise imposed by this section including, but not limited to, a report of the amount of local option sales tax on restaurant meals collected in the aggregate by each city or town under this section in the preceding fiscal year, and the identification of each individual vendor collecting local option sales tax on restaurant meals collected under this chapter.

Section 3. Except as provided herein, a sale of a meal by a restaurant is sourced to the business location of the vendor if (1)

the meal is received by the purchaser at the business location of the vendor or (2) if the meal is delivered by the vendor to a customer, regardless of the location of the customer. A vendor with multiple business locations in the commonwealth must separately report sales sourced to each location in a manner prescribed by the commissioner. Restaurant meal delivery companies that purchase meals for resale must source their sales to the delivery location indicated by instructions for delivery to the purchaser and shall separately report sales by municipality in a manner prescribed by the commissioner. The commissioner may also adopt by rule or regulation destination sourcing and reporting rules for caterers or other vendors with a high volume of delivered meals, as the commissioner may determine, in order to mitigate any anti-competitive impact of the local meals tax.

Section 4. Reimbursement for the tax imposed by this chapter shall be paid by the purchaser to the vendor, and each vendor in the commonwealth shall add to the sales price and shall collect from the purchaser the full amount of the tax imposed by this chapter and such tax shall be a debt from the purchaser to the vendor, when so added to the sales price, and shall be recoverable at law in the same manner as other debts.

Section 5. Upon each sale of a meal by a restaurant taxable under this chapter, the amount of tax collected by the vendor from the purchaser shall be stated and charged separately from the sales price and shown separately on any record thereof at the

time the sale is made or on any evidence of sale issued or used by the vendor, but in the instance of the sale of alcoholic beverages for on premises consumption, the tax collected need not be stated separately.

Section 6. Every person who fails to pay to the commissioner any sums required by this chapter shall be personally and individually liable therefore to the commonwealth. The term "person", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as an officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

**SECTION 156.** Sections 32, 36 and 60 shall take effect on October 1, 2009.

**Summary:** Section 60 adds a new local option tax statute, G.L. c. 64L, which allows a city or town, by local acceptance, to impose an excise of .75 percent on the sales of restaurant meals originating within the municipality. The local excise is in addition to the state tax imposed on the meals. As with the local option room occupancy excise, the Department of Revenue will collect the local option meals excise and distribute the collections to the city or town.

**Summaries provided by:**

Pam Kocher

Director of Local Policy

Executive Office for Administration and Finance

**Relevant excerpts from Session Laws, Chapter 240 of the Acts of 2010**  
**“An Act Relative to Economic Development Reorganization”**

***Approved August 5, 2010***

**SECTION 105.** The General Laws are hereby amended by inserting after chapter 40U the following 2 chapters:-

**CHAPTER 40V. HOUSING DEVELOPMENT INCENTIVE PROGRAM.**

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

?Certified housing development project?, a housing development project that has been approved by the department for participation in the housing development incentive program.

?Department?, the department of housing and community development as established by chapter 23B.

?Gateway municipality?, gateway municipality as defined in section 3A of chapter 23A.

?Housing development incentive program? or ?HDIP?, a program designed to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and

economic development within housing development zones in gateway municipalities.

?Housing development project?, a multi-unit residential rehabilitation project that is located in a gateway municipality and once rehabilitated, shall contain at least 80 per cent market rate units.

?Housing development zone? or ?HD zone?, a zone designated by a gateway municipality which shall be characterized by a need for multi-unit market rate residential properties.

?Market rate residential unit?, a residential unit priced for households above 110 per cent of the area?s household median income.

?Qualified substantial rehabilitation expenditure?, the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by the department that the structure meets the definition of certified housing development project; (ii) a second certification by the department, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work meets the standards required for a certified rehabilitation; and (iii) a final certification by the department, issued when the property is leased or sold by the taxpayer.

?Sponsors?, sponsors, as defined in section 25 of chapter 23B.

?Substantial rehabilitation? and ?substantially rehabilitated?, the needed major redevelopment, repair and renovation of a property, excluding the purchase of the property, as determined by the department of housing and community development.

Section 2. The department may from time to time designate 1 or more areas of a gateway municipality as an HD Zone and take any and all actions necessary or appropriate to such a designation, upon receipt of a municipal application requesting such designation and representing in its application that the municipality, based on its own independent investigation, has determined that the area proposed for designation has a need for multi-unit residential properties. The application shall include a plan which shall include a detailed description of the construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such zone as of the date of the adoption of the zone plan.

Section 3. Under section 5M of chapter 59, the department may approve a municipality?s application for a tax exemption for a housing development project located within an approved housing development zone.

Section 4. (a) A project may be eligible to be a certified housing

development project under this chapter; provided, however, that the proposed project:

(i) contains 2 or more residential units; provided, however, the project may be a mixed-use development that includes commercial uses in addition to residential units; (ii) contains not more than 50 market rate residential units; (iii) is located in a designated or proposed HD zone; (iv) contains at least 80 per cent market rate units upon completion of the rehabilitation, to be sold or leased; (v) has received from the municipality a property tax exemption under section 5M of chapter 59; and (vi) is a substantial rehabilitation of an existing property.

(b) The department may from time to time approve 1 or more housing development projects, located in HD zones designated as certified projects under section 2 and take any and all actions necessary or appropriate to such a designation, upon compliance with the following:

(i) receipt of a project proposal for such a designation requesting such designation from the municipality, submitted in a timely manner, in such form and with such information as the department prescribes, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the sponsors; (ii) receipt of an executed agreement by the municipality which contains a tax exemption

under section 5M of chapter 59 and this section so long as the municipality has determined and incorporated in a formal written determination, based on the information submitted with the project proposal and such additional investigation as the municipality shall make, that the project as described in the proposal and all documentation submitted with the proposal:

(A) is consistent with and can reasonably be expected to benefit significantly from the gateway municipality's plans relative to the project property tax exemption; (B) together with all other projects previously certified and located in the same project HDIP zone, shall not overburden the municipality's supporting resources; and (C) together with the municipal resources committed to the project, shall, if certified, have a reasonable chance of increasing residential growth, diversity of housing supply, supporting economic development and promoting neighborhood stabilization in 1 of the municipality's housing development zones of the municipality as advanced in the proposal; and

(iii) receipt with such written approval by the municipality of a request for a designation of the project as a certified project for a specified number of years, which shall be not less than 5 years and not more than 20 years.

(c) The department shall evaluate and either grant or deny any

project proposal not later than 90 days from the date of its receipt of a complete project proposal and failure to do so by the department shall result in approval of such project for a term of 20 years. Approval of a project due to the department's failure to act within 90 days shall not constitute approval by the department of any tax incentives provided under chapter 62 or 63.

(d) The department may impose a fee for the processing of applications for the certification of any project under this section.

(e) The department shall review such certified project at least once every 2 years. A certified project shall retain its certification for the period specified by the department in its certification decision unless such certification is revoked prior to the expiration of the specified period. The certification of a project may be revoked only by the department and only upon: (i) the petition of the municipality that approved the project proposal, if the petition satisfies the authorization requirements for a municipal application or the petition of the director of the department; and (ii) the independent investigation and determination of the department that representations made by the sponsors in its project proposal are materially at variance with the conduct of the sponsors subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance. Upon such a revocation, the commonwealth

and the municipality, may bring a cause of action against the sponsors for the value of any economic benefit received by the sponsors prior to or subsequent to such revocation.

Under this section, revocation shall take effect on the first day of the tax year in which the department determines that a material variance commenced. The commissioner of revenue may, as of the effective date of the revocation, disallow any credits, exemptions or other tax benefits allowed by the original certification under this section. The commissioner shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section.

Annually, on or before the first Wednesday in December, the department shall file a report detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the commissioner of revenue, to the joint committee on revenue and the joint committee on housing and community development.

Section 5. The department may award to a sponsor of a certified project tax credits available under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 not to exceed 10 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units in the project. The amount and duration of the credit awarded shall be based on the following factors:

(i) the need for residential development and diversity of housing supply in the gateway municipality; (ii) the extent to which the project will encourage residential development, expansion of diversity of housing supply, support neighborhood stabilization, and promote economic development in the zone; and (iii) the percentage of market rate units contained in the project.

(b) The department may, limit any incentive or credit available to a project under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner deemed appropriate by the department.

## **Report of the Regionalization Advisory Commission**

April 30, 2010

Available online at: [www.mass.gov/governor/regional](http://www.mass.gov/governor/regional)

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#### H. Appendices

Please see report appendices for the following report materials:

- List of recommendations requiring legislation action
- At-a-glance view of all local service recommendations
- In-depth committee reports on each local service area examined

**These appendices and all other report material are available online at:**  
**[www.mass.gov /governor/regional](http://www.mass.gov/governor/regional)**

## Message from Lt. Governor Timothy P. Murray, Commission Chair

As Chair of the Regionalization Advisory Commission, I have had the opportunity to bring together representatives from the Executive Branch, state legislators, local officials, and regional partners to study a range of opportunities, benefits and challenges of regionalizing local government services.

As we move ahead on the road to economic recovery, Governor Patrick and I understand cities and towns, like state government and businesses across Massachusetts, may continue to face challenges. Even before the economic and fiscal crisis, the Patrick-Murray Administration made it a priority to partner with cities and towns to develop innovative ways for municipalities to provide essential local services. Now, given the budget realities facing cities and towns across the Commonwealth, it is even more imperative that we work together in partnership with the leadership of the Patrick-Murray Administration, the Regionalization Advisory Commission, the legislature, and local government to encourage cities and towns to engage in shared services.

As a former mayor, I appreciate what hometown pride is all about. In Massachusetts, we cherish our individual communities, and rightfully so. Yet, at the same time, as lieutenant governor of the entire Commonwealth, I know that building partnerships can also benefit cities and towns. For example, though the cities of Quincy and Braintree may still debate the birthplace of John Adams, those two cities came together along with Weymouth to increase their bargaining power when bidding on a new trash contract. By joining forces, the potential bidders sharpened their pencils and resulted in a big win for all three municipalities – the first year savings alone were three to five percent below anticipated 2009 costs. That's a big impact for those municipalities.

If we remain too parochial when it comes to providing local services, then we end up duplicating efforts unnecessarily, and that's an unsustainable model for Massachusetts. Let's consider a couple examples: Massachusetts currently has 262 public safety call centers, one per every 24,000 people. Maryland, a state with a population and land area comparable to ours, has only 24 call centers, one per 233,000 people. In another comparison, Texas, a state with a population more than three times the size of Massachusetts, has only 107 local public health departments yet Massachusetts has 351. Why? It's because of regionalization. Last year, Melrose and Wakefield successfully came together to share local public health services, and that regionalization model can be replicated in communities across the state.

By creating partnerships large and small, neighboring municipalities can engage in shared services, inter-municipal agreements, municipal collaborations, consolidations, mutual aid, and regional planning. These concepts may seem high-minded or even evoke concerns about loss of local control, but in reality regionalization means working together – reaching out to your neighbor to get the job done together. Regionalization can create better means for accomplishing services municipalities need and also lead to cost-savings and more efficient processes. Pooled resources will help preserve essential services and streamline service delivery.

With 351 cities and towns spanning across the Commonwealth, there are countless opportunities to collaborate and work together to maintain important local services. Since November 2009, the

Regionalization Advisory Commission has focused on specific local service areas and identified opportunities in education, elder services, municipal finance, green communities, housing, information technology, libraries, public health, public safety, transportation and public works, and veterans' services.

The Regionalization Advisory Commission Report includes examples of successful collaborations as well as an analysis of the current status of regionalization in Massachusetts and how others states are addressing regionalization. The report also includes a set of recommendations that, individually or collectively, will help municipalities move closer to sharing services with neighboring municipalities.

Our efforts to promote regionalization will not end here. Following the release of the Regionalization Advisory Commission Report, I will be partnering with the Joint Legislative Committee on Municipalities and Regional Governments and the Massachusetts Association of Regional Planning Agencies to engage in continued dialogue about municipal collaborations with municipal officials and interested residents of the Commonwealth through a series of four hearings that will be held across the state in May. Additionally, the Patrick-Murray Administration will continue to study streamlining possible geographic and service delivery frameworks/entities that could help facilitate and foster regionalization efforts.

As we continue to explore a blueprint for regionalization in Massachusetts, the Regionalization Advisory Commission Report can serve as a guide, reflecting on the successes of regionalized services as well as a resource for how to come together to share, and preserve, critical local services. The report and the upcoming hearings will be an opportunity for cities and towns to reach out to their neighbors and advance discussions about regionalization in their community and across the Commonwealth. The Patrick-Murray Administration looks forward to partnering with the legislature and cities and towns to further advance regionalization in Massachusetts.

Yours truly,

A handwritten signature in black ink, reading "Timothy P. Murray". The signature is fluid and cursive, with the first name "Timothy" and last name "Murray" clearly legible.

Timothy P. Murray

Lieutenant Governor

Chair of the Regionalization Advisory Commission

## Chapter 60 of the Acts of 2009

### AN ACT ESTABLISHING A REGIONALIZATION ADVISORY COMMISSION.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a regionalization advisory commission, 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:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, there shall be a 19 member Massachusetts regionalization advisory commission consisting of the following members: the secretary of the executive office for administration and finance, or his designee, who shall serve as chair of the commission; the secretary of the executive office of health and human services or his designee; the secretary of the executive office of energy and environmental affairs or his designee; the secretary of the executive office of public safety or his designee; the secretary of the executive office of transportation and public works or his designee; the secretary of the executive office of elder affairs or his designee; the secretary of the executive office of veterans' affairs or his designee; the secretary of the executive office of labor and workforce development or his designee; the secretary of the executive office of education or his designee; the secretary of the executive office of housing and economic development or his designee; the president of the senate or his designee; the speaker of the house of representatives or his designee; the minority leader of the senate or his designee; the minority leader of the house of representatives or his designee; a representative from the metropolitan area planning council; a representative from the Massachusetts Municipal Association; and 3 members to be appointed by the governor all of whom shall have knowledge and experience in 1 or more of the following areas: municipal government and services, municipal agreements, shared services or regionalization. Each member shall serve without compensation.

The commission shall review all aspects of regionalization including possible opportunities, benefits and challenges to regionalizing services within the commonwealth. The commission shall consider the costs and effects of regionalizing all services including, but not limited to: education, public safety, public health, public works, housing, veterans' services, workforce development, municipal finance and structure, elder services and transportation.

The commission shall submit its finding and recommendations for regionalizing services, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on municipalities and regional government not later than April 30, 2010.

**SECTION 2.** This act shall take effect as of July 1, 2009.

*Approved August 6, 2009.*

## Members of the Regionalization Advisory Commission

**Timothy P. Murray**, Lieutenant Governor  
Commission Chair  
*Former Mayor, City of Worcester*

**Sandra Albright**, Undersecretary  
Designee, Executive Office of Elder Affairs

**Joel Barrera**, Deputy Director  
Metropolitan Area Planning Council

**Sidney Chase**, Director of Veterans' Services, Town of Barnstable  
Designee, Executive Office of Veteran Affairs

**Robert J. Dolan**, Mayor, City of Melrose  
By appointment of the Governor

**Representative Paul J. Donato**, Chair, Joint Committee on Municipalities and Regional Government  
Designee, Speaker of the House  
*Former Mayor, City Councilor, and School Committee Member, City of Medford*

**Linda Dunlavy**, Executive Director, Franklin Regional Council of Governments  
By appointment of the Governor

**Representative Bradford Hill**  
Designee, House Minority Leader  
*Former Selectman, Town of Ipswich*

**J.D. LaRock**, Policy Director  
Designee, Executive Office of Education

**Gerry McDonough**, General Counsel  
Designee, Executive Office of Labor and Workforce Development

**Jeffrey D. Nutting**, Town Administrator, Town of Franklin  
Designee, Massachusetts Municipal Association

**Orlando Pacheco**, Town Administrator, Town of Lancaster  
By appointment of the Governor

**Frank Pozniak**, Executive Director, State 911 Department  
Designee, Executive Office of Public Safety

**Senator Stanley C. Rosenberg**, Senate President Pro Tempore  
Designee, President of the Senate

Continued....

**Mark Siegenthaler**, Community Development Manager, DHCD  
Designee, Executive Office of Housing and Economic Development  
*Board of Selectmen, Town of Bedford*

**Mark Sylvia**, Director, Green Communities Division  
Designee, Executive Office of Energy and Environmental Affairs  
*Former Town Manager, Town of Plymouth*

**Senator Bruce Tarr**  
Designee, Senate Minority Leader

**Trey Joseph Wadsworth**, Transportation Planner, Office of Transportation Planning  
Designee, Massachusetts Department of Transportation

**Geoff Wilkinson**, Senior Policy Advisor, Department of Public Health  
Designee, Executive Office of Health and Human Services

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**Department of Revenue Division of Local Services**  
Robert G. Nunes, Deputy Commissioner and Director of Municipal Affairs  
Rick Kingsley, Municipal Data Bank and Technical Assistance Bureau Chief  
S.J. Port, Director of Policy and Communication

**Office of Lieutenant Governor Timothy P. Murray**  
Lauren E. Jones, Director of Policy and Communications

**Executive Office for Administration and Finance**  
Pam Kocher, Director of Local Policy

## Executive Summary

The Regionalization Advisory Commission reviewed possible opportunities, benefits and challenges of regionalizing services within the Commonwealth by focusing on a number of specific local services areas: education, elder services, municipal finance, green communities, housing and economic development, information technology, libraries, public health, public safety, transportation and public works, and veterans' services.

The Regionalization Advisory Commission recognizes regionalization is not a new concept in Massachusetts. However, though there are notable examples of collaboration that have been in place for several years, recently, local and state governments are now taking a closer look at regionalization. As the costs of government services soar faster than available revenues, local governments may struggle to provide essential services in their city or town. Engaging in collaborative activities can prove to be beneficial for cities and towns as they confront the challenges of maintaining critical services and managing limited resources. Regionalization offers a solution for how cities and towns can not only achieve economies of scale but also deliver local services more effectively and efficiently.

What is “regionalization”? “Regionalization” is often applied to partnerships in a variety of forms that support local government service delivery. There are many partnership models: informal “handshake” arrangements between two or more municipalities, multiple municipalities partnering through more formal intermunicipal agreements with one city or town assuming a lead role, municipal and school district partnerships, “uploading” of local services to another level of government, full-scale regionalization of a local service, such as K-12 education, even state-assisted establishment of programs available to all municipalities through the state procurement system.

With 351 cities and towns spanning the Commonwealth, there are countless opportunities for municipalities to work together. Such collaboration can lead to benefits, including the preservation of important local services. This report includes examples of existing successful collaborations, an analysis of the current status of regionalization in Massachusetts, and the status of regionalization in other select states. The report also offers a set of recommendations that, individually or collectively, will help municipalities move forward with new collaborations. While some recommendations may suggest little or no involvement outside of local government, some other recommendations may call for state government or other entities to act as a facilitator to develop intermunicipal partnerships across local services in the Commonwealth.

## Report Highlights

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### **BENEFITS**

There are many benefits to regionalization and sharing services, including:

- **Increased cost savings:** The most recognizable benefit is the cost savings municipalities can achieve by regionalizing and sharing services. Franklin Regional Council of Governments has

conducted a regular school transportation joint bid on behalf of eight of nine Franklin County school districts. This joint bid has resulted in a \$300,000 savings in regional school transportation costs over the course of the current contract terms. This project has also realigned the contracts of all participating districts so that a single joint bid can yield more savings in coming years.

- **Greater access to basic, professionalized and specialty services:** When considering regionalizing library services, for example, the Commission identified benefits such as increased access to professional staff in specialized fields such as a children's librarian or reference librarian. In some cases, regionalizing library services may lead to greater access for general library services if such services are limited in a small community. For example, the Town of Washington does not have a public library; however, through a signed, written agreement, Washington will purchase public library service for its residents from the neighboring Town of Becket.
- **Municipalities can more easily meet their mandated responsibilities:** As cities and towns struggle with the impacts of revenue loss and increased service responsibilities, the Commission recognized there is a growing interest in the potential benefits of public health regionalization. The Commission identified regionalization as a solution for helping local boards of health meet the mandated responsibilities of performing critical duties related to the protection of public health, such as a coordinated, professional response to providing H1N1 vaccinations.

## **CHALLENGES**

Overcoming challenges and obstacles that may impede municipalities from collaborating can encourage regionalization in Massachusetts. The significance of each of the obstacles varies, as do the methods of removing them. Some of the more notable obstacles and barriers include:

- **Human resources:** Cities and towns may be challenged by issues related to human resources within their local departments. Some issues may include how to reconcile civil service status, seniority, or benefits between cities and towns that want to consolidate or share services. These issues are not exclusive to union employees.
- **Cost to conduct feasibility:** In order to consider regionalizing local services, cities and towns may have to conduct a feasibility study just to determine the potential benefits of a shared service or regional function. However, though this analysis is necessary to determine whether or not a particular regional initiative is feasible, municipalities do not have the financial resources available to conduct this analysis.
- **Financial resources:** Some municipalities do not have the financial resources available to cover the up-front costs associated with collaboration or service sharing. Sometimes municipalities will not see an immediate return on their investment. These financial dynamics may impede municipalities from entering into collaborations.

## **OPPORTUNITIES**

The Commission found that most opportunities for regionalization follow a confluence of events that in many ways force cities and towns to consider sharing services. Among these events are reduced

revenues, increased demand for services, and rising costs. However, the Commission also found several “stand alone” opportunities for regionalization, including:

- **Immediately regionalize new programs as they emerge:** Upon creating a program, there is an opportunity to structure the program so that it encourages regionalization. A new program like the Green Communities Program can be crafted with the intent for municipalities to regionalize, therefore eliminating the potential barriers inherent in previously existing programs and services
- **Taking advantage of expiring contracts:** If neighboring municipalities face expiring contracts then the timing presents a great opportunity for the municipalities to work together on a new contract. For example, Quincy, Braintree, and Weymouth joined forces to increase their negotiating power when they engaged in the procurement of solid waste collection services. By entering into a shared contract, all three municipalities enhanced their revenue stream from recycling and scrap metal beyond what they could have achieved on their own and benefited from price stabilization through a nine-year contract.

## Recommendations

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The Commission makes the following recommendations in order to:

- 1) Foster an environment that encourages municipalities to collaborate,
- 2) Create incentives that facilitate the achievement of successful collaborations, and
- 3) Identify and remove barriers to enhance local collaboration.

### Organize and execute a statewide regionalization conference on an annual basis

**An annual statewide conference focusing on regionalization can offer municipal and state officials as well as the interested public an opportunity to learn of best practices that can foster regionalization in communities across the Commonwealth.**

In September 2009, the Patrick-Murray Administration in partnership with the Franklin Regional Council of Governments and the Massachusetts Association of Regional Planning Agencies organized and executed **The Regionalization Tool Kit: A Practical Guide to Sharing Municipal Services**. A similar conference should be conducted on an annual basis to share and discuss best practices for regionalizing a variety of local services.

### Replicate existing successful programs

**Local governments and regional entities should replicate and expand existing programs to cover more areas. Existing successful collaborations should be documented.**

The Commission found that there are many existing examples of successful collaborations, such as the Franklin Regional Council of Governments Accounting Program.

- The Franklin Regional Council of Governments provides accounting services to 11 towns. Most participating local governments pay less overall for the service than they would have spent independently. One participating town has reduced its accounting labor cost by 43 percent. An unexpected benefit is that participating municipalities that retain the same independent accounting firm to conduct its annual audit have experienced decreased costs because of the uniformity and consistency of their accounting processes and procedures.

#### **Centralize existing regionalization resources**

**Regionalization information, such as sample agreements, best practices and success stories should be centralized and made available on a single web site for ready access.**

Municipalities that are interested in exploring regionalization and sharing services can learn a good deal by studying past regionalization efforts. Many resources are available: profiles of existing and emerging collaborations (Regional Planning Agencies), case studies of past regionalization efforts and sample intermunicipal agreements (Pioneer Institute) and studies by prior Executive and Legislative Commissions. Although Massachusetts has a wealth of resources related to the development of shared service agreements, there is not a “go to” source where municipalities interested in exploring collaborative agreements can access information. Regionalization resources from various sources should be consolidated.

- The State of Washington’s Municipal Research and Services Center provides dependable advice from a multidisciplinary team of professional consultants, a comprehensive website and access to thousands of sample documents, including documents relating to intermunicipal agreements and shared services.

#### **Leverage existing state grant programs to encourage collaboration**

**State agencies should be directed to develop standards, policies and procedures that promote regionalization and encourage municipalities to submit joint applications for grant, loan and technical assistance programs whenever doing so would increase the public benefit. Joint applications should receive higher scores to reward and encourage such collaborations.**

- The Department of Public Health (DPH), through its contracts for purchased services and various grant and partnership programs, has capacity to encourage more regional cooperation. DPH has already implemented this approach in some of its tobacco control contracts, for example, and has encouraged regional cooperation in its guidelines for Determination of Need community health initiatives.

#### **Fund pilot programs**

**The Commonwealth should continue funding pilot programs. Municipalities should implement lessons from the pilot programs in order to replicate and expand collaborations in Massachusetts.**

Regional pilot programs prove beneficial to participating cities and towns and foster an environment that encourages more collaboration efforts by demonstrating pathways to success. The allocation of 30 percent of District Local Technical Assistance Program funding to regionalization efforts is an example of relatively small dollars encouraging collaborations.

- The District Local Technical Assistance Fund (DLTA) was created in 2006. DLTA funds are distributed via a formula among the Commonwealth's 13 regional planning agencies (RPAs) to fund technical assistance on a variety of regional planning areas including land use planning. Beginning in 2009 the Commonwealth encouraged municipalities to work together to achieve or enhance cost-effective services or ongoing collaborations among municipalities by updating the orientation of the DLTA program. The DLTA program now requires a target spending level of 30 percent (\$600,000) of the program's \$2 million annual funding be used to promote and support municipal collaborations, specifically to foster and implement partnerships among two or more municipalities to enhance cost-effectiveness and efficiency of local government service delivery.

#### **Develop incentive and support programs for the future**

**The Commonwealth should develop incentives and funding programs for a range of activities in support of regionalization, including facilitation and technical assistance for planning, implementation, host agency capacity building and transition and start-up costs.**

- The Massachusetts 911 Department provides grants that encourage the development of regional 911 public safety answering points. These grants provide funding for feasibility studies, facility construction and/or structural improvement, personnel and equipment costs.
- Several other states have considered how to promote regionalization. Further research into what other states have done; how the Legislature funded efforts and incentives; and how success was monitored and quantified should be conducted to create the best possible program in Massachusetts.

#### **Identify and develop outside funding streams**

**Cities and towns, regional entities, and the Commonwealth should seek opportunities to leverage funding sources for regionalization in addition to the state operating budget.**

- The Green Communities Division and Grant Program are funded with proceeds from the Regional Greenhouse Gas Initiative, a carbon cap and trade program that Massachusetts participates in along with nine other states.
- A Regionalization Working Group, operating with staff support from the Boston University School of Public Health, has been developing recommendations to promote public health districts in Massachusetts for several years. The Robert Wood Johnson Foundation is funding a project of the Regionalization Working Group that is providing modest planning grants to three recently-selected groups of municipalities across the state; all are considering forming health districts. The Metrowest Community Health Care Foundation is also funding a project to promote regionalization in the Metrowest area.

- A monthly telephone bill surcharge funds Massachusetts 911 Department grants that foster regionalization of local public safety answering points.

#### **Further study municipal governance issues**

**The Commonwealth should conduct further study of municipal governance issues that challenge local government collaborations and local government operations in general.**

The issue of governance was widely stated as a barrier to regionalization and sharing services. Generally, there are several specific government “forms” Massachusetts municipalities operate under. Often, this can lead to a lack of congruency between adjacent cities and towns in municipal functions and authorities. Some municipalities continue to elect individuals that perform administrative functions such as treasury, tax collecting and assessing, while in other municipalities such positions are appointed. This lack of congruency tends to complicate discussions around consolidating services. There are many local governments in Massachusetts that are fragmented and decentralized with numerous decision-making entities, such as boards of health and boards of public works which further complicate interlocal initiatives.

To optimize effectiveness and efficiency of local government operations through regionalization and local government operations in general, the Commission recommends an evaluation of elective positions and the various forms of local government to assess efficiency and effectiveness of those models in today’s governing environment.

#### **Further study human resources-related matters**

**The Commonwealth should convene a group of interested parties to discuss human resources matters relevant to regionalization and develop a list of recommendations, including best practices and pathways to successfully address these challenges.**

Human resources-related matters, such as civil service, seniority, benefits and collective bargaining agreements have proven to be one of the most challenging areas to address in the process of developing service delivery collaborations or consolidations. Successfully addressing these matters is a key component to achieving successful collaborations.

- Merging teacher contracts is one of the more complicated challenges in a school regionalization process. The law articulating the rights of employees of regional school districts (M.G.L. Chapter 71, Section 42B) is often misinterpreted, inhibiting the establishment of regional districts. It is a fairly widespread belief that the law stipulates that when districts merge into a regional school district, the regional school district must adopt a salary schedule and benefits package that is aligned with the highest among the joining districts. In fact, regional school districts may and do adopt differentiated salary schedules so that personnel retain the salary level of their previous district; usually in these cases all personnel are brought onto the same scale in a phased-in process that occurs over a number of years.

#### **Further study of regional governmental entities and state service delivery regions**

**The Commonwealth should review existing regional governmental entities and state service delivery regions with the goal of developing entities and regions with the governance structure, authority and**

**funding mechanisms appropriate to facilitate regionalization. To this end, the Lieutenant Governor will convene a working group to study streamlining possible geographic and service delivery frameworks and entities that could help facilitate and foster regionalization efforts.**

The Commission's charge was to examine possible opportunities, benefits and challenges of regionalizing certain local services. Clearly, there are many instances where collaboration and consolidation of local services on a regional level would lead to more effective and efficient service delivery. The Commission's study of 11 local services has identified opportunities for regional entities acting as host agencies to provide services and support to member cities and towns. Existing entities that perform regional service delivery have the potential to serve as facilitators for further collaborations among municipalities and to host additional service delivery.

For example, the former government of Franklin County underwent the arduous process of reinventing itself into the current Franklin Regional Council of Governments. This required both special legislation and a painstaking charter process. The result is a regional governance model that is both accountable and responsive to its member towns.

Through its work, the Commission identified numerous state service delivery regions in the Commonwealth, all with inconsistent geographical groupings. Such a model leads to confusion and inefficiency. For instance, in Massachusetts there are county boundaries, regional planning agency boundaries, regional health district boundaries, regional library system boundaries, watershed area boundaries, and homeland security boundaries, to name a few; each with its own geographical area. The Commission believes that these service areas should be examined and, to the extent possible, coordinated into more defined, recognizable, and coordinated service delivery areas with one or more host agencies empowered to coordinate and deliver municipal services.

The Lieutenant Governor will convene a working group to study streamlining possible geographic and service delivery frameworks/entities that could help facilitate and foster regionalization efforts.

## **Recommendations on Specific Local Services**

In order to conduct efficient and in-depth study of numerous local service areas, the Commission established eleven committees to address specific areas: education, elder services, municipal finance, green communities, housing and economic development, information technology, libraries, public health, public safety, transportation and public works, and veterans' services. Commission members on the committees were charged with identifying possible opportunities, benefits and challenges to regionalization. See below recommendations on each local service area examined. These recommendations are presented in greater detail and context in the committee reports included as appendices to this report.

### **Education**

- Promote opportunities for increased school district collaboration and regionalization through legislation.

- Encourage stakeholders across the Commonwealth to critically examine how the existing organization of school districts can better support the provision of high-quality academic opportunities and promote district capacity.
- Encourage additional districts to cooperate and collaborate to increase efficiency and capacity, such as through joint bidding and purchasing and use of educational collaboratives for programming.
- Have savings achieved through regional school transportation agreements be returned to the school districts, for educational programs consistent with an improvement plan adopted by the district.

### **Elder Services**

- Complete work on statewide Regional Transit Authority/Adult Day Health Transportation Plan.
- Elder Affairs will work with Councils on Aging to collect service data; disseminate best practices statewide.
- Access Regional Incentive Fund to hire a transportation consultant to review Elder Medical Transportation (~90 percent of total rides statewide).
- Elder Affairs will participate in conversations with municipalities about building regional senior centers and/or senior centers in multipurpose buildings.

### **Finance**

- Replicate Franklin Regional Council of Governments Accounting Program (provides municipal accounting services to multiple towns).
- Expand the Computer Software Consortium Model, which is assessing and collection software that is cooperatively purchased, updated and maintained by 75 municipalities in Massachusetts through a small annual assessment, to include multiple integrated financial management applications.
- Provide regular and ongoing training for municipal finance officers.
- Encourage information technology risk management assessment and information technology security.
- Expand host agency capabilities, recognized as a valuable model for regionalization.
- Create a regional incentive fund to support implementation of projects.
- Pursue state incentives and relief for regionalization efforts.

### **Green Communities**

- Leverage existing state funding programs to promote regionalization.
- Adopt proposed Property Assessment Clean Energy legislation (expanding home energy efficiency and retrofit programs and allowing the costs to be attached to a property, not an individual), which includes a provision for regional models. Regional programs could be modeled on the Barnstable County Community Septic Loan program, which manages and provides financial assistance, through a betterment loan, for on-site septic repair.
- Develop regional energy plans.
- Establish regional energy managers or energy circuit riders to help cities and towns better their energy management and invest in clean energy strategies without hiring a full-time employee.
- Employ collective purchasing and procurement strategies to help municipalities save time and money in their energy and clean energy related costs and clean energy equipment costs.
- Group multiple towns and regional school districts together in a regional performance contract with an Energy Service Company.
- Municipalities should consider participating in energy cooperatives for the purchase, acquisition, distribution, sale, resale, supply, and disposition of energy or energy-related services.

### **Housing & Economic Development**

- Expand regional management and operation of housing authorities.
- Regionalize affordable housing monitoring activities for which local governments are currently responsible.
- Conduct planning for housing, economic development and infrastructure together on a regional level.
- Establish regional development and tax sharing arrangements, including authority for more types of arrangements. The three municipalities (Medford, Malden and Everett) cooperating in the development of River's Edge in Medford have special act authorization to share property tax revenues that result from development anywhere within the development site. The development boundaries include adjacent lands in each of the three communities and the development scheduling reflects the best site available, not the need for revenue in one city or another.

### **Information Technology**

- Coordinate hardware and software purchases. A variety of partnership models could be used.
- Expand host agency capacity, such as regional planning agency, to provide internet-based Geographic Information Systems, assessing and permit tracking data sharing.
- Coordinate planning and investment of the Massachusetts Broadband Institute, the Commonwealth's information technology consolidation, and municipal information technology needs. As the Commonwealth implements its plans to expand broadband and consolidate its IT uses, consider how municipalities can access and benefit from the Commonwealth's system should be considered and planned for.
- Municipalities should consider opportunities for IT consolidation within their community's operations, such as consolidation of school and municipal IT.
- Expand the Massachusetts Digital Summit conference with programs to benefit local officials.
- Municipalities should look for opportunities to collaborate on obtaining information technology support services, such as sharing information technology support personnel and joining forces to increase procurement power for support contracts.

### **Libraries**

- Address challenges to collaboration presented by governance issues, particularly library governance models.
- Require libraries to review sharing options prior to requesting construction funds available from the Massachusetts State Board of Library Commissioners.
- Award significantly higher financial incentives for municipalities that build joint libraries through the Massachusetts State Board of Library Commissioners' library construction program.
- Provide funds for technical assistances to study library mergers and facilitate the merger planning process.
- The Board of Library Commissioners should conduct more outreach to municipalities about current and future funding opportunities.
- Provide regionalization grants based on the former Municipal Incentive Grant program.
- Create a state-wide support network for regionalization efforts, perhaps through existing technical assistance centers.

### **Public Health**

- Further amend M.G.L. c.111 s.27B to remove the requirement that a town meeting must vote to approve formation of a public health district. This will streamline district formation and retain appropriate roles for municipal leaders and Boards of Health currently included in statute.
- Begin state funding to promote formation of public health districts by providing pilot funding for six districts, in accordance with the provisions of M.G.L. c.111 s.27A-C.
- Implement lessons from the pilot program in order to take a regional public health system “to scale” in Massachusetts by providing sustained state funding for district start-ups and operations.
- Seek opportunities to use state contracts and other revenue sources to promote increased regionalization of local public health.
- Establish an Office of Local Health within the Department of Public Health, with adequate staffing to provide technical assistance to promote and support public health regionalization.
- Establish minimum workforce qualifications for the local health workforce through legislation and regulation, including appropriate “grandfathering” provisions. Municipalities are more likely to form districts in order to share the costs of better qualified staff.
- Establish minimum performance standards for Boards of Health, linked to state funding for operating capacity required to meet statutory and regulatory responsibilities.
- Adopt statewide public health mutual aid legislation.

### **Public Safety**

- File special legislative acts to establish distinct regional enhanced 911/emergency communications entities, taking into account governance, funding mechanisms, and duties, compensation and other employment terms and conditions.
- Create legislation authorizing formation of regional enhanced 911/emergency communications districts, including establishment of governance, powers and duties funding mechanisms, fiscal accountability and employment/labor provisions.
- Review and possibly revise relevant statutes to further encourage and allow for ease of regionalization efforts: police districts, fire districts, police mutual aid, fire mutual aid, and consolidated municipal departments.

### **Public Works**

- Municipalities should be encouraged to conduct group purchasing, share public works equipment and share public works facilities as possible.
- Municipalities should be encouraged to consider merging public works departments wherever opportunity exists.
- Municipalities should be encouraged to share public works staff wherever an opportunity should exist.
- Encourage municipalities to coordinate the handling of solid waste, hazardous waste, and/or recycling.
- Best practices, models of regionalization, and sample agreements should be studied and published in a central place for municipalities to find the resources they need to move towards regionalization of services.
- Support passage of Public Works Mutual Aid legislation contained in the Municipal Relief legislation (House No. 4526) released by the Joint Legislative Committee on Municipalities and Regional Government.

### **Transportation**

- Encourage Ch 90 funds to be used for regional uses through incentives.
- Provide incentives for municipalities to provide regional elder transportation services.
- School districts should work together to explore regional busing opportunities when the opportunity exists.
- Standardize transit vehicle fleets and procurement.
- Regional planning agencies and Mass Department of Transportation need to ensure bike sharing programs are regional as they emerge.
- Place "Funded by MassDOT" graphics on Council of Aging vehicles to build awareness of statewide support.

### **Veterans' Services**

- Establish more veterans' services districts, for more effective and efficient provision of services.
- Remove barriers to establishing more veterans' services districts, as contained in Chapter 115, Section 10 and Chapter 471 of the Acts of 1972, including the requirement that municipalities be contiguous, the restriction that only one city can belong to a district and the population ceiling. Along with removing these barriers, the statute should be amended to require the Secretary of Veterans' Services' sign-off on formation of noncontiguous districts and districts with populations above the existing ceiling, in order to address concerns about capacity of these districts in order to ensure proper staffing levels to address the veterans population within said proposed district.
- Provide financial incentives to encourage the formation of veterans' services districts, including funds to purchase hardware and software.

## A. Introduction

Massachusetts is poised to rebound from the current economic downturn faster and stronger than the rest of the country. Early signs of a turnaround can be found in the recent spike in housing sales and starts, a growth in business investment and the labor force, and an uptick in consumer and business confidence. While we welcome these positive developments as we move ahead on the road to economic recovery, there is much more work to do to secure our economic future.

Cities and towns, like state government, continue to face challenges. Massachusetts cities and towns are facing widespread fiscal distress, challenged by structural budget deficits and the effects of the national recession. Fixed costs such as municipal employee and retiree health insurance continue to skyrocket. The currently shrinking state aid dollar amount to municipalities cannot be made up in property tax increases or local receipt revenue. According to the Massachusetts Department of Revenue, municipal health insurance costs alone more than doubled between fiscal year 2001 and fiscal year 2008, from approximately \$900 million to \$1.9 billion. Fixed costs in total increased almost fifty percent during the same time period. Meanwhile, revenue only increased 37 percent during the same time period. The bulk of this increase came from property tax, compared with other forms of revenue such as state aid. State aid as a percentage of revenue actually decreased from 28 percent in 2001 to 24.5 percent in 2008.

Taking all of this into account, fixed costs are consuming any increase in revenue and then some. As a result, municipalities are forced to cut services in all but the most critical of areas. In order to maintain crucial public services in this environment, cities and towns need to manage their limited resources more efficiently. Leveraging the economies of scale by regionalizing and sharing services is one way cities and towns can meet this challenge.

## B. The Current Status of Regionalization in Massachusetts

Historically, Massachusetts has never had a comprehensive, statewide regional governance structure. On the contrary, Massachusetts has applied the concept of regionalization and regional governance in two ways:

1) A way for cities and towns to collaborate on a specific issue of regional concern

Or

2) A way for the Commonwealth to delegate certain administrative functions

In both instances, regionalization in Massachusetts has occurred within five separate vehicles: (1) the intermunicipal agreement, (2) county government, (3) special districts, (4) regional planning agencies, and (5) council of government.

Though a comprehensive framework does not currently exist, Massachusetts has experienced several regionalization success stories in recent decades.

### Intermunicipal Agreements

An intermunicipal agreement is one form of regionalization applied by a compact or agreement between two or more units of government in Massachusetts. In some cases they also extend to a contractual relationship between a city or town and a “higher” level of government (such as a Council of Governments or County).

The authorizing statute for intermunicipal agreements is M.G.L. Chapter 40 Section 4A, which states in part:

*The chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of a governmental unit may, on behalf of the unit, enter into an agreement with another governmental unit to perform jointly or for that unit's services, activities or undertakings which any of the contracting units is authorized by law to perform, if the agreement is authorized by the parties thereto, in a city by the city council with the approval of the mayor, in a town by the board of selectmen and in a district by the prudential committee; provided, however, that when the agreement involves the expenditure of funds for establishing supplementary education centers and innovative educational programs, the agreement and its termination shall be authorized by the school committee.*

Intermunicipal Agreements that fall under this statute can be thought of in three basic categories:

- Formal Contracts
- Joint Service Agreements
- Service Exchange Agreements

In the formal contractual relationship, one city or town agrees to provide a service to one or more cities and towns for an agreed upon fee. In many cases this involves sharing personnel, such as an animal control officer or health director.

Joint Service Agreements are “agreements between two or more municipalities to join forces to plan, finance, and deliver a service within the boundaries of all participating jurisdictions”<sup>1</sup> The joint purchasing and maintenance of equipment and shared solid waste disposal districts constitute the majority of these arrangements.

Service Exchange Agreements are largely made up of mutual-aid agreements for public safety. One example is Fire District Fourteen. This informal “district” includes the towns of Acton, Ashland, Boxborough, Carlisle, Concord, Framingham, Holliston, Hopedale, Hopkinton, Hudson, Lincoln, Marlborough, Maynard, Milford, Natick, Northborough, Sherborn, Shrewsbury, Southborough, Stow,

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<sup>1</sup> Schumaker, Laura, “Understanding and Applying the new Inter-municipal Agreements Law”. Municipal Advocate Vol.24, No.3.

Sudbury, Wayland, and Westborough. Communications for the District operates through the Ashland Fire Department.

Examples of intermunicipal agreements abound, but there are still several barriers that keep many more from moving forward:

1. Intermunicipal Agreements under Chapter 40 Section 4A require that a municipality be designated as the “lead”. Municipalities considering entering into an intermunicipal agreement might have problems reaching consensus on identifying a lead municipality. Or the municipalities making up the group might be hesitant in taking on the “lead” role.
2. Seeing neighbors as rivals rather than potential partners can keep cities and towns from engaging in municipal agreements.
3. Intermunicipal agreements also may impose too many burdens on local officials where several agreements are involved, not all of which include the same municipalities.
4. There is an absence of similarly situated municipalities in need of a similar solution. Oftentimes, a “perfect storm” of circumstances needs to occur for municipalities to collaborate. This perfect storm is often the confluence of a lack of funding, departure of key personnel, presentation of opportunity for substantial cost savings, and political and managerial leadership.
5. A lack of understanding on how to evaluate regional service potential.

## Counties

In states outside the New England region, the county is a viable unit of local government with its own governing body, its right to legislate, to appropriate, and more importantly to administer a variety of area wide services and activities. Quite simply they serve as an intermediate level of government between the state government on the one hand and the municipality on the other. But county government in Massachusetts as described below was established as administrative arms of the Commonwealth, much different than their counterparts in the rest of the country.

The role of the early county governments in Massachusetts has been adequately described in a Legislative Research Council report from 1970:

*“The commercially oriented charter granted to the Massachusetts Bay Company in 1628 vested judicial as well as legislative responsibilities in the General Court. As the Massachusetts Bay Colony expanded, the General Court found these judicial duties intruding increasingly upon its legislative work. Accordingly, it enacted statutes in 1635-39 delegating many of those judicial responsibilities to magistrates appointed to preside over (a) “inferior” or “quarter sessions” courts located in Boston, Cambridge, Ipswich and Salem, with both civil and criminal jurisdiction, and (b) intermediate courts of higher jurisdiction from which appeal lay directly to the General Court itself. Each quarter session court was authorized to appoint its own clerk, sheriff and other officers.*

*In 1643 the General Court organized the 30 towns of Massachusetts Bay into four counties based on the English model, with the administration of justice and other county business being made the responsibility of judicial officers. These counties were (1) Essex, (2) Middlesex, (3) Suffolk, and (4) the "Old" Norfolk county of the Merrimack River area (which was partitioned in 1679-80 between Essex County, Massachusetts and the new Province of New Hampshire.) By 1820, Massachusetts had been divided into the two States of Massachusetts and Maine, and 24 counties had been created by the General Court."<sup>2</sup>*

The evolution of county government functions is also described:

*From 1643 to 1800, the county governments were concerned primarily with the administration of the courts and with such court-related responsibilities as the maintenance of jails, the recording of deeds and other legal instruments, and the probate of wills and bequests. Shortly after their creation, the counties also acquired some law enforcement functions, which were later diminished or taken away. They became responsible for laying out trans-county highways and bridges, and supervising maintenance of these facilities by the towns. Counties were given authority over the preparation of tax lists; and a 1785 law established procedures for appeals by property owners to the county court for property tax abatements. The licensing of ferries and certain other commercial activities was placed in the hands of county authorities after 1694. And minor election law functions were assigned to county sheriffs by the Constitution of 1780. For a century, counties also constituted militia districts for defense against the Indians, the Dutch, and the French.*

*In the Nineteenth Century, county authorities were empowered to appoint enginemen in communities which refused to do so (1824); to act on dog damage complaints (1864); to resolve complaints that municipal agencies had failed to suppress health nuisances (1866); and to construct and operate county training schools for truant children (1873-81). Probation law duties were transferred from municipal to county authorities (1891).*

With the turn of the twentieth century, general and special laws added nine further functions, including agricultural functions, hospitals and clinics, other public health services such as county health departments, training schools for police and fire, county airports, a group insurance program for employees of counties, a retirement system for employees of counties, and miscellaneous planning and promotional activities.

