
Massachusetts Department of Revenue
Division of Local Services

Current Developments
in
Municipal Law



2006

Legislation

Book 1

Alan LeBovidge, Commissioner
Gerard D. Perry, Deputy Commissioner

www.mass.gov/dls

WHAT'S NEW IN MUNICIPAL LAW?

2006

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| INTRODUCTION
Kathleen Colleary | 9:00 a.m. – 9:15 a.m. |
| LEGISLATION
Daniel J. Murphy
Mary C. Mitchell
Kathleen Colleary | 9:15 a.m. – 9:45 a.m.
9:45 a.m. – 10:15 a.m.
10:15 a.m. – 10:45 a.m. |
| BREAK | 10:45 a.m. – 11:00 a.m. |
| COURT DECISIONS
James F. Crowley
Christopher M. Hinchey
Gary A. Blau | 11:00 a.m. – 11:30 a.m.
11:30 a.m. – 12:00 p.m.
12:00 p.m. – 12:30 p.m. |
| LUNCH | 12:30 p.m. – 1:30 p.m. |
| WORKSHOPS | 1:30 p.m. – 3:00 p.m. |
- A. **FROM FARMLAND TO THE WATERFRONT.** A discussion of current assessment and collection issues facing assessors and collectors.
James F. Crowley
Daniel J. Murphy
- B. **SCHOOL BUDGETS, SPECIAL FUNDS AND OTHER FINANCE ISSUES.** Another episode in our exploration of frequently asked questions.
Kathleen Colleary
Christopher M. Hinchey
- C. **DEALING WITH EMPLOYEE HEALTH INSURANCE.** A discussion of group health insurance issues.
Gary A. Blau
Mary C. Mitchell
Paul Mulkern, Esq.
Lisa Boodman, General Counsel, Group Insurance Commission (Randolph)
Sean Caron, Policy and Planning Counsel, Metropolitan Area Planning Council

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2005 LEGISLATION

CHAPTER 90 – VOCATIONAL EDUCATION TEACHERS RETIREMENT CREDIT

Effective December 14, 2005

Amends G.L. c. 32, §4(1) by adding a new subparagraph (h½), which allows vocational education teachers to purchase creditable service for time they previously worked in the occupational field in which they became a vocational education teacher and which was required as a condition of employment and licensure under Department of Education regulations. Members can purchase a maximum of three years service under this provision if they have at least 10 years of membership service.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT RELATIVE TO CREDITABLE SERVICE FOR VOCATIONAL EDUCATION TEACHERS.

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

Subsection (1) of section 4 of chapter 32 of the General Laws, as amended by section 4 of chapter 6 of the acts of 2005, is hereby further amended by inserting after paragraph (h) the following paragraph:-

(h 1/2) Any member in service of the teachers' retirement system or teacher who is a member of the State-Boston retirement system, and who is or was employed as a teacher as defined by section 1 in a vocational-technical school or in a public school's vocational-technical program approved by the department of education under chapter 74 may receive creditable service for any period or periods of prior work experience in the occupational field in which the member became a vocational-technical teacher and which was required as a condition of the member's employment and licensure under regulations of the department of education. No credit shall be allowed until the member has paid into the Annuity Savings Fund of the system before any retirement allowance becomes effective for the member, in 1 sum, or in installments, upon the terms and conditions that the board prescribes, makeup payments of an amount equal to 10 per cent of the regular annual compensation of the member as of the member's most recent date of entry into membership in the teachers' retirement system or as a teacher in the State-Boston retirement system, for each year of service purchased plus buyback interest thereon. No credit shall be allowed and no payment shall be accepted under this paragraph until the member has completed 10 or more years of membership service. The creditable service allowable under this paragraph for any member shall not exceed 3 years. Members in service of a retirement system who make application for this creditable service shall be notified by the retirement board of their eligibility for such creditable service, and, if they are eligible, shall also be notified by the retirement board that they have the following options: (1) to purchase the service in a lump sum within 180 days of the no-

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tice, or (2) to enter into an installment agreement within 180 days of the notice to pay for the service.

House of Representatives, August 18, 2005.

Passed to be re-enacted,



Acting
Speaker.

In Senate, August 18, 2005.

Passed to be re-enacted,



Acting
President.

. 2005.

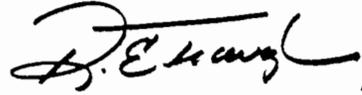
Approved,

Governor.

Senate, September 15, 2005.

This Bill having been returned by His Excellency the Governor with his objections thereto in writing (see Senate 2185) has been passed by the Senate, the objections of His Excellency the Governor to the contrary notwithstanding, two-thirds of the Senate (38 yeas to 0 nays) having agreed to the same.

Sent to the House of Representatives for its action.

 , President.

 , Clerk.

House of Representatives, September 15, 2005.

Passed by the House of Representatives, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present (155 yeas to 0 nays) having approved the same.

 , Speaker.

 , Clerk.

OFFICE OF THE SECRETARY, Boston, Massachusetts,

September 19, 2005

This bill was returned by the Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on September 15, 2005 and in concurrence by the House of Representatives on September 15, 2005, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.



William Francis Galvin
Secretary of the Commonwealth

CHAPTER 125 - DEATH BENEFITS FOR SURVIVING FAMILIES
OF
CALL AND VOLUNTEER FIREFIGHTERS KILLED IN THE LINE OF DUTY
Effective November 8, 2005

Adds a new benefit, G.L. c. 32, §89E, for surviving spouses and dependent children of city, town or district volunteer emergency service providers who are not covered by workers' compensation and who die in the performance of duties under specific circumstances related to emergency responses. Eligible personnel include call, volunteer, auxiliary, intermittent and reserve firefighters and emergency medical technicians and auxiliary, intermittent, special, part-time or reserve police officers. Local governmental units may provide these benefits as a group.

The local governmental unit may choose any one of three mechanisms for providing the benefit: (1) an annuity apparently payable from municipal appropriations, (2) a lump sum annuity of \$500,000 payable from insurance, or (3) an annuity payable from an insurance policy. The first option would require payment of an annuity from two-thirds to 100 percent of the annual rate of compensation payable to a regular or permanent first year member of the police or fire departments, or in the absence of any such permanent member, an average of the compensation payable to such members of three surrounding towns as determined by the Public Employee Retirement Administration Commission (PERAC). This amount would be paid to the surviving spouse, with no remarriage limitations. The annuity would be entitled to an annual cost of living adjustment (COLA) using the state COLA formula under G.L. c. 32, §102. The lump sum option is paid to the surviving spouse in the same manner as the first option. The third option would grant the annuity to the surviving spouse with no remarriage limitation and no COLA specified.

