

### Inter-Municipal Agreements

As of July 2008, with amendments to [M.G.L. c. 40, §4A](#), inter-municipal agreements between two or more towns can be executed with approval of the board of selectmen only. The subject of the agreement can involve any activities or undertakings that town departments are normally authorized by law to perform. The maximum length of an agreement is 25 years. Once lawfully executed, the agreement is binding on the towns notwithstanding any bylaw or charter provision to the contrary.

The inter-municipal agreements statute also enumerates financial safeguards that contracts must provide for. They relate to payment details, record keeping, audits, responsible parties and financial reporting. Agreements should also address, when warranted, future capital needs, the range of services to be provided, and the basis for compensation, dispute settlement and termination.

As a practical matter, agreements are of three types. Under a *formal contract*, one town agrees to provide a service, typically performed by an individual, to another for an agreed upon price. Under a *joint service agreement*, each town shares the cost to finance and deliver a range of departmental-type services. *Service exchange agreements* involve a commitment by each participating community to provide a defined service, as needed or requested, with no payment for costs.

Although inter-municipal agreements can be executed by a board of selectmen and without town meeting approval, they create financial obligations and can have the force of bylaws. However, unlike the adoption of town bylaws and town charters, the State Attorney General is not required to review and approve inter-municipal agreements. Therefore, each town should seek the advice of town counsel before formally executing an agreement.

It is also important to know that inter-municipal agreements cannot void or circumvent provisions in collective bargaining agreements. The terms of an agreement can be grieved by a union and its execution can be prevented. This obstacle is addressed in the Governor's second Municipal Relief Package which recommends language to amend [M.G.L. c40, §4A](#) stating that "a city or town's decision to enter into an inter-municipal agreement, or to join any

regional entity, shall not be subject to collective bargaining under this section.” The legislation has not yet been acted upon by the General Court.

Excerpted in part from “Chapter 188 of the Acts of 2008 - Understanding and Applying the New Inter-municipal Agreement Law,” by Laura Schumacher, City & Town, Vol. 21, No. 10, pg. 4.