Overall, counties in the Commonwealth have not been used by the state or local governments as a vehicle to provide local government services on a regional scale. Notable exceptions include the county engineers of Berkshire, Essex, Middlesex, Norfolk, and Worcester, who have provided substantial assistance to small towns in developing surveys and plans for Chapter 90 road projects.

In contrast, counties outside of New England enjoy much broader authority. While also serving as regional administrators of certain state services, they are also responsive to the needs and preferences of the residents of their community. Today, many counties provide services that augment or replace the same services provided by municipal governments, including public safety, public health, and library services.

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<sup>2</sup> Commonwealth of Massachusetts Legislative Research Council, *Report Relative to Regional Government*, (Boston, MA), January 26, 1970.

During the 1980s and 1990s, Massachusetts counties increasingly came under criticism for financial mismanagement, leading to widespread public distrust. Such sentiments culminated in 1997 when Middlesex County became the first Massachusetts political subdivision in many years to default on its debt. As a result of this and several other management deficiencies, then-Governor William F. Weld introduced legislation abolishing several county governments in 1998. However, several county governments survived the initiative and exist in some form today. (Figure 1) County geographical boundaries continue to be used in a variety of governmental contexts, including for electoral districts and census issues.

Currently, county government in Massachusetts is a mixture of boundary lines and statutory authority that spans from strictly geographical regions (such as Berkshire County), to robust service-offering governments such as that in Barnstable County.

Barnstable County has been the notable exception to the rule of county government in Massachusetts. In 1988 the County revised its charter to include both a legislative branch known as the Assembly of Delegates, as well as an executive power vested in three County Commissioners. The county provides an array of regional services on a contract basis, including the “*Codfish*” (dredge used for waterways), fire training academy, household hazardous waste collection, shellfish propagation, water quality testing, community septic management program, purchase of electric power supply, energy audits, and collective purchasing.

County	Year Incorporated	Year Abolished
Barnstable	1685	-
Berkshire	1761	2000
Bristol	1885	-
Dukes	1695	-
Essex	1643	1999
Franklin	1811	1997
Hampden	1812	1998
Hampshire	1662	1999
Middlesex	1643	1997
Nantucket	1695	-
Norfolk	1793	-
Plymouth	1685	-
Suffolk	1643	1999
Worcester	1731	1998

Figure1: County Establishment and Abolishment Dates

### Special Districts

When several local governments wish to address a common need, many times the Special District is used to accomplish that goal. Some of the larger districts are easily recognizable: the Massachusetts

Water Resources Authority and the Massachusetts Bay Transportation Authority being two. However, there are several smaller, single-purpose districts that are much more obscure.

The Census Bureau defines special district governments as, "All organized local entities other than the four categories listed [county, municipal, township, school district governments], authorized by State law to provide only one or a limited number of designated functions, and with sufficient administrative and fiscal autonomy to qualify as separate governments; known by a variety of titles, including districts, authorities, boards, commissions, etc., as specified in the enabling state legislation."<sup>3</sup> In many cases these special districts are considered "body politic and corporate", meaning that they are considered a separate and distinct governmental unit according to law.

In December 1969, Massachusetts had 212 non-education special districts. By 2002, that number increased to 403. The majority of these (388) are single-function districts responsible for one service. Such districts include mosquito control districts, sanitation districts, and fire districts. This does not include many of the district offices with administrative authority over a particular region such as Massachusetts Department of Transportation districts and public health regions. A sample of Special Districts is listed in Figure 2.

The majority of these districts are established by Special Acts of the Legislature. There has never been a comprehensive review of the special districts in Massachusetts, their authorizing statutes, membership and authority.

Special districts work well at addressing individual service needs among local governments. However, since the majority of them are singular in purpose, the result can be a proliferation of multiple single purpose bureaucracies.

District	Participating Cities and Towns	Law
Massachusetts Water Resources Authority	Arlington, Ashland, Bedford, Belmont, Boston, Braintree, Brookline, Burlington, Cambridge, Canton, Chelsea, Chicopee, Clinton, Dedham, Everett, Framingham, Hingham, Holbrook, Leominster, Lexington, Lynn, Lynnfield, Maiden, Marblehead, Marlborough, Medford, Melrose, Milton, Nahant, Natick, Needham, Newton, Northborough, Norwood, Peabody, Quincy, Randolph, Reading, Revere, Saugus, Somerville, South Hadley, Southborough, Stoneham, Stoughton, Swampscott, Wakefield, Walpole, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Wilbraham, Wilmington, Winchester, Winthrop, Woburn and Worcester	Chapter 372 of the Acts of 1984
Goose Pond Maintenance District	Lee and Tyringham	Chapter 31 of the Acts of 1994

<sup>3</sup> Appendix A, 2002 Census of Governments, Government Organization Vol. 1, No. 1.

Mattapoissett River Valley Water District	Fairhaven, Marion, Mattapoissett, Rochester	Chapter 367 of the Acts of 2004
Upper Blackstone Water Pollution Abatement District	Auburn, Boylston, Holden, Leicester, Millbury, Oxford, Paxton, Rutland, Shrewsbury and West Boylston, Worcester	Chapter 752 of the acts of 1968
Burncoat Pond Watershed District	Leicester and Spencer	Chapter 287 of the Acts of 1998
Greater Lawrence Sanitary District	Lawrence, Andover, Methuen, and North Andover	Chapter 750 of the Acts of 1968
Quinebaug and Shetucket Rivers Valley Heritage District and Commission	Charlton, Dudley, Oxford, Southbridge, Sturbridge and Webster	Chapter 127 of the Acts of 1997
Northern Berkshire Solid Waste Management District	Adams, Cheshire, Clarksburg, Florida, Hancock, Lanesborough, New Ashford, Peru, Savoy, Windsor, Williamstown	Chapter 135 of the Acts of 1988
Assabet Public Safety District	Berlin, Marlborough	Chapter 173 of the Acts of 2000

Figure 2: Sample of Special Districts

### Regional Planning Agencies

There are thirteen Regional Planning Districts in Massachusetts, which taken together encompass all 351 of the Commonwealth's cities and towns. For over four decades these organizations have supported responsible planning in such areas as transportation, economic development, land use and housing in the Commonwealth's 13 regional planning districts. More recently, they have played an increasing role in providing assistance to member municipalities in developing regional solutions and facilitating intermunicipal agreements.

The Regional Planning Agencies were created as a specific type of special district. In 1955, Massachusetts enacted Chapter 40B enabling the creation of regional planning agencies. Generally, the creation of regional planning agencies was seen as a solution to two problems. The first was a perceived need to address land use problems on a regional basis. Second, their initial creation was concurrent with federal mandates that required a regional planning structure for the eligibility for federal funds.

Specifically, this law was in response to the Housing Act of 1954, which made planning grants available to official state, metropolitan, and regional planning agencies empowered to perform metropolitan or regional planning. In 1967, Congress took this one step further and mandated that federal loans or grants for many programs must be reviewed by an area wide agency which is designated to perform metropolitan or regional planning for the area.

Today, the Regional Planning Agencies have expanded their role far beyond that of a land-use advisory agency. They help their member municipalities implement plans in areas such as economic development, infrastructure maintenance, environment and land use, regional and municipal services, solid waste management and recycling, and have the lead responsibility for planning and programming of transportation functions.

It is generally noted that there is a lack of uniformity across the 13 regional planning agencies in terms of governance structure, functions, statutory authority, and geographic size. Even though permissive legislation exists for the formation of regional planning agencies, the majority of the Commonwealth's regional planning districts were created under special acts of the legislature.

For example, the Metropolitan Area Planning Council is governed by municipal government representatives, gubernatorial appointees and state and City of Boston officials. In contrast, the Berkshire Regional Planning Commission is governed by delegates from member municipalities' planning boards and board of selectmen.

Furthermore, some of the regional planning agencies have statutory authority to provide services to municipalities where others do not. The Massachusetts Association of Regional Planning Agencies ("MARPA") has proposed legislation that would allow Regional Planning Agencies to reconstitute themselves as a Council of Government (explored later) which will help to alleviate this problem.

Finally, the funding structure for Regional Planning Agencies is inconsistent. Most assess their membership a modest annual fee. However two – the Metropolitan Area Planning Council and the Old Colony Planning Council – each receive a direct assessment deducted from members' state aid.

### **Councils of Government**

Of the thirteen Massachusetts Regional Planning Agencies, two are in the form of a Council of Governments ("COG"). The Council of Governments framework has been in place in a number of areas around the country for over 30 years. Councils of Government are a form of government that is directed by local chief elected officials from member cities and towns that set the agenda and develop programs and projects based on specific needs. In short, they act in a responsive capacity, addressing issues as they arise.

Councils of Government are formed to serve local governments and residents in a region through government cooperation. COGs provide coordination of service delivery, planning, advocacy, technical assistance, and project developments. They are voluntary and involve no transfer of authority.

Massachusetts currently has three Councils of Government: The Northern Middlesex Council of Governments, The Hampshire Council of Governments, and the Franklin Regional Council of Governments. The Northern Middlesex Council of Governments was established by a two paragraph special act in 1989 which applied to the existing regional planning agency. The Hampshire and Franklin Councils of Government were created through much more comprehensive legislation and charter reform replacing existing county governments.

These two separate vehicles of creating a Council of Governments bring with them unique benefits and challenges. In the case of Hampshire and Franklin, municipal membership is voluntary, with municipalities opting out with a one-year notice. The membership assessment is part of each municipality's budget. As a result, the COG's spend significant resources during the spring advocating for payment of their assessments.

The Franklin Regional Council of Governments has a successful track record of providing municipal services on a regional basis. For example, it has been able to successfully utilize economies of scale to bring information technology service, building inspection services, and accounting services to its member municipalities at a reduced rate. A sample of the services provided and their funding mechanism is illustrated in Table 1.

**Table 1: Sample of Services Provided by Franklin Regional Council of Governments**

SERVICE	DESCRIPTION	FUNDING SOURCE
Administration and Finance	Oversight of organization; advocacy,; special projects; workshops; agency-wide expenses	Membership assessment; administrative fees
Community Coalition for Teens	Teen Pregnancy and substance abuse prevention program	State and federal grants
Franklin County Cooperative Inspection Program	Building; plumbing and wiring inspection for 18 member towns	Assessment based on permit activity
Collective Purchasing	Bidding and contracting of highway products and services and fuel for 21 towns inside and outside of Franklin County	Population-based fees
Municipal Accounting	Municipal accounting services and software via license agreement to 8 towns	Assessment based on average number of service hours per week
Regional Planning Agency	Economic development, land use, natural resources, transportation and GIS services for the region and the towns	State and federal grants
Regional Health	Professional health agent services for 8 local boards of health	Assessment based on historical or estimated use
Regional Nurse	Clinics and communicable disease response for 3 local boards of health	Assessment based on an agreed-upon scope of work

Regional Preparedness	Regional Emergency Planning Committee, board of health emergency planning services, fiduciary for Western Regional Homeland Security Council, emergency communication system oversight	State and federal grants
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## C. Previous Examinations of Regionalization in Massachusetts

The subject of regionalization is not new to Massachusetts, but the catalyst for the topic has changed throughout the years. In contrast to the current focus as a way to provide critical services, the earlier discussions revolved around theories concerning the Boston metropolitan area. It was not until the 1970's that those discussions turned to a statewide approach.

In 1912, Governor Eugene Foss submitted a proposal to the General Court calling for a “general municipal government of the cities and towns within the area to be known as the City of Boston”. The bill proposed a political union of the 41 cities and towns of what was then considered the Boston metropolitan area. Municipalities within the area would be grouped into six districts, with each district electing one member to the central governing body, except for Boston proper, which would be allowed three members. Similar proposals for a Boston Metropolitan government followed in 1944 and 1967.

In 1969, Boston Mayor Kevin White unveiled a plan for an “Eastern Massachusetts Council of Governments”, regionalizing government in the Greater Boston Area to allow for joint management and sharing of local costs and services. Mayor White’s plan called for the creation of a 200 member General Council from 100 cities and towns in the Boston Metropolitan Area to provide a forum for solving common problems. The council would also serve as the regional governing body over the Massachusetts Bay Transportation Authority, the former Metropolitan District Commission, the Massachusetts Port Authority, and the Metropolitan Boston Air Pollution Control District. It also called for a Greater Boston Regional Educational Service Center to provide services, programs and materials to all systems to even out fiscal disparities. Staff for the Council would be provided by the Metropolitan Area Planning Council and funded from a 5 cents per capita assessment to member municipalities. Momentum for the plan diminished when Mayor White ran for Governor.

In the 1970's, the arguments for regionalization expanded beyond Metropolitan Boston to encompass the whole Commonwealth. During this period a number of bills were introduced that either restructured county government or eliminated it altogether.

The 1990's saw two key studies performed on regionalization in Massachusetts. The first was a study performed by the Massachusetts Legislature’s Subcommittee on Regionalism, chaired by Representative Douglas Petersen (D – Marblehead). The second was a Regionalization Commission established by the Massachusetts Legislature and chaired by Boston Mayor Thomas M. Menino.

The 1994 Petersen report examined the possibilities of a comprehensive regional government structure based on existing county and regional planning agency boundaries or new boundaries based on watersheds and other criteria. Although the report was never acted upon, it provides a detailed framework for the implementation of several regional government structures.

Mayor Menino's Regionalization Commission report published in 1997 was concerned primarily with creating a metropolitan Boston structure that could compete in the emerging global economy. It measured public support for sharing local services and eventually recommended a council of government structure moving forward.

## **D. Approaches to Regionalization in Other States**

Massachusetts is not the only state considering regionalization as a method to streamline the delivery of local services. Several other states have explored regionalization, sharing services, and consolidation as a way to alleviate pressures on municipal budgets and the property taxes that fund them.

### **New Jersey**

In 2007, New Jersey formed the Local Unit Alignment, Reorganization, and Consolidation Commission ("LUARC") to examine service delivery among their many units of local government and to make recommendations that would result in the more efficient delivery of those services.

LUARC is currently focusing on specific municipalities across the Commonwealth that appear to be good candidates for the merging of services or even full-scale consolidation. It has identified six clusters totaling 75 municipalities. Identifying these municipalities required a substantial amount of data analysis on New Jersey local governments. This data included fiscal, operational, geographic and demographic items and has provided the Commission with a capacity to begin the process of conducting fair and equitable reviews of municipal circumstances.

LUARCC, which is an affiliate of the New Jersey Department of Community Affairs (DCA), is working with the Walter Rand Institute for Public Affairs at Rutgers University to develop a process for studying the clusters. The Walter Rand Institute is reviewing and documenting the work LUARCC has done in preparation for the first round of studies and will offer recommendations for improving future rounds. Its staff will also participate in the actual study. Additionally, experienced experts in such areas as public safety, finance, administration and public works that are contracted through the Walter Rand Institute and approved by LUARCC will collaborate on the project and serve as primary contacts with local municipal officials.

### **New York**

In 2007 New York established the Local Government Efficiency and Competitiveness Commission to examine local government and make recommendations to improve their efficiency. The Commission's

report, published in 2008, made several recommendations involving statutory and administrative regulations to streamline local government and make it more efficient, including:

- Reigning in special district spending by targeting the abuse of taxpayer dollars and eliminating compensation and perks for special district commissioners;
- Making it easier for municipal governments to form cooperative health benefit plans for their employees, reducing overall health insurance costs;
- Facilitating highway shared services agreements among municipalities, and between municipalities and State agencies;
- Allowing multiple counties to share the services of a Director of Weights and Measures;
- Allowing multiple counties to employ a single public health director that would report to a single board of health;
- Transferring management responsibilities for special sanitation districts to town boards; and
- Creating a simplified process by which citizens can submit petitions for municipal consolidations and dissolutions.

Due in part to the Commission's recommendations, Attorney General Andrew Cuomo launched an effort to allow municipalities across the state to fundamentally change the structure and functions of their local governments. The resulting legislation, the "New N.Y. Government Reorganization and Citizen Empowerment Act", was signed into law in May 2009 with overwhelming support.

### **Indiana**

In 2007, a Blue Ribbon Commission for Local Government Reform was established to present recommendations to the state legislature on streamlining government. The Commission found that Indiana has approximately 2,730 governments with the power to levy property taxes, including 92 counties, 1,008 townships, 117 cities, 450 towns, and 293 school districts.

Recommendations by the Commission included<sup>4</sup>:

- Transferring the responsibilities and duties of township government to the county level;
- Having all counties led by a single county executive and strong county council;
- Consolidating public safety services and emergency dispatch;
- Restructuring school districts so that each has a student population of not less than 2000;
- Reorganizing libraries at the county level.

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<sup>4</sup> Indiana Commission on Local Government Reform, *Streamlining Local Government*, (Indianapolis, IN) 2007

The Indiana Legislature has taken the recommendations to heart, already moving the responsibility of assessing property from township assessors to county assessors. Just recently, the Legislature also enacted law requiring any new public safety dispatch equipment be compatible with a new statewide 800 MHz system.

## E. Technical Assistance Funds & Centers

The Commission examined how other states promote regionalization. In many cases the barriers in other states are similar to Massachusetts. However, it is important to study what other states have done to overcome those barriers. Were their methods successful? And most especially, what are the available tools or “best practices” that Massachusetts can adopt to tackle its challenges?

In examining other states, the Commission found two consistent themes. Primarily, several states have or once had funding available to assist municipalities in planning for regionalization and, in many instances, also achieving success for sharing services. Additionally, in other states, professional and technical assistance was readily available to help municipalities navigate complex processes associated with regional collaboration. Following are summaries of the most promising models.

### Technical Assistance Funds

#### New Jersey

The New Jersey Sharing Available Resources Efficiently (“SHARE”) Grant program, within the Department of Community Affairs, gives municipalities considering the consolidation, regionalization, or otherwise sharing of municipal services the financial ability to professionally, impartially and dispassionately study and implement shared and consolidated services. SHARE provides assistance for the study or implementation of any regional service agreement, or for the coordination of programs and services authorized under several New Jersey statutes.

To fund the program, the New Jersey Legislature created a SHARE account within the Property Tax Relief Fund. All revenue from the state’s income tax is deposited into the Property Tax Relief Fund, which is used to provide state aid to municipalities in New Jersey and to provide property tax rebates to New Jersey residents. The account was created and funded in fiscal years 2007 thru 2010. However, it was not funded in the Governor’s fiscal year 2011 budget.

Three types of grants are offered under the SHARE Program:

- **Implementation Grants:** provide seed money to support the implementation of new shared services. Grant awards are up to \$200,000 and can be used for capital purchases and personnel expenditures.
- **Feasibility Study Grants:** help cover the costs of feasibility studies performed by consultants or the local unit themselves. Feasibility study grants are up to \$20,000, and require a 10% cash match commitment from the local unit requesting the grant.

- County and Regional Coordination Grants support regional or area-wide efforts to identify and develop new shared services.

A quick look at just 10 SHARE Grants awarded proves how valuable the program is. Among these 10 grants, \$243,073 was awarded to several municipalities. The savings projected in the first year alone was estimated to result in a 2,920 percent return on the initial investment. After 10 years, a staggering \$71 million in costs would have been saved as a direct result of the initial expenditure of less than a quarter of a million dollars.

### **Connecticut**

The Connecticut Regional Performance Incentive Program was established in 2007. Under the program, all of Connecticut's 15 regional planning organizations were encouraged to submit proposals for the regional provision of services to the Office of Policy and Management.

The goal of the program was to encourage municipalities to think regionally and enter into agreements with other municipalities to leverage economies of scale and reduce costs.

Eleven of the fifteen Regional Planning Organizations were awarded grants totaling \$8.6 million over the two years that the Incentive Program was funded. Services provided included information technology application sharing and development; a regional traffic team/accident investigation unit; a regional police training facility; a shared assessing revaluation program; a shared animal control facility; shared highway equipment; and a municipal training academy for elected municipal officials.

### **New York State**

New York State created a Local Government Efficiency Program ("LGEP") in 2005 to provide assistance to local governments considering sharing services. The program oversees seven and one-half full-time staff who provide local government outreach and technical assistance.

The Local Government Efficiency Program also provides grants to municipalities interested in sharing services. Planning grants are available on a competitive basis and are used for studies to examine financial savings and management improvements. There is also a separate "High Priority Planning Grant", specifically intended to "initiate activities identified as having great potential for cost savings or structural change".

In addition to the planning grants, the LGEP also includes Efficiency Implementation Grants. These grants help to cover the costs of implementing shared services or consolidation plans, including capital purchases and personnel costs.

Since 2005, the program has funded 240 projects with over \$40 million in grants. New York has consistently funded the program at approximately \$20 million annually since 2006, although that number has fluctuated to reflect the status of the state's economy. The estimated savings total over \$350 million. Completed projects are generating a 129 percent annual return on investment.

One of the LGE program's strengths is its ability to classify and track grant projects by municipal functions, as well as a consistent method of measuring savings. A summary of the grant program is listed

in Table 2. Also notable is that the LGE Program goes beyond technical assistance grants, and includes a full-time staff to help manage the contracts, projects, and municipal outreach.

**Table 2: LGE Program**

<b>FUNCTION</b>	<b>GRANTS AWARDED</b>	<b>ANNUAL COST SAVINGS</b>
General Government	\$352,381	\$183,050
Education	\$443,214	\$449,087
Public Safety	\$475,047	\$1,687,910
Transportation	\$585,036	\$285,116
Sanitation	\$341,480	\$164,650
Utilities	\$967,900	\$816,308
Employee Benefits	\$511,000	\$1,238,563
Consolidation & Dissolution	\$83,700	\$24,892
<b>Total</b>	<b>\$3,759,758</b>	<b>\$4,849,576</b>

- **Municipal Mergers, Consolidations, and Dissolutions:** Eliminating similar or duplicative layers of government
- **General Government Support:** For efficiencies in general government operations such as assessing, records management, etc.
- **Education:** For efficiencies achieved through consolidating or expanding regional school districts.
- **Public Safety:** For efficiencies in police, fire, and dispatch services.
- **Transportation:** For efficiencies related to road maintenance, snow removal, street lighting and public transit.
- **Sanitation:** Efficiencies in the collection and disposal of sewage, as well as the disposal of solid waste.
- **Utilities:** Efficiencies in water, electricity and natural gas delivery, and steam generation
- **Employee Benefits:** Pension Fund contributions, workers compensation, and disability and health insurance.

### **Maine**

Maine established the Fund for the Efficient Delivery of Local Services in 2005 in order to provide grants to municipalities to encourage the sharing of services. Two types of grants were established: Cooperative services grants for implementation and Planning grants to facilitate the development of a

regionalization project. The initial plan for the fund was to have recipients of planning grants eventually apply for and receive implementation grants.

The fund was administered by the Maine Department of Administrative and Financial Services. Groups of municipalities that were interested in applying for grants could access technical assistance through the State Planning Office. The fund initially received an appropriation of \$1,000,000. It is currently not funded.

Maine established a separate board to review the grant proposals, which in turn created a “point” system to rank proposals (Figure 3). Members of the review board include:

- The Director of the Maine State Planning Office (or designee)
- The Commission of the Department of Administration and Finance (or designee)
- A representative of the Department of Economic and Community Development, appointed by the Governor
- One representative of a county or regional government subdivision recommended by a statewide organization representing county or regional service providers, appointed by the Governor;
- Two representatives of municipal government recommended by the Maine Municipal Association;
- One representative of a service center community, appointed by the Governor.

CRITERION	POINT VALUE
Extent and quality of cooperation of among governmental entities	20
Estimated amount of property tax savings to the region over time as a percentage of budget(s) and/or the ability for municipalities in other regions to duplicate such savings	35
Degree/likelihood of success in implementing and sustaining a new intergovernmental arrangement	20
Extent to which the project can be replicated by other regions in future cooperative endeavors	15
Extent to which the project incorporates innovative and unique solutions or ideas	10

Figure 3: Maine Fund for the Efficient Delivery of Local Services grant proposal ranking system

To date the fund provided grants to a total of 40 projects: 24 planning grants and 16 implementation grants. A review of the projects to determine success and savings is forthcoming.

### **Technical Assistance Centers**

Only a small portion of attempts to form cooperative relationships among municipal governments make it to the intermunicipal agreement stage. Labor issues, determining a municipalities' cost share, and other similar issues have a tendency to upset such efforts. Municipalities that hope to form either a mutual aid agreement or formal contract need objective, third-party facilitators to ensure that each municipal corporation is getting a fair deal in the arrangement.

Massachusetts has several institutions that currently engage in activities to support regional collaboration.

### **Division of Local Services**

The Department of Revenue's Division of Local Services (DLS) helps Massachusetts cities and towns achieve sound and efficient fiscal management through technical assistance, training, and oversight. DLS bureaus are responsible for ensuring the fairness and equity of local property taxation, the accuracy and quality of local accounting and treasury management, interpreting state laws that affect local governance, distributing local aid, and maintaining a comprehensive databank on local finances. DLS meets these responsibilities through community advisors, seminars, publications, Internet services, research, software development and support, as well as community specific management reviews and audits.

DLS offers technical assistance to cities and towns in the form of financial management reviews. In the course of completing more than 400 reports over the last 23 years, DLS has built a substantial knowledge base of best practices in the management of municipal finances which it now shares through this website.

More recently, DLS has been asked by municipalities to analyze sharing costs and consolidating services between and among municipalities. The first of these reports was the enhanced regionalization and merger analysis completed for the Towns of Hamilton and Wenham by DLS. The Hamilton-Wenham Report explores what the two towns would look like as one. It is also a comprehensive study, of value to all cities and towns, which focuses on the opportunities and the financial impacts of sharing costs and services, short of a full merger. DLS also houses information regarding Inter-Municipal Agreements and other useful references related to the consolidation of services between and among municipalities. Subsequent reports on the efficiencies and challenges to shared services are forthcoming.

### **Regional Planning Agencies**

While only two regional planning agencies have the formal statutory authority to provide municipal services, virtually all operate programs on behalf of the municipalities in their districts.

One example is the Metropolitan Mayors Coalition. The Metropolitan Area Planning Council helped to establish the coalition consisting of 13 mayors and managers in the Greater Boston Area (Boston, Braintree, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Melrose, Quincy, Revere, Somerville and Winthrop). Together, these individuals represent over 1.2 million constituents. The Metropolitan Mayors Coalition has become an effective vehicle to address common issues confronting

urban core governments and has made significant strides in overcoming the obstacles that hampered past attempts at inter-local cooperation. Some significant indirect results of this collaboration include the establishment of a state-wide anti-youth violence grant program that awards multi-disciplinary regional approaches to combat youth violence and providing the leadership in making the legislative change that allows local governments to purchase employee health insurance through the Commonwealth's Group Insurance Commission. The Metropolitan Area Planning Council continues to provide staff support and financial administration for this important initiative.

The Berkshire Regional Planning Commission is currently assisting the towns of Lee, Lenox, and Stockbridge in developing a new shared service delivery approach. The assistance consists of assessing and researching appropriate shared service delivery models. They are also performing outreach on behalf of the towns to gain buy-in from stakeholders, increasing the chances of success.

The Pioneer Valley Planning Commission is working with the towns of Southampton and Chesterfield to create a Regional Board of Health Services and Inspections to provide professional health and inspection services to Pioneer Valley municipalities that currently do not have full-time health agents. PVPC plans to establish one Regional Board of Health district that will provide health and inspection services training opportunities for all 43 cities and towns in the Pioneer Valley region, as well as become a model for other regional health districts.

### **Edward J. Collins, Jr. Center for Public Management**

The Edward J. Collins, Jr. Center for Public Management at the University of Massachusetts Boston was created in part to help state and local government become more efficient by providing governance, management and organizational consulting services. One component of that mission is the facilitation of interlocal collaboration and the removal of barriers to regionalization across the Commonwealth.

The Center was pivotal in the development of an agreement between the Town of Amesbury and the Town of Salisbury to share a Public Health Director. The Collins Center held regular meetings with the chief officials in order to design and draft an intermunicipal agreement that was executed by both municipalities. Currently, the Center is involved in facilitating the agreement for the sharing of a procurement officer and hearing officer in the Quabog region of central Massachusetts and has entered in to an interagency service agreement with the Commonwealth's E911 Department help facilitate the establishment of regional public safety answering points throughout the Commonwealth.

### **Technical assistance support in other states**

Although Massachusetts has a wealth of resources related to the development of shared service agreements, there is no one "go to" source that municipalities interested in exploring collaborative agreements can go to get information. Such a fractured system can lead to confusion and the premature conclusion of potential agreements.

Other states have concluded that the best way to address the issue of interlocal collaboration is with a state-level board or commission that provides policy guidance on regional issues, and a single separate

entity to provide practical technical assistance to municipalities. A model used by the State of Washington is particularly worth noting.

The Municipal Research Council in Washington State began in 1934 as a collaborative arrangement between the state's municipal advocacy organization, the Association of Washington Cities, and the University of Washington. The Council not only provides expertise on intergovernmental collaboration, but also provides other cost savings and advisory services to the cities and towns.

The Council is comprised of the following members: two appointed by the President of the Senate, two appointed by the Speaker of the House, one member shall be the director of community, trade and economic development, six members appointed by the Association of Washington Cities, two appointed by the Washington State Association of Counties, and one appointed by the Washington Association of County Officials.

The Council is funded through a dedicated revenue source. Currently that source is a small portion of a Washington's liquor excise tax. Prior to 1997 it was a portion of the motor vehicle excise tax.

The Council itself does not perform actual assistance, but contracts with the Municipal Research and Services Center to provide direct municipal services. The Municipal Research Services Center provides: 1) Dependable advice from a multidisciplinary team of professional consultants, (2) A comprehensive website, (3) Access to thousands of sample documents, including documents relating to intermunicipal agreements and shared services, and (4) Access to the largest local government library collection in the Northwest.

## F. Findings

In order to conduct an efficient and in-depth study of a number of local services, as required by the legislation establishing the Commission, eleven committees of the Commission were established to address specific areas: education, elder services, finance, green communities, housing and economic development, information technology, libraries, public health, public safety, transportation and public works, and veterans' services. Commission members on the committees were charged with identifying possible opportunities, benefits and challenges to regionalization.

Commission members identified specific opportunities in all local service areas studied. The Commission found that there are a variety of opportunities in all service areas that municipalities, both large and small, could pursue through forming interlocal partnerships or through a host agency. One thing is apparent: as the costs of government services rise faster than available revenues and cities and towns struggle to provide essential services, regionalization and collaboration become more palatable to municipalities wishing to deliver essential local services more economically and efficiently.

There are notable examples of collaboration currently taking place organically at the local level without assistance from the Commonwealth or other government agencies. However, the Commission found that more progress could be made through certain statutory and administrative actions. In certain

cases, the Commonwealth needs to assist in breaking down barriers to intermunicipal partnerships. Finally, it was recognized that incentives, facilitative support and technical assistance can serve an important role in stimulating additional, more complex regional initiatives beyond the more easily implemented collaborations in which many local governments already engage.

Below are benefits, opportunities, challenges and incentives that the Commission found common across all local services examined. For further detail, see the committee reports in the Appendix.

## **Benefits**

There are many benefits to regionalization and sharing services. The most recognizable benefit is the cost savings municipalities can achieve by regionalizing and sharing services.

Franklin Regional Council of Governments has conducted a regular school transportation joint bid on behalf of eight of nine Franklin County school districts. This joint bid has resulted in a \$300,000 savings in regional school transportation costs over the course of the current contract terms. This project has also realigned the contracts of all participating districts so that a single joint bid can yield more savings in coming years.

While cost savings is a key driver for changes to the method of local government service delivery, the Commission found a number of valuable benefits beyond cost savings that municipalities can gain from collaborating.

- **Greater access to professionalized and specialty services**

In the area of library services, the Commission identified benefits such as increased access to professional staff in specialized areas such as a children's librarian and reference librarian or in some cases access to library services in general. The Town of Washington does not have a public library; however Washington will purchase public library service for its residents from the Town of Becket. The towns have signed a written agreement to establish this relationship.

Many small towns have difficulty retaining qualified personnel for complex municipal functions such as accountant or building inspector, especially if the town does not need a full-time, benefited position. Sharing services with another town or through a host agency can create a more attractive position that is benefited and financially competitive.

Similar benefits occur in education. Increased collaboration and regionalization can enable school districts to have a sufficient number of highly qualified staff members in the central office. By increasing central office capacity, district administrators may also have greater opportunities to differentiate instructional and other responsibilities and create specialized positions, enhancing support to schools.

- **More efficient processes**

As noted above, the Commission identified the Franklin Regional Council of Governments (FRCOG) accounting program as a successful example of outsourcing overhead to achieve economies of scale. It

has been documented that participating local governments pay less overall for the service than they would have spent independently. One participating town has reduced its accounting labor cost by 43 percent. An unexpected benefit is that participating municipalities that retain the same independent accounting firm to conduct its annual audit have experienced decreased costs because of the uniformity and consistency of their accounting processes and procedures.

Increased collaboration and regionalization also enables education dollars to be spent more effectively across the Commonwealth, and school districts can realize operational efficiencies and economies of scale. The development or enhancement of innovative partnerships among school districts and other entities could better leverage existing resources. For example, many administrative or operational functions could be better managed through collaboration or with support from an educational collaborative.

Regional emergency dispensing sites, where a group of towns work together to organize flu vaccination clinics, have also proved to be a much more efficient process than towns trying to organize this service on their own.

- **A critical service can be sustained in challenging times**

The Commission identified the regionalization of elderly transportation services as a priority to preserve this critical paratransit service. This could include partnering with existing regional transit authorities. Sharing town nurse functions and health agent functions are other examples of municipal positions that can be more easily retained if the costs are shared with another community.

- **A chance to engage in new programs and services**

For many municipalities, the current focus on energy efficiency and renewable energy is a new, or relatively new, concept that could provide an increased opportunity to promote regional collaboration. Limited local staff time and technical expertise makes regional efforts more critical in order to take advantage of new opportunities such as clean energy activities. Energy-efficiency cost savings can be achieved through the opportunities to benefit from new programs and collaborate on this new frontier.

Information technology support is another example. Many towns rely on an employee that “is good with computers” for its technical support needs, which is often unsatisfactory. Sharing information technology support with other municipalities allows cities and towns to access professional service.

- **Avoid municipal liability for problems arising from unmet responsibilities.**

As cities and towns struggle with the impacts of revenue loss and increased service responsibilities, there is growing interest in the potential benefits of public health regionalization. The Commission identified regionalization as a solution for helping local boards of health meet the required responsibilities of performing critical duties related to the protection of public health, such as a coordinated, professional response to providing H1N1 vaccinations.

A federal law requires that every municipality in the country have a hazardous materials response plan that is created by a Local Emergency Planning Committee. The law allows cities and towns to join

together to create one plan. In Franklin County 26 towns have formed a Regional Emergency Planning Committee that has developed a regional response plan that meets the federal requirement for all 26 cities and towns.

## Opportunities

With 351 cities and towns spanning the Commonwealth, there are numerous opportunities for municipalities to work together on local government service delivery, including:

- **Foster a culture of collaboration among cities and towns**

Cities and towns are taking advantage of relatively easy opportunities, such as collective purchasing, to achieve easy victories that generate a culture of collaboration. Others may have developed a rapport while working together on a regional planning initiative. Prior work with neighboring municipalities through activities fostered by regional planning agencies around a highway interchange development project may help clusters of municipalities to develop the working relationships and goodwill necessary to move forward with collaborating on more complex service delivery projects.

- **Regionalize as new state programs emerge, to immediately take advantage of benefits of regionalization**

The development of Green Communities' programs and bike sharing programs are examples of two areas identified as opportunities as new programs and services emerge.

- **A contract with an outside vendor is up for renewal**

The cities of Quincy, Braintree, and Weymouth joined forces to increase their negotiating power when they engaged in the procurement of solid waste collection services. While not all achieved the same dollar cost savings, all three benefited from price stabilization through a nine-year contract and enhanced their revenue stream from recycling and scrap metal beyond what they could have achieved on their own.

- **A vacancy occurs in a municipal or school position**

Vacancies in top school or municipal administrative posts can encourage municipalities to collaborate without being confronted with personnel challenges.

With its health director retiring, the Town of Belmont began exploring the possibility of regionalizing its health department with Arlington and Lexington. If successful, the three towns could save upwards of \$160,000 annually.

The towns of Ashby and Townsend have current vacancies in town administrator positions and are being encouraged to explore sharing that position.

- **An additional service requirement stretches the capacity of a department**

The Commission identified regionalization as a solution for helping local boards of health meet the required responsibilities of performing critical duties related to the protection of public health, such as a coordinated, professional response to providing H1N1 vaccinations. The H1N1 pandemic underscored both the importance of a strong local public health infrastructure and the limits of current capacity. Several groups of municipalities have recently formed or are actively exploring shared services and district models. Shortages were illuminated further this past year when the requirements of delivering H1N1 flu shots in addition to annual flu shots stretched the capacity of local public health departments even more than usual.

- **Successful collaborations generate conversations around expanding those collaborations or replicating the successful models elsewhere.**

The Commission found that the already existing efficient regional library system, which provides many important library services on a shared basis, not only provides a good basis for increasing regionalization of library services but also could serve as a model for other municipal functions. While many of the “back office” library functions have been regionalized, collaborations among municipalities during tough financial times may also allow for continued or enhanced professional services and programs as well as access to libraries all days of the week if municipalities coordinate library availability as they are challenged with funding operations.

Further, the Commission found that existing veterans’ services districts demonstrate that district-based, rather than single community-based, service models can provide more effective and efficient delivery of services for veterans’ (but also noted current law establishes barriers regarding district geography and membership).

Several information technology programs were recommended for expansion or replication, such as replicating a Franklin Regional Council of Governments program where technical support staff can cover multiple municipalities through a bulk contract, or expanding the Computer Software Consortium (discussed in committee report on information technology) currently benefiting 75 municipalities. Centralized information technology services can also allow the host to standardize and manage information technology security practices.

## **Challenges**

Although there are formidable challenges to regionalizing local services, the Commission, as noted, identified many great opportunities as well. In this section, the Commission will examine some of the challenges that range from cultural and political to technical and legal, including:

- **Concerns around local control/ Existing perceptions and attitudes**

Local control concerns are a real challenge to collaboration. The 351 cities and towns in Massachusetts were born of a strong preference for self-governance and retain a keen sense of community identity. Community pride in a local elementary school, Thanksgiving Day high school football rivalries, and design for the identification patch for a multi-town public safety department have entered conversations about regionalization. Examples of successful collaborations and availability of resources for achieving successful collaborations, including best practices, sample agreements and sample contracts can help respond to the challenge of local control concerns and resistance to change.

Third party facilitators can help municipalities respond to these challenges and ensure all municipalities involved have equitable input in the development of shared service arrangements.

- **Challenges and benefits from a history of regionalization**

Some of the local services examined have a relatively long history of regionalization. This history can be a foundation for expanding existing collaborations, to seek collaboration in providing other local services, or act as a barrier to further regionalization if past experience was not positive and continue to prove challenging.

In the area of education, regionalized school districts have provided more efficient delivery of K-12 education in many cases. However, as a highly-valued and locally-identified service in Massachusetts, school regionalization considerations can come with concerns about local control, cost-sharing and impact on long-standing community patterns and traditions. In some districts the ongoing challenge of differing local contributions among member municipalities continues to stress some regional school district arrangements. The Commission proposal for consideration of potential collaborations in K-12 education does not mandate a minimum school district size, or specify a target number of school districts for the Commonwealth. It also does not mandate regionalization, but rather would allow the Commissioner of Education to review districts and make recommendations along a continuum of actions, which could include regionalization. Local districts would then create a plan in response to these recommendations, thereby retaining a strong element of local control in any actions.

- **Challenge of dedicating time and resources in the short-term to achieve long-term gains**

Sometimes the benefits of regionalization and sharing services will not be seen for several years. In some cases, consolidating or sharing a service can require an initial up-front outlay of resources, a challenging commitment when a municipality is already under great fiscal strain.

For example, in regionalizing education, there may be costs associated with aligning curricula, technology, and school schedules. In addition, there may be costs associated with negotiating/renegotiating contracts and leases.

- **Challenges of reconciling varied forms of governance**

The issue of governance was widely stated as a barrier to regionalization and sharing services. Generally, there are several specific government “forms” Massachusetts municipalities operate under. Often, this

can lead to a lack of congruency between adjacent cities and towns in their municipal functions and authorities. Some municipalities continue to elect individuals that perform administrative functions such as treasury/collecting and assessing which tend to complicate discussions around consolidating services. Municipal governments that are fragmented and decentralized with numerous decision-making authorities further complicate interlocal initiatives. These governance dynamics cannot be overstated in their affect on interlocal cooperation in Massachusetts.

- **Challenges of negotiating intermunicipal agreements.**

While intermunicipal agreements are a key tool for formalizing municipal collaborations, these agreements can be challenging to negotiate, with complex issues to be addressed. Many local officials, especially those serving on a part-time, volunteer basis, do not have the experience to negotiate such agreements without technical and legal assistance. Lack of funding to pay the costs of such assistance often leads to a scrapping of the idea.

The Towns of Hamilton and Wenham entered into an intermunicipal agreement in 1998 for a joint library. The agreement addressed facility ownership and use, constructions costs and bonds, management, employment policies, sharing of costs, election of trustees, and certain transition rules.

In order for there to be an agreement for the sharing of services under the intermunicipal agreement statute, M.G.L. Chapter 40 Section 4A, one municipality must be designated as the “lead”. Such an arrangement can present a barrier.

First, the lead community might be hesitant to take on such a responsibility. Generally, under these agreements employees in a shared service arrangement are employees of the lead municipality. Beyond the annual compensation of these employees, lead municipalities need to be cognizant of the legacy costs associated with employment and take those into account when necessary.

Even more complicated is if employees are part of a collective bargaining unit. When a municipality takes on employees of other municipalities in shared service arrangement issues of seniority must be addressed.

- **Challenges of statutory barriers**

The centuries-long development of local government in Massachusetts has led to statutory language that oftentimes favors the principle of local control over the ability to adequately regionalize and share services across municipal boundaries. In many cases, special legislation was created to address sharing one service for one group of municipalities. But there are also general statutes that allow for the creation of regional entities for certain purposes.

The Commission identified a number of existing statutes to be revised to make them better tools for accomplishing successful regionalization efforts while avoiding the need for special legislation.

M.G.L. Chapter 115 Sections 10-15 which authorizes the creation of veterans’ services districts is one such example. The existing language restricts such districts to include only one city government and requires that the municipalities be contiguous. The Commission also identified statutes addressing

police and fire districts and mutual aid arrangements as needing review to further encourage and allow for ease of regionalization.

- **Challenges of personnel matters in developing collaborations**

Personnel-related matters, such as civil service, seniority, benefits and collective bargaining agreements have proven to be one of the most challenging areas to address in the process of developing service delivery collaborations or consolidations. Successfully addressing these matters is a key component to achieving successful collaborations. Because sharing or consolidating services will come in many shapes and forms, flexibility is required to accomplish the goal.

Merging teacher contracts is one of the more complicated challenges in a school regionalization process. The law articulating the rights of employees of regional school districts (M.G.L. Chapter 71, Section 42B) is often misinterpreted, inhibiting the establishment of regional districts. It is a fairly widespread belief that the law stipulates that when districts merge into a regional school district, the regional school district must adopt a salary schedule that is aligned with the highest among the joining districts. In fact, regional school districts may and do adopt differentiated salary schedules so that personnel retain the salary level of their previous district; usually in these cases all personnel are brought onto the same scale in a phased-in process that occurs over a number of years.

## **Models of Collaboration**

There are many partnership models: informal “handshake” arrangements between two or more municipalities, multiple municipalities partnering through more formal intermunicipal agreements with one city or town assuming a lead role, municipal and school district partnerships, “uploading” of local services to another level of government, full-scale regionalization of a local service, such as K-12 education, even state-assisted establishment of programs available to all municipalities through the state procurement system.

Two primary models of regionalization stood out for their prevalence: (1) two or more municipalities collaborating on service delivery, and (2) the “uploading” of local services and support to a regional entity.

An example of collaboration between two municipalities comes from Melrose and Wakefield which executed a M.G.L. Chapter 40, Section 4A intermunicipal agreement creating a shared health department. Under the terms of the agreement, both municipalities retain their local boards of health, but share the services of a full-time health director, a full time inspector, two part-time inspectors and a part-time public health nurse. The shared personnel are employees of Melrose. Each town also has some additional staff who remain separate town employees. In turn, Wakefield reimburses Melrose for a set proportion of the personnel costs. The agreement is projected to save Melrose \$30,000 in the first year and cost Wakefield no additional money in the initial year, while providing it greatly enhanced services.

There are no long-term commitments in the Melrose-Wakefield agreement. Both municipalities signed a three year agreement, however, they will reevaluate their performance under the terms and conditions annually and determine if it should be amended or terminated.

Uploading a municipal service to a regional entity is of interest to many municipalities and has a history of success in Massachusetts. In this case of regionalization, a host agency is responsible for developing municipal service programs; hiring and managing employees; and guaranteeing a level of service. The host agency establishes a service contract with participating municipalities and charges a fee or assessment for the service. Service fees or assessments can be based on estimated or historical service hours, the population of the town, or some other agreed upon mechanism.

Benefits to a municipality with the host agency model are that the host agency takes responsibility for all personnel issues such as hiring, firing, and benefits management; qualified and skilled employees are easier to attract when positions are well paid, full-time and benefited; the host agency is responsible for backfill, guaranteeing quality of work, and taking care of any problems with the program and service. At the September 2009 Regionalization Conference sponsored by the Division of Local Services, a majority of attendees identified the host agency model as their preferred method of regionalizing services.

Several Franklin Regional Council of Government programs exemplify arrangements where local service provision is “uploaded” to a regional entity. Most notable is its municipal accounting program. The Franklin Regional Council of Governments provides accounting services to 11 towns in its district. In order to provide the service the former government of Franklin County had to undergo the arduous process of reinventing itself into the current Franklin Regional Council of Governments. This required both special legislation and a painstaking charter process. But the result is a regional governance model that is both accountable and responsive to its district.