In each of the three cases, if there is no surviving spouse or the surviving spouse dies, the dependent children would receive the pension "on a per capita basis." The surviving spouse or legal representative of any volunteer emergency service provider may elect to take any other accidental death benefits available under the state retirement laws (except Section 100A) or the new benefit, but not both.

Also amends G.L. c. 32, §100A, regarding killed in the line of duty benefits provided by the Commonwealth. The benefit provided is a one-time \$100,000 for the family of a "deceased public safety employee" actively killed in the line of duty, a stricter eligibility standard to dying from injuries sustained in the line of duty. Under the amendment, eligible officers will now include call, volunteer, auxiliary, intermittent and reserve firefighters and emergency medical technicians not subject to workers' compensation and auxiliary, intermittent, special, part-time or reserve police officers.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT PROVIDING DEATH BENEFITS FOR SURVIVORS OF VOLUNTEER FIREFIGHTERS AND OTHER VOLUNTEER PUBLIC SAFETY PERSONNEL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide death benefits for volunteer firefighters and other volunteer public safety personnel, 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 supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006, the sum set forth in section 2 of this act is hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006. This sum shall be in addition to any amounts previously appropriated and made available for the purposes of this item.

SECTION 2. 0612-1012 For a one-time transfer from the General Fund to the Pension Fund to pay for the cost of an annuity for the family of firefighter Martin H. McNamara V, pursuant to section 3 of this act....\$650,000.

SECTION 3. The state treasurer acting through the Worcester regional retirement board shall pay from the pension fund the proceeds of the annuity funded in item 0612-1012 of section 2 of this act to Claire B. McNamara, the surviving spouse of firefighter Martin H. McNamara V, so long as she remains unmarried, an accidental death benefit allowance to consist of an annuity equal to two-thirds of the average annual salary of a first-year career firefighter in the local area. The average shall be determined by a survey of not fewer than 3 surrounding towns which are member units of the Worcester Regional Retirement System, such towns as determined by the Worcester Regional Re-

tirement System, in consultation with the public employee retirement administration commission. The annuity shall be increased by \$2,600 for each child of firefighter Martin H. McNamara V who is under 18 years of age or 22 years of age if a full-time student, or who is over 18 years of age and is physically or mentally incapacitated from earning. If there is no surviving spouse or the surviving spouse later dies, the annuity shall be paid to the eligible children or legal guardian in equal shares. If the surviving spouse marries, an annuity of \$12,000 should be made annually to each eligible child. For the purposes of this act, the words, "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located. Any annuity granted under this section shall be increased by the same percentage allowed to other retirees or their dependents.

If any unused portion of the proceeds of the annuity is to be returned to the treasurer, he shall transfer such moneys to the General Fund.

SECTION 4. Chapter 32 of the General Laws is hereby amended by inserting after section 89D, as appearing in the 2004 Official Edition, the following section:-

Section 89E. (a) Notwithstanding section 27C of chapter 29 of the General Laws or any other general or special law to the contrary, any city, town, or district that utilizes volunteer emergency service providers shall provide 1 of the following 3 accidental death benefits for the surviving spouse of a volunteer emergency service provider. If any call, volunteer, auxiliary, intermittent, or reserve firefighter, or a call, volunteer, auxiliary, intermittent, or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, while in the performance of his duties and as a result of an accident while responding to or returning from an alarm of fire or any emergency, or as the result of an accident involving a fire department vehicle, which the firefighter or emergency medical service provider is operating or in which he is riding, or while at the scene of a fire or any emergency is killed or sustains injuries which results in his death; or an auxiliary, intermittent, special, part-time, or reserve police officer who, while in the performance of his duties, and as a

result of an assault on his person, or as a result of an accident involving a police department vehicle which he is operating or in which he is riding in the performance of his duties as a police officer is killed or sustains injuries which result in his death, his surviving spouse shall be eligible for 1 of the following accidental death benefits as selected by the city, town, or district.

(1) The city, town, or district shall pay to the surviving spouse an accidental death benefit in the form of an annuity equal to at least $\frac{2}{3}$ of but not more than 100 per cent of the annual rate of regular compensation payable to a regular or permanent member of the police or fire department in the first year of service or, if the police or fire department does not have any regular or permanent members, an annuity equal to at least $\frac{2}{3}$ of but not more than 100 per cent of the annual average compensation payable to a regular or permanent firefighter, emergency medical services provider or police officer in the local area; this average to be determined by a survey of 3 surrounding cities, towns or districts, as determined by the public employee retirement administration commission. The annuity shall be increased annually by an amount equal to the percentage increase in the cost of living determination made by the general court for that year under section 102.

(2) The city, town or district shall establish an insurance policy that provides a one-time accidental death benefit of \$500,000, indexed for inflation.

(3) The city, town or district shall establish an insurance policy that provides an annuity payment of not less than $\frac{2}{3}$ of but not more than 100 per cent of the annual rate of regular compensation payable to a regular or permanent member of the police or fire department in the first year of service or, if the police or fire department does not have any regular or permanent members, the accidental death benefit to the surviving spouse shall be based on the annual average compensation payable to a regular or permanent firefighter, emergency medical services provider or police officer in the local area; such average to be determined by a survey of 3 surrounding cities, towns or districts, as determined by the public employee retirement administration commission.

(b) If there is no surviving spouse or if the surviving spouse later dies, the benefit that would have been payable under this section to the surviving spouse will be payable to the surviving minor children until they reach

the age of majority and to any adult children of the deceased volunteer emergency services provider who are physically or mentally incapacitated from earning. These payments will be on a per capita basis among any minor or incapacitated children. The benefits payable under this section are subject to judgments or orders for child support of any court of competent jurisdiction.

(c) The surviving spouse or, if there is no surviving spouse, the legal representative of any minor or disabled children shall elect the benefits provided under this section or any accidental death benefits provided by this chapter, except section 100A, to which he may be entitled. This election shall be made in writing and shall not be subject to change or revocation after the first payment of any benefit under this section.