Many municipal school districts in Massachusetts currently work together to realize economies of scale for purchasing and the provision of services, including the use of educational collaboratives for programming (i.e. professional development, special education) and purchasing. Representatives from educational collaboratives, which are authorized and governed according to the provisions of M.G.L. Chapter 40, Section 4E, indicated that these organizations are working toward a more regional approach to service provision. Through this effort, school districts across the Commonwealth will have greater access to the full array of services that various collaboratives provide.

## **Incentives and Support**

As noted earlier, collaborations between municipalities can (and often do) occur with little or no outside assistance. However, financial incentives and state support are crucial if Massachusetts expects to significantly expand the degree of regionalization and shared services. Such support serves an important role in stimulating additional efficiencies in local service delivery beyond the more easily implemented collaborations in which local governments currently engage.

Financial incentives and support are not the only tools identified for incenting and supporting multi-municipality collaborations. While the Commission certainly supports the concept of additional funding for regionalization, there are also other, less expensive tools the Commonwealth can use to encourage regionalization initiatives and sharing services.

- **Financial support to study the feasibility of shared services**

Before municipalities can move forward together in crafting an agreement for the sharing of services, analysis must be performed to assess each municipality's current service delivery methods. This analysis will serve as a benchmark for the participating cities and towns to use in determining whether or not sharing the service is feasible and cost effective.

Assessment and feasibility studies cost money, but are a necessity. Cities and towns have little in the way of discretionary funds to spend towards conducting this analysis. Therefore it is vital that the Commonwealth fund technical assistance to municipalities by providing grants or by supporting state agencies charged with providing that assistance. The Commission has found that this is already occurring in Massachusetts on a limited scale.

Massachusetts currently funds the District Local Technical Assistance program which enables regional planning agencies to provide – as its name implies – technical assistance to municipalities on a range of planning issues and regionalization. Under this program, the Metropolitan Area Planning Council has helped the local governments of Melrose and Wakefield conduct a feasibility study and execute an agreement to combine their public health departments. Under this new arrangement Melrose will take the lead in providing health services to Wakefield. Wakefield will pay a fee for services, while still maintaining a local Board of Health, providing for savings for both municipalities and tremendously enhanced services for Wakefield. Further, the initial conversations surrounding public health consolidation have opened up the door between the two municipalities to look, with Metropolitan Area Planning Council's assistance, at what other municipal functions could and should be shared.

The Commonwealth also provides technical assistance through annual appropriations to the Commonwealth's Division of Local Services and the Collins Center at the University of Massachusetts Boston. Both organizations provide assistance to municipalities in the areas of regionalization and shared services. However, both organizations do not have the resources to meet current demand in a timely manner.

As noted earlier, several states provide funding for feasibility studies to groups of municipalities that are exploring the possibility of collaborating and sharing services. Planning grants funded under New York's Local Government Efficiency Program provided feasibility studies for 28 groups of municipalities. The studies were used to examine the feasibility of consolidating police and emergency services as well as determining the feasibility of sharing records management and assessing.

Maine's Fund for the Efficient Delivery of Local Services provided funding for several planning projects, including \$17,000 for the towns of Camden and Rockport to explore the feasibility of a consolidated police force and \$10,000 for Cumberland County to explore the possibility of a shared property assessment program.

- **Funding to mitigate the initial costs associated with sharing or consolidating services**

During the course of the assessment and feasibility study, it may be determined that an initial outlay of resources will be required to facilitate implementation of a shared service agreement or consolidation of services. This is probably most evident when two or more municipalities are interested in sharing a piece of equipment or building a new school or public facility.

According to the Hamilton-Wenham merger analysis performed by the Division of Local Services, the transition process of merging into one municipality would require several one-time costs: for outside police and fire consultants, labor attorneys, and a capital investment for shared facilities. Particularly at a time when municipal budgets are facing great stress, assistance in covering these costs will make a real difference in cities and towns taking on mergers of local services.

One Massachusetts agency currently offers this type of incentive. The Massachusetts 911 Department offers development grants to municipalities and regional entities that move forward with creating regional Public Safety Answering Points and Regional Emergency Communications Centers. In addition to funding for feasibility studies, the grants cover expenses such as construction, radio equipment and computer aided dispatch systems.

In New York, Local Government Efficiency Grants were used to purchase and build a new 500,000-gallon water tank to serve two municipalities. Both municipalities were considering building their own structures, but decided to consolidate after the funding was made available.

- **Funding for regional entities to establish and maintain programs on behalf of municipalities**

As discussed earlier, Massachusetts has several regional entities. These entities can and do provide services to their cities and towns when they have access to the necessary resources.

District Local Technical Assistance funding has been used by the Franklin Regional Council of Governments (FRCOG) to advance regional collaboration initiatives. Of particular note, DLTA funds were used to conduct a regular school transportation joint bid on behalf of eight of nine Franklin County school districts. This joint bid has resulted in a \$300,000 savings in regional school transportation costs over the course of the current contract terms. This project has also realigned the contracts of all districts so that a single bid can yield more savings in coming years.

The Merrimack Valley Planning Commission (MVPC) has used DLTA funding to develop a regional Energy Manager program. With this program, MVPC has successfully helped six municipalities (Amesbury, Haverhill, Lawrence, Methuen, North Andover and Salisbury) hire a Regional Energy Manager. Often referred to as a “circuit rider”, the Manager has assisted member municipalities in developing strategic energy plans. Additionally, MVPC has used the DLTA program to help several municipalities retrofit closed landfills into “Brightfields” by employing a model created in Brockton. Potentially, over 100 acres of landfills/Brownfields in the Merrimack Valley could be retrofitted in this fashion.

The Regional Performance Incentive Program in Connecticut funded many similar projects. A Regional Animal Control Facility was built using RPI funds and serves four municipalities. The Windham Regional

Council of Governments used \$185,000 in RPI funds to purchase heavy equipment to be shared among 10 municipalities.

Similarly, New Jersey's SHARE program disperses funding to counties so that they may own and operate equipment and programs on behalf of their municipalities. Union County has received a grant to support its newly established position of Shared Services Coordinator. The Coordinator's position is one element of a multi-faceted approach to identifying, promoting, and establishing new shared service programs involving the county, municipalities and local authorities, school districts and non-profit agencies.

- **Collaborative/regional projects should receive priority for state grant assistance**

Massachusetts can provide incentives and support to regionalization initiatives by modifying current administrative regulations so that state competitive grant programs give priority to regional projects. The Commission found that this practice has already been adopted by several Massachusetts state agencies.

The Board of Library Commissioners Public Construction Program encourages joint public library projects by giving them priority status. The program provides a more generous finding formula for regional projects as well. Another grant program supports resource sharing through interlibrary loan activity.

In April 2008, the Massachusetts School Building Authority (MSBA) Board voted to authorize a new regulation that provided the agency with the flexibility to award up to three percent reimbursement points in districts where regionalization efforts have been successful as a result of working with the MSBA. In response to school facility issues related to small and decreasing enrollments and high capital and operational costs, the additional reimbursement points serve as an incentive for municipalities to consider regionalization as a potential solution to school facility issues. The MSBA is working collaboratively with municipalities to equitably and strategically invest \$2.5 billion in schools across the state, and has organized a regionalization roundtable with public education stakeholders to continue to explore regional school construction opportunities.

- **Regionalization Resource Center**

Not all forms of support require a direct appropriation from the Commonwealth. The Commonwealth can also endorse regionalization through a regionalization resource center and by making changes in state statutes.

The Commission found that there is a wealth of documentation available pertaining to sharing services and regionalization. Technical documents such as examples of intermunicipal agreements, feasibility studies and merger analysis exists for regionalization initiatives that have both failed and succeeded. Both Legislative Committees and Executive Commissions have studied the issue, and reports of their findings exist. Such documentation provides government leaders and municipal citizens with information to advocate and examine their own ideas for regionalization and shared services.

However, this documentation is scattered and housed in various locations and on several websites. For an interested party to assemble the documentation takes time and can sometimes act as a barrier to moving forward with projects.

The Commission found that this problem has been solved in other states by designating a central resource for such information. The Washington Municipal Research and Services Center is an extremely valuable resource for Washington municipalities, in part because it is an easy and convenient way to access the information they need.

Similarly, the Local Government Services division in the New York Secretary of State's Office has contracted with the Albany Law School to serve as a resource to New York local governments for regionalization information. This is a recent partnership, but it has already proved valuable.

- **Changes in state statutes**

The necessity of designating a lead municipality and having employees hired by the lead municipality both have been identified as challenges to municipal collaboration and sharing services. To address both problems, Massachusetts typically creates a special district, and establishes another governmental body that has authority of the service shared or provided.

States other than Massachusetts have solved this challenge by allowing groups of municipalities to create a Joint Powers Authority.

A joint powers authority is distinct from its member governments and agencies. They have separate operating boards of directors, and these boards can be given any of the powers inherent in all of the participating agencies. In setting up a Joint Powers Authority, the constituent authorities must establish which of their powers the new authority will be allowed to exercise. A term and the membership and standing orders of the board of the authority must also be determined. The joint authority can employ staff and establish policies independently of the constituent authorities.

Massachusetts municipalities, under M.G.L. Chapter 21A Section 20, can enter into Joint Powers Agreements only for the management of joint *environmental* concerns. Under the statute, the agreement entered into must be approved by the Secretary of Environmental Affairs. To date, there is only one board (the Arlington, Belmont, and Cambridge Stormwater Flooding Board) created under M.G.L. Chapter 21A, Section 20.

Modification of statutory language can also remove barriers to regionalization by taking out unnecessarily burdensome requirements. For example, M.G.L. Chapter 115 Section 10 allows for the creation of Veterans' Service Districts by two or more contiguous municipalities. However, only one of the municipalities can be a city. Removal of this provision is a relatively minor procedure that can have a significant impact.

Some municipalities may successfully broker collaborations with their neighbors. In other cases an objective, independent facilitator may help bring municipalities together and work through the challenges of developing a partnership. While financial incentives are clear motivators, Commission members also identified a number of non-financial supports helpful in pursuing collaborative service delivery.

One regional effort receiving a lot of attention, hard work and support right now is consolidating the number of E911 public safety answering points in the Commonwealth. There are substantial challenges

to streamlining this service, including perceptions that public safety could be compromised, collective bargaining and other labor and personnel implications, prisoner care and custody, and the need for technology upgrades. The support for these efforts is also comparatively substantial. Efforts to consolidate E911 emergency dispatch benefit from two significant sources of support: a designated state agency charged with engaging in this task and a designated source of financial support generated independently of the state's general fund. The State 911 Department is charged with coordinating and effecting implementation of enhanced 911 services, and administering such service in the Commonwealth. Support from the Commonwealth includes grant programs for feasibility studies, facility construction or structural improvement, equipment and personnel, all funded by a monthly surcharge assessed on wireline, wireless, and "other" (such as VoIP) users.

## G. Recommendations

The Commission makes the following recommendations in order to:

- 1) Foster an environment that encourages municipalities to collaborate,
- 2) Create incentives that facilitate the achievement of successful collaborations, and
- 3) Identify and remove barriers to enhance local collaboration.

### **Organize and execute a statewide regionalization conference on an annual basis**

**An annual statewide conference focusing on regionalization can offer municipal and state officials as well as the interested public an opportunity to learn of best practices that can foster regionalization in communities across the Commonwealth.**

In September 2009, the Patrick-Murray Administration in partnership with the Franklin Regional Council of Governments and the Massachusetts Association of Regional Planning Agencies organized and executed **The Regionalization Tool Kit: A Practical Guide to Sharing Municipal Services**. A similar conference should be conducted on an annual basis to share and discuss best practices for regionalizing a variety of local services.

### **Replicate existing successful programs**

**Local governments and regional entities should replicate and expand existing programs to cover more areas. Existing successful collaborations should be documented.**

The Commission found that there are many existing examples of successful collaborations, such as the Franklin Regional Council of Governments Accounting Program.

- The Franklin Regional Council of Governments provides accounting services to 11 towns. Most participating local governments pay less overall for the service than they would have spent independently. One participating town has reduced its accounting labor cost by 43 percent. An unexpected benefit is that participating municipalities that retain the same independent accounting

firm to conduct its annual audit have experienced decreased costs because of the uniformity and consistency of their accounting processes and procedures.

#### **Centralize existing regionalization resources**

**Regionalization information, such as sample agreements, best practices and success stories should be centralized and made available on a single web site for ready access.**

Municipalities that are interested in exploring regionalization and sharing services can learn a good deal by studying past regionalization efforts. Many resources are available: profiles of existing and emerging collaborations (Regional Planning Agencies), case studies of past regionalization efforts and sample intermunicipal agreements (Pioneer Institute) and studies by prior Executive and Legislative Commissions. Although Massachusetts has a wealth of resources related to the development of shared service agreements, there is not a “go to” source where municipalities interested in exploring collaborative agreements can access information. Regionalization resources from various sources should be consolidated.

- The State of Washington’s Municipal Research and Services Center provides dependable advice from a multidisciplinary team of professional consultants, a comprehensive website and access to thousands of sample documents, including documents relating to intermunicipal agreements and shared services.

#### **Leverage existing state grant programs to encourage collaboration**

**State agencies should be directed to develop standards, policies and procedures that promote regionalization and encourage municipalities to submit joint applications for grant, loan and technical assistance programs whenever doing so would increase the public benefit. Joint applications should receive higher scores to reward and encourage such collaborations.**

- The Department of Public Health (DPH), through its contracts for purchased services and various grant and partnership programs, has capacity to encourage more regional cooperation. DPH has already implemented this approach in some of its tobacco control contracts, for example, and has encouraged regional cooperation in its guidelines for Determination of Need community health initiatives.

#### **Fund pilot programs**

**The Commonwealth should continue funding pilot programs. Municipalities should implement lessons from the pilot programs in order to replicate and expand collaborations in Massachusetts.**

Regional pilot programs prove beneficial to participating cities and towns and foster an environment that encourages more collaboration efforts by demonstrating pathways to success. The allocation of 30 percent of District Local Technical Assistance Program funding to regionalization efforts is an example of relatively small dollars encouraging collaborations.

- The District Local Technical Assistance Fund (DLTA) was created in 2006. DLTA funds are distributed via a formula among the Commonwealth's 13 regional planning agencies (RPAs) to fund technical assistance on a variety of regional planning areas including land use planning. Beginning in 2009 the Commonwealth encouraged municipalities to work together to achieve or enhance cost-effective services or ongoing collaborations among municipalities by updating the orientation of the DLTA program. The DLTA program now requires a target spending level of 30 percent (\$600,000) of the program's \$2 million annual funding be used to promote and support municipal collaborations, specifically to foster and implement partnerships among two or more municipalities to enhance cost-effectiveness and efficiency of local government service delivery.

#### **Develop incentive and support programs for the future**

**The Commonwealth should develop incentives and funding programs for a range of activities in support of regionalization, including facilitation and technical assistance for planning, implementation, host agency capacity building and transition and start-up costs.**

- The Massachusetts 911 Department provides grants that encourage the development of regional 911 public safety answering points. These grants provide funding for feasibility studies, facility construction and/or structural improvement, personnel and equipment costs.
- Several other states have considered how to promote regionalization. Further research into what other states have done; how the Legislature funded efforts and incentives; and how success was monitored and quantified should be conducted to create the best possible program in Massachusetts.

#### **Identify and develop outside funding streams**

**Cities and towns, regional entities, and the Commonwealth should seek opportunities to leverage funding sources for regionalization in addition to the state operating budget.**

- The Green Communities Division and Grant Program are funded with proceeds from the Regional Greenhouse Gas Initiative, a carbon cap and trade program that Massachusetts participates in along with nine other states.
- A Regionalization Working Group, operating with staff support from the Boston University School of Public Health, has been developing recommendations to promote public health districts in Massachusetts for several years. The Robert Wood Johnson Foundation is funding a project of the Regionalization Working Group that is providing modest planning grants to three recently-selected groups of municipalities across the state; all are considering forming health districts. The Metrowest Community Health Care Foundation is also funding a project to promote regionalization in the Metrowest area.
- A monthly telephone bill surcharge funds Massachusetts 911 Department grants that foster regionalization of local public safety answering points.

**Further study municipal governance issues**

**The Commonwealth should conduct further study of municipal governance issues that challenge local government collaborations and local government operations in general.**

The issue of governance was widely stated as a barrier to regionalization and sharing services. Generally, there are several specific government “forms” Massachusetts municipalities operate under. Often, this can lead to a lack of congruency between adjacent cities and towns in municipal functions and authorities. Some municipalities continue to elect individuals that perform administrative functions such as treasury, tax collecting and assessing, while in other municipalities such positions are appointed. This lack of congruency tends to complicate discussions around consolidating services. There are many local governments in Massachusetts that are fragmented and decentralized with numerous decision-making entities, such as boards of health and boards of public works which further complicate interlocal initiatives.

To optimize effectiveness and efficiency of local government operations through regionalization and local government operations in general, the Commission recommends an evaluation of elective positions and the various forms of local government to assess efficiency and effectiveness of those models in today’s governing environment.

**Further study human resources-related matters**

**The Commonwealth should convene a group of interested parties to discuss human resources matters relevant to regionalization and develop a list of recommendations, including best practices and pathways to successfully address these challenges.**

Human resources-related matters, such as civil service, seniority, benefits and collective bargaining agreements have proven to be one of the most challenging areas to address in the process of developing service delivery collaborations or consolidations. Successfully addressing these matters is a key component to achieving successful collaborations.

- Merging teacher contracts is one of the more complicated challenges in a school regionalization process. The law articulating the rights of employees of regional school districts (M.G.L. Chapter 71, Section 42B) is often misinterpreted, inhibiting the establishment of regional districts. It is a fairly widespread belief that the law stipulates that when districts merge into a regional school district, the regional school district must adopt a salary schedule and benefits package that is aligned with the highest among the joining districts. In fact, regional school districts may and do adopt differentiated salary schedules so that personnel retain the salary level of their previous district; usually in these cases all personnel are brought onto the same scale in a phased-in process that occurs over a number of years.

**Further study of regional governmental entities and state service delivery regions**

**The Commonwealth should review existing regional governmental entities and state service delivery regions with the goal of developing entities and regions with the governance structure, authority and funding mechanisms appropriate to facilitate regionalization. To this end, the Lieutenant Governor**

**will convene a working group to study streamlining possible geographic and service delivery frameworks and entities that could help facilitate and foster regionalization efforts.**

The Commission's charge was to examine possible opportunities, benefits and challenges of regionalizing certain local services. Clearly, there are many instances where collaboration and consolidation of local services on a regional level would lead to more effective and efficient service delivery. The Commission's study of 11 local services has identified opportunities for regional entities acting as host agencies to provide services and support to member cities and towns. Existing entities that perform regional service delivery have the potential to serve as facilitators for further collaborations among municipalities and to host additional service delivery.

For example, the former government of Franklin County underwent the arduous process of reinventing itself into the current Franklin Regional Council of Governments. This required both special legislation and a painstaking charter process. The result is a regional governance model that is both accountable and responsive to its member towns.

Through its work, the Commission identified numerous state service delivery regions in the Commonwealth, all with inconsistent geographical groupings. Such a model leads to confusion and inefficiency. For instance, in Massachusetts there are county boundaries, regional planning agency boundaries, regional health district boundaries, regional library system boundaries, watershed area boundaries, and homeland security boundaries, to name a few; each with its own geographical area. The Commission believes that these service areas should be examined and, to the extent possible, coordinated into more defined, recognizable, and coordinated service delivery areas with one or more host agencies empowered to coordinate and deliver municipal services.

The Lieutenant Governor will convene a working group to study streamlining possible geographic and service delivery frameworks/entities that could help facilitate and foster regionalization efforts.

## **Recommendations on Specific Local Services**

In order to conduct efficient and in-depth study of numerous local service areas, the Commission established eleven committees to address specific areas: education, elder services, municipal finance, green communities, housing and economic development, information technology, libraries, public health, public safety, transportation and public works, and veterans' services. Commission members on the committees were charged with identifying possible opportunities, benefits and challenges to regionalization. See below recommendations on each local service area examined. These recommendations are presented in greater detail and context in the committee reports included as appendices to this report.

### **Education**

- Promote opportunities for increased school district collaboration and regionalization through legislation.
- Encourage stakeholders across the Commonwealth to critically examine how the existing organization of school districts can better support the provision of high-quality academic opportunities and promote district capacity.

- Encourage additional districts to cooperate and collaborate to increase efficiency and capacity, such as through joint bidding and purchasing and use of educational collaboratives for programming.
- Have savings achieved through regional school transportation agreements be returned to the school districts, for educational programs consistent with an improvement plan adopted by the district.

### **Elder Services**

- Complete work on statewide Regional Transit Authority/Adult Day Health Transportation Plan.
- Elder Affairs will work with Councils on Aging to collect service data; disseminate best practices statewide.
- Access Regional Incentive Fund to hire a transportation consultant to review Elder Medical Transportation (~90 percent of total rides statewide).
- Elder Affairs will participate in conversations with municipalities about building regional senior centers and/or senior centers in multipurpose buildings.

### **Finance**

- Replicate Franklin Regional Council of Governments Accounting Program (provides municipal accounting services to multiple towns).
- Expand the Computer Software Consortium Model, which is assessing and collection software that is cooperatively purchased, updated and maintained by 75 municipalities in Massachusetts through a small annual assessment, to include multiple integrated financial management applications.
- Provide regular and ongoing training for municipal finance officers.
- Encourage information technology risk management assessment and information technology security.
- Expand host agency capabilities, recognized as a valuable model for regionalization.
- Create a regional incentive fund to support implementation of projects.
- Pursue state incentives and relief for regionalization efforts.

### **Green Communities**

- Leverage existing state funding programs to promote regionalization.
- Adopt proposed Property Assessment Clean Energy legislation (expanding home energy efficiency and retrofit programs and allowing the costs to be attached to a property, not an individual), which includes a provision for regional models. Regional programs could be modeled on the Barnstable County Community Septic Loan program, which manages and provides financial assistance, through a betterment loan, for on-site septic repair.
- Develop regional energy plans.
- Establish regional energy managers or energy circuit riders to help cities and towns better their energy management and invest in clean energy strategies without hiring a full-time employee.
- Employ collective purchasing and procurement strategies to help municipalities save time and money in their energy and clean energy related costs and clean energy equipment costs.
- Group multiple towns and regional school districts together in a regional performance contract with an Energy Service Company.
- Municipalities should consider participating in energy cooperatives for the purchase, acquisition, distribution, sale, resale, supply, and disposition of energy or energy-related services.

### **Housing & Economic Development**

- Expand regional management and operation of housing authorities.
- Regionalize affordable housing monitoring activities for which local governments are currently responsible.
- Conduct planning for housing, economic development and infrastructure together on a regional level.
- Establish regional development and tax sharing arrangements, including authority for more types of arrangements. The three municipalities (Medford, Malden and Everett) cooperating in the development of River's Edge in Medford have special act authorization to share property tax revenues that result from development anywhere within the development site. The development boundaries include adjacent lands in each of the three communities and the development scheduling reflects the best site available, not the need for revenue in one city or another.

### **Information Technology**

- Coordinate hardware and software purchases. A variety of partnership models could be used.
- Expand host agency capacity, such as regional planning agency, to provide internet-based Geographic Information Systems, assessing and permit tracking data sharing.
- Coordinate planning and investment of the Massachusetts Broadband Institute, the Commonwealth's information technology consolidation, and municipal information technology needs. As the Commonwealth implements its plans to expand broadband and consolidate its IT uses, consider how municipalities can access and benefit from the Commonwealth's system should be considered and planned for.
- Municipalities should consider opportunities for IT consolidation within their community's operations, such as consolidation of school and municipal IT.
- Expand the Massachusetts Digital Summit conference with programs to benefit local officials.
- Municipalities should look for opportunities to collaborate on obtaining information technology support services, such as sharing information technology support personnel and joining forces to increase procurement power for support contracts.

### **Libraries**

- Address challenges to collaboration presented by governance issues, particularly library governance models.
- Require libraries to review sharing options prior to requesting construction funds available from the Massachusetts State Board of Library Commissioners.
- Award significantly higher financial incentives for municipalities that build joint libraries through the Massachusetts State Board of Library Commissioners' library construction program.
- Provide funds for technical assistances to study library mergers and facilitate the merger planning process.
- The Board of Library Commissioners should conduct more outreach to municipalities about current and future funding opportunities.
- Provide regionalization grants based on the former Municipal Incentive Grant program.
- Create a state-wide support network for regionalization efforts, perhaps through existing technical assistance centers.

### **Public Health**

- Further amend M.G.L. c.111 s.27B to remove the requirement that a town meeting must vote to approve formation of a public health district. This will streamline district formation and retain appropriate roles for municipal leaders and Boards of Health currently included in statute.
- Begin state funding to promote formation of public health districts by providing pilot funding for six districts, in accordance with the provisions of M.G.L. c.111 s.27A-C.
- Implement lessons from the pilot program in order to take a regional public health system “to scale” in Massachusetts by providing sustained state funding for district start-ups and operations.
- Seek opportunities to use state contracts and other revenue sources to promote increased regionalization of local public health.
- Establish an Office of Local Health within the Department of Public Health, with adequate staffing to provide technical assistance to promote and support public health regionalization.
- Establish minimum workforce qualifications for the local health workforce through legislation and regulation, including appropriate “grandfathering” provisions. Municipalities are more likely to form districts in order to share the costs of better qualified staff.
- Establish minimum performance standards for Boards of Health, linked to state funding for operating capacity required to meet statutory and regulatory responsibilities.
- Adopt statewide public health mutual aid legislation.

### **Public Safety**

- File special legislative acts to establish distinct regional enhanced 911/emergency communications entities, taking into account governance, funding mechanisms, and duties, compensation and other employment terms and conditions.
- Create legislation authorizing formation of regional enhanced 911/emergency communications districts, including establishment of governance, powers and duties funding mechanisms, fiscal accountability and employment/labor provisions.
- Review and possibly revise relevant statutes to further encourage and allow for ease of regionalization efforts: police districts, fire districts, police mutual aid, fire mutual aid, and consolidated municipal departments.

### **Public Works**

- Municipalities should be encouraged to conduct group purchasing, share public works equipment and share public works facilities as possible.
- Municipalities should be encouraged to consider merging public works departments wherever opportunity exists.
- Municipalities should be encouraged to share public works staff wherever an opportunity should exist.
- Encourage municipalities to coordinate the handling of solid waste, hazardous waste, and/or recycling.
- Best practices, models of regionalization, and sample agreements should be studied and published in a central place for municipalities to find the resources they need to move towards regionalization of services.

- Support passage of Public Works Mutual Aid legislation contained in the Municipal Relief legislation (House No. 4526) released by the Joint Legislative Committee on Municipalities and Regional Government.

### **Transportation**

- Encourage Ch 90 funds to be used for regional uses through incentives.
- Provide incentives for municipalities to provide regional elder transportation services.
- School districts should work together to explore regional busing opportunities when the opportunity exists.
- Standardize transit vehicle fleets and procurement.
- Regional planning agencies and Mass Department of Transportation need to ensure bike sharing programs are regional as they emerge.
- Place "Funded by MassDOT" graphics on Council of Aging vehicles to build awareness of statewide support.

### **Veterans' Services**

- Establish more veterans' services districts, for more effective and efficient provision of services.
- Remove barriers to establishing more veterans' services districts, as contained in Chapter 115, Section 10 and Chapter 471 of the Acts of 1972, including the requirement that municipalities be contiguous, the restriction that only one city can belong to a district and the population ceiling. Along with removing these barriers, the statute should be amended to require the Secretary of Veterans' Services' sign-off on formation of noncontiguous districts and districts with populations above the existing ceiling, in order to address concerns about capacity of these districts in order to ensure proper staffing levels to address the veterans population within said proposed district.
- Provide financial incentives to encourage the formation of veterans' services districts, including funds to purchase hardware and software.

## **H. Appendices**

Please see report appendices for the following report materials:

- List of recommendations requiring legislation action
- At-a-glance view of all local service recommendations
- In-depth committee reports on each local service area examined

**These appendices and all other report material are available online at:**  
**[www.mass.gov /governor/regional](http://www.mass.gov/governor/regional)**

**Acts**  
**2009****CHAPTER 60** AN ACT ESTABLISHING A REGIONALIZATION ADVISORY COMMISSION.

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a regionalization advisory commission, 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:*

**SECTION 1.** Notwithstanding any general or special law to the contrary, there shall be a 19 member Massachusetts regionalization advisory commission consisting of the following members: the secretary of the executive office for administration and finance, or his designee, who shall serve as chair of the commission; the secretary of the executive office of health and human services or his designee; the secretary of the executive office of energy and environmental affairs or his designee; the secretary of the executive office of public safety or his designee; the secretary of the executive office of transportation and public works or his designee; the secretary of the executive office of elder affairs or his designee; the secretary of the executive office of veterans' affairs or his designee; the secretary of the executive office of labor and workforce development or his designee; the secretary of the executive office of education or his designee; the secretary of the executive office of housing and economic development or his designee; the president of the senate or his designee; the speaker of the house of representatives or his designee; the minority leader of the senate or his designee; the minority leader of the house of representatives or his designee; a representative from the metropolitan area planning council; a representative from the Massachusetts Municipal Association; and 3 members to be appointed by the governor all of whom shall have knowledge and experience in 1 or more of the following areas: municipal government and services, municipal agreements, shared services or regionalization. Each member shall serve without compensation.

The commission shall review all aspects of regionalization including possible opportunities, benefits and challenges to regionalizing services within the commonwealth. The commission shall consider the costs and effects of regionalizing all services including, but not limited to: education, public safety, public health, public works, housing, veterans' services, workforce development, municipal finance and structure, elder services and transportation.

The commission shall submit its finding and recommendations for regionalizing services, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on municipalities and regional government not later than April 30,

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2010.

**SECTION 2.** This act shall take effect as of July 1, 2009.

*Approved August 6, 2009.*

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Acts
2007
CHAPTER 67 AN ACT TO REDUCE THE RELIANCE ON PROPERTY TAXES THROUGH MUNICIPAL HEALTH CARE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith affordable health insurance coverage for cities and towns, 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:

**SECTION 1.** To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sum set forth in this section is hereby appropriated from the General Fund unless specifically designated otherwise in this section for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2008. This sum shall be in addition to any amounts previously appropriated and made available for the purposes of this item.

1108-5201 For the costs incurred by the group insurance commission associated with providing municipal health insurance coverage pursuant to section 19 of chapter 32B of the General Laws; provided, that the commission may expend revenues in an amount not to exceed \$1,000,000 from the revenue received from administrative fees associated with providing municipal health insurance coverage pursuant to section 19 of chapter 32B of the General Laws; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system.....\$1,000,000

**SECTION 2.** Section 19A of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

A retirement board in the case of a retiree may deduct the per cent contribution of health insurance premiums for all retired members receiving group life insurance, group accidental death and dismemberment insurance, group general or blanket hospital, surgical, medical, dental or other health insurance coverage under chapter 32B from the respective retiree pension check. In the event that the amount of a retiree’s pension check is insufficient to accommodate the entire deduction and upon notice from the retirement board, the employer for whom the retiree last worked and from whom he is

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retired shall bill the retiree for the employee share of the premiums.

**SECTION 3.** Paragraph (b) of section 2 of chapter 32A of the General Laws, as so appearing, is hereby amended by adding the following sentence:- A person employed by a regional council of government established pursuant to section 20 of chapter 34B or a regional planning district or commission established pursuant to chapter 40B, a non-unionized education collaborative as defined by section 4E of chapter 40 or a commonwealth charter school as defined by section 89 of chapter 71 shall be an employee under chapter 32A and subject to the terms and conditions of said chapter 32A including, but not limited to, premium contribution ratios, in the event that the governing body of the regional council of government or the regional planning district or commission votes to accept that status and notifies the commission of the vote.

**SECTION 3A.** Said chapter 32A is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:—

Section 3. There shall be established within the executive office of administration and finance, but not under its jurisdiction, a special unpaid commission, to be known as the group insurance commission, consisting of the commissioner of administration and finance, the commissioner of insurance, and 13 members to be appointed by the governor, 1 of whom shall be a retired state employee, 1 of whom shall be a health economist and at least 3 of whom shall be full-time state employees, 1 shall be a member of the Massachusetts Public Employees Council, #93, AFSCME, Massachusetts State Labor Council, AFL-CIO, 1 shall be a member of the Massachusetts State Employees Association, NAGE, and 1 shall be a member of Local 254, S.E.I.U., 1 of whom shall be a management representative appointed from a list of 3 representatives nominated by the Massachusetts Municipal Association and 1 of whom shall be a labor representative appointed from a list of 3 representatives nominated by the president of the teachers' union with the greatest amount of active and retired members enrolled in commission health plans. In addition, upon the transfer of 45,000 subscribers from municipal governmental units to the group insurance commission pursuant to section 19 of chapter 32B, there shall be an additional management representative appointed by the governor from a list of 3 representatives nominated by the Massachusetts Municipal Association and an additional labor representative appointed by the governor from a list of 3 representatives of municipal public safety employees nominated by the president of the Massachusetts Chapter of the AFL-CIO. Whenever an organization nominates a list of representatives for appointment by the governor under this section, the organization may nominate additional candidates if the governor declines to appoint any of those originally nominated. Not more than 55 per cent of the appointive members of the commission shall be members of the same political party. No member appointed by the governor shall be an insurance agent, broker, employee or officer of an insurance company. Upon the expiration of the term of office of an appointive member, his successor shall be appointed in like manner for a term of 3 years. The commission shall be provided with suitable offices and may, subject to appropriation, incur expenses and appoint an executive director who shall be the executive and administrative head of the commission and who shall not be subject to chapter 31. The commission may authorize the executive director to appoint such employees as may be necessary to administer this chapter. There shall be

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paid by the commonwealth to each appointive member of the commission the necessary expenses actually incurred in the discharge of his official duties. The commission shall adopt such reasonable rules and regulations as may be necessary for the administration of this chapter and shall make an annual report to the governor and to the general court which shall include any modifications or amendments made to contracts executed under this chapter. The rules and regulations shall be in such form as to enable employees to understand the benefits available from the insurance program, including the cost thereof.

**NO SECTION 3B.**

**SECTION 3C.** Said chapter 32A is hereby further amended by inserting after section 3A the following section:—

Section 3B. This chapter shall become effective for a commonwealth charter school by a majority vote of its board of trustees and, for an education collaborative, by a majority vote of its board of directors.

**SECTION 3D.** Section 2 of said chapter 32B, as so appearing, is hereby amended by striking out, in line 5, the word “and”.

**SECTION 3E.** Paragraph (a) of said section 2 of said chapter 32B, as so appearing, is hereby amended by inserting after the word “thereof”, in line 5, the following words:- and for the purposes of this chapter if a collective bargaining agreement is in place, as to a commonwealth charter school as defined by section 89 of chapter 71, the board of trustees and; as to an education collaborative, as defined by section 4E of chapter 40, the board of directions.

**SECTION 4.** Chapter 32B of the General Laws is hereby amended by striking out section 19, as so appearing, and inserting in place thereof the following section:-

Section 19. (a) Notwithstanding any other provision of this chapter, the appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may instead elect to provide health insurance coverage to all its subscribers pursuant to this section by entering into contracts with health insurance carriers or by transferring its subscribers to the commission under subsection (e). For the purposes of this section, the term “subscribers” shall mean employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision accepting this section. This section shall take effect in a political subdivision upon its acceptance in the following manner: in a county, except Worcester county, by a vote of the county commissioners; in a city having Plan D or a Plan E charter, by majority vote of the city council and approval by the manager; in any other city, by majority vote of the city council and approval by the mayor; in a town, by vote of the board of selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the

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district at a district meeting.

Acceptance of this section shall not take effect until a written agreement has been reached between the appropriate public authority and the public employee committee, but the written agreement may condition acceptance of this section upon the transferring of subscribers into the commission under subsection (e).

A written agreement to transfer subscribers to the commission under this section shall be the sole means by which the subscribers of a political subdivision may be transferred to commission coverage.

Notwithstanding subsection (c) of section 4B of chapter 4, the acceptance of this section may be revoked in the same manner it was accepted in accordance with all other subsections of section 4B of said chapter 4, subject to the requirements of any written agreements as provided in this section and chapter 150E. The revocation of this section shall not take effect until a written agreement providing for revocation is reached between the appropriate public authority and the employee committee established herein. Nothing in this section shall preclude an appropriate public authority from agreeing to establish a health and welfare trust fund under section 15.

Except as otherwise provided in subsection (e), a contract with a health insurance carrier shall be in conformity with an agreement reached by an appropriate public authority and a public employee committee. The election by the appropriate public authority may be renewed in conformity with any successor agreement reached with a public employee committee. The public employee committee shall include a representative of each collective bargaining unit with which the political subdivision negotiates under chapter 150E and a retiree representative. Either the public employee committee or the appropriate public authority may convene the initial meeting of the committee at any time upon 30 days notice. The retiree representative shall be designated by the Retired State, County and Municipal Employees Association. The retiree representative shall have a 10 per cent vote. The remaining 90 per cent vote shall be divided so that each collective bargaining unit represented on the public employee committee shall have a weighted vote equal to the proportion which the number of employees eligible for health insurance under this chapter employed in the bargaining unit he represents bears to the total number of employees eligible for health insurance in all bargaining units of the political subdivision. An agreement with the appropriate public authority shall be approved by 70 per cent of the weighted votes of the representatives on the public employee committee and shall be binding on all subscribers and their representatives. For the purposes of this section, a health insurance carrier shall include any insurance company organized pursuant to chapter 175, hospital service corporation organized pursuant to chapter 176A, medical service corporation organized pursuant to chapter 176B, health maintenance organization organized pursuant to chapter 176G, preferred provider organization organized pursuant to chapter 176I and, in the case of a political subdivision which is partially or fully self-insured with respect to health insurance coverage, any third party administrator selected by the political subdivision, which may include, but shall not be limited to, a health insurance carrier.

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An agreement approved under this section shall be binding on all active and retired employees for whom health insurance coverage is being purchased, shall supersede any conflicting provision of a collective bargaining agreement and shall not be superseded in a statutory impasse proceeding under chapter 150E, but the agreement may include procedures for resolving an impasse in negotiations for a successor agreement. A dispute arising over the interpretation or application of the public employee committee agreement under this section may be submitted to binding arbitration under the labor arbitration provisions of the American Arbitration Association upon request of the public employee committee or the appropriate public authority, except as otherwise provided in subsection (f). A request shall be approved by 70 per cent of the weighted votes of the representatives on the public employee committee as set forth in this section or, where applicable, by a majority vote of the appropriate public authority. A political subdivision which elects to provide health insurance coverage to subscribers under this section shall be deemed in full compliance with this chapter regulating the procurement of health insurance. A political subdivision which elects to provide health insurance coverage under this section pursuant to an agreement approved by a public employee committee, may provide such coverage either as a single political subdivision or, under section 12, through joint purchase with other political subdivisions or, with multiple political subdivisions, through a risk-sharing pool, trust or health insurance carrier or third party administrator, or by making payments to a health and welfare trust fund to provide health insurance coverage under this section either as a single political subdivision or with multiple political subdivisions. The appropriate public authority may contract with a health insurance carrier for direct coverage of subscribers for whom the carrier's geographic service area provides appropriate access and coverage for other subscribers in accordance with subsection (d).

(b) Nothing in this section shall require, preclude or permit a change in any aspect of health insurance coverage for subscribers authorized by this section except where an agreement to provide for such change is reached by an appropriate public authority and a public employee committee in an agreement entered into or modified after the effective date of this subsection except as otherwise provided in subsection (e). In the absence of a successor agreement approved under this section, the prior agreement of the public employee committee and the appropriate public authority regarding the provision of health insurance shall remain in effect.

(c) Nothing in this section shall relieve a political subdivision from providing health insurance coverage to an employee, retiree, surviving spouse or dependent to whom it has an obligation to provide coverage under any other provision of this chapter.

(d) The agreement reached between an appropriate public authority and the public employee committee shall provide for those subscribers who, by reason of residence or domicile, cannot be appropriately served within the service area of the health insurance carrier included in the agreement, subject to this subsection.

Coverage for subscribers under this subsection shall be pursuant to and in conformity with the agreement required by this section and shall conform to all requirements of this section. The

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agreement reached between an appropriate public authority and the public employee committee shall provide that a subscriber who for reasons of residency is not eligible for enrollment in any such plan offered by a political subdivision shall be covered under a plan offered under chapter 176I, if any such plan is provided for under the agreement, but a subscriber who lives 10 miles or more from the nearest primary care physician providing care under the plan shall have out-of-pocket payments and medical deductibles limited to the amount that he would have paid had he utilized the network of medical services of the plan offered under chapter 176I. If the agreement reached between the appropriate public authority and the public employee committee provides for only health maintenance organizations or other health insurance carriers that limit enrollment to a particular geographic area, then notwithstanding any general or special law to the contrary, health maintenance organizations or other health insurance carriers shall provide for the coverage of services provided or arranged for all subscribers who do not reside within the geographic service area by providing the same benefit schedule and premium contribution provided to subscribers residing within the carrier's geographic service area including, but not limited to, covered services, out-of-pocket payments and medical deductibles for all medical services provided for or arranged under the agreement.

(e) Where an agreement, either executed or modified, reached by an appropriate public authority and the public employee so provides, the appropriate public authority shall notify the commission that it will transfer all subscribers for whom it provides health insurance coverage to the commission. The notice shall be provided to the commission by the appropriate public authority not later than October 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1. On the effective date of the transfer, the health insurance of all subscribers, including elderly governmental retirees previously governed by section 10B of chapter 32A and retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided through the commission for all purposes and governed under this section. As of the effective date and for the duration of this transfer, subscribers transferred to the commission's health insurance coverage shall receive group health insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining, except for contribution ratios which shall be determined by the written agreement.

Subscribers transferred to the commission who are eligible or become eligible for Medicare coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty assessed by the federal government on retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan. For each subscriber's premium and the political subdivision's share of that premium, the subscriber and the political subdivision shall furnish to the commission, in such form and content as the commission shall prescribe, all information the commission deems necessary to maintain subscribers' and covered dependents' health insurance coverage. The appropriate public authority of the political subdivision shall perform such administrative functions and process such information as the commission deems necessary to maintain those subscribers' health insurance coverage including, but not limited to,

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family and personnel status changes, and shall report all changes monthly to the commission. In the event that a political subdivision transfers subscribers to the commission under this section, subscribers may be withdrawn from commission coverage at either 3 or 6-year intervals from the date of transfer of subscribers to the commission, as determined by the written agreement which shall specify the withdrawal interval and withdrawal procedures. The written agreement may specify the procedures for resolving an impasse in negotiations over whether to withdraw from commission coverage and for determining health insurance coverage and contribution ratios for subscribers for the year following withdrawal from the commission. In the event that binding arbitration is included in the written agreement, the agreement shall provide that the dispute shall be submitted to arbitration and, if no method is provided of arbitration is provided in the agreement, then the dispute shall be administered by the American Arbitration Association under the procedures set forth in its Labor Arbitration Rules.

The decision and notice to withdraw shall be made by October 1 of the year prior to the effective date of withdrawal. All withdrawals shall be effective on July 1 following the political subdivision's notice to the commission. Except as otherwise provided in the written agreement, withdrawal from commission coverage shall revoke acceptance of this section and any written agreements related to the implementation of this section as of the effective date of withdrawal. In the event that the acceptance of this section is revoked, the appropriate public authority of the political subdivision shall abide by all commission requirements for effectuating such withdrawal, including the notice requirements in this subsection. In the event a political subdivision withdraws from commission coverage under this section, such withdrawal shall be binding on all subscribers, including those subscribers who, prior to the transfer to the commission, received coverage from the commission under sections 10B and 12 of chapter 32A and, after withdrawal from the commission, those subscribers who received coverage from the commission under said sections 10B and 12 of said chapter 32A shall not pay more than 25 per cent of the cost of their health insurance premiums.

In the event of revocation of acceptance of this section, the political subdivision and public employee unions shall return to governance of negotiations of health insurance under chapter 150E and this chapter on the effective date of withdrawal from commission coverage, to negotiate healthcare coverage for subscribers thereafter.

(f) To the extent authorized under chapter 32A, the commission shall provide group coverage of subscribers' health claims incurred after transfer to the commission. The claim experience of those subscribers shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents, including those subscribers who previously received coverage under sections 10B and 12 of chapter 32A.

Notwithstanding any general or special law to the contrary, a political subdivision that self-insures its group health insurance plan under section 3A and has a deficit in its claims trust fund at the time of

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transferring its subscribers to the commission and the deficit is attributable to a failure to accrue claims which had been incurred but not paid may capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts, or on a schedule providing for a more rapid amortization. Except as provided otherwise herein, subscribers eligible for health insurance coverage under subsection (e) shall be subject to all of the terms, conditions, schedule of benefits and health insurance carriers as employees and dependents as defined by section 2 and commission regulations. The commission shall determine all matters relating to subscribers' group health insurance rights, responsibilities, costs and payments, excluding contribution ratios, and obligations, including but not limited to, the manner and method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers and these matters shall be determined exclusively by the commission and shall not be subject to collective bargaining, the written agreement under subsection (a) or to arbitration under the agreement. The commission may issue rules and regulations consistent with this section and shall provide public notice of any proposed rules and regulations and notice of thereof at the request of interested parties, together with an opportunity to review those rules and regulations and an opportunity to comment on those proposed rules and regulations in writing and at a public hearing, but the commission shall not be subject to chapter 30A.

The commission shall negotiate and purchase health insurance coverage for subscribers transferred under subsection (e) and shall promulgate regulations, policies and procedures for coverage of the transferred subscribers. The schedule of benefits available to transferred subscribers shall be determined by the commission pursuant to chapter 32A. The commission shall offer those subscribers the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The political subdivision's contribution to the cost of health insurance coverage for transferred subscribers shall be as determined under this section, and shall not be subject to the provisions on contributions in said chapter 32A. Any change to the premium contribution ratios shall become effective on July 1 of each year, with notice to the commission of such change not later than January 15 of the same year.

A political subdivision that transfers subscribers to the commission shall pay the commission for all costs of its subscribers' coverage, including administrative expenses, and the governmental unit's cost of subscribers' premium. The commission shall determine on a periodic basis the amount of premium which the political subdivision shall pay to the commission. If the political subdivision unit fails to pay all or a portion of these costs according to the timetable determined by the commission, the commission may inform the state treasurer who shall issue a warrant in the manner provided by section 20 of chapter 59 requiring the respective political subdivision to pay into the treasury of the commonwealth as prescribed by the commission the amount of the premium and administrative expenses attributable to the political subdivision. The state treasurer shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the commission the costs of coverage for more than 90 days and the cherry sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the coverage of subscribers of the political subdivision. If the cancellation

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of coverage is for nonpayment, the political subdivision shall provide all subscribers health insurance coverage under plans which are the actuarial equivalent of plans offered by the commission in the preceding year until there is an agreement with the public employee committee providing for replacement coverage.