(d) As used in this section, volunteer emergency services provider shall mean a call, volunteer, auxiliary, intermittent or reserve firefighter, or a call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, or an auxiliary, intermittent, special, part-time or reserve police officer.

(e) Nothing in this section shall preclude a city, town or district from entering into an agreement with 1 or more governmental units for the purpose of pooling resources to pay for accidental death benefits for the surviving spouse of a volunteer emergency services provider who sustains injuries or illnesses, while in the performance of his duties, which are the direct and proximate cause of his death.

SECTION 5. Section 100A of said chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "firefighter, public prosecutor, police officer or corrections officer" and inserting in place thereof the following:- deceased public safety employee.

SECTION 6. Paragraph (c) of said section 100A of said chapter 32, as so appearing, is hereby further amended by adding the following sentence:- As used in this section, the words "deceased public safety employee" shall mean any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any public prosecutor, or any corrections officer.

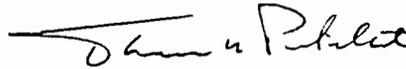
SECTION 7. Said section 100A of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 16 and 17, in lines 18 and 19, and in lines 19 and 20, the words "firefighter, public prosecutor, police officer or corrections officer" and inserting in place thereof, in each instance, the following words:- deceased public safety employee.

SECTION 8. Sections 1, 2 and 3 shall take effect upon passage of this act.

SECTION 9. The remaining sections of this act shall take effect on July 1, 2006.

House of Representatives, November 1, 2005.

Preamble adopted,



Acting Speaker.

In Senate, November 2, 2005.

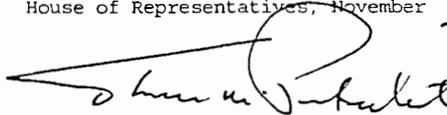
Preamble adopted,



Acting President.

House of Representatives, November 3, 2005.

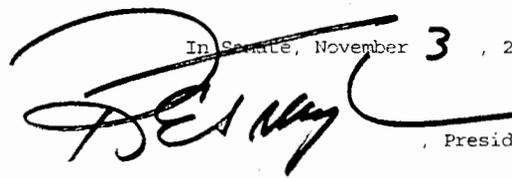
Bill passed to be enacted,



Acting Speaker.

In Senate, November 3, 2005.

Bill passed to be enacted,



President.

November 8, 2005.

Approved,

at 11 o'clock and 25 minutes, A. M.



Governor.

CHAPTER 136 - SENIOR PROPERTY TAX RELIEF

Effective November 20, 2005

Section 1 amends G.L. c. 59, §5, Clause 41A to allow cities and towns to reduce the interest rate that accrues on deferred property taxes. Under Clause 41A, seniors who meet certain income and other requirements may defer all or part of their property taxes until they pass away or sell the property. Interest at eight percent accrues on any deferred taxes.

The legislative body of each community will now be able to establish an alternative lesser interest rate as low as zero percent each year to apply to property tax deferrals. Any change in rate would have to be voted no later than July 1 of the fiscal year to which the tax relates. Therefore, fiscal year 2007 is the first year cities and towns can implement a lower rate. **Informational Guideline Release (IGR) 06-201, *Property Tax Deferral for Seniors*, issued February 2006.**

Sections 2 to 4 amend the “Circuit Breaker” senior income tax credit law, G.L. c. 62, §6(k), which is available to homeowners and renters who are 65 or older at the close of the taxable year. To qualify, taxpayers must meet certain income limits and pay more than 10 percent of their income in real estate taxes on their domiciles. Renters may qualify with 25% of their rent being considered real estate taxes. For taxpayers who own their homes, the assessed valuation of the home must also be within a certain limit. The law provides for the statutory base income and assessed valuation thresholds and the maximum credit to be adjusted annually based on increases in the cost of living as measured by the consumer price index.

Under the amendments, the base domicile valuation limit is increased to \$600,000 for state tax year 2005. In future years, the limit will now be adjusted by the annual percentage increase in the average assessed value of single-family homes statewide. The purpose is to have the valuation adjusted to keep pace with significant changes in the real estate market. The income limit and maximum credit will continue to be adjusted by the inflation rate. **Technical Information Release (TIR) 05-17 (as revised).**

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT PROVIDING SENIOR TAX RELIEF.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith tax relief for the senior population in 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 5 of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "annum", in line 1001, the following words:- or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal year to which the tax relates.

SECTION 2. Paragraph (1) of subsection (k) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Cost-of-living-adjustment" the following definition:-

"Cost-of-housing adjustment", for any calendar year, the percentage, if any, by which the average assessed value for a single-family home in the commonwealth for the preceding calendar year, as calculated by the department of revenue, exceeds the average assessed value for a single-family home in the commonwealth for calendar year 2004, as reported by the department.

SECTION 3. Said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 328, the figure "\$400,000" and inserting in place thereof the following figure:- \$600,000.

SECTION 4. Paragraph (4) of subsection (k) of said section 6 of said chapter 62, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- For a taxable year beginning on or after January 1, 2001 and before January 1, 2005, the income, valuation and credit limits in this subsection shall be increased by amounts equal to such income, valuation and credit limits multiplied by the

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cost-of-living adjustment for the calendar year in which such taxable year begins. For a taxable year beginning on or after January 1, 2005, the income and credit limits in this subsection shall be increased by amounts equal to such income and credit limits multiplied by the cost-of-living adjustment for the calendar year in which such taxable year begins, and the valuation limit in this subsection shall be increased by an amount equal to such valuation limit multiplied by the cost-of-housing adjustment for the calendar year in which such taxable year begins.

SECTION 5. The commissioner of revenue shall adopt regulations to carry out the purposes of this act.

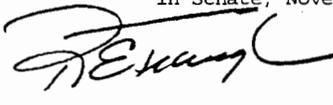
House of Representatives, November 17, 2005.

Preamble adopted,

 Acting Speaker.

In Senate, November 17, 2005.

Preamble adopted,

 President.

House of Representatives, November 17, 2005.

Bill passed to be enacted,

 Acting Speaker.

In Senate, November 17, 2005.

Bill passed to be enacted,

 President.

November 20, 2005.

Approved,

at 1 o'clock and 30 minutes, P. M.