The commission may charge the political subdivision an administrative fee, which shall not be more than 1 per cent of the cost of total premiums for the political subdivision, to be determined by the commission which shall be considered as part of the cost of coverage for purposes of determining the contributions of the political subdivision and its employees to the cost of health insurance coverage by the commission.

(g) Any agreement reached between the political subdivision and the public employee committee, including an agreement to transfer subscribers to the group insurance commission, shall provide that within the same health insurance coverage plan the percentage contributed by the political subdivision to the premium or cost of health insurance coverage shall be the same for all subscribers covered under this section. These payments shall differ only by the type of coverage elected under the plan, including individual, family, optional Medicare extension or other coverage selections; but the percentage contributed by the political subdivision may vary among the different health insurance coverage plans offered under the agreement reached between the political subdivision and the public employee committee. The agreement reached shall provide that the percentage contributed by the political subdivision to the premium or cost of at least 1 Medicare extension plan available to all eligible subscribers shall be not less than the minimum percentage contributed by the political subdivision to any other health insurance coverage plan offered under the agreement reached. Any political subdivision that accepts this section shall establish by agreement with the public employee committee a contribution by the political subdivision to the premium or cost of health insurance coverage that provides for at east 50 per cent but not more than 99 per cent. Notwithstanding this subsection, where there is an agreement to transfer subscribers to the commission, subscribers whose coverage was governed by section 10B or 12 of chapter 32A before the date that the written agreement is executed, shall not be required to contribute more than 25 per cent of their health insurance premiums, but the written agreement may provide for a premium contribution paid by these subscribers of less than 25 per cent.

(h) If there is a revocation of acceptance or a withdrawal from the commission under this section, all retirees, their spouses and dependents insured or eligible to be insured by the political subdivision, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required to be insured by a Medicare extension plan offered by the political subdivision under section 11C or section 16. A retiree shall provide the political subdivision, in such form as the political subdivision shall prescribe, such information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health insurance coverage. The political subdivision may from time to time request from a retiree, a retiree's spouse and dependents, proof certified by the federal government of his eligibility or ineligibility for Medicare

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part A and part B coverage. The political subdivision shall pay the Medicare part B premium penalty assessed by the federal government on those retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan.

(i) In the absence of a public collective bargaining unit, the chief executive officer of a municipality may authorize the transfer of subscribers to the commission.

**SECTION 5.** Where a public employee committee and governmental entity have in existence an agreement under section 19 of chapter 32A of the General Laws on July 31, 2006, that agreement shall remain in full force and effect and shall thereafter be governed by said chapter 32A. If the agreement provides for the transfer of subscribers to the group insurance commission, the public employee committee and the political subdivision shall amend the agreement, as necessary, to be consistent with state law.

**SECTION 6.** Notwithstanding any general or special law to the contrary, the town of Saugus may transfer subscribers to the group insurance commission in accordance with section 19 of chapter 32B of the General Laws on or after the effective date of this act.

*Approved July 25, 2007.*

**Acts**  
**2007****CHAPTER 68** AN ACT TO REDUCE THE STRESS ON LOCAL PROPERTY TAXES THROUGH  
ENHANCED PENSION FUND INVESTMENT.

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith certain pension systems, 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:*

**SECTION 1.** Section 22 of said chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in line 1043, the words “electing to participate” and inserting in place thereof the following word:- participating.

**SECTION 2.** Subdivision (8) of said section 22 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (c) the following paragraph:-

(c½) The commission shall annually review the investment performance and funded ratio of all systems using data compiled as of January 1 of the year in which the review occurs. If on or before July 1 the funded ratio data as of January 1 is not available, the most recent data shall be used. A system found by the commission to have a funded ratio of less than 65 per cent and an average rate of return during the previous 10 years that is at least 2 percentage points less than that of the PRIT Fund rate of return over the same period shall be declared underperforming by the commission. The commission shall notify, in writing, any system deemed to be underperforming pursuant to this paragraph that it shall transfer ownership and control of all of its assets to the PRIM board. The notice shall include, without limitation: (i) a financial report on the specific underperforming system; (ii) a description of the rights and duties of the PRIM board; and (iii) a schedule for the transfer of ownership and control of a system’s assets to the PRIM board pursuant to this paragraph. A transfer of the ownership and control of a system’s assets pursuant to this paragraph shall be in perpetuity.

The PRIM board shall hold assets in trust for the participating systems. The PRIM board shall credit assets and earnings on the assets to the individual systems.

The PRIM board shall calculate regular interest as defined in subdivision (6) to allocate earnings among the various funds of each system. The board of each system shall continue to administer the system in accordance with sections 1 to 28, inclusive, including the maintenance of accounts in accordance with the funds provided for in this section. The PRIM board shall transfer monies to the

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various funds of the participating systems to allow them to carry out their duties pursuant to this chapter. The board of each participating system shall notify the PRIM board of the amounts needed for the various funds for the next fiscal year not later than 90 days before the start of the next fiscal year. The PRIM board shall develop a schedule of transfers to be made to the systems during the next fiscal year and notify the systems of that schedule not later than 30 days before the start of the next fiscal year. The PRIM board shall transfer those amounts in accordance with the schedule during the course of the fiscal year. From time to time, the boards may make supplemental requests of the PRIM board if the initial request is found to be insufficient. Within 30 days after the request, the PRIM board shall approve or deny it, but a denial shall be accompanied by a written statement of the reasons therefor.

A system ordered by the commission to transfer its assets under this paragraph may appeal for an exemption to a 4-member review board which shall consist of the executive director of the PRIM board or his designee, the secretary of administration and finance or his designee, a member selected by the state treasurer from a list of 3 names submitted by the Massachusetts Association of Contributory Retirement Systems and 1 member of a municipal employee union to be appointed by the governor. The system shall file written notice of its appeal with the secretary of administration and finance not later than 30 days after receiving the commission's order to transfer its assets. The review board may establish rules for its own procedure and the rules shall not be subject to chapter 30A. The review board may grant an exemption from the transfer requirement of this paragraph if its rate of return has exceeded the PRIT Fund rate of return for the previous 2 years or if the system's rate of return was affected by other extenuating circumstances. The review board may also consider the system's management costs, its risk return ratio and any other factors it deems appropriate. The grant of an exemption shall require the concurrence of at least 3 of the 4 members or their designees. A system may seek judicial review of the review board's decision to deny an exemption in the manner provided in section 14 of chapter 30A. An exemption granted by the review board pursuant to this paragraph shall take effect only upon the approval of a majority of the local governing body as follows: in a county, by the county commissioners, in a city having a Plan D or Plan E charter, by the city council and the manager, in any other city the city council and the mayor, in a town shall, by the board of selectmen, in a regional retirement system by the regional retirement board advisory council and in all other districts, by the governing board. The local governing body shall vote whether or not to approve the review board's grant of exemption within 30 days after the review boards' decision to provide an exemption.

**SECTION 3.** Notwithstanding any general or special law to the contrary, and pursuant to paragraph (c½) of subdivision (8) of section 22 of chapter 32 of the General Laws, the public employee retirement administration commission established in section 49 of chapter 7 of the General Laws shall review the investment performance and funded ratio of all systems using data compiled as of January 1, 2007. If an updated actuarial valuation is not completed by October 1, 2007, the most recent valuation completed shall be used. A system found by the public employee retirement administration commission to have a funded ratio of less than 65 per cent and an average rate of return during the

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previous 10 years that is at least 2 percentage points less than that of the rate of return of the PRIT Fund established in said subdivision (8) of said section 22 of said chapter 32 over the same time period shall be declared underperforming by the public employee retirement administration commission and shall transfer ownership and control of all of its assets to the PRIM board in accordance with said paragraph (c $\frac{1}{2}$ ) of said subdivision (8) of said section 22 of said chapter 32.

**SECTION 4.** Notwithstanding any general or special law to the contrary, a pension system established pursuant to chapter 32 or chapter 34B of the General Laws that would be deemed underperforming under paragraph (c $\frac{1}{2}$ ) of subdivision (8) of section 22 of said chapter 32 may voluntarily transfer ownership and control of all of its assets to the PRIM board. The decision to voluntarily transfer ownership and control of all of its assets to the PRIM board shall be made by the retirement board of each system, subject to the approval of a majority of the local governing body as follows: in a county, by the county commissioners, in a city having a Plan D or Plan E charter, by the city council and the manager, in any other city shall, by the city council and the, mayor, in a town, by, the board of selectmen, in a regional retirement system by the regional retirement board advisory council and in all other districts, by the governing board thereof. After the decision to participate has been approved, the decision to participate shall not be revoked for 5 years. A system that would be deemed underperforming pursuant to said paragraph (c $\frac{1}{2}$ ) of said subdivision (8) of said section 22 of said chapter 32 which chooses to exercise its right to voluntarily transfer its assets pursuant to this section shall transfer its assets before October 1, 2007.

**SECTION 5.** Notwithstanding any general or special law to the contrary, the public employee retirement administration commission established in section 49 of chapter 7 of the General Laws shall file an annual report with the house and senate committees on ways and means and the joint committee on public service detailing the average rate of return and funding level of each retirement system. The first annual report shall include the average rate of return and funding level of each retirement system since 1985.

**SECTION 6.** Notwithstanding any general or special law to the contrary, local retirement boards shall consider the annual cost-of-living adjustments to be a priority but the prioritization shall not constitute grounds for an appeal pursuant to paragraph (c $\frac{1}{2}$ )) of subdivision (8) of section 22 of chapter 32 of the General Laws.

**SECTION 7.** Sections 1, 2, 3, 5, and 6 of this act shall take effect on October 1, 2007.

*Approved July 25, 2007.*



Acts

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**CHAPTER 69** AN ACT RELATIVE TO MUNICIPAL HEALTH INSURANCEE.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to authorize municipalities to implement local health insurance changes, 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:*

**SECTION 1.** [Chapter 32B of the General Laws](#) is hereby amended by striking out section 2, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 2. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Appropriate public authority”, as to a county, except Worcester county, the county commissioners; as to a city, the mayor; as to a town, the selectmen; as to a district, the governing board of the district and for the purposes of this chapter if a collective bargaining agreement is in place, as to a commonwealth charter school as defined by [section 89 of chapter 71](#), the board of trustees; and as to an education collaborative, as defined by section 4E of chapter 40, the board of directors.

“Commission”, the group insurance commission established by [section 3 of chapter 32A](#).

“Dependent”, an employee’s spouse, an employee’s unmarried children under 19 years of age and any child 19 years of age or over who is mentally or physically incapable of earning the child’s own living; provided, however, that any additional premium which may be required shall be paid for the coverage of such child 19 years of age or over; provided further, that “dependent” shall also include an unmarried child 19 years of age or over who is a full-time student in an educational or vocational institution and whose program of education has not been substantially interrupted by full-time gainful employment, excluding service in the armed forces; provided further, that any additional premium which may be required for the coverage of such student shall be paid in full by the employee. The standards for such full-time instruction and the time required to complete such a program of education shall be determined by the appropriate public authority.

“District”, any water, sewer, light, fire, veterans’ services or other improvement district or public unit created within 1 or more political subdivisions of the commonwealth to provide public services or conveniences.

“Employee”, any person in the service of a governmental unit or whose services are divided between 2 or more governmental units or between a governmental unit and the commonwealth, and who receives compensation for any such service, whether such person is employed, appointed or elected by popular vote, and any employee of a free public library maintained in a city or town to the support of which that city or town annually contributes not less than one-half of the cost; provided, however, that the duties of such person require not less than 20 hours, regularly, in the service of the governmental unit during the regular work week of permanent or temporary employment; provided further, that no seasonal employee or emergency employees shall be included, except that persons elected by popular vote may be considered eligible employees during the entire term for which they are elected regardless of the number of hours devoted to the service of the governmental unit. A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an employee, if approved by vote of the municipal legislative body, and the municipality shall charge such individual 100 per cent of the premium. If an employee’s services are divided between governmental units, the employee shall, for the purposes of this chapter, be considered an employee of the governmental unit which pays more than 50 per cent of the employee’s salary. But, if no one governmental unit pays more than 50 per cent of that employee’s salary, the governmental unit paying the largest share of the salary shall consider the employee as its own for membership purposes, and that governmental unit shall contribute 50 per cent of the cost of the premium. If the payment of an employee’s salary is equally divided between governmental units, the governmental unit having the largest population shall contribute 50 per cent of the cost of the premium. If an employee’s salary is divided in any manner between a governmental unit and the commonwealth, the governmental unit shall contribute 50 per cent of the cost of the premium. An employee eligible for coverage under this chapter shall not be eligible for coverage as an employee under [chapter 32A](#). Teachers and all other public school employees shall be deemed to be employees during the months of July and August under this chapter; provided, however, that employee contributions for such health insurance for those 2 months are deducted from the compensation paid for services rendered during the previous school year. A determination by the appropriate public authority that a person is eligible for participation in the plan of insurance shall be final. Nothing in this paragraph shall apply to Worcester county or its employees.

“Employer”, the governmental unit.

“Governmental unit”, any political subdivision of the commonwealth.

“Health care flexible spending account”, a federally-recognized tax-exempt health benefit program

that allows an employee to set aside a portion of earnings to pay for qualified expenses as established in an employer's benefit plan.

"Health care organization", an organization for the group practice of medicine, with or without hospital or other medical institutional affiliations, which furnishes to the patient a specified or unlimited range of medical, surgical, dental, hospital and other types of health care services.

"Health reimbursement arrangement", a federally-recognized tax-exempt health benefit program funded solely by an employer to reimburse subscribers for qualified medical expenses.

"Optional Medicare extension", a program of hospital, surgical, medical, dental and other health insurance for such active employees and their dependents and such retired employees and their dependents, except elderly governmental retirees insured under section 11B, as are eligible or insured under the federal health insurance for the aged act, as may be amended from time to time.

"Political subdivision", any county, except Worcester county, city, town or district.

"Savings", for the purposes of sections 21, 22 and 23, shall mean the difference between the total projected premium costs for health insurance benefits provided by a political subdivision with changes made to health insurance benefits under section 22 or 23 for the first 12 months after the implementation of such changes and the total projected premium costs for health insurance benefits provided by that subdivision without such changes for the same 12 month period.

"Subscribers", employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision.

**SECTION 2.** [Section 12 of said chapter 32B](#) is hereby amended by adding the following paragraph:-

The board of a trust or joint purchase group established by 2 or more governmental units may vote to implement changes to co-payments, deductibles, tiered provider network copayments and other cost-sharing plan design features which do not exceed those which an appropriate public authority may offer under section 22; provided, however, that each governmental unit that is a member of a trust or group shall comply with the requirements set forth in section 21 before any such changes may be applied to the health insurance coverage of such governmental unit's subscribers. If such changes to the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features do not exceed those permitted under section 22, such changes shall be approved in accordance with the provisions of section 21.

**SECTION 3.** Said [chapter 32B](#) is hereby further amended by adding the following 9 sections:-

Section 21. (a) Any political subdivision electing to change health insurance benefits under sections 22 or 23 shall do so in the following manner: in a county, except Worcester county, by a vote of the county commissioners; in a city having Plan D or a Plan E charter, by majority vote of the city council and approval by the manager; in any other city, by majority vote of the city council and approval by the mayor; in a town, by vote of the board of selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the district at a district meeting. This section shall be binding on any political subdivision that implements changes to health insurance benefits pursuant to section 22 or 23.

(b) Prior to implementing any changes authorized under sections 22 or 23, the appropriate public authority shall evaluate its health insurance coverage and determine the savings that may be realized after the first 12 months of implementation of plan design changes or upon transfer of its subscribers to the commission. The appropriate public authority shall then notify its insurance advisory committee, or such committee's regional or district equivalent, of the estimated savings and provide any reports or other documentation with respect to the determination of estimated savings as requested by the insurance advisory committee. After discussion with the insurance advisory committee as to the estimated savings, the appropriate public authority shall give notice to each of its collective bargaining units to which the authority provides health insurance benefits and a retiree representative, hereafter called the public employee committee, of its intention to enter into negotiations to implement changes to health insurance benefits provided by the appropriate public authority. The retiree representative shall be designated by the Retired State, County and Municipal Employees Association. A political subdivision which has previously established a public employee committee under section 19 may implement changes to its health insurance benefits pursuant to this section and sections 22 and 23.

Notice to the collective bargaining units and retirees shall be provided in the same manner as prescribed in section 19. The notice shall detail the proposed changes, the appropriate public authority's analysis and estimate of its anticipated savings from such changes and a proposal to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected.

(c) The appropriate public authority and the public employee committee shall have not more than 30 days from the point at which the public employee committee receives the notice as provided in subsection (b) to negotiate all aspects of the proposal. An agreement with the appropriate public authority shall be approved by a majority vote of the public employee committee; provided, however, that the retiree representative shall have a 10 per cent vote. If after 30 days the appropriate public authority and public employee committee are unable to enter into a written agreement to implement changes under section 22 or 23, the matter shall be submitted to a municipal health insurance review panel. The panel shall be comprised of 3 members, 1 of whom shall be appointed by the

public employee committee, 1 of whom shall be appointed by the public authority and 1 of whom shall be selected through the secretary of administration and finance who shall forward to the appropriate public authority and the public employee committee a list of 3 impartial potential members, each of whom shall have professional experience in dispute mediation and municipal finance or municipal health benefits, from which the appropriate public authority and the public employee committee may jointly select the third member; provided, however, that if the appropriate public authority and the public employee committee cannot agree within 3 business days upon which person to select as the third member of the panel, the secretary of administration and finance shall select the final member of the panel. Any fee or compensation provided to a member for service on the panel shall be shared equally between the public employee committee and the appropriate public authority.

(d) The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 22; provided, however, that any increases to plan design features have been made in accordance with the provisions of section 22. The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 23; provided, that the panel confirms that the anticipated savings under those changes would be at least 5 per cent greater than the maximum possible savings under section 22. If the panel does not approve implementation of changes made pursuant to section 22 or section 23, the public authority may submit a new proposal to the public employee committee for consideration and confirmation under this section.

(e) Within 10 days of receiving any proposed changes under sections 22 or 23, the municipal health insurance review panel shall: (i) confirm the appropriate public authority's estimated monetary savings due to the proposed changes under section 22 or 23 and ensure that the savings is substantiated by documentation provided by the appropriate public authority; provided, however, that if the panel determines the savings estimate to be unsubstantiated, the panel may require the public authority to submit a new estimate or provide additional information to substantiate the estimate; (ii) review the proposal submitted by the appropriate public authority to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected; and (iii) concur with the appropriate public authority that the proposal is sufficient to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected or revise the proposal pursuant to subsection (f).

(f) The municipal health insurance review panel may determine the proposal to be insufficient and may require additional savings to be shared with subscribers, particularly those who would be disproportionately affected by changes made pursuant to sections 22 or 23, including retirees, low-

income subscribers and subscribers with high out-of-pocket costs. In evaluating the distribution of savings to retirees, the panel may consider any discrepancy between the percentage contributed by retirees, surviving spouses and their dependents to plans offered by the public authority as compared to other subscribers. In reaching a decision on the proposal under this subsection, the municipal health insurance review panel may consider an alternative proposal, with supporting documentation, from the public employee committee to mitigate, moderate or cap the impact of these changes for subscribers. The panel may require the appropriate public authority to distribute additional savings to subscribers in the form of health reimbursement arrangements, wellness programs, health care trust funds for emergency medical care or inpatient hospital care, out-of-pocket caps, Medicare Part B reimbursements or reimbursements for other qualified medical expenses; provided, however that in no case shall the municipal health insurance review panel designate more than 25 per cent of the estimated savings to subscribers. The municipal health insurance review panel shall not require a municipality to implement a proposal to mitigate, moderate or cap the impact of changes authorized under section 22 or 23 which has a total multi-year cost that exceeds 25 per cent of the estimated savings. All obligations on behalf of the appropriate public authority related to the proposal shall expire after the initial amount of estimated savings designated by the panel to be distributed to employees and retirees has been expended. The panel shall not impose any change to contribution ratios.

(g) The decision of the municipal health insurance review panel shall be binding upon all parties.

(h) The secretary of administration and finance shall promulgate regulations establishing administrative procedures for the negotiations with the public employee committee and the municipal health insurance review panel, and issue guidelines to be utilized by the appropriate public authority and the municipal health insurance review panel in evaluating which subscribers are disproportionately affected, subscriber income and subscriber out-of-pocket costs associated with health insurance benefits.

Section 22. (a) Upon meeting the requirements of section 21, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers not enrolled in a Medicare plan under section 18A, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a non-Medicare plan with the largest subscriber enrollment; provided, however, that for subscribers enrolled in a Medicare plan pursuant to section 18A the appropriate public authority may include, as part of the health plans that it offers to its subscribers, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in

dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a Medicare plan with the largest subscriber enrollment. The appropriate public authority shall not include a plan design feature which seeks to achieve premium savings by offering a health benefit plan with a reduced or selective network or providers unless the appropriate public authority also offers a health benefit plan to all subscribers that does not contain a reduced or selective network of providers.

(b) An appropriate public authority may increase the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features; provided that, for subscribers enrolled in a non-Medicare plan, such features do not exceed plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a non-Medicare plan with the largest subscriber enrollment and, for subscribers enrolled in a Medicare plan under section 18A, such features do not exceed plan design features offered by the commission pursuant to [section 4](#) or [4A of chapter 32A](#) in a Medicare plan with the largest subscriber enrollment; provided, however, that the public authority need only satisfy the requirements of subsection (a) of section 21 the first time changes are implemented pursuant to this section; and provided, further that the public authority meet its obligations under subsections (b) to (h), inclusive, of section 21 each time an increase to a plan design feature is proposed.

Nothing herein shall prohibit an appropriate public authority from including in its health plans higher copayments, deductibles or tiered provider network copayments or other plan design features than those authorized by this section; provided, however, such higher copayments, deductibles, tiered provider network copayments and other plan design features may be included only after the governmental unit has satisfied any bargaining obligations pursuant to section 19 or [chapter 150E](#).

(c) The decision to accept and implement this section shall not be subject to bargaining pursuant to [chapter 150E](#) or section 19. Nothing in this section shall preclude the implementation of plan design changes pursuant to this section in communities that have adopted section 19 of this chapter or by the governing board of a joint purchasing group established pursuant to section 12.

(d) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

(e) The first time a public authority implements plan design changes under this section or section 23, the public authority shall not increase before July 1, 2014, the percentage contributed by retirees, surviving spouses and their dependents to their health insurance premiums from the percentage that was approved by the public authority prior to and in effect on July 1, 2011; provided however,

that if a public authority approved of an increase in said percentage contributed by retirees before July 1, 2011, but to take effect on a date after July 1, 2011, said percentage increase may take effect upon the approval of the secretary of administration and finance based on documented evidence satisfactory to the secretary that the public authority approved the increase prior to July 1, 2011.

Section 23. (a) Upon meeting the requirements of section 21, an appropriate public authority which has undertaken to provide health insurance coverage to its subscribers may elect to provide health insurance coverage to its subscribers by transferring its subscribers to the commission and shall notify the commission of such transfer. The notice shall be provided to the commission by the appropriate public authority on or before December 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1. On the effective date of the transfer, the health insurance of all subscribers, including elderly governmental retirees previously governed by section 10B of chapter 32A and retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided through the commission for all purposes and governed under this section. As of the effective date and for the duration of this transfer, subscribers transferred to the commission's health insurance coverage shall receive group health insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining, except for contribution ratios.

Subscribers transferred to the commission who are eligible or become eligible for Medicare coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty assessed by the federal government on retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan. For each subscriber's premium and the political subdivision's share of that premium, the subscriber and the political subdivision shall furnish to the commission, in such form and content as the commission shall prescribe, all information the commission deems necessary to maintain subscribers' and covered dependents' health insurance coverage. The appropriate public authority of the political subdivision shall perform such administrative functions and process such information as the commission deems necessary to maintain those subscribers' health insurance coverage including, but not limited to, family and personnel status changes, and shall report all changes to the commission. In the event that a political subdivision transfers subscribers to the commission under this section, subscribers may be withdrawn from commission coverage at 3 year intervals from the date of transfer of subscribers to the commission.

The appropriate public authority shall provide notice of any withdrawal by October 1 of the year prior to the effective date of withdrawal. All withdrawals shall be effective on July 1 following the political subdivision's notice to the commission and the political subdivision shall abide by all commission

requirements for effectuating such withdrawal, including the notice requirements in this subsection. In the event a political subdivision withdraws from commission coverage under this section, such withdrawal shall be binding on all subscribers, including those subscribers who, prior to the transfer to the commission, received coverage from the commission under [sections 10B and 12 of chapter 32A](#) and, after withdrawal from the commission, those subscribers who received coverage from the commission under said [sections 10B and 12 of said chapter 32A](#) shall not pay more than 25 per cent of the cost of their health insurance premiums. In the event of withdrawal from the commission, the political subdivision and public employee unions shall return to governance of negotiations of health insurance under [chapter 150E](#) and this chapter; provided, however, that the political subdivision may transfer coverage to the commission again after complying with the requirements of subsections (b) to (h), inclusive, of section 21.

The commission shall issue rules and regulations consistent with this section related to the process by which subscribers shall be transferred to the commission.

(b) To the extent authorized under chapter 32A, the commission shall provide group coverage of subscribers' health claims incurred after transfer to the commission. The claim experience of those subscribers shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents, including those subscribers who previously received coverage under sections 10B and 12 of chapter 32A.

(c) A political subdivision that self-insures its group health insurance plan under section 3A and has a deficit in its claims trust fund at the time of transferring its subscribers to the commission and the deficit is attributable to a failure to accrue claims which had been incurred but not paid may capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts or on a schedule providing for a more rapid amortization. Except as provided otherwise herein, subscribers eligible for health insurance coverage pursuant to this section shall be subject to all of the terms, conditions, schedule of benefits and health insurance carriers as employees and dependents as defined by section 2 and commission regulations. The commission shall, exclusively and not subject to collective bargaining under [chapter 150E](#), determine all matters relating to subscribers' group health insurance rights, responsibilities, costs and payments and obligations excluding contribution ratios, including, but not limited to, the manner and method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers. The commission may issue rules and regulations consistent with this section and shall provide public notice, and notice at the request of the interested parties, of any proposed rules and regulations and provide an opportunity to review and an opportunity to comment on those proposed rules and regulations in writing and at a public hearing; provided, however, that the commission shall not be subject to [chapter 30A](#).

(d) The commission shall negotiate and purchase health insurance coverage for subscribers

transferred under this section and shall promulgate regulations, policies and procedures for coverage of the transferred subscribers. The schedule of benefits available to transferred subscribers shall be determined by the commission pursuant to [chapter 32A](#). The commission shall offer those subscribers the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The political subdivision's contribution to the cost of health insurance coverage for transferred subscribers shall be as determined under this section, and shall not be subject to the provisions on contributions in said [chapter 32A](#). Any change to the premium contribution ratios shall become effective on July 1 of each year, with notice to the commission of such change not later than January 15 of the same year.

(e) A political subdivision that transfers subscribers to the commission shall pay the commission for all costs of its subscribers' coverage, including administrative expenses and the governmental unit's cost of subscribers' premium. The commission shall determine on a periodic basis the amount of premium which the political subdivision shall pay to the commission. If the political subdivision unit fails to pay all or a portion of these costs according to the timetable determined by the commission, the commission may inform the state treasurer who shall issue a warrant in the manner provided by [section 20 of chapter 59](#) requiring the respective political subdivision to pay into the treasury of the commonwealth as prescribed by the commission the amount of the premium and administrative expenses attributable to the political subdivision. The state treasurer shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the commission the costs of coverage for more than 90 days and the cherry sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the coverage of subscribers of the political subdivision. If the cancellation of coverage is for nonpayment, the political subdivision shall provide all subscribers health insurance coverage under plans which are the actuarial equivalent of plans offered by the commission in the preceding year until there is an agreement with the public employee committee providing for replacement coverage.

The commission may charge the political subdivision an administrative fee, which shall not be more than 1 per cent of the cost of total premiums for the political subdivision, to be determined by the commission which shall be considered as part of the cost of coverage to determine the contributions of the political subdivision and its employees to the cost of health insurance coverage by the commission.

(f) If there is a withdrawal from the commission under this section, all retirees, their spouses and dependents insured or eligible to be insured by the political subdivision, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required to be insured by a Medicare extension plan offered by the political subdivision under section 11C or section 16. A retiree shall provide the political subdivision, in such form as the political subdivision shall prescribe, such

information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, the retiree shall no longer be eligible for the retiree's existing health insurance coverage. The political subdivision may from time to time request from a retiree, a retiree's spouse and dependents, proof certified by the federal government of the retiree's eligibility or ineligibility for Medicare part A and part B coverage. The political subdivision shall pay the Medicare part B premium penalty assessed by the federal government on those retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan.

(g) The decision to implement this section shall not be subject to collective bargaining pursuant to [chapter 150E](#) or section 19.

(h) Nothing in this section shall relieve a political subdivision from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter or change eligibility standards for health insurance under the definition of "employee" in section 2.

Section 24. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter may provide health care flexible spending accounts to allow certain subscribers, as determined by the appropriate public authority, to set aside a portion of earnings to pay for qualified expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 25. Notwithstanding any general or special law or regulation to the contrary, the appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter or transfer its subscribers to the commission under this chapter may provide health reimbursement arrangements to reimburse subscribers for qualified medical expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 26. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter shall conduct an enrollment audit not less than once every 2 years. The audit shall be completed in order to ensure that members are appropriately eligible for coverage.

Section 27. An insurance carrier, third party purchasing group or administrator or the commission in the case of a governmental unit, which has undertaken to provide health insurance coverage to its

subscribers by acceptance of sections 19 or 23, shall, upon written request, provide the governmental unit or public employee committee with its historical claims data within 45 days of such request; provided, that all personally identifying information within such claims shall be redacted and released in a form and manner compliant with all applicable state and federal privacy statutes and regulations including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996.

Section 28. Nothing in section 21, 22 or 23 shall be construed to prevent 2 or more governmental units under a joint purchase or trust agreement from jointly negotiating and purchasing coverage as authorized in section 12.

Section 29. Each fiscal year, the commission shall prepare and place on its website a report delineating the dollar amount of the copayments, deductibles, tiered provider network co-payments and other design features offered by the commission in the non-Medicare plan with the largest subscriber enrollment and the dollar amount of the copayments, deductibles, tiered provider network copayments and other design features offered by the commission in the Medicare extension plan with the largest subscriber enrollment. The commission shall also provide information on its plans with the largest subscriber enrollment upon request of any appropriate public authority or political subdivision.

**SECTION 4.** Notwithstanding any general or special law to the contrary, an appropriate public authority that implements changes to health insurance benefits pursuant to sections 22 and 23 of chapter 32B of the General Laws shall delay implementation of such changes, as to those subscribers covered by a collective bargaining agreement or section 19 agreement that is in effect on the date of implementation of such changes, of any changes to the dollar amounts of copayments, deductibles or other cost-sharing plan design features that are inconsistent with any dollar limits on copayments, deductibles or other cost-sharing plan design features that are specifically included in the body of that collective bargaining agreement or section 19 agreement, until the initial term stated in that collective bargaining agreement or section 19 agreement has ended.

**SECTION 5.** Nothing in this act shall be construed to alter, amend or affect [chapter 36 of the acts of 1998](#), [chapter 423 of the acts of 2002](#), [chapter 27 of the acts of 2003](#) or [chapter 247 of the acts of 2004](#).

**SECTION 6.** Notwithstanding any general or special law to the contrary, the group insurance commission shall prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before January 1, 2012, if such political subdivision provides notice to the group insurance commission on or before

September 1, 2011, that it is transferring its subscribers to the group insurance commission under [sections 19 or 23 of chapter 32B of the General Laws](#); provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before April 1, 2012, if such political subdivision provides notice to the group insurance commission on or before December 1, 2011, that it is transferring its subscribers to the group insurance commission under said [sections 19 or 23 of said chapter 32B](#); provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before July 1, 2012, if such political subdivision provides notice to the group insurance commission on or before March 1, 2012, that it is transferring its subscribers to the group insurance commission under said [sections 19 or 23 of said chapter 32B](#).

**SECTION 7.** Notwithstanding any general or special law to the contrary, unless otherwise agreed, a governmental unit transferring its subscribers to the group insurance commission under [section 23 of chapter 32B of the General Laws](#) shall use current contribution ratios in existence for each class of plan for each collective bargaining unit in order to transfer to the commission. If a governmental unit was not offering both a preferred provider organization plan or an indemnity plan on the date of transfer to the commission, the governmental unit's initial contribution ratio toward the commission's preferred provider organization plans and indemnity plans shall be the ratio that the governmental unit was contributing toward its preferred provider organization plan or indemnity plan for each collective bargaining unit on that date. Except as specifically provided in this section, all contribution ratios shall remain subject to bargaining pursuant to [chapter 32B of the General Laws](#) and [chapter 150E of the General Laws](#).

*Approved, July 12, 2011.*

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**Acts**  
**2011****CHAPTER 176** AN ACT PROVIDING FOR PENSION REFORM AND BENEFIT MODERNIZATION.

*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. Clause Twenty-sixth of [section 7 of chapter 4 of the General Laws](#), as appearing in the 2010 Official Edition, is hereby amended by adding the following subclause:-

(t) statements filed under [section 20C of chapter 32](#).

SECTION 2. The second paragraph of [section 50 of chapter 7 of the General Laws](#), as so appearing, is hereby amended by striking out clause (f).

SECTION 3. [Section 40 of chapter 15A of the General Laws](#) is hereby amended by striking out, in line 83, as so appearing, the word “ninety” and inserting in place thereof the following figure:- 180.

SECTION 4. Section 1 of chapter 30B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word “services”, in line 56, the following words:- ; provided, however, that the procurements shall take place under [section 23B of chapter 32](#).

SECTION 5. The definition of “maximum age” in [section 1 of chapter 32](#), as so appearing, is hereby amended by striking out the figure “55” and inserting in place thereof the following figure:- 65.

SECTION 6. The first sentence of the definition of “regular compensation” in said [section 1 of said chapter 32](#), as so appearing, is hereby amended by inserting after the word “date” the following words:- ; provided, however, that if the employee receives compensation for wages in whatever form from the federal government and such wages were not reported to any employing authority, such wages shall not be counted as regular compensation for the purposes of the benefits provided in this chapter.

SECTION 7. The definition of “wages” in [section 1 of said chapter 32](#), as so appearing, is hereby amended by inserting after the word “firefighters” the following words:- , correctional officers.

SECTION 8. Paragraph (g) of subdivision (2) of [section 3 of said chapter 32](#), as so appearing, is hereby amended by inserting after the word “groups” in line 229, the following:-; provided that a member entering service prior to April 2, 2012 must be actively employed in a Group 2 or Group 4 position by a governmental unit which is subject to a retirement system under chapter 32, and must be actively performing the duties of said position for which the member seeks classification for not less than 12 consecutive months immediately preceding termination or retirement in order to qualify for the

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retirement allowance calculation of said group contained in subdivision (2) of section 5.

SECTION 9. Paragraph (b) of subdivision (8) of [section 3 of said chapter 32](#), as so appearing, is hereby amended by inserting after the third sentence the following sentence:- Notwithstanding any provision of this chapter to the contrary, a member who is reinstated to, or re-enters the active service of, a governmental unit, or who is eligible to receive credit for other service under this section, and who does not, (i) pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest; or (ii) make provision for the repayment in installments, upon such terms and conditions as the board may prescribe, to pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest, within 1 year from the date of reinstatement or re-entry or within 1 year after April 2, 2012, whichever is later, shall pay actuarial assumed interest instead of buyback interest on all make-up payments to be entitled to creditable service resulting from the previous employment.

SECTION 10. Subdivision (1) of said [section 4 of said chapter 32](#), as so appearing, is hereby amended by inserting after paragraph (g<sup>1/2</sup>) the following paragraph:-  
(g<sup>3/4</sup>) The period or periods before 1975 during which any retired member of the Teachers Retirement System or any retired member of the Boston Teachers Retirement System who (i) is living and retired before September 1, 2000, (ii) resigned for the purposes of maternity leave or was on unpaid leave of absence for such purposes from the governmental unit in which the member was employed as a teacher, and (iii) had established membership in a Massachusetts contributory retirement system shall be allowed under this paragraph a maximum of creditable service not to exceed 4 years creditable service. No credit shall be allowed under this paragraph for any member who was not retired as of September 1, 2000. The credit allowed under this paragraph shall increase the retirement allowance payments beginning on April 2, 2012.

SECTION 11. [Section 5 of said chapter 32](#), as so appearing, is hereby amended by striking out, in line 3, the word "fifty-five" and inserting in place thereof the following words:- 55 or any member in service or any member inactive on authorized leave of absence classified in Group 1 who became such a member on or after April 2, 2012 who has attained age 60.

SECTION 12. Said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by inserting after the word "service", in line 38, the following words:- , together with buyback interest, and shall satisfy the requirements for reinstatement under subsection (a) of section 105.

SECTION 13. Said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by inserting after the word "retirement", in line 97, the following words:- ; provided, however that for a member who became a member on or after April 2, 2012, the total amount of regular compensation shall be based on the average annual rate of regular compensation received by such member during

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any period of 5 consecutive years of creditable service for which such rate of compensation was the highest, or on the average annual rate of regular compensation received by such member during the period or periods, whether consecutive or not, constituting the member's last 5 years of creditable service preceding retirement, whichever is the greater.

SECTION 14. Paragraph (a) of subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting after the first sentence the following 4 sentences:- Notwithstanding the previous sentence, if in the 5 years of creditable service immediately preceding retirement, the difference in the annual rate of regular compensation between any 2 consecutive years exceeds 100 per cent, the normal yearly amount of the retirement allowance shall be based on the average annual rate of regular compensation received by the member during the period of 5 consecutive years preceding retirement. Any active member as of April 2, 2012, who has served in more than 1 group may elect to receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that the member rendered in each group; further, the retirement allowance for members who became members on or after April 2, 2012, and who served in more than 1 group, shall receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that member rendered in each group. The pro-rated benefits shall be calculated in a manner prescribed by the commission. A member who entered service on or before April, 2, 2012 and seeks Group 2 or Group 4 classification and is no longer a public employee at the time of the member's retirement shall be classified based on the position from which the member was last employed.

SECTION 15. The table in said paragraph (a) of said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by striking out the title and inserting in place thereof the following title:-

*Table showing Percentage of the Amount of Average Annual Rate of Regular Compensation to be multiplied by the Number of Years of Creditable Service for individuals who became members before April 2, 2012.*

SECTION 16. Said paragraph (a) of said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by adding the following 2 tables:-

*Table Showing Percentage of the Amount of Average Annual Rate of Regular Compensation to be multiplied by the Number of Years of Creditable Service for individuals who become members on or after April 2, 2012*

Per Cent Group 1 Group 2 Group 4

2.50	67 or older	62 or older	57 or older
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2.35	66	61	56
2.20	65	60	55
2.05	64	59	54
1.90	63	58	53
1.75	62	57	52
1.60	61	56	51
1.45	60	55	50

*Table Showing Percentage of the Amount of Average Annual Rate of Regular Compensation to be multiplied by the Number of Years of Creditable Service for individuals who become members on or after April 2, 2012 and with at least 30 years of creditable service at the time of retirement*

Per Cent Group 1 Group 2 Group 4

2.50	67 or older	62 or older	57 or older
2.375	66	61	56
2.250	65	60	55
2.125	64	59	54

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2.0	63	58	53
1.875	62	57	52
1.750	61	56	51
1.625	60	55	50

SECTION 17. Paragraph (c) of said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by adding the following sentence:- The total normal yearly amount of the retirement allowance of any member of Group 1 or Group 2 or Group 4, who becomes such a member on or after April 2, 2012, shall not exceed four-fifths of the average annual rate of such member's regular compensation received during any period of 5 consecutive years of creditable service for which such rate of compensation was the highest or on the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting such member's last 5 years of creditable service preceding retirement, whichever is the greater.

SECTION 18. Said subdivision (2) of said [section 5 of said chapter 32](#), as so appearing, is hereby further amended by adding the following paragraph:-

(f) In calculating the average annual rate of regular compensation for purposes of this section, regular compensation in any year shall not include regular compensation that exceeds the average of regular compensation received in the 2 preceding years by more than 10 per cent. This paragraph shall not apply to an increase in the annual rate of regular compensation that results from an increase in hours of employment, from overtime wages, from a bona fide change in position, excluding a modification in the salary or salary schedule negotiated for bargaining unit members under [chapter 150E](#), or in the case of a teacher, from the performance of any services set forth in the third sentence of the first paragraph of the definition of "regular compensation" in section 1. Any withholdings excluded from the calculation of a member's average annual rate of regular compensation under this paragraph, shall be returned to the member with interest at the assumed actuarial rate.

SECTION 19. Paragraph (b) of subdivision (3) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any duly authorized leave or period of absence for which any member is allowed creditable service under sections 1 to 28, inclusive, and any such leave or period of absence not in excess of 1 year for which such member is not allowed creditable service, shall be included in any applicable 3-year or 5-year period to determine the average annual rate of such member's regular compensation therefor to the extent such leave or period of absence falls within such applicable 3-year or 5-year

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period, anything in such sections to the contrary notwithstanding.

SECTION 20. Paragraph (i) of subdivision (4) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting after the tenth sentence the following sentence:- In the case of an employee who becomes a member on or after April 2, 2012, and has at least 30 years of creditable service, the on-going rate of contribution under this paragraph shall be reduced by 3 per cent.

SECTION 21. Paragraph (ii) of said subdivision (4) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by inserting after the words "creditable service", in line 298, the following words:- , and in the case of any employee who becomes a member on or after January 1, 2012, to be increased by 2 per cent per year for each full year of service in excess of 23 years of creditable service.

SECTION 22. Said subdivision (4) of said [section 5 of said chapter 32](#), as so appearing, is hereby amended by adding the following paragraph:-

The total normal yearly amount of the retirement allowance, as determined under this subdivision of any employee who becomes such a member on or after April 2, 2012, and retires and receives an additional benefit under the alternative superannuation retirement benefit program shall not exceed four-fifths of the average annual rate of such member's regular compensation received during any period of 5 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of such member's regular compensation received during the period or periods, whether or not consecutive, constituting the member's last 5 years of creditable service preceding retirement, whichever is greater.

SECTION 23. Subdivision (2) of [section 6 of said chapter 32](#), as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) The normal yearly amount of such allowance for any member classified in Group 1, Group 2 or Group 4 other than a veteran as defined in section 1 shall be equal to that to which the member would be entitled under section 5 as prescribed for a member of the member's group, if the member were to be retired for superannuation upon the attainment of age 55, or for any member classified in Group 1 who became such a member on or after April 2, 2012 if such member were to be retired for superannuation upon the attainment of age 60, with an amount of creditable service equal to that with which the member is credited at the date of the member's actual retirement for ordinary disability; provided, however, that if the member has attained age 55, or for a member classified in Group 1 who became such a member on or after April 2, 2012 if the member has attained age 60, the normal yearly amount of such allowance shall in no event be less than that to which the member would be entitled if the member were to be retired for superannuation under section 5 as prescribed for a member in the member's group; and provided, further, that the normal yearly amount of such allowance for a member who became such a member before April 2, 2012 shall not exceed four-fifths of: (i) the average annual rate of the member's regular compensation during any period of 3 consecutive years of creditable service for which such rate of compensation was the highest, and (ii) the average annual rate of

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regular compensation received by such member during the period or periods, whether or not consecutive, constituting the member's last 3 years of creditable service preceding retirement, whichever is greater; and provided, further, that for a member who became such a member on or after April 2, 2012 the normal yearly amount of such amount shall not exceed four-fifths of: (i) the average annual rate of the member's regular compensation during any period of 5 consecutive years of creditable service for which such rate of compensation was the highest, and (ii) the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting the member's last 5 years of creditable service preceding retirement, whichever is greater.

SECTION 24. Subdivision (1) of section 10 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:-This subdivision shall not apply to any member who entered service on or after April 2, 2012.

SECTION 25. Subdivision (2) of said section 10 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:- This subdivision shall not apply to any member who entered service on or after April 2, 2012.

SECTION 26. Said section 10 of said chapter 32, as so appearing, is hereby further amended by inserting after subdivision (2) the following subdivision:-

(2A) Notwithstanding subdivision (1) or (2) any member classified in Group 1, Group 2 or Group 4, who became a member on or after April 2, 2012, has completed 10 or more years of creditable service, and:

(a) who fails of reappointment;

(b) who is removed or discharged from the member's office or position without moral turpitude on the member's part;

(c) who accepts, during or prior to the expiration of a term for which the member was elected, appointment to an office or position the acceptance of which requires under the constitution of the commonwealth resignation from the general court;

(d) whose office or position is abolished; or

(e) who resigns or voluntarily terminates the member's service, who leaves the member's accumulated total deductions in the annuity savings fund of the system of which the member is a member, shall have the right upon attaining the minimum retirement age for the member's Group, or at any time thereafter, to apply for a superannuation retirement allowance to become effective under subdivision (3).

Such allowance shall be determined under section 5 or any other section governing superannuation retirement applicable to such member upon the basis of the member's age on the date when the retirement allowance becomes effective, with an amount of creditable service equal to that with which the member was credited on the date of the member's termination of service.

SECTION 27. Said section 10 of said chapter 32, as so appearing, is hereby further amended by

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striking out, in lines 112 and 113, the words “or (2)” and inserting in place thereof the following words:-  
,(2) or (2A).

SECTION 28. Option (d) of subdivision (2) of section 12 of said chapter 32, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-  
If such member dies before attaining age 55 and before being retired, such nominated eligible beneficiary shall receive the Option (c) allowance to which such member would have been entitled had the member attained age 55 at the time of the member’s death and had the member’s retirement taken place on the date of the member’s death. Notwithstanding the previous sentence, if a member of Group 1 who became such a member on or after April 2, 2012 dies before attaining age 60 and before being retired, such nominated eligible beneficiary shall receive the Option (c) allowance to which such member would have been entitled had the member attained age 60 at the time of the member’s death and had the member’s retirement taken place on the date of the member’s death.