Governor.

CHAPTER 141 - SMART GROWTH REIMBURSEMENT

Effective February 20, 2006

Adds a new Chapter 40S to the General Laws, which establishes an incentive for communities to adopt "smart growth zoning" by compensating them for additional school costs associated with smart growth developments. The calculation looks at the number of additional pupils in a smart growth development and uses the net school spending per pupil established under the Chapter 70 school financing formula to establish the added school costs for the district they attend. The costs are offset by applying the "education percentage," which is the percentage of general fund spending attributable to education (about 52%), to the additional property tax and motor vehicle excise revenues generated by the development. School costs are further offset by any additional Chapter 70 aid generated by these pupils. The reimbursement is "school revenue" under Chapter 70, which means net school spending will be increased by that amount.

The Division of Local Services will calculate the reimbursement for each community based on data reported by the Department of Education, Registry of Motor Vehicles and local assessors and include it on the annual cherry sheets. Reimbursements are subject to annual appropriation. There is no sunset provision on the reimbursements.

Chapter 41,

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT RELATIVE TO SMART GROWTH ZONING AND HOUSING PRODUCTION.

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. The General Laws are hereby amended by inserting after chapter 40R the following chapter:-

CHAPTER 40S

SMART GROWTH SCHOOL COST REIMBURSEMENT

Section 1. As used in this chapter, the following words shall have the following meanings:-

"Additional chapter 70 aid", for each municipality, an amount calculated by the department of education equal to the actual increase in chapter 70 aid payments, including, but not limited to, foundation aid increases and minimum aid increases, that is attributable to the number of each municipality's eligible students from the school district. In the case of a regional school district, the amount of additional chapter 70 aid in the region shall be apportioned among member communities proportionally based upon the number of eligible students from each member municipality. For any municipality with eligible students from more than 1 school district, additional chapter 70 aid shall be the sum of the additional chapter 70 aid at the municipal school district plus the municipality's share of additional chapter 70 aid at each district of which the municipality is a member.

"Average actual net school spending per student", for each school district, the actual net school spending per pupil, as defined by and reported to the department of education, for the immediately preceding fiscal year.

"Division", the division of local services within the department of revenue.

"Education percentage", the average across all communities in the commonwealth of total education expenditures in relation to total municipal expenditures as certified at the end of the preceding fiscal year by the department of revenue. This percentage shall be the total actual net school spending of

all districts as defined by the department of education divided by the sum of total General Fund municipal spending and regional school district aid.

"Eligible student", a child living in a new smart growth development that is enrolled as of the prior year in a district or charter school in kindergarten through grade 12, attends a residential or other school pursuant to special education requirements, attends pre-kindergarten or post 12th grade sessions pursuant to special education requirements, or attends a school district through the so-called school choice program, established under section 12B of chapter 76, or a similar program.

"Local smart growth excise tax revenues", for each municipality the total excise taxes for the subject year on vehicles garaged at a new smart growth development, as calculated by the division.

"Local smart growth property tax revenues", for each municipality, the product of the local levy rate times the amount of assessed valuation due to new smart growth development as certified by the commissioner of revenue, as calculated by the division.

"Local smart growth revenues for education", for each municipality, the product of the education percentage times the sum of local smart growth property tax revenues plus local smart growth excise tax revenues, each for the preceding fiscal year.

"New smart growth development", any new residential or commercial development, including the substantial redevelopment of existing properties, subject to the payment of local property taxes that: (a) occurs in a smart growth zoning district after the adoption of such zoning by the community, and (b) is permitted under the provisions of the smart growth zoning district. A redevelopment shall be considered substantial if its cost exceeds 50 per cent of the building's pre-renovation assessed value or if it constitutes a change in use from nonresidential to residential.

"Smart growth zoning district", a zoning district adopted by a community and approved by the department of housing and community development which is eligible, and which remains eligible for density bonus payments under chapter 40R.

"Total education cost for eligible students", for each municipality, the product of the total number of eligible students in the prior fiscal year times the average actual net school spending per student as calculated by the department of education. This calculation shall first be made separately for

each school district attended by eligible students, and the results of such calculations shall then be summed.

Section 2. Subject to appropriation, for each fiscal year commencing with fiscal year 2008, any city or town that has established 1 or more smart growth zoning districts shall receive smart growth school cost reimbursement from the commonwealth. This reimbursement shall be equal to the positive difference, if any, between: (i) total education cost for eligible students, and (ii) the sum of local smart growth revenues for education plus additional chapter 70 aid. The department of education shall add the smart growth school cost reimbursement amounts to each district's required net school spending, as defined in chapter 70. For purposes of the net school spending calculation, the department shall allocate a municipality's smart growth school cost reimbursement among the districts to which it belongs in proportion to the number of eligible students from the municipality attending each district.

Section 3. (a) Upon certifying and approving a zoning district as a smart growth zoning district under chapter 40R, the department of housing and community development shall provide a list of all addresses of new smart growth development within each smart growth zoning district, in this chapter called the smart growth address list, to the municipality, the department of education, the division of local services within the department of revenue, and the registry of motor vehicles.

(b) The chief executive officer of every municipality with a smart growth zoning district shall appoint a smart growth reporting officer who shall be responsible for collecting all relevant data and transmitting it to the appropriate state agencies in a timely fashion. The reporting officer shall transmit the smart growth address list to the superintendent of schools of the municipal school district and to the superintendent of each district or charter school in which local residents were enrolled as of October 1. Superintendents shall provide to the reporting officer a list of each eligible student from the school. The reporting officer shall compile these data into a single list of eligible students, in this chapter called the eligible student list, including the name, address and school district of each eligible student, and transmit the eligible student list to the department of education. The reports and list shall be made in a manner and form to be prescribed by the commissioner of education.

(c) Upon receipt of the eligible student list, the department of education shall certify that all students listed are living in new smart growth development within a smart growth zoning district. Upon such certification, the department shall calculate the additional chapter 70 aid amount, and the total education cost for eligible students and shall transmit the calculation to the division of local services and to the municipal reporting officer.

(d) The reporting officer shall provide the smart growth address list to the municipality's assessors, who shall be responsible for providing the reporting officer with a compilation of all commercial and residential development comprising new smart growth development in the smart growth zoning district and all vehicles garaged therein. Said compilation shall contain the addresses of each parcel within the zoning district, the classification code for each parcel, the assessed value of the parcel, the number of units at each address, the number of vehicles garaged at each address, and the excise tax paid on each vehicle. The reporting officer shall transmit the assessors' list to the registry of motor vehicles and the division of local services. The reports and lists required by this paragraph shall be made in manner and form to be prescribed by the commissioner of revenue.

(e) Upon receipt of the assessors' list, the registrar of motor vehicles shall verify the number of vehicles and the excise tax paid on these vehicles and provide that verification to the division of local services. The division shall use these lists to calculate local smart growth excise tax revenues, local smart growth property tax revenues, and local smart growth revenues for education.

(f) Upon receipt of all data and calculations required by this section, the division of local services shall calculate the smart growth school cost reimbursement pursuant to section 2. Subject to appropriation, the commissioner of revenue shall make a single payment to each municipality for the amount of its smart growth school cost reimbursement; but if the appropriation is insufficient to fully fund the cost of the reimbursement, the division shall calculate the percentage of each municipality's reimbursement as a share of the statewide reimbursement, and pro-rate each municipality's reimbursement proportionally.

(g) The commissioner of revenue, in consultation with the commissioner of education, the director of housing and community development, and the regis-

S 2237

trar of motor vehicles, shall adopt all regulations necessary to carry out this chapter.

Section 4. The commissioners of revenue and education, the director of housing and community development and the registrar of motor vehicles shall annually report on the cost and effectiveness of the reimbursement program. This report shall include, but not be limited to, the number of municipalities which have adopted the provisions of chapters 40R and 40S, the number of smart growth zoning districts in the commonwealth, the number of eligible students per municipality, the number of municipalities receiving the smart growth school cost reimbursement, and the total reimbursement and per pupil reimbursement provided to each municipality. They shall provide the report to the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on housing, the house and senate chairs of the joint committee on community development and small business, the house and senate chairs of the joint committee on education, and the secretary of administration and finance.

SECTION 2. Section 367 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 3. Notwithstanding any general or special law to the contrary, the smart growth school cost reimbursement required by chapter 40S of the General Laws, shall be included as local aid on the cherry sheets distributed by the division of local services. For fiscal year 2008, the division shall include such calculations as an amendment to the initial cherry sheets. For fiscal year 2009 and after, the division shall include on the cherry sheets an estimated reimbursement amount based on the previous year's reimbursement, and provide updated reimbursement figures upon completion of the required calculations.

SECTION 4. Notwithstanding any general or special law to the contrary, the initial regulations required by section 3 of chapter 40S of the General Laws shall be adopted no later than 150 days after the effective date of this act.

House of Representatives, November 17, 2005.

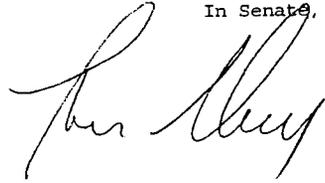
Passed to be enacted,



Acting
Speaker.

In Senate, November 17, 2005.

Passed to be enacted,



Acting
President.

November 2nd, 2005.

Approved, at 5:00 PM



Governor.

CHAPTER 143 - CHANGE IN RETIREMENT OPTION SELECTION

Effective February 10, 2006

Amends G.L. c. 32, §12 by adding a new paragraph (4), which allows retirees who chose Option A or Option B retirement benefits between July 1, 2004 and December 27, 2004, or the surviving spouses of those retirees, to choose Option B or Option C no later than July 1, 2006. **See Public Employee Retirement Administration Commission (PERAC) Memorandum No. 2-2006.**

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT RELATIVE TO THE MORTALITY TABLE FOR PUBLIC EMPLOYEES.

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

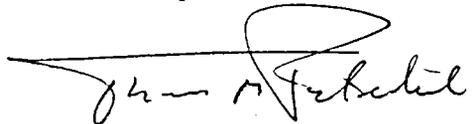
SECTION 1. Section 12 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following subdivision:-

(4) Any person who retired under chapter 32 between July 1, 2004 and December 27, 2004, inclusive, or the surviving spouse of any such person who is deceased, who elected Option (a) or Option (b) of subdivision (2) may change such selection to Option (b) or Option (c) of said subdivision (2). In paying the retirement allowance under the new election, the board may 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; provided, however, that any lump sum distribution paid under Option (b) shall be repaid to the retirement system in 1 lump sum on terms and conditions as the board may prescribe. The change of election under this subdivision shall be made on or before July 1, 2006, and shall be retroactive to the date of retirement. The one time election to change retirement options under this subdivision shall be in a manner prescribed by the retirement board, provided, however, that the retirement board shall have 180 days after the submission of an application to change the retirement option filed under this subdivision to implement said change.

SECTION 2. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall review the combined table of mortality and select a new table of mortality on or before January 1, 2014 and thereafter every 10 years.

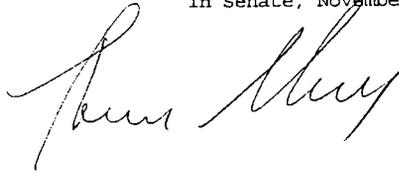
House of Representatives, November , 2005.

Passed to be enacted,

 - Acting Speaker.

In Senate, November 17, 2005.

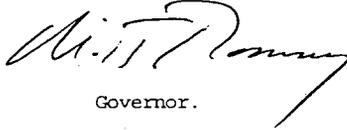
Passed to be enacted,



Acting
President.

November 22, 2005.

Approved, at 5:02 PM



Governor.

CHAPTER 157 - DISABILITY RETIREMENT FOR VETERANS

Effective November 23, 2005

Amends G.L. c. 32, §7(2) by adding a new paragraph (e), which provides a local option that allows municipal retirement boards with the approval of the local legislative body to increase prospectively the pensions of veterans who retired due to an accidental disability. The benefit may be increased by 15 dollars for each year of creditable service, up to a maximum increase in the veteran's annual retirement allowance of 300 dollars. There is also a separate local option that will allow the increase to be retroactive to the date the veteran retired. **See PERAC Memorandum No. 36-2005.**

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT RELATIVE TO DISABILITY RETIREMENT BENEFITS FOR VETERANS.