SECTION 29. Said section 12 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 211 and 212, the words “two hundred and fifty dollars” and inserting in place thereof the following words:- \$250 or \$500 a month, whichever is applicable to such spouse.

SECTION 30. Option (d) of said section 12 of said chapter 32, as so appearing, is hereby amended by inserting after the tenth paragraph the following paragraph:-  
Beginning April 2, 2012, the normal monthly member-survivor allowance provided for under this option to a spouse of a deceased member shall not be less than \$500 for members of the state teachers’ and state employees’ retirement system. This paragraph shall take effect for the members of a retirement system of any other political subdivision by a majority vote of the board of such system and by the local legislative body. For the purpose of this paragraph, a vote of the legislative body shall take place in the following manner: in a city, by a vote of the city council subject to its charter; in a town, by a vote at a town meeting; in a county, by a vote of the county retirement board advisory council; in a region, by a vote of the regional retirement board advisory council; in a district, by a vote of the district members; and for an authority, by a vote of its governing body. Acceptance shall be deemed to have occurred upon the filing of a certification of such vote with the commission.

SECTION 31. Section 15 of said chapter 32, as so appearing, is hereby amended by adding the following subdivision:-

(6) If a member’s final conviction of an offense results in a forfeiture of rights under this chapter, the member shall forfeit, and the board shall require the member to repay, all benefits received after the date of the offense of which the member was convicted.

SECTION 32. Paragraph (b) of subdivision (1) of section 16 of said chapter 32, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following:-

(i) Any member in service, classified in Group 1, Group 2 or Group 4 who has attained age 55 and completed 15 or more years of creditable service;

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- (ii) any member in service, classified in Group 1, Group 2 or Group 4 who has not attained age 55 but who has completed 20 or more years of creditable service;
- (iii) any member in service, who entered such service on or after April 2, 2012, classified in Group 1 who has attained age 60 and completed 15 or more years of creditable service; or
- (iv) any member in service, who entered such service on or after April 2, 2012, classified in Group 1 who has not attained age 60 but who has completed 20 or more years of creditable service, for whom an application for such member's retirement is filed by the head of such member's department under paragraph (a) of this subdivision, may, within 15 days of the receipt of such member's copy of such application, file with the board a written request for a private or public hearing upon such application.

SECTION 33. Section 20 of said chapter 32, as so appearing, is hereby amended by inserting after subdivision (4 7/8D) the following subdivision:-

(4 7/8E) No employee, contractor, vendor or person receiving remuneration, financial benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the retirement board, from a retirement board or from a person doing business with a retirement board shall be eligible to serve on a retirement board; provided, however, that an employee of a retirement board may serve on a retirement board other than the retirement board by which the person is employed; and provided further, this subdivision shall apply only to individuals who first become members of a retirement board on or after April 2, 2012.

SECTION 34. Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out subdivision (6) and inserting in place thereof the following subdivision:-

(6) *Retirement Board Members Compensation.*-The elected and appointed members of a city, town, county, regional, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend; provided, however, that the stipend shall not be less than \$3,000 per year and not more than \$4,500 per year; provided, further, that the stipend shall be paid from funds under the control of the board as shall be determined by the commission; and provided, further, that an ex-officio member of a city, town, county, district or authority retirement board upon the acceptance of the appropriate legislative body shall receive a stipend of not more than \$4,500 per year in the aggregate for services rendered in the active administration of the retirement system.

SECTION 35. Said section 20 of said chapter 32, as so appearing, is hereby further amended by adding the following subdivision:-

(7) *Retirement Board Member Training.*- During each full term of service retirement board members shall undertake 18 hours of training; provided, however, that not less than 3 hours of such training shall take place each year and not more than 9 hours may take place in any single year; provided, however, that nothing in this subdivision shall prohibit such retirement board members from undertaking more than 18 hours of training.

Such training shall consist of 9 hours sponsored by the commission, which shall include, at a minimum, the topics of fiduciary responsibility, ethical conduct and conflict of interest and 9 hours of training on topics prescribed by the commission provided by the Massachusetts Association of

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Contributory Retirement Systems or other local, state, regional and national organizations recognized by the commission as having expertise in retirement issues of importance to retirement board members or other entities, as the commission may determine.

The commission shall arrange for at least 18 sessions during each year for members to complete this requirement. In addition, the commission shall schedule additional sessions or otherwise make accommodations to ensure that members are afforded the maximum opportunity to complete this requirement.

The commission shall annually provide retirement boards with a statement of completion of education form on or before December 31. The board shall provide the forms to their members. The form shall set forth the training as required by this subdivision the member has undertaken during that year. Board members shall submit the completed form to the commission by January 31 of the year following. The commission shall annually provide the member with a summary of the member's status regarding the completion of this requirement by March 1.

Failure to successfully complete the requirements of this subdivision shall prohibit a board member from serving beyond the conclusion of the term in which the failure took place. If the non-complying member is an ex-officio member or a second member, of a board the appointing authority for the second member shall appoint a different individual to serve on the board; provided, however, that the replacement of an ex-officio member shall be an individual experienced in the field of finance or auditing; and provided further, that in a regional retirement system non-complying members shall be replaced in the same manner as is set forth for the selection of the members.

Each retirement board shall notify all board members and prospective board members of the requirement to complete education requirements at the time of receiving information about seeking election to a retirement board or prior to being appointed to a retirement board.

The commission shall annually notify board members of the requirement to complete continuing education.

SECTION 36. Said chapter 32 is hereby further amended by inserting after section 20B the following section:-

Section 20C. *Retirement Board Member Statement of Financial Interest.*- (a) Every member of a retirement board shall file a statement of financial interests for the preceding calendar year with the commission: (i) within 30 days of becoming a member of a retirement board; (ii) by May 1 of each year thereafter that the person is a member of a retirement board; and (iii) by May 1 of the year after the person ceases to be a member of a retirement board.

(b) The commission shall, upon receipt of a statement of financial interests under this section, issue to the person filing the statement a receipt verifying the fact that a statement of financial interests has been filed and a receipted copy of the statement.

(c) No member of a retirement board may continue in the member's duties unless the member has filed a statement of financial interests with the commission as required by this section.

(d) The statement of financial interests filed under this section shall be on a form prescribed by the commission and shall be signed under penalty of perjury by the reporting person.

(e) A reporting person shall disclose, to the best of the person's knowledge, the following information

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for the preceding calendar year, or as of the last day of the year with respect to the information required by clauses (2), (3) and (6); provided, however, that the person shall also disclose the same information with respect to the person's immediate family; and provided further, that no amount need be given for the information about the reporting person's immediate family:

(1) the name and address of, the nature of association with, the share of equity in, if applicable, each business with which the person is associated;

(2) the identity of all securities and other investments with a fair market value of greater than \$1,000 which were beneficially-owned, not otherwise reportable hereunder;

(3) the name and address of each creditor to whom more than \$1,000 was owed; provided, however, that obligations arising out of retail installment transactions, educational loans, medical and dental expenses, debts incurred in the ordinary course of business and any obligation to make alimony or support payments, shall not be reported; and provided further, that such information need not be reported if the creditor is a relative of the reporting person within the third degree of consanguinity or affinity;

(4) the name and address of the source and the cash value of any reimbursement for expenses aggregating more than \$100 in the calendar year if the recipient is a member of a retirement board and the source of the reimbursement is a person having a direct interest in a matter before the retirement board of which the recipient is a member;

(5) the name and address of the donor and the fair market value, if determinable, of any gifts aggregating more than \$100 in the calendar year, if the recipient is a member of a retirement board and the source of the gift is a person having a direct interest in a matter before the retirement board of which the recipient is a member;

(6) the name and address of the source and the fair market value of any honoraria aggregating more than \$100 if the recipient is a member of a retirement board and the source of such honoraria is a person having a direct interest in a matter before a retirement board;

(7) the name and address of any creditor who has forgiven an indebtedness of over \$1,000 and the amount forgiven if the creditor is a person having a direct interest in a matter before a retirement board; provided, however, that no such information need be reported if the creditor is a relative within the third degree of consanguinity or affinity of the reporting person, or the spouse of such a relative; and

(8) the name and address of any business from which the reporting person is taking a leave of absence.

Nothing in this section shall be construed to require the disclosure of information, which is privileged by law.

Failure of a reporting person to file a statement of financial interests within 30 days of receipt of the notice in writing from the commission which states in detail the deficiency and the penalties for failure to file a statement of financial interests or the filing of an incomplete statement of financial interests after receipt of a notice shall result in the removal of the reporting person from the board and the reporting person shall not serve on a retirement board established under this chapter, under chapter 34B or the retirement board of the Massachusetts Water Resources Authority; provided, however, that, if the reporting person has filed an incomplete statement of financial interests the removal shall

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be stayed upon the filing of an appeal under subdivision (4) of section 16. If the non-complying member is an ex-officio member, the member's appointing authority shall appoint a different individual to serve on the board or if the member is directly elected by the people, a different individual shall be appointed to serve on the board by the mayor, county commissioners or board of selectman as the case may be.

SECTION 37. Paragraph (a) of subdivision (1) of section 21 of said chapter 32, as so appearing, is hereby amended by inserting after the fourth sentence the following sentence:- Each board shall maintain a copy of all collective bargaining agreements which cover the system's members and shall make the agreements available to the commission for review at such time as the commission shall specify.

SECTION 38. Said chapter 32 is hereby further amended by inserting after section 21 the following section:-

Section 21A. *Debarment or Suspension of Contractors or Vendors.*- (a) As used in this section the following words shall, unless the context requires otherwise, have the following meanings:-

"Affiliates", entities which are affiliates of each other when either directly or indirectly 1 concern or individual controls or has the power to control another or when a third party controls or has the power to control both.

"Contract", a contract for the furnishing of supplies or services to a retirement board.

"Debarment", an exclusion from contracting or subcontracting with a retirement board for a reasonable and specified period of time commensurate with the seriousness of the offense.

"Person", a natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

"Retirement board", a board established under chapter 32, chapter 34B or the retirement board of the Massachusetts Water Resources Authority, excluding the pension reserves investment management board.

"Suspension", the temporary disqualification of a vendor who is suspected upon adequate evidence of engaging or having engaged in conduct which constitutes grounds for debarment.

"Vendor", a person that has furnished or seeks to furnish supplies or services under a contract with a retirement board.

(b) The commission shall establish and maintain a consolidated list of vendors to whom contracts shall not be awarded and from whom offers, bids or proposals shall not be solicited. The list shall show at a minimum the following information:

(1) the names of those persons debarred or suspended in alphabetical order with appropriate cross reference where more than 1 name is involved in a single debarment or suspension;

(2) the basis of authority for each debarment or suspension;

(3) the extent of restrictions imposed;

(4) the termination date of each debarment or suspension; and

(5) in the case of a suspension, the hearing date, if and when set, for debarment proceedings.

The commission shall cause the list to be kept current by the issuance of notices of additions and

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deletions. The list shall be published on a periodic basis, together with notices of additions and deletions, in the goods and services bulletin and the central register published by the state secretary and in other publications as the commission shall designate. The commission shall also forward the list to the inspector general, the attorney general and the state auditor.

(c) Debarment may be imposed for the following causes:

(1) conviction or final adjudication by a court or administrative agency of competent jurisdiction of any of the following offenses:

- (i) a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (ii) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the vendor's present responsibility as a public contractor;
- (iii) a violation of state or federal antitrust laws arising out of the submission of bids or proposals;
- (iv) a violation of chapter 268A; or
- (v) a violation of this chapter.

(2) substantial evidence, as determined by the commission, of any of the following acts:

- (i) willfully supplying materially-false information incident to obtaining or attempting to obtain or performing any public contract or subcontract;
- (ii) willful failure to comply with record-keeping and accounting requirements prescribed by law or regulation;
- (iii) a record of failure to perform or of unsatisfactory performance under the terms of 1 or more public contracts; provided, however, that the failure to perform or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar; and provided further, that the failure to perform or unsatisfactory performance was not caused by factors beyond the vendor's control;
- (iv) the submission to the board or the commission of an inaccurate disclosure statement;
- (v) the failure to disclose to the board and the commission compensation provided to a person in regards to attempting to obtain or the performance of a public contract or subcontract, including, but not limited to, compensation provided by third parties retained by the vendor to another person; or
- (vi) any other cause affecting the responsibility of a vendor which the commission determines to be of a serious and compelling nature as to warrant debarment.

(d) No vendor may be suspended unless the commission has first informed the vendor by written notice of the proposed suspension mailed by registered or certified mail to the vendor's last known address, except when the commission determines that immediate suspension is necessary to prevent serious harm to the retirement system, in which case the suspension shall take effect immediately upon signing by the executive director of the commission of an order of suspension and notice shall be mailed to the vendor as soon as possible. The notice shall inform the vendor of the reasons for the proposed suspension and shall state that the vendor may, within 14 days, respond in writing and may in the response request a hearing. The commission may extend the period for response at the request of the vendor. The commission shall determine whether to impose the suspension or, in the case of an

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emergency suspension imposed prior to notice to the vendor, whether to continue the suspension after reviewing the vendor's response, if any, and making an investigation as the commission determines is necessary and appropriate. An indictment, or any information or other filing by a public agency charging a criminal offense, for any of the offenses listed in paragraph (1) of subsection (c) shall constitute adequate evidence to support a suspension.

If the vendor requests a hearing and the suspension is not based on an indictment, the commission shall conduct a hearing according to the rules for the conduct of adjudicatory hearings established by the secretary of administration under chapter 30A. The hearing shall be initiated within 30 days of the imposition of the suspension, unless the vendor requests that the hearing be delayed. Officers and employees of the commission and records of the commission shall not be subject to subpoena for such hearing, if in the opinion of the commission production of records or testimony would prejudice any pending investigation by the commission.

A suspension shall not exceed 12 months unless a pending administrative or judicial proceeding in which the vendor is a party may result in a conviction or final adjudication of an offense listed in paragraph (1) of subsection (c).

(e) No vendor may be debarred under this section unless the commission has first informed the vendor of the proposed debarment by written notice mailed by registered or certified mail to the vendor's last known address. The notice shall inform the vendor of the reasons for the debarment and shall state that the vendor will have an opportunity for a hearing if the vendor so requests within 14 days of receipt of the notice. A hearing requested under this paragraph shall be conducted by the commission within 60 days of receipt of the request, unless the commission grants additional time at the request of the vendor. The hearing shall be conducted according to the rules for the conduct of adjudicatory hearings established by the secretary of administration under chapter 30A. A debarment shall not be imposed until (i) 14 days after receipt by the vendor of notice of the proposed debarment if no hearing is requested; or (ii) the issuance of a written decision by the commission which makes specific findings that there is sufficient evidence to support the debarment and that debarment for the period specified in the decision is required to protect the integrity of the public contracting process. A vendor shall be notified forthwith by registered or certified mail of the decision and of the vendor's right to judicial review in the event that the decision is adverse to the vendor. If a suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(f) A debarment or suspension may include all known affiliates of a vendor. The decision to include a known affiliate within the scope of a debarment or suspension shall be made on a case-by-case basis, after giving due regard to all relevant facts and circumstances. The offense or act of an individual justifying suspension, or the evidence justifying a suspension, may be imputed to the entity with which the individual is connected when such offense or act occurred in connection with the individual's performance of duties for or on behalf of the entity or with the knowledge, approval, or acquiescence of the entity or 1 or more of its principals. The entity's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence. The offense or act of an entity justifying debarment, or the evidence justifying a suspension, may be imputed to any officer, director, shareholder, partner, employee or other individual associated with the entity who participated in, knew of, or had reason to know of the entity's act. An entity may not be suspended or debarred

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except in accordance with the procedures in this section.

(g) In determining whether to debar a vendor, or the period of a debarment, all mitigating facts and circumstances shall be taken into consideration. A debarment may be removed or the period of debarment may be reduced by the commission upon the submission of an application supported by documentary evidence setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a judgment or conviction, bona fide change of ownership or management or the elimination of the cause for which the debarment was imposed.

(h) During the period for which a person has been debarred or suspended, that person shall not submit or cause to be submitted offers, bids, or proposals to any retirement board, nor shall any retirement board solicit or consider offers, bids, or proposals from, nor execute, renew, or extend any contract with, a debarred or suspended vendor and a vendor shall not contract for services from a debarred or suspended subcontractor on any contract with a retirement system.

SECTION 39. Paragraph (b) of subdivision (1) of section 22 of said chapter 32, as appearing in the 2010 Official Edition, is hereby amended by striking out clauses (v) and (vi) and inserting in place thereof the following 4 clauses:-

(v) withhold on each pay day 12 per cent of the regular compensation of each employee who is a member of the state police appointed pursuant to section 10 of chapter 22C, and is a member in service of the system, which is received on the day by the member on account of service rendered by the employee on or after July 1, 1996, and not later than the date of his attaining the maximum age for his group in the case of an employee who entered the service of the state police on or after July 1, 1996;

(vi) withhold on each pay day 11 per cent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5 on account of such service rendered by him on or after July 1, 2001;

(vii) withhold on each pay day 6 per cent of the regular compensation of each employee in group 1 who is a member in service of the system, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after April 2, 2012 and who has least 30 years of creditable service; and

(viii) withhold on each pay day 8 per cent of the regular compensation of each employee who is a member in service of the system and participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after April 2, 2012 and who has least 30 years of creditable service.

SECTION 40. Subdivision (2) of section 23 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph: -

(b) The board of each system shall invest and reinvest the funds of the system in the PRIT Fund under subdivision (8) of section 22, in the PRIT Fund by purchasing shares of the fund, as provided for in the trust agreement adopted by the PRIM board under subdivision (2A), or under the standards in subdivision (3), provided that: (i) no investment of funds shall be made in stocks, securities or other

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obligations of a company which derives more than 15 per cent of its revenues from the sale of tobacco products; (ii) in investing funds the board shall employ an investment manager or investment managers who shall invest the funds of the system; and (iii) no funds shall be invested directly in mortgages or collateral loans.

(c) No investment of funds shall take place until the board has received from the commission an acknowledgement of receipt of the following: (i) certification that, in making the selection, the board has complied with the process established in section 23B; (ii) a copy of the vendor certification required under section 23B; (iii) copies of disclosure forms submitted by the selected vendor; (iv) a certification that the investment is not a prohibited investment as set forth in regulations of the commission; (v) if the board has retained a consultant, a copy of the consultant reports pertaining to the investment and the selected vendor; and (F) a copy of the board certification required under section 23B.

The commission may withhold the acknowledgement if it determines that it is in the best interest of the retirement system; provided, however, that it must so notify the board within 10 days of receipt of completed documents as required by this section.

(d) Prior to the retention of an investment consultant the board shall have received from the commission an acknowledgement of receipt of the following: (i) certification that, in making the selection, the board has complied with the process established in section 23B; (ii) copy of the vendor certification required under section 23B; (iii) copies of disclosure forms submitted by the selected consultant; and (iv) copy of the board certification required under section 23B.

SECTION 41. Subdivision (3) of said section 23 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:-

Each member of a retirement board established under this chapter shall upon the commencement of the member's term file with the commission a statement acknowledging the member is aware of and will comply with the standards set forth in chapter 268A, this chapter and rules and regulations promulgated under this chapter.

SECTION 42. Said chapter 32 is hereby further amended by inserting after section 23 the following section:-

Section 23B. (a) This section shall apply to every retirement board contract for the procurement of investment, actuarial, legal and accounting services.

(b) As used in this section the following words shall, unless the context requires otherwise, have the following meanings:-

"Contract", an agreement for the procurement of services, regardless of what the parties may call the agreement.

"Contractor", a person having a contract with a retirement board.

"Majority vote", as to any action by or on behalf of a retirement board, a simple majority of the board.

"Minor informalities", minor deviations, insignificant mistakes and matters of form rather than substance of the proposal or contract document which can be waived or corrected without prejudice to other offerors, potential offerors or the retirement board.

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“Person”, a natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

“Procurement”, buying, purchasing, renting, leasing, or otherwise acquiring a supply or service, and all functions that pertain to the obtaining of a supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

“Procurement officer”, an individual duly authorized by the retirement board to assist in a procurement.

“Proposal”, a written offer to provide a service at a stated price submitted in response to a request for proposals.

“Purchase description”, the words used in a solicitation to describe the services to be purchased, including specifications attached to or incorporated by reference into the solicitation.

“Request for proposals”, the documents utilized for soliciting proposals, including documents attached or incorporated by reference.

“Responsible bidder or offeror”, a person who has the capability to perform fully the contract requirements and the integrity and reliability which assures good faith performance.

“Responsive bidder or offeror”, a person who has submitted a bid or proposal which conforms in all respects to the request for proposals.

“Retirement board”, a board established under this chapter, chapter 34B or the retirement board of the Massachusetts Water Resources Authority excluding the pension reserves investment management board.

“Services”, the furnishing of labor, time or effort by a contractor, not involving the furnishing of a specific end product other than reports; provided, however, that the term shall not include employment agreements, collective bargaining agreements or grant agreements.

(c) A retirement board shall enter into procurement contracts for investment, actuarial, legal and accounting services utilizing competitive sealed proposals, in accordance with this section.

(d) A retirement board that awards a contract shall maintain a file on each contract and shall include in the file a copy of all written documents required by this section. Written documents required by this section shall be retained by the retirement board for at least 6 years from the date of final payment under the contract.

(e) The retirement board or its procurement officer shall give public notice of the request for proposals and a reasonable time prior to the date for the opening of proposals. The notice shall:

- (1) indicate where, when and for how long the request for proposal may be obtained;
- (2) describe the service desired and reserve the right of the retirement board to reject any or all bids;
- (3) remain posted, for at least 2 weeks, in a conspicuous place in or near the offices of the retirement board until the time specified in the request for proposals; and
- (4) be published at least once, not less than 2 weeks prior to the time specified for the receipt of proposals, in a newspaper of general circulation within the area served by the retirement board and in the case of a procurement for investment, accounting, actuarial or legal services in a publication of interest to those engaged in providing such services.

The retirement board or its procurement officer shall also place the notice in a publication established by the state secretary for the advertisement of such procurements.

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The retirement board or its procurement officer may distribute copies of the notice to prospective bidders and may compile and maintain lists of prospective bidders to which notices may be sent.

(f) The retirement board shall unconditionally accept a proposal without alteration or correction, except as provided in this section. A bidder may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the proposal opening. After proposal opening, a bidder may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the retirement board or fair competition. The retirement board shall waive minor informalities or allow the bidder to correct them. If a mistake and the intended proposal are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake to reflect the intended correct proposal and so notify the bidder in writing and the bidder may not withdraw the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the face of the proposal document but the intended correct proposal is not similarly evident.

(g) The retirement board shall solicit proposals through a request for proposals. The request for proposals shall include:

- (1) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered and the maximum time for proposal acceptance by the retirement board;
- (2) the purchase description and all evaluation criteria that may be utilized under subsection (h); and
- (3) all contractual terms and conditions applicable to the procurement; provided, however, that the contract may incorporate by reference a plan submitted by the selected offeror for providing the required services.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain the documents. The retirement board or its procurement officer shall make copies of the request for proposals available to all persons on an equal basis.

(h) The retirement board or its procurement officer shall not open the proposals publicly, but shall open them in the presence of 1 or more witnesses at the time specified in the request for proposals. Notwithstanding section 7 of chapter 4, until the completion of the evaluations or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the retirement board or its procurement officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection.

(i) The retirement board or its consultant retained under this chapter shall be responsible for the initial evaluation of the proposals. The retirement board or its consultant retained under this chapter shall prepare initial evaluations based solely on the criteria set forth in the request for proposals. The evaluations shall specify in writing:

- (1) a rating of each proposal evaluation criteria as highly advantageous, advantageous, not advantageous or unacceptable, and the reasons for the rating;
- (2) a composite rating for each proposal and the reasons for the rating; and
- (3) revisions, if any, to each proposed plan for providing the required services which should be

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obtained by negotiation prior to awarding the contract to the offeror of the proposal.

If the initial evaluation is conducted by a consultant retained under this chapter the consultant shall review all initial evaluations with the retirement board and provide to each member of the retirement board the initial evaluation of each proposal.

(j) The retirement board shall determine the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals. The retirement board shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement. The retirement board may condition an award on successful negotiation of the revisions specified in the evaluation and shall explain in writing the reasons for omitting any revision from a plan incorporated by reference in the contract.

(k) (1) In the event of a competitive process to select an investment service provider the request for proposals shall include mandatory contractual terms and conditions to be incorporated into the contract including provisions:

(a) stating that the contractor is a fiduciary with respect to the funds which the contractor invests on behalf of the retirement board;

(b) stating that the contractor shall not be indemnified by the retirement board;

(c) requiring the contractor to annually inform the commission and the board of any arrangements in oral or in writing, for compensation or other benefit received or expected to be received by the contractor or a related person from others in connection with the contractors services to the retirement board or any other client;

(d) requiring the contractor to annually disclose to the commission and the retirement board compensation, in whatever form, paid or expected to be paid, directly or indirectly, by the contractor or a related person to others in relation to the contractors services to the retirement board or any other client; and

(e) requiring the contractor to annually disclose to the commission and the retirement board in writing any conflict of interest the contractor may have that could reasonably be expected to impair the contractor's ability to render unbiased and objective services to the retirement board. Other mandatory contractual terms and conditions shall address investment objectives, brokerage practices, proxy voting and tender offer exercise procedures, terms of employment and termination provisions.

The retirement board shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals.

The retirement board or its duly designated agent, subject to the approval of the retirement board, may negotiate all terms of the contract not deemed mandatory or non-negotiable with the offeror. If, after negotiation with the offeror, the retirement board, in consultation with its duly designated agent and its consultant retained under this chapter, determines that it is in the best interests of the retirement board to not award the contract to that offeror, the retirement board may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals and may negotiate all terms of

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the contract with the offeror.

The retirement board shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The retirement board shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The time for acceptance may be extended for up to 45 days by mutual agreement between the retirement board and the responsible and responsive offeror offering the most advantageous proposal as determined by the retirement board.

On or before January 1 of each year the contractor shall file the disclosures required with the board and the commission. Failure to file disclosures or the filing of inaccurate disclosures shall subject the contractor to proceedings under section 21A.

(2) The retirement board may cancel a request for proposals or may reject in whole or in part any and all proposals when the retirement board determines that cancellation or rejection serves the best interests of the system. The retirement board shall state in writing the reason for a cancellation or rejection.

(3) A person submitting a proposal for the procurement or disposal of services to a retirement board shall certify in writing on the proposal as follows:

The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean a natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

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(Signature of individual submitting bid or proposal)

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(Name of business)

(4) Each retirement board member shall certify to the commission in writing with respect to a procurement subject to this section, as follows:

The undersigned certifies under penalties of perjury that, to the best of the members knowledge and belief, this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

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(Signature of individual retirement board member)

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(Name of retirement board)

(5) No person shall cause or conspire to cause the splitting or division of a request for proposals, proposal, solicitation or quotation for the purpose of evading a requirement of this section.

(6) Unless otherwise provided by law and subject to clause (i), a retirement board may enter into a contract for a period of time which serves the best interests of the retirement board; provided, however, that the retirement board shall include in the solicitation the term of the contract and conditions of renewal, extension or purchase, if any.

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(i) A retirement board shall not award a contract for a term exceeding 5 years, including any renewal, extension or option; provided, however, that a retirement board may participate in a limited partnership, trust or other entity with a term for a period longer than 5 years as part of an investment of system assets.

When a contract is to contain an option for renewal, extension or purchase, the solicitation shall include notice of the provision. The retirement board shall retain sole discretion in exercising the option and no exercise of an option shall be subject to agreement or acceptance by the contractor.

(ii) The retirement board shall not exercise an option for renewal, extension or purchase unless the retirement board, after reasonable investigation of costs and benefits, has determined in writing that the exercise of the option is more advantageous than alternate means of procuring comparable services.

(7) All specifications shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary service or procurement from a sole source.

(8) All contracts shall be in writing and the retirement board shall make no payment for a service rendered prior to the execution of the contract.

(i) A contract made in violation of this section shall not be valid and the retirement board shall make no payment under such contract. Minor informalities shall not require invalidation of a contract.

(ii) A person who causes or conspires with another to cause a contract to be solicited or awarded in violation this section shall forfeit and pay to the appropriate retirement board not more than \$2,000 for each violation. In addition, the person shall pay double the amount of damages sustained by the retirement board by reason of the violation, together with the costs of any action. If more than 1 person participates in the violation, the damages and costs may be apportioned among them.

(iii) The commission or the retirement board may file a civil action in the superior court to enforce clause (ii).

SECTION 43. Subdivision (3) of section 26 of chapter 32, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 75 and 82, the word "fifty-five" and inserting in place thereof, in each instance, the following figure:- 65.

SECTION 44. Said subdivision (3) of said section 26 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) Upon retirement under this subdivision, a member shall receive a retirement allowance to become effective on the date of the member's retirement. Payments under such retirement allowance shall be made as provided for in sections 12 and 13 and the normal yearly amount of the retirement allowance shall be equal to 60 per cent of the average annual rate of the member's regular compensation during the 12-month period of the member's creditable service immediately preceding the date the member's retirement allowance becomes effective; provided, that for members who became members in service before April 2, 2012, the total amount of the allowance shall be increased by one-twelfth of 3 per cent for each full month of service in excess of 20 years of service and prior to the last day of the month in which such member will reach the age of 55; provided, further, that for a member who became a member in service on or after April 2, 2012, the normal yearly amount of the retirement allowance

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shall be equal to 50 per cent of the average annual rate of the member's regular compensation during the 12-month period of the member's creditable service immediately preceding the date the member's retirement allowance becomes effective, and the total amount of the allowance shall be increased by one-twelfth of 2.5 per cent for each full month of service in excess of 20 years of service and prior to the last day of the month in which such member will reach the age of 55; provided, further, that such retirement allowance shall in no case exceed 75 per cent of such regular compensation; provided, further, that for a member who became such a member before April 2, 2012, if such member shall reach the member's fifty-fifth birthday and shall not have completed such 20 years of service, the amount of the member's retirement allowance shall be calculated by subtracting from such normal yearly amount one-twelfth of 3 per cent for each full month of service that the member's service is less than 20 years; and provided, further, that for a member who became such a member on or after April 2, 2012, if such member shall reach the member's fifty-fifth birthday and shall not have completed such 20 years of service, the amount of the member's retirement allowance shall be calculated by subtracting from such normal yearly amount one-twelfth of 2.5 per cent for each full month of service that the member's service is less than 20 years. Any member retired under this subdivision who is a veteran as defined in section 1 shall receive an additional yearly retirement allowance of \$15 for each year of creditable service or fraction of such a year; provided, that the total amount of said additional retirement allowance shall not exceed \$300 in any case.

SECTION 45. Section 28K of said chapter 32, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any employee of the commonwealth or its political subdivisions who is a representative of an employee organization, which has included in its membership employees of the commonwealth or its political subdivisions shall, while on a full-time or part-time leave of absence for the purpose of acting as a representative of said employee organization, be considered on leave of absence, without pay, for the period of the employee's assignment as a representative of such employee organization. Such employee shall, however, be credited with the creditable service the employee would have received had the employee been in active service for the full or part-time leave and shall contribute each month to the retirement fund in an amount which the employee would have contributed had the employee remained in the service of the commonwealth or its political subdivisions. Such employee of the commonwealth or its political subdivisions shall be entitled to all benefits and privileges, except the payment of salary as provided under this chapter and chapters 30 and 31 during the leave of absence.

SECTION 46. Section 65D½ of said chapter 32, as so appearing, is hereby amended by inserting after the word "service", in lines 11 and 12, the following words:- , together with buyback interest.

SECTION 47. Section 90C½ of said chapter 32, as so appearing, is hereby amended by striking out, in line 6, the figure "\$10,000" and inserting in place thereof the following figure:— \$15,000.

SECTION 48. Said chapter 32 is hereby further amended by inserting after section 90D the following section:—

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Section 90D $\frac{1}{2}$ . Any retirement system of a city, town, county, region, district or authority may, upon the majority vote of the board of such system and by the local legislative body, increase the retirement allowance of any member of the retirement system, who has been retired under this chapter or similar provision of earlier law on a superannuation, accidental disability or ordinary disability retirement allowance and who has completed at least 25 years of creditable service, to an amount not to exceed \$15,000. For the purposes of this section, a vote of the legislative body shall take place in the following manner: in a city, by a vote the city council subject to its charter; in a town, by a vote at a town meeting; in a county, by a vote of the county retirement board advisory council; in a region, by a vote of the regional retirement board advisory council; in a district, by a vote of the district members; and for an authority, by a vote of its governing body.

SECTION 49. Section 91 of said chapter 32, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word “people”, in line 16, the following words:- ; provided, that the position from which the elected official retired was not a public office to which the elected official had been elected by direct vote of the people, unless at least 1 year has passed from the last day the elected official held said public elected office.

SECTION 50. Said section 91 of said chapter 32, as so appearing, is hereby further amended by inserting after the word “terminated” in line 92, the following words:- plus \$15,000; provided however that in the first year immediately following the effective date of retirement, the earnings received by any person when added to any pension or retirement allowance the person is receiving shall not exceed the salary that is being paid for the position from which the person was retired or in which the person’s employment was terminated.

SECTION 51. Section 91A of said chapter 32, as so appearing, is hereby amended by inserting after the word “commission”, in line 9, the following words:- ; provided, however, that the commission may waive such filing by a member, if said member shall have been retired for more than 20 years, has not reported any earnings for the prior 10 years and signs an affidavit under the pains and penalties of perjury indicating that should the member realize any earned income in the future the member will forthwith notify the commission of that fact and again report under this section.

SECTION 52. Paragraph (c) of section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 32, 36 and 43, the figure “\$12,000” and inserting in place thereof, in each instance, the following figure:- \$13,000.

SECTION 53. Section 19 of chapter 34B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(m) No employee, contractor, vendor or person receiving remuneration, financial benefit or consideration of any kind, other than a retirement benefit or the statutory stipend for serving on the retirement board, from a retirement board or from a person doing business with a retirement board shall be eligible to serve on a retirement board; provided however, that an employee of a retirement

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board may serve on a retirement board other than the retirement board by which the person is employed; and provided further, that this paragraph shall apply only to individuals who first become members of a retirement board on or after April 2, 2012.

SECTION 54. Section 7 of chapter 150E of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

An employer entering into a collective bargaining agreement with an employee organization shall provide a copy of the agreement to the retirement board to which the employees covered by the agreement are members. All retirement systems shall maintain files of all active collective bargaining agreements which cover the systems members. The retirement board shall review collective bargaining agreements for compliance with chapter 32.

SECTION 55. Notwithstanding any general or special law to the contrary, any member of a retirement system presently receiving a retirement allowance who:

- (a) retired under chapter 32 of the General Laws on or before May 17, 2004;
- (b) elected Option (a) or Option (b) of subdivision (2) of section 12 of said chapter 32; and
- (c) married a person of the same sex on or before May 17, 2005 may change such selection to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the member's retirement date. The surviving spouse of a member that would otherwise meet the requirements of clauses (a) to (c), inclusive, may change the election made by the deceased member to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the member's retirement date.

In paying the retirement allowance under the new election, the board, as defined in section 1 of said chapter 32, shall make appropriate adjustments, or arrange for appropriate repayments, upon such terms and condition as the board may prescribe, so as to recover any overpayments resulting from the prior election. The change of election under this section shall be made and received by the applicable board not later than July 1, 2012, and shall be retroactive to the date of retirement. The election to change retirement option under this section shall be in a manner prescribed by the board, as defined in said section 1 of said chapter 32 and said board shall have 180 days after the submission of an application to implement the change.

SECTION 56. There shall be a special commission to study the Massachusetts public employees' pension classification system. The commission shall review and make recommendations for reform regarding the Massachusetts public employees' group classification system, with consideration of the work by the Blue Ribbon Panel on the Massachusetts Public Employees Pension Classification system. The commission shall consist of 13 members: 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the treasurer, or the treasurer's designee; 1 of whom shall be the executive director of the public employee retirement administration commission, or the director's designee; 1 of whom shall be a private citizen, appointed by the governor, who shall serve as chair of the commission and shall not be a member of any of the 105 contributory retirement systems; 3 members of the house of representatives, 1 of whom shall be

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appointed by the minority leader; 3 of whom shall be members of the senate, 1 of whom shall be appointed by the minority leader; 1 of whom shall be selected by the governor from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 of whom shall be a member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its recommendations, together with the actuarial analysis and proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than April 15, 2012.

SECTION 57. The state treasurer shall investigate and study ways to increase public employee participation in state sponsored deferred compensation plans, including increased outreach and access for new employees. The state treasurer shall file a report with his findings and any legislative recommendations with the house and senate clerks and the house and senate chairs of the joint committee on public service on or before April 30, 2012.

SECTION 58. Notwithstanding any general or special law to the contrary, there shall be a special commission to investigate and study retiree healthcare and other non-pension benefits. The commission shall consider the range of benefits that are or should be provided as well as the current and anticipated future cost of providing them. The commission shall consider and may make recommendations on how best to divide the costs between the commonwealth and employees. The commission shall also study the operation and structure of the group insurance commission or any other aspects of employee healthcare the commission deems appropriate. Upon appropriation of sufficient funds, the commission shall engage professional advisors as needed to accomplish its purposes.

The commission shall consist of 11 members: 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the treasurer, or the treasurer's designee; 1 of whom shall be the executive director of the group insurance commission, or the director's designee; 1 of whom shall be a private citizen, appointed by the governor, who shall serve as chair of the commission and shall not be a member of any of the 105 contributory retirement systems; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 2 of whom shall be members of the senate, 1 of whom shall be appointed by the minority leader; 1 of whom shall be selected by the governor from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 of whom shall be a member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The commission shall file a report of its recommendations and proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than March 1, 2012.

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SECTION 59. There shall be a special commission to investigate and study all aspects of the ordinary and accidental disability provisions of the Massachusetts contributory retirement system as well as the provisions of injured on duty benefits and presumptions for public employees contained in the general laws. The commission shall consist of the chairs of the joint committee on public service, who shall co-chair the commission, the chairs of the house and senate committees on ways and means, the secretary of administration and finance, or a designee, the state treasurer, or a designee, executive director of the public employee retirement administration commission, or a designee; the house minority leader or a designee, the senate minority leader or a designee and 3 members to be appointed by the governor, one selected from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO; 1 member who shall be a member of the Massachusetts Municipal Association; and 1 member who shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its recommendations, together with the actuarial analysis and proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than October 1, 2012.

SECTION 60. (1) Notwithstanding any general or special law to the contrary, any active member of the optional retirement system established under subsection (3) of section 40 of chapter 15A of the General Laws, or inactive member of the optional retirement system who is currently an active member of the state retirement system, or optional retirement plan enrollee on an approved leave of absence, shall have 1 opportunity to transfer to the state employees' retirement system, governed by chapter 32 of the General Laws, with creditable service allowed for any such time they were active participants of the optional retirement program. Any such employee choosing to transfer shall also be allowed creditable service for any years of participation, or portions thereof, in the state employee retirement system immediately prior to their enrollment in the optional retirement program.

(2) Eligibility for creditable service for time spent in the optional retirement program and service relinquished in the state employees' retirement system by enrollment in the optional retirement program shall be conditioned upon the payment, in 1 lump sum or in installments upon such terms as the state retirement board may provide, the larger of (a) an amount equal to the contributions such employee would have otherwise paid into the state employees retirement system had they been a member, plus actuarial-assumed interest for the years spent as an actively contributing member in the optional retirement plan or (b) an amount equal to all such assets, accrued under the Massachusetts optional retirement program to the state employees' retirement system, providing that such assets shall be credited toward the purchase of creditable service, minus employer-funded assets. Optional retirement program participants electing to transfer to the state retirement system shall, upon the transfer, forfeit all benefits, rights and privileges attributable to employer-funded assets in the optional retirement program. The optional retirement program administrator will take immediate steps to ensure that such employer-funded assets are transmitted to the Pension Reserve Fund as assets of the state employees' retirement system.

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(3) Within 180 days of the effective date of this section the state retirement board and the department of higher education shall request of the Internal Revenue Service the necessary letters of determination or ruling on whether this section may be implemented without impairing the compliance of either or both the optional retirement plan and the state employees' retirement system with the Internal Revenue Code of 1986 including, but not limited to, subsection 414(h). The state employees' retirement system shall also request a determination or ruling from the Internal Revenue Service on whether this section may be implemented, without impairing the above mentioned compliance, provided that it only applies to any employee who elected, prior to May 16, 2004, to participate in the optional retirement program because the option of marriage did not become available to that employee under the laws of the commonwealth prior to May 16, 2004. Subsections (1), (2) and (4) to (7), inclusive, of this section shall not take effect unless and until the Internal Revenue Service issues a favorable ruling or determination, as the case may be, which determines that the transfers described in this section will not result in non-compliance of either or both the optional retirement program and the state employees' retirement system with the Internal Revenue Code including, but not limited to, subsection 414(h).

(4) Within 30 days of a favorable ruling or determination from the Internal Revenue Service, the department of higher education shall notify active members of the optional retirement program, inactive members of the optional retirement system who are currently active members of the state retirement system and those members on an excused leave of absence of 2 years or less, of their eligibility for this 1-time transfer opportunity to the state employee retirement system. Eligible employees who choose to transfer to the state employees' retirement system apply for such transfer to the state retirement board within 180 days of notification by the department of higher education of their eligibility for this transfer. Any elections under this section shall apply to current active members of the optional retirement plan, inactive members of the optional retirement system who are currently active members of the state retirement system and those on an approved leave of absence of 2 years or less on the effective date of this section, and shall be for one time. No further changes in participation, either into the state retirement plan or out of the optional retirement program, shall be permitted.

(5) Within 30 days of application for transfer to the state retirement system, such employees, subject to the rules and regulations of the state board of retirement, shall be notified by the state retirement board of their eligibility for transfer and the cost of such transfer. If eligible, such members shall have 180 days from notification to make the transfers to the state employees' retirement system, as set forth in subsection (2). Any money remaining in an optional retirement program account following the transfer of an employee to the state employees' retirement system and the complete payment for such transfer, as set forth above, shall continue to be held on behalf of the member under the optional retirement program and shall continue to be subject to the terms of the optional retirement program.

(6) If an employee has a residual account remaining in the optional retirement program under paragraph (4), the employee shall continue to be a member of the optional retirement program as long as such employee has an account under such program but shall not be permitted to make further contributions and shall not be eligible for any employer contributions thereunder. The department of higher education and the state board of retirement shall take such actions that are required or appropriate to ensure that the optional retirement program and the state employees' retirement

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system, as hereby amended, continue to be tax-qualified plans in accordance with the Internal Revenue Code of 1986, as amended.

(7) The application of chapter 32 of the General Laws to a member of the optional retirement program who elects to transfer to the state employees' retirement system shall be those provisions that were in effect on the date such employee was initially appointed.

Upon the effective date of this section the public employee retirement administration commission shall perform an actuarial study relative to the potential cost to the commonwealth of implementation of this section and shall submit a report to the joint committee on public service.

SECTION 61. For the purposes of section 26 of chapter 32 of the General Laws, any state police trainee who completes and graduates from the state police training academy on or before June 1, 2012 shall be considered a member in service before April 2, 2012.

SECTION 62. The secretary of administration and finance shall commission a comprehensive, independent analysis of the costs and benefits of further structural reforms to the current pension system that will provide a public benefit while ensuring the ability to attract and retain public employees. For the purposes of this analysis, "public benefit" shall include, but not be limited to, the following principles: the long-term sustainability of the pension system; the maintenance of competitive, quality benefits for public employees; the equitable distribution of benefits to members of the system; and, a reduction in cost and risk to the taxpayers.

The analysis shall include, but not be limited to, a review of costs and public benefits for the current defined benefit plan, the creation of an optional defined contribution plan and an optional hybrid plan, consisting of defined benefit and defined contribution components. The analysis shall describe the costs and benefits to the commonwealth as a whole, to the 105 contributory retirement systems in the commonwealth and to current and future members of the retirement system. The analysis shall also compare the pension systems of both public and private organizations of similar size.

The organization commissioned by the secretary to conduct the analysis shall be drawn from a list of qualified research organizations which are: (a) competitively bid through a process established by the secretary; and (b) acceptable to the state treasurer and the public employee retirement administration commission.

The organization shall provide a preliminary report to the public employee retirement administration commission not later than 60 days prior to the legislative filing deadline. The public employee retirement administration commission may conduct an additional actuarial analysis to determine the costs of any recommendations made by the organization, which shall be included in the report prepared by the organization.

The organization shall file a report of its findings, together with the actuarial analysis provided by the public employee retirement administration commission, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than October 15, 2012.

SECTION 63. Notwithstanding any general or special law to the contrary and except as expressly

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provided otherwise, sections 13, 16, 17, 20 to 22, inclusive, 26 and 27 shall apply only to members who become members on or after April 2, 2012. Sections 12 and 46 shall apply only to repayments and purchases of creditable service on or after April 2, 2012.

SECTION 64. Sections 5, 8 to 11, inclusive, 14, 15, 19, 23 to 25, inclusive, 28, 32, 35, 39, 43, 44, 47, 48 and 50 shall take effect on April 2, 2012.

SECTION 65. Section 18, 31 and 49 shall apply only to members retiring on or after April 2, 2012.

*Approved, November 16, 2011.*

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**Acts**  
**2010****CHAPTER 188** AN ACT RELATIVE TO MUNICIPAL RELIEF.

*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.** Section 22N of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 60 and 61, and in line 63, the word “December” and inserting in place thereof, in each instance, the following word:- October.

**SECTION 2.** Section 52 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “fifty-three to fifty-eight” and inserting in place thereof the following words:- 53 to 58A.

**SECTION 3.** Said chapter 10 is hereby further amended by inserting after section 58 the following section:-

Section 58A. (a) The council shall establish criteria and guidelines for state-designated cultural districts. A cultural district shall be a geographical area of a city or town with a concentration of cultural facilities located within it. Cultural districts shall attract artists and cultural enterprises to a community, encourage business and job development, establish tourist destinations, preserve and reuse historic buildings, enhance property values and foster local cultural development. The council shall assist a city or town if the city or town wishes to develop or foster a cultural district. The council shall develop an application process, with specific guidelines and criteria, for a city or town that wishes to develop or foster a cultural district. Executive branch agencies, constitutional offices and quasi-governmental agencies shall identify programs and services that support and enhance the development of cultural districts and ensure that those programs and services are accessible to such districts. The council shall consult with the Massachusetts historical commission in developing and establishing criteria and guidelines regarding preservation and reuse of historic buildings.