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. Subdivision (2) of section 7 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

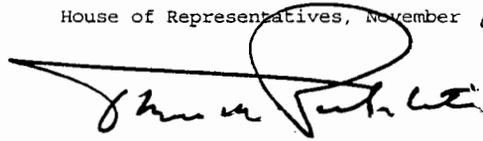
(e) Any member of Group 1 or Group 2 or Group 4, who is a veteran as defined in section 1, shall receive an additional yearly retirement allowance of \$15 for each year of creditable service or fraction thereof, but the total amount of this additional yearly retirement allowance shall not exceed \$300. This paragraph shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, 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 county the county retirement board advisory council, in the case of a district the district members, in the case of an authority the governing body and in the case of a regional retirement system, the regional retirement board advisory council.

SECTION 2. An additional yearly retirement allowance which would have been payable under section 1 of this act, if that provision had been in effect and for which a member in service would have been eligible at the time of the member's retirement, shall be paid retroactively to the date of each such veteran's retirement. A veteran shall be eligible for payment of a retroactive additional yearly retirement allowance under this section only upon filing an application no later than 120 days after the effective date of this act, in a form that the appropriate retirement board, as defined in chapter 32 of the General Laws, shall prescribe. Payment under this section shall be made in a lump sum or in installments and shall be made in full within 1 year of the receipt of a completed and satisfactory application by the board. No payment shall be made under this act with respect to a person who is deceased.

The appropriate retirement board shall provide reasonable notice to eligible retirees about the application process prescribed by this section. This section shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, 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 county, the county retirement board advisory council, in the case of a district, the district members, in the case of an authority, the governing body and in the case of a regional retirement system, the regional retirement board advisory council.

House of Representatives, November 16, 2005.

Passed to be enacted,

 Acting Speaker.

In Senate, November 16, 2005.

Passed to be enacted,

 Acting President.

November 22, 2005.

Approved, at 5:16 PM


Governor.



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

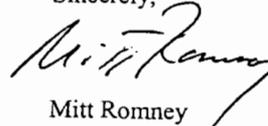
MITT ROMNEY
GOVERNOR
KERRY HEALEY
LIEUTENANT GOVERNOR

November 23, 2005

Honorable William F. Galvin
Secretary of the Commonwealth
State House, Room 340
Boston, Massachusetts 02133

Dear Secretary Galvin:

Pursuant to the provisions of Article XLVIII of the Amendments to the Constitution of the Commonwealth of Massachusetts, Emergency Measures, I hereby declare that, in my opinion, the immediate preservation of the public peace, health, safety or convenience requires that the attached Act, Chapter 157 of the Acts of 2005, entitled, "An Act Relative to Disability Retirement Benefits for Veterans," the enactment of which received my approval on November 22, 2005, should take effect forthwith to provide immediate retirement benefits to veterans.

Sincerely,

Mitt Romney
Governor

SECRETARY OF THE COMMONWEALTH Boston, Massachusetts November 23, 2005

I, William Francis Galvin, Secretary of the Commonwealth, hereby certify that the accompanying statement was filed in this office by His Excellency, the Governor of Massachusetts at twelve o'clock and five minutes P.M. on the above date, and in accordance with Article Forty-eight of the Amendments to the Constitution said Chapter takes effect forthwith, being Chapter one hundred fifty-seven of the Acts of two thousand five.



William Francis Galvin
Secretary of the Commonwealth

2006 LEGISLATION

CHAPTER 38 - COMMUNITY PRESERVATION FUND

Effective June 13, 2006

Amends the Community Preservation Act (CPA), G.L. c. 44B, which is a local acceptance statute that establishes a special fund with dedicated revenues to enable communities to expand or preserve their open space, historic, recreational and affordable housing assets. Specifically, it expands the definition of the term “historic resources” in G.L. c. 44B, §2 to include documents and artifacts. As a result, communities that adopt the act may now use CPA monies to acquire, preserve, rehabilitate or restore historic documents or artifacts, as well as historic buildings, vessels and real property. G.L. c. 44B, §5(b)(2).

Chapter 38

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT EXPANDING THE USE OF COMMUNITY PRESERVATION FUNDS.

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

Section 2 of chapter 44B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the words "or real property", in line 23, and inserting in place thereof the following words:- real property, document or artifact.

House of Representatives, March 6, 2006.

Passed to be enacted,

[Signature] - Acting Speaker.

In Senate, March 8, 2006.

Passed to be enacted,

[Signature], President.

March 15, 2006.

Approved, at 11:36 AM

[Signature]
Governor.

CHAPTER 55 - ACCIDENTAL DEATH BENEFITS FOR SURVIVING CHILDREN

Effective July 5, 2006

Amends the public employee retirement law to increase the base rate and establish a cost of living adjustment (COLA) in benefits currently provided to surviving minor, disabled and full-time student children (under age 22) of deceased employees who died while in the scope of their employment. Adds two subsections to G.L. c. 32, §9(2)(d), the first of which mandates the new additional base rate and COLA for the state and teachers' retirement systems. The second subsection allows other retirement systems the local option of adopting the increase and COLA. In both cases the base rate would be increased from \$312 per dependent to \$629.64 and the COLA would be based on the annual percentage COLA adopted by the Legislature and applicable to retirement benefits provided to retirees and their surviving spouses and dependents under G.L. c. 32, §102.

Local acceptance is by the local retirement board with the approval of the chief executive and legislative body as further defined in G.L. c. 32, §22(8)(C). Local acceptance is also further limited to those systems that had accepted the COLA for accidental disability supplemental benefits to such children.

See technical amendment made by St. 2006, c. 64 §3.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT INCREASING THE ACCIDENTAL DEATH BENEFIT PAYABLE TO SURVIVING CHILDREN.

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

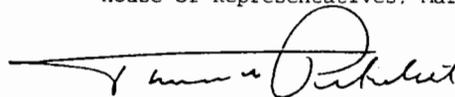
Paragraph (d) of subdivision (2) of section 9 of chapter 32 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following 2 clauses:-

(i) In the state employees' and teachers' retirement systems, the additional pension shall be fixed at a rate equal to the additional pension determined by the actuary under clause (iii) of paragraph (a) of subdivision (2) of section 7 and shall be increased by an amount equal to the percentage increase of the cost-of-living increase determination made by the general court for each year under section 102.

(ii) Any system which has adopted the supplemental dependent allowance under clause (iii) of paragraph (a) of subdivision (2) of section 7, may accept the provisions of this clause by an affirmative vote of the retirement board, ratified by the chief executive officer and legislative body as defined in paragraph (c) of subdivision (8) of section 22, and the additional pension shall be fixed at a rate equal to the additional pension determined by the actuary under said clause (iii) of said paragraph (a) of said subdivision (2) of said section 7 and shall be increased by an amount equal to the percentage increase of the cost-of-living increase determination made by the general court for each year under section 102. Any increased benefits provided by the acceptance of this clause shall be paid from the date of acceptance and shall not be paid retroactively. Acceptance of this clause may not be revoked. Acceptance of this clause shall be considered to have occurred upon the filing of certification of this vote with the commission.

House of Representatives, March 22, 2006.

Passed to be enacted,



Acting Speaker.

In Senate, March 31, 2006.

Passed to be enacted,



Acting
President.

April 6, 2006.

Approved, at 5:20 PM



Governor.

CHAPTER 64 - FISCAL YEAR 2006 SUPPLEMENTAL BUDGET

Effective April 14, 2006

§3. Accidental Death Benefits for Surviving Children. Makes a technical amendment to G.L. c. 32, §9(2)(d) providing for expanded benefits for surviving minor, disabled and full-time student children (under age 22) of deceased employees who died while in the scope of their employment. See St. 2006, c. 55. For local retirement systems, the benefits are subject to local acceptance by the local retirement board with the approval of the chief executive and legislative body. The amendment provides that in a regional retirement system, the chief executive and legislative body means the regional retirement board advisory council.

Chapter 64

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2006 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations for the fiscal year beginning July 1, 2005, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate these appropriations or for other important public purposes, 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 supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

SECTION 2.

JUDICIARY

Supreme Judicial Court

0321-0001 \$14,600

Trial Court

0330-0300 \$5,934,801

DISTRICT ATTORNEYS

Worcester District Attorney

0340-0400 \$200,000

Hampden District Attorney

0340-0500 \$120,000

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1599-4052	\$40,000
1599-4054	\$20,000
1599-4059	\$20,000
1599-4167	\$290,608
1599-4168	\$67,957
1599-4169	\$2,113,345
1599-4170	\$143,051
1599-4171	\$339,034
1599-4172	\$4,150,000
1599-4173	\$1,123,032
1599-4174	\$33,193
1599-4175	\$44,090

WORKFORCE DEVELOPMENT

Department of Labor and Workforce Development

7003-0701	\$20,000,000
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EXECUTIVE OFFICE OF PUBLIC SAFETY

Department of State Police

8100-0515	\$1,800,000
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SECTION 2D. The amounts set forth in this section are hereby appropriated from the General Federal Grants Fund. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with section 6B of chapter 29 of the General Laws.

EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY

Sheriffs

8910-1118	For the purposes of a federally funded grant, entitled BJA Congressionally Mandated Award	\$98,664
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SECTION 3. Clause (ii) of paragraph (d) of subdivision (2) of section 9 of chapter 32 of the General Laws, added by chapter 55 of the acts of 2006, is hereby amended by inserting after the words "section 22" the following words:- but, in a regional retirement system, the "chief executive officer and legislative body" shall mean the regional retirement board advisory council,.

SECTION 4. Section 6 of chapter 119A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 85, the word "six" and inserting in place thereof the following figure:- 10.

SECTION 5. Section 1A of chapter 188 of the General Laws, as so appearing, is hereby amended by striking out, in line 28, the figure "\$300,000" and inserting in place thereof the following figure:- \$500,000.

revenues authorized to be retained in this item during fiscal year 2006. \$17,500,000

SECTION 9. The last sentence of section 12 of chapter 130 of the acts of 2005 is hereby amended by striking out the words "April 1, 2006" and inserting in place thereof the following words:- May 15, 2006.

SECTION 10. The first sentence of the third paragraph of chapter 1 of the resolves of 2006 is hereby amended by striking out the words "June 30, 2006" and inserting in place thereof the following words:- October 30, 2006.

SECTION 11. Section 119 of chapter 58 of the acts of 2006 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The transfers shall not begin before July 1, 2006, and shall be completed on or before June 30, 2007.

SECTION 12. Section 120 of said chapter 58 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The transfers shall not begin before October 1, 2006, and shall be completed on or before June 30, 2007.

SECTION 13. Notwithstanding subsection (nn) of section 89 of chapter 71 of the General Laws or any other general or special law to the contrary, the per pupil capital needs component of the commonwealth charter school tuition rate for fiscal year 2006 shall be \$776.

SECTION 14. Section 4 shall take effect as of December 8, 2005.

SECTION 15. Section 5 shall take effect as of October 26, 2004.

SECTION 16. Section 6 shall take effect as of January 4, 2006.

House of Representatives, April 13, 2006.

Preamble adopted,



Acting Speaker.

In Senate, April 13, 2006.

Preamble adopted,



Acting President.

House of Representatives, April 13, 2006.

Bill passed to be enacted,



Acting Speaker.

In Senate, April 13, 2006.

Bill passed to be enacted,



Acting President.

April 14, 2006.

Approved,

at 1 o'clock and 39 minutes, P. M.

Stephen M. Healey
Acting Governor.

CHAPTER 77 - APPROPRIATION TRANSFERS

Effective May 4, 2006

Amends G.L. c. 44, §33B, which governs appropriation transfers in cities and towns, It codifies temporary provisions of the Municipal Relief Act that gave cities and towns greater flexibility to make end of year budget transfers and avoid appropriation deficits. St. 2003, c. 46 §123. Those provisions applied for fiscal years 2004 and 2005 only. Under the new provisions, end of year budget transfers may be made by the selectmen, with the approval of the finance committee. In cities, the end of year transfers are still made by the city council upon the recommendation of the mayor, but any transfers from one department to another only require a majority vote of the council and no prior approval by the department from which the monies are being transferred. The alternative year-end transfer procedures apply for the last two months of the fiscal year, *i.e.*, May and June, and the first 15 days of July, which is the statutory period for closing the municipality's financial records for the fiscal year. G.L. c. 44, §§56 and 56A. **IGR 06-209, *Appropriation Transfers*, issued May 2006.**