(b) Notwithstanding any general or special law to the contrary, executive branch agencies, constitutional offices and quasi-governmental agencies including, but not limited to, the council and historic preservation programs, shall review and revise regulations and other economic development tools, including the evaluative criteria of such historic preservation programs, in order to support and encourage the development and success of state-designated cultural districts.

**SECTION 4.** Section 1 of chapter 30B of the General Laws is hereby amended by inserting after the word “section”, in line 6, as appearing in the 2008 Official Edition, the following word:- 11C or section.

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**SECTION 5.** Said section 1 of said chapter 30B is hereby further amended by inserting after the word “commonwealth”, in line 12, as so appearing, the following words:- , except as pertains to subsection (i) of section 16.

**SECTION 6.** Said section 1 of said chapter 30B, as most recently amended by section 41 of chapter 25 of the acts of 2009, is hereby further amended by adding the following subsection:-

(f) This chapter shall be deemed to have been complied with on all purchases made from a vendor pursuant to a General Services Administration federal supply schedule that is available for use by governmental bodies.

**SECTION 7.** Section 2 of said chapter 30B is hereby amended by inserting after the definition of “Contractor”, as so appearing, the following 2 definitions:-

“Cooperative purchasing”, procurement conducted by, or on behalf of, more than 1 public procurement unit or by a public procurement unit with an external procurement activity.

“Electronic bidding”, the electronic solicitation and receipt of offers to contract for supplies and services; provided, however, that offers may be accepted and contracts may be entered into by use of electronic bidding.

**SECTION 8.** Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Employment agreement”, as so appearing, the following definition:-

“External procurement activity”, (a) a public agency not located in the commonwealth which would qualify as a public procurement unit; (b) buying by the United States government.

**SECTION 9.** Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Labor relations representative”, as so appearing, the following definition:-

“Local public procurement unit”, a political subdivision or unit thereof which expends public funds for the procurement of supplies.

**SECTION 10.** Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Proposal”, as so appearing, the following definition:-

“Public procurement unit”, a local public procurement unit or a state public procurement unit.

**SECTION 11.** Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Request for proposals”, as so appearing, the following definition:-

“Reverse auction”, an internet-based process used to buy supplies and services whereby the sellers of the supplies or services being auctioned anonymously bid against each other until time expires and

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until the governmental body determines from which sellers it will buy based on the pricing obtained during the process.

**SECTION 12.** Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Services”, as so appearing, the following 2 definitions:-

“Sound business practices”, ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.

“State public procurement unit”, the offices of the chief procurement officers and any other purchasing agency of the commonwealth or any other state.

**SECTION 13.** Section 4 of said chapter 30B, as so appearing, is hereby amended by striking out, in line 24, the words “generally accepted” and inserting in place thereof the following word:- sound.

**SECTION 14.** Said chapter 30B is hereby further amended by inserting after section 6, as so appearing, the following section:-

Section 6A. (a) A chief procurement officer may enter into procurement contracts for \$25,000 or more, utilizing reverse auctions for the acquisition of supplies and services. The reverse auction process shall include a specification of an opening date and time when real-time electronic bids shall be accepted and shall provide that the procedure remain open until the designated closing date and time. (b) All bids on reverse auctions shall be posted electronically on the internet and updated on a real-time basis and shall allow for registered bidders to lower the price of their bid below the lowest bid on the internet.

(c) The chief procurement officer shall require vendors to register before the reverse auction opening date and time and, as part of the registration, agree to any terms and conditions and other requirements of the solicitation.

(d) Any mechanism including, but not limited to, software, developed by the operational services division to conduct reverse auctions by the commonwealth, shall provide for the utilization of that mechanism by municipalities.

(e) The operational services division may assess a municipality utilizing the reverse auction mechanism a reasonable fee, calculated to compensate for any increased cost attributable to such utilization, which shall be credited to the General Fund.

(f) Reverse auctions shall not be subject to clause (1) of subsection (b) or subsection (d) of section 5 but shall be subject to all other provisions of said section 5.

**SECTION 15.** Said chapter 30B is hereby further amended by adding the following section:-

Section 22. A public procurement unit may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of supplies with public procurement units or external procurement activities in accordance with an agreement entered into between the participants. The

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public procurement unit conducting the procurement of supplies shall do so in a manner that constitutes a full and open competition.

**SECTION 16.** Paragraph (f) of subdivision (3) of section 21 of chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

An actuarial valuation of each system shall be conducted biennially and experience investigations shall be conducted every 6 years. Actuarial valuation reports and experience studies shall be conducted in such manner as the commissioner of administration, upon advice of the actuary, shall consider appropriate.

**SECTION 17.** The first paragraph of subdivision (1) of section 22D of said chapter 32, as amended by section 18 of chapter 21 of the acts of 2009, is hereby further amended by inserting after the first sentence, as so appearing, the following sentence:- A funding schedule established under this section shall provide that the payment in any year of the schedule is not less than 95 per cent of the amount appropriated in the previous fiscal year.

**SECTION 18.** Said chapter 32 is hereby further amended by inserting after section 22E the following section:-

Section 22F. (a) A system, other than the state employees' retirement system and the teachers' retirement system, which conducts an actuarial valuation of the retirement system as of January 1, 2009, or later, may establish a revised retirement system funding schedule, subject to the approval of the actuary, which reduces the unfunded actuarial liability of the system to zero not later than June 30, 2040, as long as: (1) the payment in a year under the revised schedule or a subsequent schedule is not less than the payment in a prior fiscal year under the then current schedule until the system is fully funded; and (2) the increase in the amortization component of the appropriations required by the schedule from year to year does not exceed 4 per cent and is so designed that the funding schedule and any updates to it reduce the unfunded actuarial liability of the system to zero on or before June 30, 2040.

(b) If an updated actuarial valuation allows for the development of a revised schedule with reduced payments, the revised schedule shall be adjusted to reduce the unfunded liability of the system to zero by an earlier date to the extent required to ensure that the appropriation required for a particular year under the new schedule shall not be less than the amount identified for that year under the prior schedule established under this section.

(c) If a schedule established under this section would result in an appropriation in the first fiscal year of the schedule that is greater than 8 per cent more than the appropriation in the previous fiscal year, the requirement of clause (2) of subsection (a) may be adjusted with the approval of the public employee retirement administration commission.

(d) Systems may establish a schedule under this section that provides for an increase in the maximum

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base amount on which the cost-of-living adjustment is calculated pursuant to section 103, in multiples of \$1,000. Acceptance of this subsection shall be in accordance with paragraph (j) of section 103.

**SECTION 19.** Section 103 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph: -

(j) Notwithstanding paragraph (a), the board of any system that establishes a schedule pursuant to section 22D or 22F, may increase the maximum base amount on which the cost-of-living adjustment is calculated, in multiples of \$1,000. Each increase in the maximum base amount shall be accepted by a majority vote of the board of such system, subject to the approval of the legislative body. For the purpose of this section, "legislative body" shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a district, the district members, and, in the case of an authority, the governing body. In the case of a county or region, acceptance shall be by the county or regional retirement board advisory council at a meeting called for that purpose by the county or regional retirement board that shall notify council members at least 60 days before the meeting. Upon receiving notice, the treasurer of a town belonging to the county or regional retirement system shall make a presentation to the town's chief executive officer, as defined in paragraph (c) of subdivision (8) of section 22, regarding the impact of the increase in the cost-of-living adjustment base, the failure of which by a treasurer shall not impede or otherwise nullify the vote by the advisory council. Acceptance of an increase in the maximum base amount shall be deemed to have occurred upon the filing of the certification of such vote with the commission. A decision to accept an increase in the maximum base amount may not be revoked.

**SECTION 20.** Section 11A of chapter 32B of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Each employee insured for the minimum amounts of group life and group accidental death and dismemberment insurance provided in section 5, subject to such conditions as the appropriate public authority shall approve, may be insured for amounts of group life insurance and group accidental death and dismemberment insurance in addition to the minimum amounts provided for in said section 5 in an amount not greater than \$150,000.

**SECTION 21.** Said section 11A of said chapter 32B, as so appearing, is hereby further amended by striking out, in line 60, the words "outlined in the above schedule".

**SECTION 22.** Section 3 of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "ten" and inserting in place thereof the following figure:- 30.

**SECTION 23.** The second paragraph of section 4A of said chapter 40, as so appearing, is hereby amended by adding the following sentence: A decision to enter into an intermunicipal agreement under this section, or to join a regional entity, shall be solely subject to the approval process of the towns' elected bodies.

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**SECTION 24.** Said chapter 40 is hereby further amended by inserting after section 4I the following 2 sections:-

Section 4J. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Agency", the Massachusetts emergency management agency.

"Agreement", the statewide public safety mutual aid agreement established in subsection (b).

"Authorized representative", in the case of a city or town, the mayor, city manager, town manager, town administrator, executive secretary, police chief or on-duty shift commander of the police department, fire chief or on-duty shift commander of the fire department, health director or chairperson of the board of health and the emergency management director and, in the case of a governmental unit that is not a city or town, the chief executive officer or his designee.

"Employee", a person employed full-time or part-time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

"Governmental unit", a city, town, county, regional transit authority established under chapter 161B, water or sewer commission or district established under chapter 40N or by special law, fire district, regional health district established under chapter 111, a regional school district or a law enforcement council.

"Incident command system", the standardized national incident management system that establishes an on-scene management system of procedures for controlling personnel, facilities, equipment and communications from different agencies at the scene of an emergency or other event for which mutual aid assistance is provided.

"Law enforcement council", a nonprofit corporation comprised of municipal police chiefs and other law enforcement agencies established to provide: (i) mutual aid to its members pursuant to mutual aid agreements; (ii) mutual aid or requisitions for aid to non-members consistent with section 8G of this chapter or section 99 of chapter 41; and (iii) enhanced public safety by otherwise sharing resources and personnel.

"Mutual aid assistance", the cross-jurisdictional provision of emergency services, materials or facilities from 1 party to another when existing resources are, or may be, inadequate.

"Party", a governmental unit that has joined the agreement.

"Public safety incident", an event, emergency or natural or man-made disaster, that threatens or causes harm to public health, safety or welfare and that exceeds, or reasonably may be expected to exceed, the response or recovery capabilities of a governmental unit including, but not limited to, a technological hazard, planned event, civil unrest, health-related event and an emergency, act of terrorism and training and exercise that tests and simulates the ability to manage, respond to or recover from any such event.

"Requesting party", a party that requests aid or assistance from another party pursuant to the agreement.

"Sending party", a party that renders aid or assistance to another party under the agreement.

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(b) There shall be a statewide public safety mutual aid agreement to create a framework for the provision of mutual aid assistance among the parties to the agreement in the case of a public safety incident. The assistance to be provided under the agreement shall include, but not be limited to, fire service, law enforcement, emergency medical services, transportation, communications, public works, engineering, building inspection, planning and information assistance, resource support, public health, health and medical services, search and rescue assistance and any other resource, equipment or personnel that a party to the agreement may request or provide in anticipation of, or in response to, a public safety incident.

(c) (1) If a city or town wishes to join the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chairman of the board of selectmen with the approval of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the director of the agency in writing. The municipality shall be a party to the agreement 30 days after receipt by the agency of the written notification.

A city or town that has joined the agreement may opt out of the agreement in the same manner as provided for joining the agreement and by notifying the agency in writing of its intention to opt out. The removal of the municipality from the agreement shall take effect 10 days after receipt by the agency of the written notification.

(2) If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the director of the agency in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the agency of the written notification.

If a governmental unit that is not a city or town has joined the agreement but wishes to opt out of the agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the agreement by notifying the agency in writing. The removal of the municipality from the agreement shall take effect 10 days after receipt by the agency of the written notification.

(d)(1) A request by a party to receive mutual aid assistance under the agreement shall be made, either orally or in writing, by an authorized representative of the requesting party and shall be communicated to an authorized representative of the sending party or to the agency; provided, however, that if the request is communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party or to the agency at the earliest possible date, but not later than 72 hours after making the oral request. A party to the agreement may request mutual aid assistance during, in anticipation of or as a result of a public safety incident.

(2) An oral or written request for mutual aid assistance under the agreement shall include the following information:

(i) a description of the public safety incident;

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- (ii) the nature, type and amount of personnel, equipment, materials, supplies or other resources being requested;
- (iii) the manner in which the resources shall be used and deployed;
- (iv) a reasonable estimate of the length of time for which the resources shall be needed;
- (v) the location to which the resources shall be deployed; and
- (vi) the requesting party's point of contact.

(3) A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

(e) The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by a sending party consistent with the incident command system. The sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and the sending party. During the course of rendering mutual aid assistance under the agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

(f)(1) All expenses incurred by the sending party in rendering mutual aid assistance pursuant to the agreement shall be paid by the sending party; provided, however, that a requesting party and a sending party may enter into supplementary agreements for reimbursement of costs associated with providing mutual aid assistance incurred by a sending party.

(2) A sending party shall document its costs of providing mutual aid assistance under the agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs and the costs of materials and supplies. A sending party shall also document the use of its equipment and the quantities of materials and supplies used while providing mutual aid assistance under the agreement.

(3) Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to the public safety incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

(g) While providing mutual aid assistance under the agreement, employees of a sending party shall: (i) be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location; and (ii) receive the same salary, including overtime, that they would be entitled to receive if they were operating in their own governmental unit. In the absence of an agreement to the contrary, the sending party shall be responsible for all such salary expenses,

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including overtime.

(h)(1) While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

(2) Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid assistance under the agreement, including travel outside of its jurisdiction.

(3) Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

(i) This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the agreement including, but not limited to, those established pursuant to section 4A or 8G. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

Section 4K. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Advisory committee", the statewide public works municipal mutual aid advisory committee established in subsection (d).

"Agreement", the statewide public works municipal mutual aid agreement established in subsection (b).

"Employee", a person employed full-time or part-time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

"Governmental unit", a city, town, county or district, however constituted, or water or sewer commission established under the provisions of chapter 40N or any other general or special law.

"Mutual aid assistance", cross-jurisdictional provision of services, materials or facilities from 1 party to another when existing resources are, or may be, inadequate.

"Party", a governmental unit that has joined the agreement.

"Public works incident", a foreseeable or unforeseeable event, emergency or natural or manmade disaster that affects or threatens to affect the public works operations of a governmental unit.

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"Requesting party", a party that requests aid or assistance from another party pursuant to the agreement.

"Sending party", a party that renders aid or assistance to another party under the agreement.

(b) There shall be a statewide public works municipal mutual aid agreement to facilitate the provision of public works resources across jurisdictional lines in the case of a public works incident that requires mutual aid assistance from 1 or more municipalities. The mutual aid assistance to be provided under the agreement shall include, but not be limited to, services related to public works, personnel, equipment, supplies and facilities to prepare for, prevent, mitigate, respond to and recover from public works incidents.

(c) (1) If a city or town wishes to join the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chair of the board of selectmen upon approval by a majority vote of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the advisory committee in writing. The municipality shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a city or town has joined the agreement but wishes to opt out of the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chair of the board of selectmen upon approval by a majority vote of the board of selectmen in the case of a town, may act on behalf of the city or town to opt out of the agreement by notifying the advisory committee in writing. The removal of the municipality from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(2) If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the advisory committee in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a governmental unit that is not a city or town has joined the agreement but wishes to opt out of the agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the agreement by notifying the advisory committee in writing. The removal of the governmental unit that is not a city or town from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(3) If a governmental unit in a state contiguous to the commonwealth wishes to join the agreement, the governmental unit may join the agreement by notifying the advisory committee in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a governmental unit in a state contiguous to the commonwealth has joined the agreement but

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wishes to opt out of the agreement, the governmental unit may opt out of the agreement by notifying the advisory committee in writing. The removal of the governmental unit from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(d) There shall be a statewide public works municipal mutual aid advisory committee to consist of the secretary of public safety and security or his designee, who shall serve as chair of the committee; and 1 member appointed by the secretary of public safety and security from each of the following: the Massachusetts Highway Association; the New England Chapter of the American Public Works Association, who shall be a resident of the commonwealth; the New England Water Environment Association, who shall be a resident of the commonwealth; the Massachusetts Tree Wardens' and Foresters' Association; the Massachusetts Water Works Association; and the Massachusetts Municipal Association.

The advisory committee shall develop procedural plans, protocols and programs for intrastate and interstate cooperation to be used by public works agencies in response to a public works incident. The advisory committee shall be responsible for the administration and coordination of the statewide mutual aid agreement. The advisory committee shall develop and make available to parties forms to facilitate requests for aid, including a form to track the movement of public works equipment and personnel.

(e) Each party shall identify not more than 3 points of contact to serve as the primary liaison for all issues relating to the agreement.

(f)(1) A request by a party to receive mutual aid assistance shall be made, either orally or in writing, by the chief executive officer of the requesting party or by 1 of its designated points of contact and shall be communicated to the chief executive officer or 1 its designated points of contact from the sending party; provided, however, that if the request is communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party at the earliest possible date, but not later than 72 hours after making the oral request. (2) A requesting party may request the assistance of 1 or more parties to assist with or manage a public works incident, including recovery-related exercises, testing or training.

(2) An oral or written request for mutual aid assistance under the agreement shall include the following information:

- (i) a description of the public works incident response and recovery functions for which assistance is needed;
- (ii) the nature, type and amount of public works services, personnel, equipment, materials, supplies or other resources being requested;
- (iii) the manner in which the resources shall be used and deployed;
- (iv) a reasonable estimate of the length of time for which the resources shall be needed;

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- (v) the location to which the resources shall be deployed; and
- (vi) the requesting party's point of contact.

(3) A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested by the requesting party; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

(g) The requesting party shall be responsible for the overall operation, assignment and deployment of resources, equipment and personnel provided by a sending party. The sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and the sending party. During the course of rendering mutual aid assistance under the agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

(h)(1) All expenses incurred by the sending party in rendering mutual aid assistance pursuant to the agreement shall be paid by the sending party; provided, however, that a requesting party and a sending party may enter into supplementary agreements for reimbursement of costs associated with providing mutual aid assistance incurred by a sending party.

(2) A sending party shall document its costs of providing mutual aid assistance under the agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs and the costs of materials and supplies. A sending party shall also document the use of its equipment and the quantities of materials and supplies used while providing mutual aid assistance under the agreement.

(3) Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to the public works incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

(4) While providing mutual aid assistance under the agreement, employees of a sending party shall: (i) be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location; (ii) be considered similarly licensed, certified or permitted in the requesting party's jurisdiction if the employee holds a valid license, certificate or permit issued by the employee's governmental unit; and (iii) receive the same salary, including overtime, that they would be entitled to receive if they were operating in their own governmental unit. In the absence of an agreement to the contrary, the sending party shall be responsible for all such salary expenses, including overtime.

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(j)(1) While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

(2) Each party to the agreement shall waive all claims and causes of action against all other parties that may arise out of their activities while rendering or receiving mutual aid assistance under the agreement, including travel outside of its jurisdiction.

(3) Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

(4) All equipment requested and deployed pursuant to the statewide municipal mutual assistance agreement shall be insured by the sending party.

(k) This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the agreement including, but not limited to, those established pursuant to section 4A. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

**SECTION 25.** Section 56 of said chapter 40, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the first paragraph, the commissioner may, from time to time, issue a revised schedule for the year in which the commissioner shall certify whether the board of assessors is assessing property at full and fair cash valuation. After the schedule is issued, a city or town may classify in the manner set forth in this section for any year before the next year of certification established in the schedule for the city or town. In arranging the schedule, the commissioner shall, so far as is practicable and appropriate, consider at least the following goals: balancing the number of certification reviews conducted in each year of the triennial period; facilitating and implementing joint or cooperative assessing agreements or districts; assisting the boards of assessors to comply with minimum standards of assessment performance established under section 1 of chapter 58; and producing uniformity in the valuation, classification and assessment of property within each city or town and throughout the commonwealth.

**SECTION 26.** Chapter 41 of the General Laws is hereby amended by striking out section 30B, as so

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appearing, and inserting in place thereof the following section:-

Section 30B. (a) Notwithstanding any general or special law or municipal charter, vote, by-law or ordinance, 2 or more cities and towns, by vote of their legislative bodies, may enter into an agreement, for a term not to exceed 25 years, for joint or cooperative assessing, classification and valuation of property.

The agreement shall provide for:

- (1) the division, merger or consolidation of administrative functions between or among the parties or the performances thereof by 1 city or town on behalf of all the parties;
- (2) the financing of the joint or cooperative undertaking;
- (3) the rights and responsibilities of the parties with respect to the direction and supervision of the work to be performed and with respect to the administration of the assessing office, including the receipt and disbursement of funds, the maintenance of accounts and records and the auditing of accounts;
- (4) annual reports of the assessor to the constituent parties;
- (5) the duration of the agreement and procedures for amendment, withdrawal or termination thereof; and
- (6) any other necessary or appropriate matter.

(b) An agreement under this section may also provide for the formation of a single assessing department for the purpose of employing assistant assessors and necessary staff and for performing all administrative functions. An agreement may also vest in 1 person, the board of assessors of 1 of the parties or a regional board of assessors comprised of at least 1 representative from each of the parties and selected in the manner set forth in the agreement all of the powers and duties of the boards of assessors and assessing departments of the parties. In that case, the existing boards of assessors of the other parties, or of all the parties if their assessors' powers and duties are vested in 1 person, shall terminate in accordance with section 2 for the duration of the agreement. Unless the agreement provides for the board of assessors of 1 of the parties to serve as the assessors for all of the parties, or for 1 city or town to act on behalf of all parties, the agreement shall designate an appointing authority representing all of the parties. That appointing authority shall be responsible for the appointment of an assessor, assistant assessors, and other staff, and in the case of withdrawal or termination of the agreement, shall determine the employment of any employee of 1 of the parties that became part of a single assessing department. Subject to the rules and regulations established by the commissioner of revenue pursuant to section 1 of chapter 58, the agreement shall provide for qualifications, terms and conditions of employment for the assessor and employees of the assessor's office. The agreement may provide for inclusion of the assessor and the assessor's employees in insurance, retirement programs and other benefit programs of 1 of the constituent parties, but all parties to the agreement shall be pay a proportionate share of the current and future costs of benefits associated with the appointment or employment of all persons performing services for them during the duration of the agreement. A city or town party to such an agreement shall include employees under

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the joint assessing agreement in such programs in accordance with the terms of the agreement.

(c) A city or town may become a party to an existing agreement with the approval of the other parties.

(d) No agreement or amendment to an agreement for joint or cooperative assessing made pursuant to this section shall take effect until it has been approved in writing by the commissioner of revenue.

**SECTION 27.** Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by inserting after the word “specified”, in line 3, the following words:- or, except for clauses (3C), (11), (16), (18), (19), (21) and (22), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed, as determined in accordance with guidelines established by the division of local services within the department of revenue.

**SECTION 28.** The first paragraph of said section 7 of said chapter 44, as so appearing, is hereby amended by inserting after clause (3B) the following clause:-

(3C) For a revolving loan fund established under section 53E¾ to assist in the development of renewable energy and energy conservation projects on privately-held buildings, property or facilities within the city or town, 20 years.

**SECTION 29.** Said first paragraph of said section 7 of said chapter 44, as so appearing, is hereby further amended by striking out clause (9) and inserting in place thereof the following clause:-

(9) For the cost of equipment, 5 years.

**SECTION 30.** Said first paragraph of said section 7 of said chapter 44, as so appearing, is hereby further amended by inserting after clause (17) the following clause:-

(17A) For dredging of tidal and nontidal rivers and streams, harbors, channels and tidewaters, 10 years.

**SECTION 31.** Said first paragraph of said section 7 of said chapter 44, as so appearing, is hereby further amended by adding following 3 clauses:-

(32) For the cost of cleaning up or preventing pollution caused by existing or closed municipal facilities not referenced in clause (21) of section 8, including cleanup or prevention activities taken pursuant to chapter 21E or chapter 21H, 10 years; provided, however, that no indebtedness shall be incurred hereunder until plans relating to the project shall have been submitted to and approved by the department of environmental protection.

(33) For the construction or reconstruction of seawalls, riprap, revetments, breakwaters, bulkheads, jetties and groins, stairways, ramps and other related structures, 20 years.

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(34) For any other public work, improvement or asset not specified in this section, with a maximum useful life of at least 5 years, determined as provided in this paragraph, 5 years.

**SECTION 32.** Section 8 of said chapter 44, as so appearing, is hereby amended by inserting after the word “specified”, in line 3, the following words:- or except with respect to clauses (1), (2), (3A), (5), (6), (7), (9) and (19), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed, as determined in accordance with guidelines established by the division of local services within the department of revenue.

**SECTION 33.** Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 77 and 78, the words “a board composed of the attorney general, the state treasurer and the director” and inserting in place thereof the following words: - the municipal finance oversight board.

**SECTION 34.** Said chapter 44 is hereby further amended by striking out section 19, as so appearing, and inserting in place thereof the following section:-

Section 19. Cities, towns and districts shall not issue any notes payable on demand, but shall provide for the payment of all debts, except temporary loans incurred under sections 4, 6, 6A, 8C, and 17 or under section 3 of chapter 74 of the acts of 1945, by annual payments that will extinguish the same at maturity, and so that the first of these annual payments on account of any serial loan shall be made not later than the end of the next complete fiscal year commencing after the date of the bonds or notes issued for the serial loan, and shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue the bonds or notes or, in the alternative, in accordance with a schedule providing a more rapid amortization of principal; and these annual amounts, together with the interest on all debts, shall, without further vote, be assessed until the debt is extinguished.

**SECTION 35.** Section 26 of said chapter 44 is hereby repealed.

**SECTION 36.** Said chapter 44 is hereby further amended by inserting after section 53E½ the following section:-

Section 53E¾. (a) Notwithstanding section 53 to the contrary, a city or town may establish an Energy Revolving Loan Fund to provide loans to owners of privately-held real property in the city or town for energy conservation and renewable energy projects on their properties so as to prioritize energy efficiency as the first step toward reducing greenhouse gas emissions associated with buildings.

(b) The fund shall be established by ordinance or by-law. Before adoption of the ordinance or by-law, the board of selectmen, town council or the city council, as the case may be, shall conduct a public hearing on the question of its adoption. The ordinance or by-law shall designate an administrator for

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the fund and may provide for rules, regulations and procedures for administration of the fund and eligibility for loans the city or town considers necessary or proper to carry out this section. The administrator may consult with the division of green communities established in section 10 of chapter 25A in developing such regulations, rules and procedures for administration of the fund. The fund administrator may be a board, department or officer, or may consist of 1 or more members from 1 or more boards, departments or officers, of the city or town. A city or town which is a member of a regional planning commission may enter into a cooperative agreement with that commission to perform as administrator for the fund. A regional governmental entity or county, if the county may incur debt under chapter 35 or any other general or special law extending a county's debt limit, may establish a fund subject to this section and may appoint a person to be the administrator of the fund.

(c) As authorized by section 4A of chapter 40, 2 or more municipalities may, in a city by vote of the city council, or, in a town by vote of the board of selectmen, enter into an agreement to jointly establish and administer a common fund.

(d) The fund administrator shall have the following powers and duties:

- (1) to make loans to owners of real property to finance or refinance the costs of energy conservation and renewable energy projects on their properties; provided, however, that no loan shall be made unless an energy audit of the property has been conducted on or after July 2, 2008, and any energy conservation measures established by the fund administrator for participation in the program have been implemented;
- (2) to execute and deliver on behalf of the city or town all loan agreements and other instruments necessary or proper to make the loan and secure its repayment;
- (3) to record the notice of the agreement required by subsection (f) and any other loan instruments;
- (4) to apply for and accept grants or gifts for purposes of the fund; and
- (5) to exercise any other powers or perform any other duties that the city or town may grant by ordinance or by-law to carry out this section.

(e) The city or town treasurer shall be the custodian of the fund, which shall be maintained as a separate account and into which shall be deposited:

- (1) all monies appropriated and all proceeds from bonds issued under clause (3C) of the first paragraph of section 7 for purpose of providing loans to private property owners for energy conservation and renewable energy projects;
- (2) all funds received from the commonwealth or any other source for those purposes;
- (3) all repayments of the loans made by property owners under this section and any reserve or other required payments made by the owners in connection with the loans; and
- (4) any other amounts required to be credited to the fund by any law.

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The city or town treasurer may invest the monies in the manner authorized in section 55 and any interest earned thereon shall be credited to and become part of the fund.

The city or town treasurer shall annually certify, not later than June 30, in writing to the fund administrator and auditor or similar officer in cities or the town accountant in towns having a town accountant, the principal and interest due in the next fiscal year on any bonds issued under clause (3C) of the first paragraph of section 7 and not otherwise provided for, and the amount certified shall be reserved for payment of that debt service without further appropriation. Loans may be made from the fund by the fund administrator without further appropriation, subject to this section; provided, however, that no loans shall be made or liabilities incurred in excess of the unreserved fund balance and unless approved in accordance with sections 52 and 56 of chapter 41.

(f) Whenever a city or town enters into a loan agreement with a property owner under this section, a notice of the agreement shall be recorded as a betterment and shall be subject to chapter 80 relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, the lien shall take effect by operation of law on the day immediately following the due date of the assessment or apportioned part of the assessment and the assessment may bear interest at a rate determined by the city or town treasurer by agreement with the owner at the time the agreement is entered into between the city or town and the property owner. In addition to remedies available under said chapter 80, the property owner shall be personally liable for the repayment of the total costs incurred by the city or town under this section; provided, however, that upon assumption of the personal obligation by a purchaser or other transferee of all of the original owner's interest in the property at the time of conveyance and the recording of the assumption, the owner shall be relieved of the personal liability.

A betterment loan agreement between an owner and a city or town under this section shall not be considered a breach of limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property.

Notwithstanding any provision of chapter 183A to the contrary, the organization of unit owners of a condominium may enter into a betterment loan agreement under this section to finance an energy conservation and renewable energy project, provided that the project comprises part of the common areas and facilities; provided, however, that section 18 of said chapter 183A shall not apply to any improvements undertaken pursuant to an agreement entered into under this section. Such agreement shall: (i) be approved by a majority of the unit owners benefited by the project; (ii) include an identification of the units and unit owners subject to the agreement and the percentages, as set forth in the master deed, of the undivided interests of the respective units in the common area and facilities; and (iii) include a statement by an officer or trustee of the organization of unit owners certifying that the required number of unit owners have approved the agreement. As between the affected unit owners and the city or town, the certification shall be conclusive evidence of the authority of the organization of unit owners to enter into the agreement. A notice of the agreement shall be recorded

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as a betterment in the registry of deeds or registry district of the land court wherein the master deed is recorded and shall be otherwise subject to chapter 80 as provided in this section. The assessment under the agreement shall be charged or assessed directly to the benefited unit owners and if unpaid shall be added to the annual tax bill for their units in accordance with section 13 of said chapter 80. The allocable share of the assessment, prorated on the basis of the percentage interests of the benefited units in the common areas and facilities, shall attach as a lien only to the units identified in the recorded notice and benefited by the project and the owners of those units shall also be personally liable for their allocable share of the assessment as provided for in this section. For the purposes of this paragraph, the terms “common areas and facilities”, “common expenses”, “condominium”, “master deed”, “organization of unit owners”, “units” and “unit owners” shall have the same meanings as ascribed to them in section 1 of said chapter 183A.

(g) The fund administrator shall file annually, not later than June 30, a report detailing the amount of money in the fund, loans made and repayments received, and shall also include the types of projects financed. The report shall be filed with the chief executive officer of the city or town, the executive office of administration and finance, the joint committee on municipalities and regional government, the senate and house committees on ways and means and the clerks of the senate and the house of representatives.

**SECTION 37.** Chapter 53 of the General Laws is hereby amended by inserting after section 18A the following section:-

Section 18B. (a) As used in this section “governing body” shall mean, in a city, the city council or board of aldermen acting with the approval of the mayor subject to the charter of the city, in a town having a town council, the town council, in every other town, the board of selectmen and in a district as provided in sections 113 to 119, inclusive, of chapter 41, the prudential committee, if any, otherwise the commissioners of the district.

(b) The governing body of a city, town or district which accepts this section in the manner provided in section 4 of chapter 4 shall print information relating to each question that shall appear on the city, town or district ballot. The information shall include: (1) the full text of each question; (2) a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote, which shall be prepared by the city solicitor, town counsel or counsel for the city, town or district; and (3) arguments for and against each question as provided in subsections (d) and (e). Not later than 7 days before an election at which the question shall be submitted to the voters in a city, town or district, the information in this subsection shall be sent to each household wherein a person whose name appears on the current voting list for the city, town or district resides.

(c) Not later than the day following the date of the determination that a question shall appear on the ballot in an election, the governing body shall provide written notification to the city solicitor or town or district counsel and to the city or town clerk.

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(d) Not later than 7 days after the determination that a question shall appear on the ballot, the city solicitor or town or district counsel, as applicable, shall seek written arguments from the principal proponents and opponents of the question. For the purposes of this section, the principal proponents and opponents of a question shall be those persons determined by the solicitor or counsel to be best able to present the arguments for and against the question. The solicitor or counsel shall provide not less than 7 days' written notice to the opponents and proponents of the date on which the written arguments shall be received. Proponents and opponents shall submit their arguments, which shall be not more than 150 words, to the solicitor or counsel, together with a copy thereof to the city or town clerk or, in a district, to the clerk of each city and town within the district. The arguments and summary shall be submitted by the solicitor or counsel to the governing body not more than 20 days before the election for distribution to voters in accordance with subsection (b). A copy of the arguments and summary shall also be submitted by the solicitor or counsel to the city, town or district clerk.

(e) In determining the principal proponents and opponents of a ballot question, the solicitor or counsel shall contact each ballot question committee, if any, as defined in section 1 of chapter 55. The principal proponents or opponents of a ballot question may include officers of a ballot question committee or officers of a city, town or district office or committee including, but not limited to, a finance committee or a school committee. In addition, the principal proponents or opponents may include the first 10 signers or a majority of the first 10 signers of a petition initiating the placement of such question on the ballot. The solicitor or counsel shall determine, based on a review of arguments received, the person or group best able to present arguments for and against a question. If no argument is received by the solicitor or counsel within the time specified by the solicitor or counsel, the solicitor or counsel shall prepare an argument and submit the argument to the governing body and to the city or town clerk or, in a district, to the clerk of each city and town within the district within the time specified in subsection (d).

(f) All arguments filed or prepared pursuant to this section and the information prepared pursuant to subsection (b), shall be open to public inspection at the office of city or town clerk or, in a district, at the office of the clerk of each city and town within the district. In addition, each city or town clerk shall make such information available to the voters at all polling places within the city, town or district.

**SECTION 38.** Section 8 of chapter 58 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-

The commissioner shall make and from time to time revise, rules, regulations and guidelines necessary for establishing an expedited procedure for granting authority to abate taxes, assessments, rates, charges, costs or interest under this section in such cases as the commissioner determines are in the public interest and shall from time to time for such periods as the commissioner considers appropriate authorize the assessors or the board or officer assessing the tax, assessment, rate or charge to grant these abatements. No abatement authorized by these procedures shall be granted

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unless the assessors or board or officer shall certify, in writing, under pains and penalties of perjury that the procedures have been followed. The commissioner shall require yearly reports and audits of these abatements by assessors or boards or officers that the commissioner considers necessary to ensure that any authority granted under this paragraph has been properly exercised and shall withdraw this grant of authority to the particular assessors, board or officer upon his written determination that the authority has been improperly exercised. The commissioner may make and from time to time revise, reasonable rules, regulations and guidelines that he considers necessary to carry out this paragraph.

**SECTION 39.** Section 5 of chapter 59 of the General Laws is hereby amended by inserting after the word “annum”, in line 452, as so appearing, the following words:- or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, not later than the beginning of the fiscal year to which the tax relates.

**SECTION 40.** Said section 5 of said chapter 59 is hereby further amended by striking out in line 754, as so appearing, the words “and are incapable of working”.

**SECTION 41.** Said section 5 of said chapter 59 is hereby further amended by inserting after the word “years”, in line 1267, as so appearing, the following words:- ; and (4) utilizing income limits on a household basis rather than on a single applicant basis for real estate tax exemptions.

**SECTION 42.** Said section 5 of said chapter 59, as amended by section 66 of chapter 25 of the acts of 2009, is hereby further amended by adding the following 2 clauses:-

Fifty-sixth. Upon the acceptance of this section by a city or town, the board of assessors may grant, real and personal property tax abatement up to 100 per cent of the total tax assessed to members of the Massachusetts National Guard and to reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors.

The authority to grant abatements under this section shall expire after 2 years of acceptance unless extended by a vote of the city or town.

Fifty-seventh. Upon the acceptance of this section by a city or town, the board of assessors may appropriate monies for and grant property tax rebates in an amount not to exceed annually the amount of the income tax credit set forth under subsection (k) of section 6 of chapter 62.

**SECTION 43.** Section 5K of said chapter 59, as amended by section 24 of chapter 27 of the acts of 2009, is hereby further amended by adding the following paragraph:-

A city or town, by vote of its legislative body, subject to its charter, may adjust the exemption in this

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clause by: (1) allowing an approved representative, for persons physically unable, to provide such services to the city or town; or (2) allowing the maximum reduction of the real property tax bill to be based on 125 volunteer service hours in a given tax year, rather than \$1,000.

**SECTION 44.** Section 29 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 20, the words “thirty days after the mailing of the tax bills” and inserting in place thereof the following words:- the last day for filing an application for abatement of the tax.

**SECTION 45.** Said chapter 59 is hereby further amended by inserting after section 31 the following section:-

Section 31A. For the purpose of verifying that a person required to file a true list of taxable personal property under section 29 has made a complete and accurate accounting of that property, the assessors may at any time within 3 years after the date the list was due, or within 3 years after the date the list was filed, whichever is later, examine the books, papers, records and other data of the person required to file the list. The assessors may compel production of books, papers, records and other data of the person through issuance of a summons served in the same manner as summonses for witnesses in criminal cases issued on behalf of the commonwealth, and all provisions of law relative to summonses in such cases shall, so far as applicable, apply to summonses issued under this section. A justice of the supreme judicial court or of the superior court may, upon the application of the assessors, compel the production of books, papers, records and other data in the same manner and to the same extent as before those courts.

**SECTION 46.** Section 32 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- Lists filed under section 29 and books, papers, records and other data obtained under section 31A shall be open to the inspection of the assessors, the commissioner, the deputies, clerks and assistants of either the assessors or the commissioner and any designated private auditor of the commissioner or the assessors as may have occasion to inspect the lists, books, papers, records and other data in the performance of their official, contractual or designated duties, but so much of the lists, books, papers, records and other data as shows the details of the personal estate shall not be open to any other person except by order of a court. For purposes of this section, a “designated private auditor” shall be an individual, corporation or other legal entity selected by the commissioner or a city or town to value personal property or perform an audit which includes the assessing department of a city or town under any legal authority, including the examination of records under said section 31A, an audit under sections 40 or 42A of chapter 44 or an investigation under section 46A of said chapter 44 but only if the individual, corporation or other legal entity shall be compensated for the audit work pursuant to an arrangement under which neither the payment nor the amount of their fees and expenses for the work are contingent on either the results of the audit or whether the results withstand any appeal by a taxpayer.

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**SECTION 47.** The second paragraph of section 38D of said chapter 59, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- Failure of an owner or lessee of real property to comply with such request within 60 days after it has been made by the board of assessors shall be automatic grounds for dismissal of a filing at the appellate tax board. The appellate tax board and the county commissioners shall not grant extensions for the purposes of extending the filing requirements unless the applicant was unable to comply with such request for reasons beyond his control or unless he attempted to comply in good faith.

**SECTION 48.** Said section 38D of said chapter 59, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

If an owner or lessee of Class one, residential property fails to submit the information within the time and in the form prescribed, the owner shall be assessed an additional penalty for the next ensuing tax year in the amount of \$50 but only if the board of assessors informed the owner or lessee that failure to submit such information would result in the penalty.

If an owner or lessee of Class three, commercial or Class four, industrial property fails to submit the information within the time and in the form prescribed, the owner or lessee shall be assessed an additional penalty for the next ensuing tax year in the amount of \$250 but only if the board of assessors informed the owner or lessee that failure to so submit such information would result in the penalty.

**SECTION 49.** Said chapter 59 is hereby further amended by inserting after section 42 the following section:-

Section 42A. For the purpose of verifying that an owner of a pipeline or a telephone or telegraph company required to make a return under section 38A or section 41 has made a complete and accurate accounting of the property required to be returned, the commissioner shall have all the powers and remedies provided by said section 31A to assessors of cities and towns. If the commissioner reasonably believes, as a result of an examination of the books, papers, records and other data or otherwise, that taxable personal property for a fiscal year was not valued or was incorrectly valued, the commissioner may, not later than 3 years and 6 months after the date the return was due or 3 years and 6 months after the date the return was filed, whichever is later, certify an amended valuation to the owner of the pipeline or telephone or telegraph company and to the boards of assessors of the cities and towns wherein the property was subject to taxation for that year. Not later than 2 months after the date of the amended certification, the assessors shall assess and commit to the collector with their warrant for collection an additional tax to the owner of the pipeline or telephone or telegraph company. An owner or company aggrieved by the assessment of the additional tax may, within 1 month after the bill or notice of the additional assessment is first sent, appeal the valuation to the appellate tax board. The appeal shall name as appellees the commissioner and the board of assessors. Except as otherwise provided in this section, the hearing and appeal before the

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appellate tax board shall proceed in the same manner as an appeal of the valuations originally certified by the commissioner.

**SECTION 50.** Section 61 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 4, the word "twenty-nine", and inserting in place thereof the following words:- 29 and complied with any requests by the assessors to examine books, papers, records and other data under section 31A.

**SECTION 51.** Said section 61 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 6, the word "twenty-nine", and inserting in place thereof the following words:- 29 or the person has not complied with any requests by the assessors to examine books, papers, records and other data under said section 31A.

**SECTION 52.** Section 75 of said chapter 59, as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following 3 sentences:- If a parcel of real property or the personal property of a person has been unintentionally omitted from the annual assessment of taxes due to a clerical or data processing error or some other good faith reason or, if the personal property of a person was omitted from the annual assessment of taxes but discovered upon an examination of the books, papers, records and other data under section 31A, the assessors shall, in accordance with any rules, regulations and guidelines as the commissioner may prescribe, assess such person for such property. Except for personal property found after an examination under said section 31A which shall be made not later than 3 years and 6 months after the date the true list in which such property should have been returned was due or not later than 3 years and 6 months after the date the return was filed, whichever is later, no such assessment shall be made later than June 20 of the taxable year or 90 days after the date on which the tax bills were mailed, whichever is later. The assessors shall annually, not later than June 30 of the taxable year or 100 days after the date on which the tax bills were mailed if mailed after March 22, return to the commissioner a statement showing the amounts of additional taxes so assessed.

**SECTION 53.** Section 76 of said chapter 59, as so appearing, is hereby amended by inserting after the word "reason", in line 3, the following words:- or due to discovery upon an examination of the books, papers, records and other data under section 31A that the property was not accurately or properly reported.

**SECTION 54.** Chapter 60 of the General Laws is hereby amended by striking out section 3A, as so appearing, and inserting in place thereof the following section:-

Section 3A. (a) Each bill or notice shall be in a form approved by the commissioner and shall summarize the deadlines under section 59 of chapter 59 for applying for abatements and exemptions. Each bill or notice shall also have printed on it the last date for the assessed owner to apply for abatement and for exemptions under clauses other than those specifically listed in said section 59 of

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said chapter 59. Except in the case of a bill or notice for reassessed taxes under section 77 of said chapter 59, each bill shall also have printed on it the last date on which payment can be made without interest being due. If a bill or notice contains an erroneous payment or abatement application date that is later than the date established under said chapter 59, the date printed on the bill or notice shall be the deadline for payment or for applying for abatement or exemption, but if the error in the date is the wrong year, the due date shall be the day and month as printed on the bill but for the current year. The commissioner may require, with respect to a city or town, that the tax bill or notice include such information as the commissioner may determine to be necessary to notify taxpayers of changes in the assessed valuation of the property. Each bill or notice for real or personal property tax shall have printed thereon in a conspicuous place the tax rate for each class within the town, as determined by the assessors. In addition, each bill or notice for a tax upon real property shall identify each parcel separately assessed by street and number or, if no street number has been assigned, by lot number, name of property or otherwise, shall describe the land, buildings and other things erected on or affixed to the property and shall state for each such parcel the assessed full and fair cash valuation, the classification, the residential or commercial exemption, if applicable, the total taxable valuation and the tax due and payable on such property. If the assessors have granted the owner an exemption under any clause specifically listed in said section 59 of said chapter 59, the bill or notice of such owner may also show the exemption and the tax, as exempted, that is due and payable on such property.

(b) The collector may issue the bill or notice required by section 3 in electronic form, provided that the electronic bill or notice meets the standards set forth in subsection (a). An electronic bill or notice issued shall be under voluntary programs established by the collector, with the approval of the board of selectmen or mayor, as the case may be. No political subdivision shall require a taxpayer to take part in an electronic billing system or program.

(c) The collector may include in the envelope or electronic message in which a property tax bill is sent those bills or notices for rates, fees and charges assessed by the city or town for water or sewer use, solid waste disposal or collection or electric, gas or other utility services as may be authorized by ordinance or by-law; provided, however, that the bills or notices shall be separate and distinct from the property tax bills. The ordinance or by-law may authorize the collector, upon vote of any municipal water and sewer commission established by the city or town under chapter 40N or by special act, to include bills or notices for rates, fees or charges assessed by the commission for water or sewer use.

(d) The collector may, with the approval of the board of selectmen or mayor, as the case may be, include in the envelope or electronic message in which a property tax bill is sent nonpolitical municipal informational material; provided, however, that if such nonpolitical municipal informational material is mailed, it shall not be included if the material causes an increase in the postage required to mail the tax bill.

**SECTION 55.** Section 2 of chapter 60A of the General Laws, as so appearing, is hereby amended by inserting after the word “section”, in line 42, the following words:- and the due date shall be clearly

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indicated on the tax notice.

**SECTION 56.** Section 6 of chapter 70B of the General Laws is hereby amended by inserting after the word “dates”, in line 66, as so appearing, the following words:- or up to 30 years if consistent with the guidelines established in section 7 of chapter 44.

**SECTION 57.** Clause (d) of section 16 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph: -

To incur debt for the purpose of acquiring land and constructing, reconstructing, adding to and equipping a school building or for the purpose of remodeling and making extraordinary repairs to a school building and for the construction of sewerage systems and sewerage treatment and disposal facilities, or for the purchase or use of such systems with municipalities, and for the purpose of purchasing department equipment; or for the purpose of constructing, reconstructing or making improvements to outdoor playground, athletic or recreational facilities; or for the purpose of constructing, reconstructing or resurfacing roadways and parking lots; or for the purpose of any other public work or improvement of a permanent nature required by the district; or for the purpose of any planning, architectural or engineering costs relating to any of the above purposes; provided, however, that written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the board of selectmen in each of the towns comprising the district not later than 7 days after the date on which the debt was authorized by the district committee; provided further, that no debt may be incurred until the expiration of 60 days after the date on which the debt was authorized; and provided further, that before the expiration of this period any member town of the regional school district may hold a town meeting for the purpose of expressing disapproval of the amount of debt authorized by the district committee, and if at that meeting a majority of the voters present and voting express disapproval of the amount authorized by the district committee, the debt shall not be incurred and the district school committee shall prepare another proposal which may be the same as any prior proposal and an authorization to incur debt therefor. Debt incurred under this section shall be payable within 30 years, but no such debt shall be issued for a period longer than the maximum useful life of the project being financed as determined in accordance with guidelines established by the division of local services of the department of revenue.

**SECTION 58.** Section 16G½ of said chapter 71, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The stabilization fund may be appropriated by vote of two-thirds of all of the members of the regional district school committee for any purpose for which regional school districts may borrow money or for such other district purpose as the director of accounts may approve.

**SECTION 59.** Section 37 of said chapter 71, as so appearing, is hereby amended by adding the following sentence:- The school committee in each city, town and regional school district may select a

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superintendent jointly with other school committees and the superintendent shall serve as the superintendent of all of the districts that selected him.

**SECTION 60.** Section 8 of chapter 71B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

A school committee may adopt a program to reimburse parents who voluntarily choose to transport their disabled child to a school approved by the department that is located outside of the city or town of residence of the parent or guardian. The reimbursement program may utilize rates in excess of the standard state mileage reimbursement amounts and may be based on a mileage, daily or weekly rate. Committees choosing to utilize this option shall be able to demonstrate that parental reimbursements represent a cost savings compared to other modes of available transportation. An eligible parent shall not be required to participate in the program.

**SECTION 61.** Chapter 111C of the General Laws is hereby amended by adding the following section:-

Section 25. When a class I, II or V ambulance transports a patient receiving care at the paramedic level of advanced life support the ambulance shall be staffed in accordance with regulations promulgated by the department, with a minimum of 2 emergency medical technicians, only 1 of whom shall be certified at the EMT-Paramedic level; provided, however, that the service staffing a class I, II or V ambulance may staff the ambulance with more than 1 emergency medical technician certified at the EMT-Paramedic level.

**SECTION 62.** Section 29 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “in the case of the commonwealth is more than five thousand dollars, and in any other case is more than two thousand dollars,” and inserting in place thereof the following words:- is more than \$25,000.

**SECTION 63.** Subsection (2) of section 44A of said chapter 149, as amended by section 30 of chapter 166 of the acts of 2009, is hereby further amended by striking out paragraphs (A) and (B) and inserting in place thereof the following 2 paragraphs:-

(A) Every contract or procurement for the construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency estimated to cost less than \$10,000, shall be obtained through the exercise of sound business practices; provided, however, that the public agency shall make and keep a record of each such procurement; and provided further, that the record shall, at a minimum, include the name and address of the person from whom the services were procured.

(B) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building estimated to cost not less than \$10,000 but not more than \$25,000 shall be awarded to the responsible person offering to perform the contract at the lowest price. The public agency shall

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make public notification of the contract and shall seek written responses from persons who customarily perform such work. The public notification shall include a scope-of-work statement that defines the work to be performed and provides potential responders with sufficient information regarding the objectives and requirements of the public agency and the time period within which the work shall be completed. For the purposes of this paragraph, "public notification" shall include, but need not be limited to, posting at least 2 weeks before the time specified in the notification for the receipt of responses, the contract and scope-of-work statement on the website of the public agency, on the COMPASS system or in the central register published pursuant to section 20A of chapter 9 and in a conspicuous place in or near the primary office of the public agency.

**SECTION 64.** Section 14 of chapter 183A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "section", in line 5, the following words:- 53E<sup>3</sup>/<sub>4</sub> of chapter 44 and section.

**SECTION 65.** Chapter 200A of the General Laws is hereby amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:-

Section 9A. (a) In any city, town or district that accepts this section in the manner provided in section 4 of chapter 4, there shall be an alternative procedure for disposing of abandoned funds held in the custody of the city, town or district as provided in this section.

(b) Any funds held in the custody of a city, town or district may be presumed by the city, town or district treasurer to be abandoned unless claimed by the corporation, organization, beneficiary or person entitled thereto within 1 year after the date prescribed for payment or delivery; provided, however, that the last instrument intended as payment shall bear upon its face the statement "void if not cashed within 1 year from date of issue". After the expiration of 1 year after the date of issue, the treasurer of a city, town or district may cause the financial institution upon which the instrument was drawn to stop payment on the instrument or otherwise cause the financial institution to decline payment on the instrument and any claims made beyond that date shall only be paid by the city, town or district through the issuance of a new instrument. The city, town or district and the financial institution shall not be liable for damages, consequential or otherwise, resulting from a refusal to honor an instrument of a city, town or district submitted for payment more than a year after its issuance.

(c) The treasurer of a city, town or district holding funds owed to a corporation, organization, beneficiary or person entitled thereto that are presumed to be abandoned under this section shall post a notice entitled "Notice of names of persons appearing to be owners of funds held by (insert city, town or district name), and deemed abandoned". The notice shall specify the names of those persons who appear from available information to be entitled to such funds, shall provide a description of the appropriate method for claiming the funds and shall state a deadline for those funds to be claimed; provided, however, that the deadline shall not be less than 60 days after the date the notice was either postmarked or first posted on a website as provided in this section. The treasurer of the city, town or

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district may post such notice using either of the following methods: (1) by mailing the notice by first class mail, postage prepaid, to the last known address of the beneficiary or person entitled thereto; or (2) if the city, town or district maintains an official website, by posting the notice conspicuously on the website for not less than 60 days. If the apparent owner fails to respond within 60 days after the mailing or posting of the notice, the treasurer shall cause a notice of the check to be published in a newspaper of general circulation, printed in English, in the county in which the city or town is located.

(d) In the event that funds appearing to be owed to a corporation, organization, beneficiary or person is \$100 or more and the deadline as provided in the notice has passed and no claim for the funds has been made, the treasurer shall cause an additional notice, in substantially the same form as the aforementioned notice, to be published in a newspaper of general circulation in the county in which the city, town or district is located; provided, however, that the notice shall provide an extended deadline beyond which funds shall not be claimed and such deadline shall be at least 1 year from the date of publication of the notice.

(e) Once the final deadline has passed under subsection (d), the funds owed to the corporation, organization, beneficiary or person entitled thereto shall escheat to the city, town or district and the treasurer thereof shall record the funds as revenue in the General Fund of the city, town or district and the city, town or district shall not be liable to the corporation, organization, beneficiary or person for payment of those funds or for the underlying liability for which the funds were originally intended. Upon escheat, the funds shall be available to the city, town or district's appropriating authority for appropriation for any other public purpose. In addition to the notices required in this section, the treasurer of the city, town or district may initiate any other notices or communications that are directed in good faith toward making final disbursement of the funds to the corporation, organization, beneficiary or person entitled thereto.

Prior to escheat of the funds, the treasurer of the city, town or district shall hear all claims on funds that may arise and if it is clear, based on a preponderance of the evidence available to the treasurer at the time the claim is made, that the claimant is entitled to disbursement of the funds, the treasurer shall disburse funds to the claimant upon receipt by the treasurer of a written indemnification agreement from the claimant wherein the claimant agrees to hold the city, town or district and the treasurer of the city, town or district harmless in the event it is later determined that the claimant was not entitled to receipt of the funds. If it is not clear, based on a preponderance of the evidence before the treasurer at the time of the claim that the claimant is entitled to disbursement of the funds, the treasurer shall segregate the funds into a separate, interest-bearing account and shall notify the claimant of such action within 10 days. A claimant affected by this action may appeal within 20 days after receiving notice thereof to the district, municipal or superior court in the county in which the city, town or district is located. The claimant shall have a trial de novo. A party adversely affected by a decree or order of the district, municipal or superior court may appeal to the appeals court or the supreme judicial court within 20 days from the date of the decree.

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If the validity of the claim shall be determined in favor of the claimant or another party, the treasurer shall disburse funds in accordance with the order of the court, including interest accrued. If the validity of the claim is determined to be not in favor of the claimant or another party or if the treasurer does not receive notice that an appeal has been filed within 1 year from the date the claimant was notified that funds were being withheld, then the funds, plus accrued interest, shall escheat to the city, town or district in the manner provided in this section.

If the claimant is domiciled in another state or country and the city, town or district determines that there is no reasonable assurance that the claimant will actually receive the payment provided for in this section in substantially full value, the superior court, in its discretion or upon a petition by the city, town or district, may order that the city, town or district retain the funds.

**SECTION 66.** (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, a municipality which accepts this section may establish and implement an early retirement incentive program for its employees in accordance with this section.

(b) The chief executive officer of the municipality shall limit the total number of participating employees, with preference given to those with greater years of creditable service, and shall have the authority to determine which eligible municipal employees may participate and to approve early retirement benefits for each employee in order to avoid adverse impacts on municipal operations and services.

(c) In order to be eligible to participate in a program established under this section, in addition to any other requirements imposed by the municipality, an employee must be an active member of a municipal, regional or county retirement system with at least 20 years of service whose salary is paid from the operating budget and not from federal, trust or other capital funds.

(d) An employee who is eligible for the early retirement incentive program may request in an application for retirement that the retirement board credit the employee with an additional retirement benefit of a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 3 years, or a lesser amount established by the municipality, for the purposes of determining the employee's superannuation retirement allowance under paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws. Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of the employee's regular compensation as determined in accordance with said section 5 of said chapter 32. All participants shall forego the right to accrued sick and vacation time, and the amount that would have been paid to a retiree for accrued sick and vacation time shall be paid into the municipal, regional or county retirement system to reduce the additional pension liability resulting from this program.

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(e) In filling positions which have been vacated by employees who participate in an early retirement incentive program under this section, the chief executive officer of the municipality shall be limited to paying compensation, contract and professional services in an amount that does not exceed the following percentage of the total annual salary of all participants in the program calculated as of their respective retirement dates: 30 per cent in fiscal year 2011, 45 per cent in fiscal year 2012 and 60 per cent in fiscal year 2013.

(f) A municipality that establishes an early retirement incentive program under this section shall provide the public employee retirement administration commission with information demonstrating the value of the plan and any information requested by the public employee retirement administration commission in order to allow it to evaluate the plan and confirm the analysis, including historic data upon which the plan is based, the elements of the municipal plan including the total number of participants, the types of eligible employees, the salaries of participating employees, the benefits to be received and the limits on refilling vacated positions. In addition, the municipality shall certify to the public employee retirement administration commission that the present value cost of its plan is estimated to be less than the present value savings and provide the commission with all information it requests to evaluate the plan and confirm a cost analysis.

(g) In order to establish an early retirement incentive program under this section, a municipality shall:

- (i) require the chief executive officer of a municipality that chooses to participate to submit its plan to the public employee retirement administration commission for approval within 2 months after the effective date of this act;

- (ii) once the plan has been approved, submit to the legislative body of the municipality for acceptance not later than the next meeting of the legislative body at which the plan can practicably be submitted;

- (iii) publish and make available to employees the approved plan within 1 month after its acceptance by the legislative body;

- (iv) require employees to participate within 2 months of the plan's publication;

- (v) determine which applicants shall be allowed to participate in the program and notify them within 1 month of the application deadline; and

- (vi) require that participating employees retire within 2 months of notification of acceptance.

(h) The chief executive officer of a municipality that establishes a program under this section shall submit an annual report to the public employee retirement administration commission, the executive office for administration and finance and the municipal legislative body. The report shall include the salaries and positions of participants, the amount of sick and vacation time being contributed by participants, the salaries and positions of those being hired as replacements and whether the positions of participants have been permanently eliminated.

(i) A municipality's increased pension liability resulting from participation in a program established under this section shall be amortized over 10 years, starting in the next fiscal year after all participating

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employees retire, in equal installments, and shall be separately identified in the municipal, regional or county retirement system's pension funding schedule.

(j) For purposes of sections (a) to (i), inclusive, the powers and duties of the chief executive officer shall be vested in the manager of the municipal lighting plant for all matters affecting municipal lighting plant employees.

**SECTION 67.** (a) Notwithstanding subsection (d) of section 8 of chapter 372 of the acts of 1984 or any other general or special law to the contrary, each of the towns of Chicopee and Wilbraham and the South Hadley Fire District #1, each having the responsibility for providing potable water in their respective service areas and each presently receiving its wholesale supply of potable water from the Massachusetts Water Resources Authority through the Chicopee Valley Aqueduct may furnish water to new service connections to properties located in other communities when, in the exercise of discretion by the community furnishing the water, such service is deemed necessary exclusively for the public health, safety or welfare.

(b) Each of the towns of Chicopee and Wilbraham and the South Hadley Fire District #1 may provide water for new single service connections upon such reasonable terms as may be agreeable to the municipality providing water service and may extend their respective water supply systems to properties contiguous to, or in the vicinity of, their respective local community-owned water supply pipelines that extend from the Chicopee Valley Aqueduct. For the purposes of this section, the term single service connection shall refer to either a single, individual new customer connection or to a distinct water service expansion project involving multiple new customers. Each such connection or each such water service expansion project shall be regarded as a single service connection so long as additional demand upon safe yield from the sources of water available to the authority, per connection or per project, does not exceed 100,000 gallons per day. The prior consent of the authority shall not be required for new single service connections, but advance written notification to the authority shall be required. Notification to, and the approval of, the chief executive officer in the municipality to which the single service connection is located is required. An entrance fee shall be paid to the Authority unless waived by all 3 of the aqueduct municipalities. If not waived, the entrance fee shall be in an amount equal to the new service connection's proportional share of the net asset value of the Chicopee Valley aqueduct system. The entrance fee shall be collected by the municipality of the aqueduct which shall extend its system and which shall provide the water supply connection. The entrance fee shall inure to the benefit of the aqueduct system.

(c) For all new service connections that do not qualify as single service connections, as defined in subsection (b), the recipient municipality, on behalf of its residents, businesses or other customers, shall follow the procedures and requirements and obtain each of the applicable approvals, as set forth in subsection (d) of section 8 of chapter 372 of the acts of 1984 as are required of a new member community or water district seeking admission to the authority service area. Compliance with said subsection (d) of said section 8 of said chapter 372 shall remain the sole means for approval of any

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proposed new service connection which is either intended to provide and extend water service to any significant additional segment of the population of a municipality not now served by the authority or which is otherwise beyond the scope of the requirements established in subsection (b). All authority entrance fees for additional wholesale and retail connections to municipalities served through the aqueduct shall inure to the benefit of the aqueduct municipalities.

**SECTION 68.** (a) The terms used in this section shall have the following meanings unless the context clearly requires otherwise:

“Amnesty period”, a period of time commencing not earlier than the date a local legislative body establishes a municipal tax amnesty program according to this act and expiring not later than June 30 2011, as the local legislative body might determine, during which the municipal tax amnesty program established by the local legislative body shall be in effect in that city or town.

“Collector”, a person receiving a tax list and a warrant to collect the same.

“Covered amount”, the aggregate of all penalties, fees, charges and accrued interest assessed by the collector or treasurer for the failure of a certain taxpayer to timely pay a subject liability; provided, however, that the covered amount shall not include the subject liability itself or any fees and charges authorized or incurred for the collection of a past due subject liability for which notice has been issued; and provided further, that nothing in this section shall authorize the waiver of penalties, fees, charges and accrued interest resulting from the violation of any law, municipal by-law or ordinance.

“Municipal tax amnesty program”, a temporary policy by a city or town to forever waive its right to collect all or any uniform proportion of the covered amount, as determined by the local legislative body, then due from any person who, prior to the expiration of the amnesty period, voluntarily pays the collector or treasurer the full amount of the subject liability that serves as the basis for the covered amount; provided, however, that a municipal tax amnesty program shall not include a policy that enables or requires a city or town to waive its right to collect the covered amount from a person who, at the time of commencement of the amnesty period is or was the subject of a criminal investigation or prosecution for failure to pay the city or town any subject liability or covered amount.

“Subject liability”, the principal amount of a particular tax or excise liability payable by a taxpayer under chapter 59, 60, 60A or 60B of the General Laws, as determined by the local legislative body.

“Treasurer”, as described in chapter 41 of the General Laws.

(b) Notwithstanding any general or special law to the contrary, the local legislative body in any city or town may vote to establish a municipal tax amnesty program according to the provisions of this section and shall, at the same time as such vote, determine the amnesty period. Tax amnesty periods shall not extend beyond June 30, 2011. The commissioner of revenue may issue such guidelines as he deems appropriate to carry out this section.

**SECTION 69.** The department of elementary and secondary education shall review and revise reporting requirements imposed on local school districts. Wherever possible, the department shall consolidate and eliminate the reporting requirements. The department shall file a report not more than

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6 months after the effective date of this act to the clerks of the house of representatives and senate and the joint committee on education detailing the number of requirements that were eliminated and consolidated, as well as reasons for why certain reports could not be consolidated or eliminated.

**SECTION 70.** The Massachusetts cultural council, in cooperation with the executive branch, constitutional offices, quasi-governmental agencies and the joint committee on tourism, arts and cultural development, shall identify state incentives and resources to enhance cultural districts pursuant to section 52A of chapter 10 of the General Laws and shall report its findings and recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerk of the senate and house of representatives not later than January 1, 2011.

**SECTION 71.** The first actuarial valuation to be conducted pursuant to the second paragraph of paragraph (f) of subdivision (3) of section 21 chapter 32 of the General Laws, as appearing in section 16, shall be completed by January 1, 2011, or by January 1 of the third year following the last actuarial valuation of the system, whichever first occurs.

**SECTION 72.** There shall be a special commission to examine efficient and effective strategies to implement school district collaboration and regionalization. The commission shall consist of the senate and house chairs of the joint committee on education, who shall serve as co-chairs of the commission; the secretary of education or his designee; the commissioner of elementary and secondary education or his designee; the executive director of the Massachusetts School Building Authority or her designee; 1 member of the house of representatives to be appointed by the minority leader, 1 member of the senate to be appointed by the minority leader; and 9 persons to be appointed by the secretary of education, 1 of whom shall be from a list of 3 persons nominated by the Massachusetts Association of School Superintendents, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Association of School Committees, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Association of Regional Schools, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Teachers Association, 1 of whom shall be selected from a list of 3 persons nominated by the American Federation of Teachers, Massachusetts, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Association of School Business Officials, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Business Alliance for Education, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Municipal Association and 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Organization of Educational Collaboratives.

The commission shall examine and make recommendations on model approaches regarding, but not limited to, the following areas: (1) identifying indicators for assessing the academic and programmatic quality, overall district capacity, including the effectiveness of the central office and the fiscal viability, efficiency and long-term sustainability of school districts; (2) cooperative purchasing of materials and

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services; (3) interdistrict academic and extracurricular programs; (4) merger of school district central office buildings, staff and operational systems; (5) merger of collective bargaining agreements; (6) merger of debt obligations, including for school building projects; (7) the effect of school district regionalization on educational and instructional outcomes; (8) the effect of school district regionalization on school funding allocations; (9) school consolidation; (10) transitional costs associated with school district regionalization; (11) appropriate time frames for implementing school district regionalization; (12) incentives for school districts to increase collaboration and/or regionalize; (13) revisions of chapter 71 of the General Laws to facilitate the effective implementation of existing and future regional school district agreements; (14) school building capacity and facilities; (15) the feasibility of adopting a regional district finance structure in which the local contribution of the member cities or towns that the regional district serves is assessed on the basis of a uniformly measured fiscal capacity; and (16) in-district collaborations between schools, including consolidating buildings, programs, school and central office administration, special education and food service.

The commission shall conduct its first meeting not less than 45 days after the effective date of this act and shall issue its final report to the general court on the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations, by filing the same with the clerk of the senate and house of representatives not later than March 31, 2011, and the clerks shall forward the same to the senate and house chairs of the joint committee on education and the chairs of the senate and house committees on ways and means.

*Approved July 27, 2010*

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**Acts****2008****CHAPTER 223** AN ACT ESTABLISHING A STATE 911 DEPARTMENT, SINGLE 911 SURCHARGE AND AN ENHANCED 911 FUND.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for enhanced 911 service for the citizens of the commonwealth , 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:*

**SECTION 1.** Section 18 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 5, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

**SECTION 2.** Said chapter 6A is hereby further amended by striking out sections 18A and 18B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 18A. In this section, and in sections 18B to 18J, inclusive, of this chapter, and in section 14A of chapter 166, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Automatic location identification”, an enhanced 911 service capability that allows for the automatic display of information relating to the geographical location of the communication device used to place a 911 call.

“Automatic number identification”, an enhanced 911 service capability that allows for the automatic display of a telephone number used to place or route a 911 call.

“Commission”, the state 911 commission.

“Communication services”, includes any of the following: (a) the transmission, conveyance or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless or other medium or method, regardless of the protocol used; (b) the ability to provide two-way voice communication on the public switched network; (c) wireless enhanced 911 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service as defined by the regulations of the FCC regulations; (f) IP - enabled service; or (g) prepaid wireless service.

“Communication service provider”, an entity that provides communication services to a subscriber or end user.

“Department”, the state 911 department.

“Director”, the executive director of the state 911 department.

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“Emergency medical dispatch”, the management of requests for emergency medical assistance by utilizing a system of: (a) tiered response or priority dispatching of emergency medical resources based on the level of medical assistance needed by the victim; and (b) pre-arrival first aid or other medical instructions given by trained personnel responsible for receiving 911 calls and directly dispatching emergency response services.

“End user”, a person who uses communication services.

“Enhanced 911 Fund”, the fund established under section 35JJ of chapter 10.

“Enhanced 911 service provider”, any entity that provides 1 or more of the following 911 elements: network, database or PSAP customer premises equipment.

“Enhanced 911 service”, a service consisting of communication network, database and equipment features provided for subscribers or end users of communication services enabling such subscribers or end users to reach a PSAP by dialing the digits 911, or by other means approved by the department, that directs calls to appropriate PSAPs based on selective routing and provides the capability for automatic number identification and automatic location identification.

“Enhanced 911 network features”, the components of enhanced 911 service that provide selective routing, automatic number identification and automatic location identification.

“Enhanced 911 systems”, a distinct entity or geographical segment in which enhanced 911 service is provided, consisting of network routing elements serving as a control office and trunking connecting all central offices within a geographical segment, and including PSAPs and network used to deliver location data to PSAPs from a data base.

“FCC”, the Federal Communications Commission.

“FCC order”, all orders issued by the FCC under the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems” (CC Docket No. 94-102; RM 8143), or any successor proceeding, including all other criteria established therein, regarding the delivery of wireless enhanced 911 service by a wireless carrier, and all orders issued by the FCC under the proceeding entitled “In the Matter of IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers”(WC Docket No 05-196), or any successor proceeding, including all other criteria established therein, regarding the delivery of enhanced 911 service by an IP-enabled service provider.

“Governmental body” shall include any governmental body as defined in section 11A of chapter 30A or section 23A of chapter 39 .

“Interconnected VoIP service”, voice over the internet protocol services as defined by the FCC in 47 CFR 9.3.

“IP-enabled service”, a service, device or application which makes use of Internet Protocol, or IP, and capable of entering the digits 911, or by other means as approved by the department, for the purposes of interconnecting users to the enhanced 911 system including, but not limited to, voice over IP and other services, devices, or applications provided through or using wireline, cable, wireless, or satellite facilities or any other facility that may be provided in the future. “Limited secondary PSAP”, a PSAP equipped, at a minimum, with automatic number identification and automatic location identification display or printout capability. It receives 911 calls only if transferred from the primary PSAP. Data sent to a limited secondary PSAP cannot be re-routed to another location and may not necessarily be

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transmitted simultaneously with the voice call.

“Local exchange service”, telephone exchange lines or channels that provide local access from the premises of a subscriber in the commonwealth to the local telecommunications network to effect the transfer of information.

“Network components”, any software or hardware for a control switch, other switch modification, trunking or any components of a computer storage system or database used for selective routing of 911 calls, automatic number identification and automatic location identification, including a PSAP.

“Next generation 911”, an enhanced 911 system that incorporates the handling of all 911 calls and messages, including those using IP-enabled services or other advanced communications technologies in the infrastructure of the 911 system itself.

“Prepaid wireless telephone service”, wireless service that is activated in advance by payment for a finite dollar amount of service or minutes that terminates either upon use by a customer and delivery by the wireless provider of an agreed-upon amount of service or minutes, unless the customer makes additional payments.

“Prepaid wireless telephone service provider”, an entity providing prepaid wireless telephone service at retail or wholesale.

“PSAP customer premises equipment”, enhanced 911 call processing equipment located at a PSAP.

“Primary PSAP”, a PSAP equipped with automatic number identification and automatic location identification displays, and is the first point of reception of a 911 call. It serves the municipality in which it is located.

“Private safety department”, an entity, except for a municipality or a public safety department, that provides emergency police, fire, ambulance or medical services.

“Public safety answering point” or “PSAP”, a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

“Public safety department”, a functional division of a municipality or a state that provides fire fighting, law enforcement, ambulance, medical or other emergency services.

“Regional emergency communication center”, a facility operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, as approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of emergency services for all such municipalities or governmental bodies including, but not limited to, a regional PSAP that provides enhanced 911 service and police, fire protection, and emergency medical services dispatch, including services provided by a private safety department. The regional PSAP portion of the center shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional PSAP”, a PSAP operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, approved by the department, for the operation of enhanced 911 call taking and call transfer activities. A regional PSAP may also be engaged in, by agreement, the dispatching or control of public safety resources serving some or all of the municipalities or governmental bodies that comprise the regional PSAP, including where services are provided by a

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private safety department. If the regional PSAP serves all such municipalities or governmental bodies for the operation of enhanced 911 call taking and call transfer activities and dispatch services including where dispatch services are provided by a private safety department, it shall be considered a regional emergency communication center for the purposes of section 18B. The regional PSAP shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional secondary PSAP”, a facility operated by or on behalf of 3 or more municipalities or governmental bodies, or a combination thereof, approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of either police, fire protection or emergency medical services, or any combination thereof. A regional secondary PSAP is equipped with automatic number identification and automatic location identification displays. It receives 911 calls only when transferred from a primary or regional PSAP or on an alternative routing basis when calls cannot be completed to the primary or regional PSAP.

“Retail”, sales by a prepaid wireless telephone service provider directly to the end user or to a non-prepaid wireless telephone service provider through a voluntary contractual relationship in which the service is sold directly to the end user on behalf of the prepaid wireless telephone service provider.

“Ringing PSAP”, a PSAP equipped for receipt of voice communications only, and may not operate 24 hours each day. It receives 911 calls that are transferred from the primary PSAP.

“Secondary PSAP”, a PSAP equipped with automatic number identification and automatic location identification displays. It receives 911 calls only when they are transferred from the primary PSAP or on an alternative routing basis when calls cannot be completed to the primary PSAP.

“Selective routing”, the method to direct 911 calls to the appropriate PSAP using a call routing database derived from the geographical location from which the call originated.

“Subscriber”, a person who uses communication services.

“Telephone company”, a person, firm, corporation, association or joint stock association or company, as defined in chapter 159, furnishing or rendering local telephone exchange service.

“VoIP or voice over internet protocol”, a type of IP-enabled service that allows for the two-way real time transmission of voice communications and has access to the public switched network.

“Wholesale”, sales by the prepaid wireless telephone service provider to a non-prepaid wireless telephone service provider that sells service on behalf of the prepaid wireless telephone service provider.

“Wireless carrier”, a commercial mobile radio service, as defined in 47 U S C 332(d), including resellers and prepaid providers of wireless services.

“Wireless enhanced 911 service”, the service required to be provided by wireless carriers under, and governed by, FCC order.

“Wireless state police PSAP”, a state police facility assigned the responsibility of primarily or entirely receiving wireless 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety departments or other PSAPs.

“Wireline carrier”, an incumbent local exchange carrier or local exchange carrier operating in the commonwealth, or a telephone company, or any other person, corporation or entity that provides local

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exchange service.

“Wireline enhanced 911 service”, service provided by a wireline carrier that connects a subscriber dialing or entering the digits 911 to a PSAP.

Section 18B. (a) There shall be, within the executive office of public safety and security, a state 911 department. The secretary of public safety and security shall, with the advice of the commission, appoint and, subject to appropriation or funds otherwise available from other sources, fix the salary of an executive director of the department. The director shall be responsible for administering, directing and managing the affairs and business of the department, and for the appointment and supervision of all personnel at the department. The director shall not be subject to section 9A of chapter 30 or chapter 31, but shall be classified in accordance with section 45 of said chapter 30 and the salary therefore shall be determined in accordance with section 46C of said chapter 30. The executive director may appoint such other employees, including experts and consultants, as he deems necessary, subject to appropriation or available funds, to carry out the department’s responsibilities.

(b) There shall be, within the executive office of public safety and security, a state 911 commission to provide strategic oversight and guidance to the department, and advise the department relative to its annual budget and all material changes thereto and in all matters regarding enhanced 911 service in the commonwealth. The commission shall consist of: the secretary of public safety and security, who shall serve as chairperson of the commission; the chief information officer of the information technology division; the colonel of state police; the state fire marshal; the police commissioner of the city of the Boston; the director of the Massachusetts office on disability; the commissioner of public health; the commissioner of the Massachusetts commission for the deaf and hard of hearing; and 11 members to be appointed by the governor, 1 of whom shall be a sitting police chief and a nominated representative of the Massachusetts Chiefs of Police Association, 1 of whom shall be a representative of the Massachusetts Police Association, 1 of whom shall be a sitting police chief and a nominated representative of the Massachusetts Major City Chiefs Association, 2 of whom shall be sitting fire chiefs and nominated representatives of the Massachusetts Fire Chiefs Association, 1 of whom shall be a nominated representative of the Professional Fire Fighters of Massachusetts, 1 of whom shall be a nominated representative of the Massachusetts Sheriffs Association, 1 of whom shall be a nominated representative of the Massachusetts Municipal Association, 1 of whom shall be a nominated representative of the Massachusetts Emergency Medical Care Advisory Board, 1 of whom shall be a nominated representative of the Massachusetts Ambulance Association, and 1 of whom shall be a manager or supervisor of a PSAP and a nominated representative of the Massachusetts Communication Supervisors Association. One of the governor’s appointees shall be elected annually by the commission as its vice chairperson. Members of the commission shall be appointed for terms of 3 years with no limit on the number of terms they may serve. Members shall hold office until a successor is appointed and no member shall serve beyond the time he ceases to hold the office or employment that made him eligible for appointment to the commission. The commission shall meet at least twice annually, and at other times as necessary. A meeting of the commission may be called by its chairperson, the vice chairperson or 3 of its members. A quorum for the transaction of business

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shall consist of 7 members. Members of the commission shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The commission shall review and approve by a majority vote of those members present all formulas, percentages, guidelines or other mechanisms used to distribute the grants described in section 18B, and all major contracts that the department proposes to enter into for enhanced 911 services. The commission shall review and approve by a majority vote of those members present all regulations and standards proposed by the department.

(c) There shall be established a policy advisory committee for the sole purpose of advising the state 911 commission and state 911 department on pertinent subject matter relative to enhanced 911 service, enhanced 911 systems and enhanced 911 network features. The advisory board shall consist of 5 members, 1 of whom shall represent an incumbent local exchange carrier, 1 of whom shall represent a competitive local exchange carrier registered in the commonwealth, 1 of whom shall represent a PSAP customer premises equipment provider, 1 of whom shall represent an interconnected VoIP provider, and 1 of whom shall represent a wireless carrier. Members of the advisory board shall be residents of the state and shall be appointed by the governor from a list of qualified candidates provided by industry representatives for terms of 3 years with no limit on the number of terms they may serve. A meeting of the policy advisory committee may be called by the state 911 commission chairperson, vice chairperson, or 3 of its members. Members of the policy advisory committee shall receive no compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. The advisory board shall review all issues relative to industry interaction and network compatibility with the current enhanced 911 system, and with next generation 911. The policy advisory committee shall file a written report annually with the state 911 commission and the state 911 department.

(d) The department shall coordinate and effect the implementation of enhanced 911 service, and administer such service in the commonwealth. The department, with the commission's approval, shall promulgate rules and regulations for the administration of such service in accordance with chapter 30A, including technical and operational standards for the establishment of PSAPs which utilize enhanced 911 service features in accordance with sections 18A to 18J, inclusive, and section 14A of chapter 166 . Cities and towns shall comply with such standards in the design, implementation and operation of PSAPs. The department may inspect any PSAP that utilizes enhanced 911 network features to determine if it meets the requirements of said sections and all other technical and operational standards required by law. In implementing wireless enhanced 911 service and enhanced 911 for IP-enabled services, the department shall promulgate rules and regulations consistent with the provisions required by the FCC.

(e) The number of PSAPs and enhanced 911 answering positions at primary and regional PSAPs shall be determined by the department according to a formula that takes into account cost, call volume, population, efficiency and the public safety needs of cities and towns. Applications for secondary PSAPs shall be reviewed and approved by the department. The PSAP customer premises equipment, installation and operation costs of secondary PSAPs shall be the responsibility of the applicant, but the department may provide such equipment and related maintenance if the applicant so requests and meets eligibility requirements established by the department in standards approved

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by the commission. Network and database services for secondary PSAPs shall be provided as approved by the department. Applications for regional secondary PSAPs shall be reviewed and approved by the department. The PSAP customer premises equipment and installation of such equipment shall be provided by the department from the development grant set forth in paragraph (5) of subsection (i) in accordance with guidelines to be established by the department with the commission's approval. Network and database services for regional secondary PSAPs shall be provided as approved by the department.

(f) The department shall disburse funds from the Enhanced 911 Fund for prudently-incurred expenses associated with: the lease, purchase, upgrade or modification of primary and regional PSAP customer premises equipment and the maintenance of such equipment; network development, operation and maintenance; database development, operation, and maintenance; training of 911 telecommunicators regarding the receipt and use of enhanced 911 service information; education of consumers regarding the operation, limitation, role and responsible use of enhanced 911 service; grants associated with enhanced 911 service as set forth in subsection (i) and any other grant approved by the department associated with providing enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of communication services providers in providing enhanced 911 service in the commonwealth to the extent required by federal or Massachusetts law or regulation or federal or Massachusetts agency decision or order; and other expenses incurred by the state 911 department in administering and operating the enhanced 911 system in the commonwealth.

(g) Consistent with federal law and regulation, the department, with the commission's approval, shall establish: performance measure standards for the enhanced 911 service provider for network, database, and PSAP customer premises equipment and associated maintenance services; service level standards for communication services providers for providing enhanced 911 service in the commonwealth including, but not limited to, standards for the provision of enhanced 911 access for the disabled community; certification requirements for enhanced 911 telecommunicators including, but not limited to, emergency medical dispatch and quality assurance of emergency medical dispatch programs; standards requiring PSAPs to have certified emergency medical dispatch personnel or to provide emergency medical dispatch through a certified emergency medical dispatch resource; and guidelines for developing and administering any grant authorized in subsection (i), or any other grant associated with providing enhanced 911 service in the commonwealth approved by the commission and the department of telecommunications and cable upon the petition of the department including, but not limited to, provisions requiring municipalities to provide documentation of expenditures. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department shall initiate a voluntary program in which municipalities may contribute timely address information to support the enhanced 911 database.

(h) The department shall review and assess the technological and operational capability and financial feasibility of wireless 911 calls being routed to and handled directly by the PSAP in which the caller is located, and if such capability exists, the department shall establish standards, with the commission's

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approval, by which such PSAPs may receive wireless calls. The department shall review and assess new communications technologies that may include, but are not limited to, wireless, video, broadband, and IP-based applications that may serve as the next generation 911 technology platforms, consistent with FCC decisions and federal law.

(i) The department shall develop and administer grant programs to assist PSAPs and regional emergency communication centers in providing enhanced 911 service and to foster the development of regional PSAPs, regional secondary PSAPs and regional emergency communication centers. The following grant programs shall be funded by the department as specified, and the department may add necessary personnel to develop and administer such grant programs as set forth in subparagraphs (1) to (5), inclusive.

(1) The PSAP and regional emergency communication center training grant shall reimburse primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to the training and certification of enhanced 911 telecommunicators. Funds shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 7.5 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 3.75 per cent of the total surcharge revenues of the previous fiscal year.

(2) The PSAP and regional emergency communication center support grant shall reimburse: primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to enhanced 911 telecommunicator personnel costs, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment and other environmental control equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarm receipt and alert equipment associated with providing enhanced 911 service; regional PSAPs and regional emergency communication centers for allowable expenses related to the acquisition and maintenance of public safety radio systems; regional secondary PSAPs for allowable expenses related to PSAP customer premises equipment maintenance; and primary, regional, and regional secondary PSAPs and regional emergency communication centers for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Twenty-five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant.

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Any such increase to a level of 31.25 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 18.75 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation of funds to primary PSAPs provided under this grant that dispatch police, fire protection and emergency medical services, taking into account if any such services are provided by a private safety department. The department may include in such guidelines provisions to increase the allocation of funds to regional secondary PSAPs that dispatch any combination of regional police, fire protection or emergency medical services.

(3) The wireless state police PSAP grant shall reimburse the wireless state police PSAPs for allowable expenses related to enhanced 911 telecommunicator personnel costs, training and certification of enhanced 911 telecommunicators, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarming receipt and alert equipment to be used at the state police PSAPs. The grant shall reimburse such PSAPs for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall not be used for any equipment or services that are not directly related to the provision of enhanced 911 services or the operation of the state police PSAPs. Four per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 6 per cent or more shall also be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level not less than 2 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation to the wireless state police PSAPs to account for such PSAPs handling of wireline 911 calls for municipalities.

(4) The regional PSAP and regional emergency communication center incentive grant shall provide regional PSAPs and regional emergency communication centers with funds in addition to amounts allocated as part of the PSAP and regional emergency communication center support grant to be used for reimbursement of allowable expenses as specified in the support grant for regional PSAPs and regional emergency communication centers in the following amounts: (i) for regional PSAPs serving 2 municipalities,  $\frac{1}{2}$  of 1 per cent of the total surcharge revenues of the previous fiscal year; (ii) for

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regional PSAPs serving 3 to 9 municipalities, 1 per cent of the total surcharge revenues of the previous fiscal year; (iii) for regional PSAPs serving 10 or more municipalities, 1½ per cent of the total surcharge revenues of the previous fiscal year; and (iv) for regional emergency communication centers, 2 per cent of the total surcharge revenues of the previous fiscal year. The percentages in clauses (i) to (iv), inclusive, may be adjusted by the commission to ensure a proper allocation of incentive funds as more regional PSAPs and regional emergency communication centers are added. Any such adjustments that increase the initial total allocation of the incentive grant by 10 per cent or more shall be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days.

(5) The regional and regional secondary PSAP and regional emergency communication center development grant shall support the development and startup of regional and regional secondary PSAPs and regional emergency communication centers, including the expansion or upgrade of existing regional and regional secondary PSAPs, to maximize effective emergency 911 and dispatch services as well as regional interoperability. The eligibility for criteria, amount and allocation of funding shall be contained in guidelines established by the department, with commission approval. The grant shall reimburse allowable expenses related to such development and startup, or expansion or upgrade. Any subsequent adjustments that increase the initial funding allocated to this grant by 10 per cent or more shall be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days.

(j) The department shall file a written annual report with the governor and shall file a copy thereof with the state secretary, the clerks of the house of representatives and the senate who shall forward such report to the joint committee on public safety and homeland security and the house and senate ways and means committees . The department shall review and monitor the expenditures incurred under the grant programs established in this section to ensure compliance with grant guidelines. The department shall include a reporting of grant expenditures by municipality in the written annual report. Not later than June 30, every 3 years, the department shall prepare a report documenting the expenditures of each recipient of funds from surcharge revenues to ensure compliance with applicable statutes and regulations.

(k) The department may enter into contracts and agreements with, and accept gifts, grants, contributions and bequests of funds from, any department, agency or subdivision of federal, state, county or municipal government and any individual, foundation, corporation, association or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and credited to the Enhanced 911

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Fund.

(l) No provision of this section shall be construed or interpreted to alter the regulation of providers of telecommunications services under chapter 159.

(m) The department shall work with the Massachusetts office on disability, the Massachusetts commission for the deaf and hard of hearing, the disability community and with municipalities to ensure that communication services providers are aware of the availability and use of adaptive technology, and to ensure that enhanced 911 service is accessible to people with disabilities.

**SECTION 3.** Said chapter 6A is hereby further amended by striking out section 18C, as so appearing, and inserting in place thereof the following section:-

Section 18C. (a) Each PSAP shall be capable of transmitting a request for law enforcement, fire fighting, medical, ambulance or other emergency services to a public or private safety department that provides the requested services.

(b) Each primary and regional PSAP shall be equipped with a system approved by the department for the processing of requests for emergency services from people with disabilities.

(c) Except as approved by the department, no person shall permit an automatic alarm or other alerting device to dial the numbers 911 automatically or provide a prerecorded message in order to access emergency services directly.

(d) A public safety department or private safety department that receives a request for emergency service outside of its jurisdiction shall promptly forward the request to the PSAP or public safety department responsible for that geographical area. Any emergency unit dispatched to a location outside its jurisdiction in the commonwealth in response to such request shall render service to the requesting party until relieved by the public safety department responsible for that geographical area.

(e) Municipalities may enter into written cooperative agreements to carry out subsections (a), (b) and (d).

**SECTION 4.** Said chapter 6A is hereby further amended by striking out section 18D, as so appearing, and inserting in place thereof the following section:-

Section 18D. (a) Each municipality in the commonwealth, under the requirements of chapter 150E, shall establish, staff and operate, in conjunction with 1 or more other municipalities or governmental bodies, as determined by the department, or by itself, a PSAP on a 24 hour a day, 7 days a week basis, in a manner and according to a schedule to be approved by the department.

(b) The department shall review each proposed municipal or regional plan to determine if it meets the requirements of sections 18A to 18J, inclusive, and the technical and operational standards established by the department. The department shall require primary and regional PSAPs to display automatic number identification, automatic location identification and may require other enhanced 911 features that are or may become available and set forth in the department's regulations, standards and guidelines for administration of statewide enhanced 911 services. The primary and regional PSAP shall be designed according to the plan as specified in subsection (c).

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(c) The department shall develop and maintain a statewide plan for the implementation and maintenance of enhanced 911 service consistent with federal law and regulation, including next generation 911 and IP-enabled 911 services and, if the technological and operational capability and financial feasibility exists, the routing of 911 wireless calls to primary and regional PSAPs. Such plan shall include the following:

(1) a division of the commonwealth into geographical segments under which an enhanced 911 system shall be established for each municipality, or by groups of municipalities, or by other governmental bodies, or groups of other governmental bodies, or by a combination of municipalities or governmental bodies, as specified and approved by the department;

(2) a n implementation schedule, developed after consultation with communication services providers for the sequence of converting to enhanced 911 systems or next generation 911 systems;

(3) a designation, within each enhanced 911 system, of the municipalities and the public safety departments within such municipalities to serve as the primary or regional PSAPs. The department shall also evaluate the need for secondary and regional secondary PSAPs in municipalities which have requested them. It shall be the responsibility of the department to make the final determination regarding the total number and location of such PSAPs; and

(4) t he department shall, not later than September 30, annually, review the existing configuration of primary, regional, regional secondary, limited secondary and ringing PSAPs and develop changes or recommendations for change by December 31, annually.

**SECTION 5.** Said chapter 6A is hereby further amended by striking out section 18E, as so appearing, and inserting in place thereof the following section:-

Section 18E. The attorney general may, at the request of the department or on the attorney general's own initiative, institute civil proceedings against any municipality or other governmental body operating a PSAP, or any enhanced 911 service provider or communication services provider, to enforce sections 18A to 18J, inclusive.

**SECTION 6.** Section 18F of said chapter 6A is hereby repealed.

**SECTION 7.** Said chapter 6A is hereby further amended by striking out section 18G, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 18G. The department shall require that each PSAP that possesses enhanced 911 service shall retain 911 recordings for a period of not less than 1 year.

**SECTION 8.** Said chapter 6A is hereby further amended by striking out section 18H, as so appearing, and inserting in place thereof the following section:-

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Section 18H. (a) There shall be imposed on each subscriber or end user whose communication services are capable of accessing and utilizing an enhanced 911 system, a surcharge in the amount of 75 cents per month for expenses associated with services provided under sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166. For wireline enhanced 911 service, the charge shall be imposed on each voice grade exchange telephone line of business and residence customers within the commonwealth, but the surcharge applicable to centrex service and ISDN primary rate interface service shall be based on an equivalency ratio provided to each private branch exchange trunk. For wireless enhanced 911 service, the charge shall be imposed per wireless mobile telephone number, based on the area code chosen by the subscriber or end user. With the approval of the department, a wireless carrier may impose this surcharge based on the subscriber's or end user's billing address or other manner consistent with federal law. For interconnected VoIP provider service, the charge shall be imposed on each voice grade telephone line of business and residence customers within the commonwealth, but the surcharge applicable to such interconnected VoIP provider service that is comparable to centrex service and ISDN primary rate interface service associated with wireline enhanced 911 service shall be based on an equivalency ratio similar to that used for wireline enhanced 911 service. For IP-enabled service, the charge shall be imposed based on the subscriber's or end user's billing address in the commonwealth except for interconnected VoIP provider service, unless a different method is approved by the department. For prepaid wireless service, the department shall promulgate regulations establishing an equitable and reasonable method for the remittance and collection of the surcharge or surcharge amounts for such service. For all other services not identified above, the surcharge shall be imposed based on the subscriber's billing address in the commonwealth, unless a different method is approved by the department.

The surcharge shall be collected by the communication service provider and shall be shown on the subscriber's or end user's bill as "Disability Access/Enhanced 911 Service Surcharge", or an appropriate abbreviation. The surcharge shall not be subject to sales or use tax. The subscriber or end user shall be liable for the surcharge imposed under this section, and the communication service provider shall not be financially liable for surcharges billed on behalf of the commonwealth but not collected from subscribers or end users. Partial subscriber or end user payments shall be first applied to outstanding communication service provider charges.

(b) The department may petition the department of telecommunications and cable for an adjustment in the surcharge established in subsection (a). The department of telecommunications and cable shall be responsible for establishing the new surcharge, and all future surcharges, upon petition of the department. The department of telecommunications and cable, at its discretion but not more than once per calendar year, may investigate the prudence of the department's revenue and expenditures for the purpose of recalculating the surcharge, and may hire experts to assist in its investigation. The reasonable cost of such experts shall be charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to reflect changes in the consumer price index. The department of telecommunications and cable shall conduct its review and issue a decision within

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90 days of the date of the commencement of the investigation, but the surcharge shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days. The department of telecommunications and cable shall adopt rules that provide for the funding of prudently incurred expenses associated with services provided by sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166, by means of the surcharge. The department shall report annually to the department of telecommunications and cable on the financial condition of the Enhanced 911 Fund and on the department's assessment of new developments affecting the enhanced 911 system. The report shall be submitted to the department of telecommunications and cable within 60 days of the end of each fiscal year. The department of telecommunications and cable shall file an annual report with the clerks of the house of representatives and the senate relative to the financial condition of the Enhanced 911 Fund.

(c) The department shall seek the approval of the department of telecommunications and cable for projected total expenditures that exceed total expenditures of the previous fiscal year by 10 per cent or more. The department of telecommunications and cable may investigate the reasonableness of the expenditures and shall conduct its review and issue a decision within 90 days from the date the department files its request for approval, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within such 90 days. The department of telecommunications and cable shall notify the department of its intent to investigate within 20 days of the date the department files its request for approval. The department's request for approval shall be deemed approved in the absence of the department of telecommunication and cable's notification to the department of its intent to investigate. If the department of telecommunication and cable notifies the department that it intends to investigate an expenditure, the department of telecommunications and cable may hire experts to assist in its investigation. The reasonable cost of the experts shall be charged to the Enhanced 911 Fund, but in no event shall such cost exceed \$200,000, which may be adjusted to reflect changes in the consumer price index.

(d) Each communication service provider shall remit the surcharge revenues collected from its subscribers or end users to the state treasurer for deposit in the Enhanced 911 Fund. The surcharge revenues shall be expended for the administration and programs of the department including, but not limited to, salaries, enhanced 911 training programs, enhanced 911 public education programs, the creation of PSAP customer premises equipment for, and maintenance of, primary and regional PSAPs, the programs mandated by section 18B and sections 14A and 15E of chapter 166, and for the implementation and administration of enhanced 911 service in the commonwealth.

(e) Each communication service provider required to remit surcharge revenues shall submit to the department and the department of telecommunications and cable information on its business entity including, but not limited to, name, business address, contact person and the telephone number, fax number and e-mail address of such contact person. Each such provider shall update this information annually.

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(f) Each communication service provider shall report to the department on a monthly basis the total surcharge revenues collected from its subscribers or end users during the preceding month, the total uncollected surcharge revenues from subscribers or end users during the preceding month, the total amount billed to the department for administration costs to cover the expenses of billing, collecting and remitting the surcharge during the preceding month, and the total amount billed to the department for non-recurring and recurring costs associated with any service, operation, administration or maintenance of enhanced 911 service during the preceding month. Such monthly report shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66.

(g) A communication service provider shall forward to any PSAP or any other answering point equipped for enhanced 911 service, or upon request consistent with federal law, to a municipal, state, or federal law enforcement agency, the department of telecommunications and cable, the FCC or the department, the telephone number and street address or location of any telephone used to place a 911 call, and any other call data or information required by the FCC to be transmitted to a PSAP.

Subscriber or end user information or data provided in accordance with this section shall be used, consistent with federal law, only for the purpose of responding to emergency calls, administering and operating the enhanced 911 system and providing enhanced 911 service, or for use in any ensuing investigation or prosecution, including the investigation of false or intentionally misleading reports of incidents requiring emergency service. No communication service provider or officers, directors, employees, vendors or agents shall be liable in any action to any person for releases of information authorized by this section or for civil action resulting from or caused by such providers for participation or omissions in the development, installation, operation, maintenance, performance or provision of enhanced 911 service except for wanton or willful misconduct. Release to or use by any person of a communication service provider's subscriber or end user information or data for any use other than the purposes enumerated in this subsection shall be prohibited. Notwithstanding any general or special law to the contrary, such information or data shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66, except that aggregated information that does not identify or effectively identify specific subscriber or end user information or data may be made public.

(h) The department shall examine call volumes of all primary, regional and regional secondary PSAPs, and the population changes of the municipalities they serve, and may use such information in determining the disbursement of funds as set forth in section 18B.

**SECTION 9.** Section 18H1/2 of said chapter 6A is hereby repealed.

**SECTION 10.** Said chapter 6A is hereby further amended by striking out section 18I, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

Section 18I. Notwithstanding any general or special law to the contrary, a municipality or other governmental body, under the requirements of chapter 150E, may modify, change or alter

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communication equipment used in the municipality's or other governmental body's enhanced 911 system in order to permit the monitoring of emergency 911 communications by the fire department of the municipality or other governmental body at a secure location staffed at all times by fire department personnel fully trained in such monitoring. The emergency 911 communications shall be monitored in a manner that prevents any broadcast of such communications to the general public. The secure location used for monitoring emergency 911 communications shall be restricted to trained fire department personnel when such communications are being monitored. No such modification or change in a municipality's or other governmental body's wireline carrier equipment or enhanced 911 system shall cause any degradation of the state's 911 system.

Section 18J. Beginning July 1, 2009, any new or substantially renovated multi-line telephone system shall provide the same level of enhanced 911 service that is provided to others in the commonwealth. The department shall adopt regulations to implement this requirement. In such regulations the department may exempt certain multi-line telephone systems from this requirement based on such factors as costs and the public benefits of compliance, except that accessibility of such a system to people with disabilities may only be waived if the proponent of the waiver has shown it to be technologically infeasible or of excessive cost without benefit to the disability community. For the purposes of this section, a "multi-line telephone system" shall mean a system comprised of common control units, telephones and control hardware and software providing local telephone service to multiple end-use customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities or structures. "Multi-line telephone system" shall include: (1) network and premises based systems such as centrex, pbx and hybrid key telephone systems; and (2) systems owned or leased by governmental agencies, nonprofit entities and for-profit businesses.

**SECTION 10A.** Said chapter 6A is hereby further amended by inserting after section 18J the following section:-

Section 18K. Sections 18A to 18J, inclusive, shall not be construed to limit or expand the authority to regulate communication service providers under chapters 159 or 166 nor construed to authorize the department, or any other agency, department or subdivision of government, to regulate the rates, terms or conditions of interconnected VoIP service providers or IP-enabled services, other than for the enhanced 911 surcharge or the provision of enhanced 911 services under said sections 18A to 18J, inclusive.

**SECTION 11.** Section 35W of chapter 10 of the General Laws is hereby repealed.

**SECTION 12.** Section 35W1/2 of said chapter 10 is hereby repealed.

**SECTION 13.** Said chapter 10 is hereby further amended by inserting after section 35II, inserted by section 3 of chapter 169 of the acts of 2008, the following section:-

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Section 35JJ. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Enhanced 911 Fund. There shall be credited to such fund all revenues received by the commonwealth from: surcharges imposed under section 18H of chapter 6A; appropriations; gifts, grants, contributions and bequests of funds from any department, agency or subdivision of federal, state or municipal government, and any individual foundation, corporation, association or public authority; revenue derived from the investment of amounts credited to the fund; and any federal funds made available for emergency telecommunication services. The fund shall be used solely for the purposes described in sections 18A to 18J, inclusive, of said chapter 6A.

(b) Amounts credited to the fund shall be available for expenditure by the state 911 department, without further appropriation. The state 911 department shall report annually to the general court its planned expenditures for the next fiscal year; the uses to which the fund was used in the last fiscal year and the balance remaining in the fund; and the aggregate surcharges collected in the last fiscal year based upon monthly reports of communication services providers as required under subsection (f) of section 18H of chapter 6A. The report shall also include a request, if necessary, for appropriation for deposit into the fund.

**SECTION 13A.** Section 2 of chapter 111C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 48, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

**SECTION 13B.** Section 3 of said chapter 111C, as so appearing, is hereby amended by striking out, in line 54, the words “statewide emergency telecommunications board” and inserting in place thereof the following words:- state 911 department.

**SECTION 13C.** Section 13 of said chapter 111C, as so appearing, is hereby amended by striking out, in line 24, the words “statewide emergency telecommunication board” and inserting in place thereof the following words:- state 911 department.

**SECTION 13D.** Section 59 of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “statewide emergency telecommunication board” and inserting in place thereof the following words:- state 911 department.

**SECTION 14.** Chapter 166 of the General Laws is hereby amended by striking out section 14A, as so appearing , and inserting in place thereof the following section:-

Section 14A. (a) In order to establish statewide enhanced 911 service, upon the written request of the state 911 department, established by section 18B of chapter 6A, hereinafter referred to as the department, each telephone company providing local exchange service in the commonwealth shall provide and maintain enhanced 911 service in compliance with a schedule established by the department after consultation with such phone company.

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(b) Each municipality in the commonwealth shall be served by a primary or regional PSAP, that utilizes enhanced 911 network features in accordance with the implementation schedule established by the department under section 18D of chapter 6A.

(c) No provision of law shall be construed to prohibit or discourage the formation of multi-department, multi-jurisdictional or regional PSAPs, or regional emergency communication centers. Any PSAP may serve the jurisdiction of more than 1 public department or a segment of the jurisdiction of a municipality.

(d) A telephone company shall forward to any PSAP or any other answering point equipped for enhanced 911 service, the telephone number and street address of any telephone used to place a 911 call. Subscriber information provided in accordance with this section shall be used only for the purpose of responding to emergency calls or for use in any ensuing investigation or prosecution, including the investigation of false or intentionally misleading reports of incidents requiring emergency service. No telephone company, nor the agents of any telephone companies, shall be liable in any action to any person for the release of information as permitted in this section.

(e) As enhanced 911 service becomes available and where facilities are available, each telephone company and owner of a private coin telephone in the commonwealth shall convert each public coin or coinless telephone within areas served by such enhanced 911 service to dial tone first capability, to allow a caller to dial 911 without first inserting a coin or paying any other charge. Each provider of public coin or coinless telephone shall provide access to enhanced 911 service, and prominently display instructions on use of such system.

**SECTION 15.** Said chapter 166 is hereby further amended by striking out section 15E, as appearing in section 47 of chapter 19 of the acts of 2007, and inserting in place thereof the following section:-

Section 15E. (a) As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

“Captioned telephone”, an amplified telecommunications device with a text display that permits the user to both listen to what is said over the telephone and simultaneously read captions of what the other person is saying, thereby allowing a hard of hearing person to utilize captioned telephone service.

“Captioned telephone service”, an enhanced voice carry over telecommunications relay service, a system which uses third party intervention to connect persons with a hearing disability but with some residual hearing, to engage in communication, by wire or radio, with a hearing individual in a manner that is functionally equivalent to the ability of an individual, who does not have a hearing disability, to communicate using voice communication services, by wire or radio.

“Common carrier”, as common carrier is used in chapters 159 and 166, and referring to a business in the commonwealth that is a provider of local exchange service, so-called, to 1,000 or more subscribers. For the purposes of this section, the term shall also include a municipal lighting plant or cooperative that operates a telecommunications system under section 47E of chapter 164.

“Communication services”, includes: (a) the transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio,

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satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used; (b) the ability to provide two-way voice communication on the public switched network; (c) wireless enhanced 911 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service, as defined by Federal Communication Commission regulations; (f) IP-enabled service, as defined in section 18A of chapter 6A; or (g) prepaid wireless service.

“Communication service provider”, an entity that provides communication services to a subscriber or end user.

“Deaf”, a severe to profound hearing loss resulting in the majority of circumstances, in an inability to effectively use a conventional telephone without the assistance of a test telephone or other nonvoice terminal device.

“Department”, the state 911 department.

“Disability”, a physical, cognitive, sensory or mental impairment that substantially limits 1 or more major activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning or working, and results in an inability to use a telephone without the assistance of specialized telephone equipment.

“FCC”, the Federal Communications Commission.

“Hard of hearing”, a hearing loss resulting, in the majority of circumstances, in an inability to effectively use a telephone without the assistance of a sound amplification control or a telephone without the use of a hearing aid and a hearing aid compatible handset.

“Hearing carry over” or “HCO”, a form of telecommunications relay service, or TRS, with which a person with a speech disability is able to listen to the other end user and, in reply, a third party speaks the text as typed by the person with the speech disability and the third party does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use 1 telephone line for hearing and the other for sending text telephone, or TTY, messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between 2 HCO users.

“Public coin and coinless telephone”, a telephone operated by coin or credit card and located in high use areas that return substantial revenue from the operation thereof including, but not limited to, police stations, hospitals, airports, bus terminals, train stations, libraries, social security, medicaid and medicare offices and shopping centers.

“Semi-public coin and coinless telephone”, a telephone operated by coin or credit card and located in low use areas that return moderate revenue from the operation thereof including, but not limited to, convalescent homes, elderly housing complexes and small meeting houses.

“SCPE”, specialized, customer-premises equipment, such as artificial larynxes, signaling devices, amplified handset, hands-free telephones, text telephones, memory telephones, direct telephone dialing device, braille text telephones, captioned telephone, and other devices which provide access to telephone networks for people with a hearing, speech, vision, mobility or cognitive disability.

“SCPE distribution service”, a system of administration and record keeping, as well as distribution, repair and replacement of SCPE units for certified subscribers.

“Text telephone” or “TTY”, a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term “TDD” or

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“telecommunications device for the deaf ” .

“Telecommunications relay service” or “TRS”, a telephone transmission service that provides an individual with a hearing or speech disability the ability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, and non-English relay services. TRS supersedes the terms “dual party relay system,” “message relay services,” and “TDD relay.”

“Voice carry over service”, or “VCO”, a form of TRS with which a person with a hearing disability is able to speak directly to the other end user when a third party types the response back to the person with the hearing disability and the third party does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use 1 telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between 2 VCO users.

(b) The department shall provide and maintain a SCPE distribution service, and shall make such services available to any residential subscriber who is: (i) certified by the Massachusetts commission on the deaf and hard of hearing as sufficiently deaf or hard of hearing to be in need of SCPE equipment; (ii) certified by the Massachusetts commission for the blind as sufficiently visually impaired to be in need of SCPE equipment; or (iii) certified by the Massachusetts rehabilitation commission as otherwise sufficiently disabled to be in need of SCPE equipment. Each commission may designate the department to administer the certification process required under this section. For the purposes of making this certification, the respective aforementioned commissions shall require a written verification of the claimed disability by a physician, certified audiologist or optometrist, or other medical professional qualified to verify the disability claimed, and licensed to do business in the commonwealth. The department, upon the request of a certified subscriber, shall provide SCPE equipment to the requesting subscriber. The SCPE distribution service shall include the reasonable distribution and replacement of SCPE equipment free of charge, to certified subscribers subject to this subsection and subsection (c). Such service shall be provided free of charge, or at reduced rates if the department of telecommunications and cable first certifies that the requesting subscriber is unable to afford SCPE equipment at its full cost. Any reduced rate shall be in accordance with a rate schedule established by the department of telecommunications and cable.

(c) The department and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (b) and make recommendations to the department of telecommunications and cable as to whether it conforms with the provisions herein. Prior to the implementation of services under subsection (b), the department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the department of telecommunications and cable’s review and approval seeking competitive bids from qualified vendors to provide such services. Communications services providers shall be permitted to submit a competitive bid to provide the aforementioned services. In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect the costs for such services in rates, the carrier

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shall submit to the department of telecommunications and cable information about such requests for proposals such that the department of telecommunications and cable may determine whether the carrier's proposal would provide such services at a cost to the carrier that reflects the least cost to its ratepayers with due regard for standards of reliability and quality, consistent with the public interest.

(d) The department shall encourage prospective vendors of telecommunications relay service to provide such service from a center located within the commonwealth using residents of the commonwealth as employees of such center. Preference in employment at such center shall be given to people with disabilities as defined by this section. Specialty types of TRS shall not be required to be provided from a telecommunications service center located in the commonwealth.

(e) The department and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (d) and make recommendations to the department of telecommunications and cable as to whether it conforms with the provisions herein. Prior to the implementation of such services, the department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the department of telecommunications and cable's review and approval seeking competitive bids from qualified vendors to provide the aforementioned services. Communication services providers shall be permitted to submit a competitive bid to provide such services. In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect the costs for such services in rates, such carrier shall submit to the department of telecommunications and cable information about such requests for proposals such that the department of telecommunications and cable may determine whether the carrier's proposal would provide such services at a cost to the carrier that reflects the least cost to its ratepayers with due regard for standards of reliability and quality, consistent with the public interest.

(f) The department of telecommunications and cable, in accordance with its certification by the FCC under 47 CFR 64.604 and 64.606 shall have general oversight over all aspects of the provision of the SCPE and TRS programs, unless such certification is not renewed or is revoked. Such oversight shall include, but shall not be limited to, authority over the rates, terms, and conditions, service quality, and enforcement of federal minimum standards for the provision of such services.

(g) Any person, firm, corporation or other entity that provides public coin or coinless telephone service or semi-public coin or coinless telephone service, shall provide and maintain its public or semi-public telephones with a minimum of 25 per cent of its public or semi-public telephones with controls for sound amplification of incoming transmission consistent with Massachusetts Architectural Access Code, as provided in 521 CMR 1.0 to 47, inclusive .

(h) There shall be an advisory committee on accessibility to communication services for disabled persons. The advisory committee shall consist of the secretary of health and human services or his designee; the commissioner of the Massachusetts commission for the deaf and hard of hearing or his designee; the commissioner of the Massachusetts rehabilitation commission or his designee; the commissioner of the Massachusetts commission for the blind or his designee; the director of the Massachusetts office on disability or his designee; and 12 persons to be appointed by the governor, 2 of whom shall be persons who are deaf, 2 of whom shall be persons who are hard of hearing, and 2 who are blind, 2 with other significant vision impairments, 2 with impaired speech, and 2 with impaired

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mobility or motor skills. Each such member of the advisory committee shall serve for a term of 3 years. The chairperson of the advisory council shall be appointed by the governor and shall serve in such capacity for a term of 1 year. The advisory council shall meet at least quarterly and shall make recommendations to the department and the department of telecommunications and cable on all matters of policy related to communication services and equipment for people with disabilities.

(i) The department, in consultation with the department of telecommunications and cable and the advisory committee on accessibility to telephone services for disabled persons, shall promulgate necessary regulations to implement this section.

**SECTION 16.** Chapter 269 of the General Laws is hereby amended by inserting after section 14A the following section:-

Section 14B. As used in this section, the following words shall have the following meanings:-

“Emergency response services provider”, a police department, fire department, emergency medical service provider, PSAP, public safety department, private safety department or other public safety agency.

“PSAP”, a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

“Silent call”, a call or other communication made to a PSAP in which the initiating party fails to provide information regarding his or her identity or location or the nature of the emergency. The initiating party shall not be considered to have provided any information that is automatically transmitted by a communication device or network upon connection with a PSAP including, but not be limited to, automatic location information and automatic number information.

(a) Whoever willfully and maliciously communicates with a PSAP, or causes a communication to be made to a PSAP, which communication transmits information which the person knows or has reason to know is false and which results in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency; or (b) whoever willfully and maliciously, makes or causes to be made 3 or more silent calls to any PSAP and thereby causes emergency services to be dispatched 3 or more times shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$1,000. Whoever commits a second or subsequent violation of this section shall be punished by imprisonment in the house of correction for not more than 2½ years or by imprisonment in the state prison for not more than 10 years or by a fine of not more than 5,000 dollars, or by both such fine and imprisonment.

(b) Upon any conviction of this section, the court shall conduct a hearing to ascertain the extent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. Restitution shall not be waived and shall be imposed in addition to any imprisonment or fine, and not in lieu thereof, except that the court shall consider the defendant’s present and future ability to pay restitution in its determinations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden

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restitution will impose upon the defendant.

**SECTION 17.** Notwithstanding any general or special law to the contrary, balances as of July 31, 2008 in the Wireless Enhanced 911 Fund, established by section 35W of said chapter 10 of the General Laws, and in the Wireline Enhanced 911 Fund established by section 35W½ of said chapter 10, shall be transferred and deposited into the Enhanced 911 Fund, established by section 35JJ of said chapter 10. All revenue remitted after July 31, 2008 from 911 surcharges in effect under sections 18H and 18H1/2 of chapter 6A of the General Laws through July 31, 2008 shall be deposited into said Enhanced 911 Fund established by said section 35JJ of said chapter 10 .

**SECTION 18.** Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the statewide emergency telecommunications board, as the transferor agency, to the state 911 department, as the transferee agency, as follows:

(a) s ubject to appropriation, the employees of the statewide emergency telecommunications board, including those who immediately before the effective date of this act held permanent appointment in positions classified under chapter 31 of the General Laws or were granted tenure in their positions as provided by section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential positions, are hereby transferred to the state 911 department, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation or benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either held a permanent appointment in a position classified under chapter 31 of the General Laws or was granted tenure in a position pursuant to section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain under chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall confer upon any employee any right not held immediately before the date of the transfer, or prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date;

(b) a ll petitions, requests, investigations and other proceedings appropriately and duly brought before the statewide emergency telecommunications board or duly begun by the transferor agency and pending before it prior to the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the state 911 department;

(c) a ll orders, rules and regulations duly made and all approvals duly granted by the statewide

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emergency telecommunications board, which were in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the state 911 department;

(d) all books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act were in the custody of the statewide emergency telecommunications board shall be transferred to the state 911 department;

(e) all duly existing contracts, leases and obligations of the statewide emergency telecommunications board shall continue in effect but shall be assumed by the state 911 department. No existing right or remedy of any character shall be lost, impaired or affected by this act; and

(f) all references in any general or special law to the statewide emergency telecommunications board or a principal officer thereof shall be deemed to refer to the state 911 department or a principal officer thereof.

**SECTION 19.** The regulations required to be adopted under subsection (a) of section 18H of chapter 6A of the General Laws by the state 911 department shall take effect on July 1, 2009 and providers of prepaid wireless service shall be subject to said section 18H of said chapter 6A, except for subsection (g) of said section 18H of said chapter 6A on and after July 1, 2009. Subsection (g) of said section 18H of said chapter 6A shall take effect on the effective date of this act.

**SECTION 20.** The first report required to be filed under subsection (j) of section 18B of chapter 6A of the General Laws shall be filed not later than June 30, 2011.

**SECTION 21.** Section 15 of this act shall take effect on February 1, 2009.

*Approved July 31, 2008*

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STATE RESOURCES SUPPORTING REVITALIZATION OF GATEWAY CITIES

Resource	Established by	Approving Authority / Administering Authority	Funding Sources	Purpose	Targeted Participants*
<b>Brownfields Programs</b>	MGL c. 21E  Chapter 206, Acts of 1998	Varies by program (see Purpose)	Grants and Loans	<ul style="list-style-type: none"><li>The <a href="#">Brownfields Redevelopment Fund</a> provides assistance for the reuse of brownfields in Economically Distressed Areas (EDAs):<ul style="list-style-type: none"><li><a href="#">The Brownfields Site Assessment Program</a> – provides unsecured, interest free financing up to \$100,000 for environmental assessment of brownfields. Administered by <a href="#">MassDevelopment</a></li><li><a href="#">The Brownfields Remediation Loan Program</a> – provides flexible loans up to \$500,000 for environmental clean-up of brownfields. Administered by MassDevelopment.</li></ul></li><li>The <a href="#">MassBRAC Program</a>- makes high quality, low cost, pre-negotiated and often state-subsidized environmental insurance available to parties who wish to purchase, clean up and/or develop brownfields sites anywhere in MA, and to lenders willing to finance such projects. Administered by the <a href="#">Business Development Corporation of New England</a></li><li><a href="#">Brownfields Tax Credit Program</a> – Offers eligible businesses and non-profits a tax credit for the costs incurred to remediate contaminated property owned or leased for business purposes. Administered by <a href="#">MA Department of Revenue</a>.</li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>
<a href="#">Chapter 43D Expedited Permitting</a>	MGL c. 43D	EOHED/MPRO	No	<ul style="list-style-type: none"><li>Provides a tool for targeted economic development in order to:<ul style="list-style-type: none"><li>Ensure a transparent and efficient process for municipal permitting.</li><li>Guarantee local permitting decisions on Priority Development Sites within 180 days.</li><li>Increase visibility of Priority Development Sites.</li><li>Priority Development sites may be zoned for commercial, industrial development, residential or mixed use purposes.</li></ul></li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>
<a href="#">Chapter 40R Smart Growth Zoning Overlay District Act</a>	MGL c. 40R	DHCD	Incentive payments for new housing	<ul style="list-style-type: none"><li>Provides Zoning Incentive and Density Bonus payments to municipalities that adopt and implement zoning regulations allowing higher density mixed-income residential development in smart growth locations. Maximum incentive payment is \$600,000 per smart growth district and a \$3,000 bonus payment for each newly zoned housing unit constructed in the smart growth location</li></ul>	<ul style="list-style-type: none"><li>Open to any community.</li></ul>
<a href="#">Community Development Block Grant (CDBG)</a>	Federal Housing and Community Development Act of 1974, as Amended	DHCD for MA Small Cities Program;  HUD for Entitlement Communities	Grants  17% cut to the federal FY11 CDBG program has been implemented	<ul style="list-style-type: none"><li>Provides communities with resources to address a wide range of unique community development needs, including housing rehabilitation, improvements to public facilities and infrastructure, and social services.<ul style="list-style-type: none"><li>Entitlement communities receive formula-based grants directly from HUD.</li><li>Nonentitlement communities receive CDBG funds from DHCD through a competitive grant program under MA’s Small Cities Program. DHCD also awards noncompetitive Small Cities Program funds on an annual basis to communities it designates as mini-entitlements based on need indicators.</li></ul></li></ul>	<ul style="list-style-type: none"><li>Federal entitlement cities that are also Gateway cities: Barnstable, Brockton, Chicopee, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Leominster, Lowell, Lynn, Malden, New Bedford, Pittsfield, Quincy, Revere, Salem, Springfield, Taunton, Westfield, and Worcester.</li><li>Mini-entitlement cities that are also Gateway cities: Chelsea, Methuen and Everett</li></ul>
<a href="#">Community Investment Tax Credit Program (Community Partnership Act)</a>	Chapter 238, Acts of 2012	DHCD	State tax credit (awarded competitively)	<ul style="list-style-type: none"><li>Establishes the Community Investment Tax Credit for individual and corporate taxpayers designed to encourage private donations that support community development. The credit is equal to 50% of “a qualified investment” in a CDC.</li><li>Also establishes the Community Investment Grant, which provides funds to CDCs to support neighborhood revitalization. Details to follow.</li></ul>	<ul style="list-style-type: none"><li>Open to CDCs in any community</li><li>At least 30% of credits allocated to CDCs in Gateway Cities</li><li>\$750, 000 appropriated for community Investment Grant funding</li></ul>
<a href="#">District Improvement Financing (DIF)</a>	M.G.L c. 46	EOHED	No	<ul style="list-style-type: none"><li>Enables municipalities to fund public works, infrastructure and development projects by allocating future, incremental tax revenues collected from a predefined district to pay project costs. A locally driven public financing alternative.</li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>
<a href="#">Economic Development Incentive Program (EDIP)</a>	MGL c. 40, section 59 & MGL c. 59, section 5	EACC/MOBD	State tax incentives	<ul style="list-style-type: none"><li>Provides tax incentive to foster job creation and stimulate business growth:<ul style="list-style-type: none"><li><a href="#">Expansion Project</a> – <b>Up to 10% tax credit</b>; dependent on level of economic activity generated outside the Commonwealth or jobs created within an Economic Target Area (ETA).</li></ul></li></ul>	<ul style="list-style-type: none"><li>Expansion Project – Must be within ETA and part of an EOA</li></ul>

\*This chart identifies state resources that support redevelopment and revitalization efforts in Gateway cities. These resources are either (1) targeted exclusively to Gateway cities – i.e., restricted to Gateway cities, (2) open (i.e., available) to any community but include a preference or set-aside for Gateway cities or (3) open to any community but of particular utility to Gateway cities.



STATE RESOURCES SUPPORTING REVITALIZATION OF GATEWAY CITIES

Resource	Established by	Approving Authority / Administering Authority	Funding Sources	Purpose	Targeted Participants*
				<ul style="list-style-type: none"><li>▪ <u>Enhanced Expansion Project</u> – <b>Up to 10% tax credit</b>; at least 100 new jobs are created and maintained for 5 years.</li><li>▪ <u>Manufacturing Retention Project</u> – <b>Up to 40% tax credit</b>; at least 100 new jobs created or retained for 5 years.</li></ul>	<ul style="list-style-type: none"><li>• Enhanced Expansion Project – No restrictions</li><li>• Manufacturing Retention Project – Restricted to Gateway Cities</li></ul>
<a href="#"><u>Financial Literacy Trust Fund</u></a>	Chapter 14, Acts of 2011	MA State Treasurer’s Office	Grants and private funding	<ul style="list-style-type: none"><li>• Promotes financial literacy, education and training for residents, businesses, educational institutions, community organizations, and other entities throughout the Commonwealth on issues such as household budgeting, saving more, consumer protection, and the power of compound interest in long-term financial planning.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community</li></ul>
<a href="#"><u>Gateway Cities Loans</u></a>	MassDevelopment	MassDevelopment	Loans	<ul style="list-style-type: none"><li>• Helps complete improvements of designated projects, including electrical work, masonry, roofing, and equipment.</li></ul>	<ul style="list-style-type: none"><li>• Restricted to Gateway Cities</li></ul>
<b>Gateway City Parks Program</b>	Energy and Environment Bond Bill 2008	EOEEA	Grants	<ul style="list-style-type: none"><li>• Supports significant park projects for underserved urban populations.</li></ul>	<ul style="list-style-type: none"><li>• Restricted to Gateway Cities</li></ul>
<a href="#"><u>Growth Districts Initiative (GDI)</u></a>	Section 2C of c. 303, Acts of 2008	EOHED	Grants	<ul style="list-style-type: none"><li>• Supports commercial, residential, transportation, and infrastructure development, improvements and various capital investment projects. See also MassWorks.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community</li></ul>
<a href="#"><u>HOME Investment Partnerships Program</u></a>	Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended	HUD/DHCD	Competitive Grants	<ul style="list-style-type: none"><li>• Provides funds for a broad range of activities, including new construction, acquisition and rehabilitation of rental properties, to assist in the production and preservation of affordable housing for low and moderate-income families and individuals.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community</li></ul>
<a href="#"><u>Housing Development Incentive Program (HDIP)</u></a>	MGL c. 40V	DHCD	Local and state tax incentives	<ul style="list-style-type: none"><li>• Increases residential growth, expands diversity of housing stock, supports economic development, and promotes neighborhood stabilization in designated Housing Development Zones by providing tax incentives to developers to support market rate housing for sale or lease.</li></ul>	<ul style="list-style-type: none"><li>• Restricted to Gateway Cities</li></ul>
<a href="#"><u>I-Cubed (Infrastructure Investment Incentive Program)</u></a>	Chapter 293, sections 5-12, Acts of 2006  Chapter 129, Acts of 2008	MassDevelopment	Bonds	<ul style="list-style-type: none"><li>• Promotes job growth and economic development by providing funding for the public infrastructure improvements necessary to support major new private development.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community</li></ul>
<a href="#"><u>Massachusetts Cultural Facilities Fund</u></a>	Chapter 123, Acts of 2006	Mass Cultural Council and MassDevelopment	Grants	<ul style="list-style-type: none"><li>• Increases investments from both the public sector and private sector to support planning and development of cultural facilities.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community</li></ul>
<a href="#"><u>Massachusetts Growth Capital Corporation</u></a>	MGL c. 40W, section 2  Economic Development Reorganization Act of 2010	Massachusetts Growth Capital Corporation	Customized financing and technical assistance grants	<ul style="list-style-type: none"><li>• Mission is to create and preserve jobs at small businesses, women and minority owned businesses, and to promote economic development in underserved, gateway municipalities and low and moderate income communities.</li><li>• Provides loans, lines of credit, guarantees and more, to eligible Massachusetts businesses and community development efforts.</li><li>• New Tools to Grow Program provides focused management assistance and flexible, customized financing for smaller enterprises in Gateway Cities and high growth companies statewide.</li></ul>	<ul style="list-style-type: none"><li>• Open to Massachusetts' small businesses, women and minority owned businesses</li><li>• For New Tools to Grow Program eligible “Small Businesses” will be those primarily operating in Gateway Cities.</li><li>• Minority, woman, and immigrant owned businesses are encouraged to apply.</li></ul>
<a href="#"><u>Mass Historic Commission: Survey and Planning Grants</u></a>	National Historic Preservation Act of 1966, as amended.	Mass Historical Commission	Grants	<ul style="list-style-type: none"><li>• Supports historic preservation planning activities in communities throughout the state through federally funded, reimbursable, 50/50 matching grant program.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community</li></ul>
<a href="#"><u>Massachusetts Preservation Projects</u></a>	950 CMR 73.00	Mass Historical Commission	Grants	<ul style="list-style-type: none"><li>• Supports the preservation of properties, landscapes and sites (cultural resources) listed in the State Register of Historic Places through state-funded 50% reimbursable matching grant program.</li></ul>	<ul style="list-style-type: none"><li>• Open to any community or non-profit organization</li></ul>

\*This chart identifies state resources that support redevelopment and revitalization efforts in Gateway cities. These resources are either (1) targeted exclusively to Gateway cities – i.e., restricted to Gateway cities, (2) open (i.e., available) to any community but include a preference or set-aside for Gateway cities or (3) open to any community but of particular utility to Gateway cities.



STATE RESOURCES SUPPORTING REVITALIZATION OF GATEWAY CITIES

Resource	Established by	Approving Authority / Administering Authority	Funding Sources	Purpose	Targeted Participants*
<a href="#">Fund</a>					
<a href="#">MassWorks Infrastructure Program</a>	EOHED	EOHED/MassDOT/ A&F	Competitive Grants	<ul style="list-style-type: none"><li>Provides public infrastructure funding to support economic development.<ul style="list-style-type: none"><li>Consolidates six grant programs into one office to streamline the grant process.</li></ul></li></ul>	<ul style="list-style-type: none"><li>Open to any community</li><li>At least 50% of the total funding to support developments in Gateway Cities</li></ul>
<a href="#">Safe and Successful Youth Initiative</a>	Executive Order	Governor’s Office of Community Affairs	Grants/pending legislation	<ul style="list-style-type: none"><li>Prevents and seriously curbs the epidemic of youth violence in MA by providing a full continuum of social services within targeted communities, including case management, intensive supervision, employment, education, and health care.<ul style="list-style-type: none"><li>Establishes an emergency intervention compact among state, community groups, law enforcement, and other stakeholders.</li><li>Includes a major summer jobs program.</li></ul></li></ul>	<ul style="list-style-type: none"><li>Targets seven cities: Boston, Springfield, Brockton, Lawrence, Lowell, New Bedford, and Worcester</li></ul>
<a href="#">Shannon Grants</a>	Sen. Charles E. Shannon Jr. Community Safety Grants	EOPSS	Competitive Grants	<ul style="list-style-type: none"><li>Supports regional and multi-disciplinary approaches to combat gang violence through coordinated programs for prevention and intervention.</li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>
<a href="#">Smart Growth Districts</a>	MGL c. 40 R	DHCD	Incentive and Bonus Payments	<ul style="list-style-type: none"><li>Creates Smart Growth Zoning Overlay Districts for the production of compact/high density housing.</li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>
<a href="#">Tax-Exempt Bonds</a>		MassDevelopment	Bonds	<ul style="list-style-type: none"><li>Provides tax-exempt bonds (federal and, in certain circumstances, state) to support affordable rental housing; assisted living and long term care facilities; public infrastructure projects; manufacturing facilities and equipment; municipal and governmental projects; and solid waste recovery and recycling projects.</li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>
<a href="#">Urban Renewal Program</a>	MGL c. 121B	DHCD	No current funding (grants)	<ul style="list-style-type: none"><li>Redevelops deteriorated and disinvested areas by providing the economic environment needed to attract and support private investment for residential, commercial, industrial, business, governmental, recreational, educational, hospital or other purposes.</li></ul>	<ul style="list-style-type: none"><li>Open to any community</li></ul>

9/17/12

\*This chart identifies state resources that support redevelopment and revitalization efforts in Gateway cities. These resources are either (1) targeted exclusively to Gateway cities – i.e., restricted to Gateway cities, (2) open (i.e., available) to any community but include a preference or set-aside for Gateway cities or (3) open to any community but of particular utility to Gateway cities.



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The Official Website of the Executive Office of Public Safety and Security

## Public Safety

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# Summary of Chapter 223 of the Acts of 2008, An Act To Create A State 911 Department, Single 911 Surcharge And An Enhanced 911 Fund

## Summary Of Chapter 223 of the Acts of 2008, An Act To Create A State 911 Department, Single 911 Surcharge And An Enhanced 911 Fund

The new State 911 Department was created on July 31, 2008 by the enactment of Chapter 223 of the Acts of 2008. The purpose of this new law is to further protect the public's safety by improving the Commonwealth's ability to coordinate and administer the Enhanced 9-1-1 system and ensure the most efficient and consistent approach for Enhanced 9-1-1 service to all 351 cities and towns.

Key features of the new law:

- Creates the State 9-1-1 Department within Executive Office of Public Safety and Security (EOPSS) that has the authority to direct day to day administration of the statewide enhanced 9-1-1 system and has its own independent budgetary authority. Transfers the Statewide Emergency Telecommunications Board (SETB) staff to the Department.
- Changes the 21-member SETB to the 19-member State 9-1-1 Commission that provides strategic oversight and guidance to the State 911 Department, advises the Department relative to its annual budget, and has approval authority over the distribution of grants, major contract issues, and the establishment of regulations and standards. The State 9-1-1 Commission is within EOPSS.
- Requires the formation of a State 9-1-1 Policy Advisory Committee to advise the Commission and Department on system and network issues.
- Changes the past scheme of separate wireline and wireless enhanced 9-1-1 surcharges and funds to create a single enhanced 9-1-1 surcharge and fund with the surcharge to be assessed on wireline, wireless, and "other" (such as VoIP) users.
- Sets the single enhanced 9-1-1 surcharge at 75 cents per month.
- Establishes new grants in addition to the training grant to be made available directly to local cities and towns to cover select personnel and equipment costs.

The grants are as follows:

- PSAP and Regional Emergency Communication Center Training Grant: will reimburse primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to the training and certification of enhanced 911 telecommunicators.
- Public Safety Answering Point and Regional Emergency Communication Center Support Grant: will reimburse primary, regional and regional secondary public safety answering points and regional emergency communications centers for allowable expenses related to enhanced 9-1-1 personnel and equipment costs.
- Wireless State Police Public Safety Answering Point Grant: will reimburse wireless state police public safety answering points for allowable expenses related to enhanced 9-1-1 personnel and equipment costs.
- Regional Public Safety Answering Point and Regional Emergency Communications Center Incentive Grant: will provide regional public safety answering points and regional emergency communication centers with funds in addition to amounts allocated as part of Public Safety Answering Point and Regional Emergency Communication Center Support Grant for reimbursement of expenses specified in Support Grant using a formula that applies specified percent of total surcharge revenues based on number of municipalities to be served by regional public safety answering point or regional emergency communication center.
- Regional and Regional Secondary Public Safety Answering Point, and Regional Emergency Communication Center Development Grant: will support the development and startup of regional secondary public safety answering points and regional emergency communication centers, including the expansion or upgrade of existing regional and regional secondary public safety answering points, to maximize effective emergency 9-1-1 and dispatch services as well as regional interoperability through disbursement of funds according to guidelines established by the State 9-1-1 Department with Commission approval.

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- Transfers administration and oversight of Disability Access Programs - Specialized Customer Premises Equipment (SCPE) Distribution Service, and Telecommunication Relay Services (TRS) from private vendors to the State 9-1-1 Department. SCPE are devices which provide access to telephone networks for people with hearing, speech, vision, mobility or cognitive disability. TRS is a telephone transmission service that provides the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio.
- Requires that as of July 1, 2009 any new or substantially renovated multi-line (PBX) telephone system will be required to provide the same level of enhanced 9-1-1 service that is provided to others in the Commonwealth based on regulations to be promulgated by the State 9-1-1 Department. Multi-line telephone systems are comprised of common control units, telephones, and control hardware and software that provide local telephone service to multiple end-use customers in business, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities or structures.
- Requires that the State 9-1-1 Department establish with the Commission's approval statewide certification requirements for enhanced 9-1-1 telecommunicators that will include emergency medical dispatch and quality assurance of emergency medical dispatch programs. These standards will require public safety answering points to have certified emergency medical dispatch personnel or to provide emergency medical dispatch through an appropriate resource .
- Provides that individuals found to be misusing the 9-1-1 system or making false 9-1-1 calls will be subject to specific criminal penalties including fines and/or imprisonment.

**Please click [here](#) to view the complete Chapter 223 of the Acts of 2008**

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The Official Website of the Executive Office for Administration and Finance

## Administration and Finance

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### Vocational Equipment Grant Program

On May 29, 2013, Lieutenant Governor Timothy Murray joined Secretary of Administration and Finance Glen Shor and Secretary of Education Matthew Malone to announce the 25 recipients of the \$1.1 million in Vocational Equipment grants to benefit Massachusetts vocational schools. This program provides grant funding to qualifying institutions to purchase necessary equipment to prepare their students for the modern workforce.

"In today's economy it is critical that our students have access to hands-on training and learning that will allow them to gain industry-relevant skills, said Secretary Malone. "These grants afford our vocational school students an opportunity to keep a competitive edge in the job market."

The 25 recipients of the FY2013 Vocational Equipment grants include 184 cities and towns across Massachusetts. The recipients reflect geographic diversity across the Commonwealth, including several Gateway Cities.

Published in October 2012, the Patrick Administration's Five-Year Capital Investment Plan includes \$5 million in funding for a competitive grant program to benefit Massachusetts vocational programs. The Vocational School Equipment Grant Program provides grant funding to qualifying institutions to purchase necessary equipment for their facilities. One hundred and sixty-five applications were received for the inaugural grants, with requests totaling more than \$4.7 million. One hundred percent of regional vocational school districts applied for grant funding, as did 82 percent of all schools in Massachusetts with Chapter 74-approved vocational programs.

The grants provide over \$1,149,997 in funding, benefiting 1,671 students in 184 municipalities across the Commonwealth. Approximately \$1,925,553 in matching funds and in-kind donations will be leveraged to support these programs, a \$1.67 match for every \$1 dollar investment. Funded programs represent 9 of 10 occupational clusters as identified by the Department of Elementary and Secondary Education (DESE), with the largest investments going to manufacturing, engineering, and technology.

"The Vocational School Equipment Grant Program is one of the many ways in which the Patrick Administration is working to prepare the Commonwealth's students for the 21<sup>st</sup> Century economy," said Secretary Shor. "I am excited that these grants enable Vocational Schools to purchase equipment for programs that provide the knowledge and skills needed for these students to succeed in the workplace."

## FY2013 Vocational School Grant Program Recipients:

SCHOOL DISTRICT	PROGRAM FUNDED	FUNDING AMOUNT
Assabet Valley Regional Vocational Technical School District	Machine Tool Technology	\$97,588
Berkshire Hills Regional School District	Culinary	\$4,000
Blackstone Valley Regional Technical School District	Dental Assisting	\$25,000
Bristol County Agricultural High School	Horticulture	\$33,547
Franklin County Technical School District	Machine Tool Technology	\$100,000
Gateway Regional School District	Metal Fabrication	\$23,855
Greater Fall River Regional Vocational School District	Metal Fabrication	\$50,000
Greater Lawrence Regional Vocational Technical School District	Auto Technology	\$49,100
Greater Lowell Regional Vocational Technical School District	Medical Assisting	\$24,700
Greater New Bedford Regional Vocational Technical School District	Nurse Assisting/ Health Assisting	\$20,397
Lower Pioneer Valley Education Collaborative	Early Education	\$25,000
Minuteman Regional Vocational Technical School District	Telecommunications	\$16,226
Montachusett Regional Vocational Technical School District	Machine Tool Technology	\$100,000
North Shore Regional Vocational Technical School District	Information Technology	\$9,250
Pittsfield Public Schools	Manufacturing Technology	\$100,000
Plymouth Public Schools	Graphic Design	\$26,812

Shawsheen Valley Regional Vocational School District	Electricity	\$25,000
Silver Lake Regional School District	Carpentry	\$20,720
Smith Agricultural and Vocational School District	Horticulture	\$49,653
Somerville Public Schools	Dental Assisting	\$95,745
South Shore Vocational Technical School District	Engineering	\$32,500
Springfield Public Schools	Robotics and Automation	\$15,000
Tri-County Regional Vocational Technical School District	Graphic Communications	\$71,091
Upper Cape Regional Vocational Technical School District	Engineering	\$89,393
Whittier Regional Vocational Technical School District	Machine Tool Technology	\$45,420

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The Official Website of the Executive Office of Housing and Economic Development (EOHED)

## Housing and Economic Development

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### What Is It?

The MassWorks Infrastructure Program provides a one-stop shop for municipalities and other eligible public entities seeking public infrastructure funding to support economic development and job creation. The Program represents an administrative consolidation of six former grant programs:

- Public Works Economic Development (PWED)
- Community Development Action Grant (CDAG)
- Growth Districts Initiative (GDI) Grant Program
- Massachusetts Opportunity Relocation and Expansion Program (MORE)
- Small Town Rural Assistance Program (STRAP)
- Transit Oriented Development (TOD) Program

The MassWorks Infrastructure Program provides a one-stop shop for municipalities and other eligible public entities seeking public infrastructure funding to support:

- Economic development and job creation and retention
- Housing development at density of at least 4 units to the acre (both market and affordable units)
- Transportation improvements to enhancing safety in small, rural communities

The MassWorks Infrastructure Program is administered by the Executive Office of Housing and Economic Development, in cooperation with the Department of Transportation and Executive Office for Administration & Finance.

To learn more about applying to the 2012 MassWorks Infrastructure Program please [click here](#).

[Contact Us](#)

#### News & Updates

Patrick Administration Announces 33 MassWorks Projects

Sec Bialecki Announces MassWorks Grants for Metro North

Patrick Administration Announces 3rd MassWorks Round

Town Brook groundbreaking marks beginning of Quincy dow

Lt. Gov Murray breaks ground on \$1.3M Randolph MassWork

[See All](#)