Chapter 77

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT FURTHER REGULATING MUNICIPAL TRANSFERS OF APPROPRIATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate forthwith municipal transfers of appropriations, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Chapter 44 of the General Laws is hereby amended by striking out section 33B, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

Section 33B. (a) On recommendation of the mayor, the city council may, by majority vote, transfer any amount appropriated for the use of any department to another appropriation for the same department. In addition, the city council may, by majority vote, on recommendation of the mayor, transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year, an amount appropriated for the use of any department other than a municipal light department or a school department to the appropriation for any other department, but the amount transferred from 1 department to another may not exceed, in the aggregate, 3 per cent of the annual budget of the department from which the transfer is made. Except as provided in the preceding sentence, no transfer shall be made of any amount appropriated for the use of any city department to the appropriation for any other department except by a 2/3 vote of the city council on recommendation of the mayor and with the written approval of the amount of the transfer by the department having control of the appropriation from which the transfer is proposed to be made. No transfer involving a municipal light department or a school department shall be made under the previous sentence without the approval of the amount of the transfer by a vote of the municipal light department board or by a vote of the school committee, respectively.

(b) A town may, by majority vote at any meeting duly held, transfer any amount previously appropriated to any other use authorized by law. Alternatively, the selectmen, with the concurrence of the finance committee or other entity establish under section 16 of chapter 39, may

transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year, any amount appropriated for the use of any department other than a municipal light department or a school department to the appropriation for any other department or within a department, but the amount transferred from 1 department to another or within a department may not exceed, in the aggregate, 3 per cent of the annual budget of the department from or within which the transfer is made or \$5,000, whichever is greater.

(c) No approval other than that expressly provided in this section shall be required for any transfer under this section.

House of Representatives, April 27, 2006.

Preamble adopted, *Robert Carver*, Acting Speaker.

In Senate, April 27, 2006.

Preamble adopted, *Stan Rosenberg*, Acting President.

House of Representatives, April 27, 2006.

Bill passed to be enacted, *Robert Carver*, Acting Speaker.

In Senate, April , 2006.

Bill passed to be enacted, *Stan Rosenberg*, Acting President.

May 4, 2006.

Approved,

at *3* o'clock and *05* minutes, *P*. M.

W. H. Romney
Governor.

CHAPTER 79 - MUNICIPAL BOARD MEETINGS

Effective August 10, 2006

Adds a new local acceptance section to the general laws, G.L. c. 39, §23D, regarding the attendance of members of municipal boards at adjudicatory hearings. Under paragraph (a) of the new section, upon acceptance for one or more types of adjudicatory hearings, no member of a municipal board, committee or commission conducting such a hearing will be disqualified from voting on the matter solely because he or she was absent from no more than one session at which testimony or evidence was submitted, provided the member certifies in writing before the vote that he or she has examined all of the evidence submitted at the missed session. This could include listening to an audiotape, watching a videotape, or reading a transcript of the session. The written certification must be made part of the record of the hearing. These provisions do not change otherwise applicable quorum requirements. Paragraph (b) of the new section provides that a city or town may adopt by by-law or ordinance minimum additional requirements for the attendance of members of a board, committee or commission at these hearings.

Chapter 79,

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT FURTHER REGULATING MEETINGS OF MUNICIPAL BOARDS.

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

Chapter 39 of the General Laws is hereby amended by inserting after section 23C the following section:-

Section 23D. (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

House of Representatives, May 4, 2006.

Passed to be re-enacted,

Linda E. Jackson, Acting Speaker.

In Senate, May ~~MAY~~ 4, 2006.

Passed to be re-enacted,

Robert A. ..., Acting President.

May 12, 2006.

Approved, at 11:32 PM

Mitt Romney, Governor.

CHAPTER 90 - SCHOOL EMPLOYEE HEALTH INSURANCE

Effective May 19, 2006

Amends G.L. c. 32B, §2 to extend eligibility for local government group health insurance plans during the months of July and August to all public school employees who are not actually employed during those months, provided their shares of the premiums are deducted from compensation paid for services rendered during the previous school year. Previously, the statute provided that teachers would be deemed to be employees during the summer months for health insurance purposes. This amendment extends the same benefit to all public school employees, such as cafeteria workers and custodians, who are not actually working during July and August.

Chapter 90

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT EXTENDING ELIGIBILITY FOR HEALTH INSURANCE FOR SCHOOL EMPLOYEES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith health insurance for certain school employees, 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 2 of chapter 32B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "Teachers", in line 56, the following words: and all other public school employees.

House of Representatives, May 17, 2006.

Preamble adopted,

[Signature] Acting Speaker.

In Senate, May 18, 2006.

Preamble adopted,

[Signature] Acting President.

House of Representatives, May 18, 2006.

Bill passed to be enacted,

[Signature] Acting Speaker.

In Senate, May 18, 2006.

Bill passed to be enacted,

[Signature] Acting President.

May 19, 2006.

Approved,

at 4 o'clock and 20 minutes, P. M.

[Signature] Governor.

CHAPTER 109 - AFFORDABLE HOUSING TRUSTS

Effective June 13, 2006

Makes several mostly technical amendments to G.L. c. 44, §55C, which authorizes cities and towns to establish affordable housing trusts. It now provides that acceptance of the statute is by majority vote of the municipal legislative body under G.L. c. 4, §4. Currently, acceptance in towns is limited to a vote of the annual town meeting. It also clarifies that if the chief executive officer of a municipality is a multi-member body, only one designee of that body need be a trustee of the trust. The current law requires that the chief executive be a member of the trustees, which means that in most towns the entire board of selectmen would have been trustees. The board of selectmen may now also appoint a town manager or administrator as a member or chairman of the board of trustees, with or without voting powers. Previously, the statute did not allow the appointing authority to designate the chairman, or to appoint non-voting members.

The amendments also clarify that a municipality can by bylaw or ordinance limit the trustee powers expressly enumerated in the statute, and may similarly grant the trustees additional powers consistent with G.L. c. 44, §55C. Previously, it was uncertain how or even whether municipalities could further define or limit the trustees' powers.

The trustee's power to accept property and money now expressly includes the power to accept grants of community preservation funds. G.L. c. 44B. Previously, the statute contained a provision that appeared to authorize the community preservation committee to spend any money appropriated from the community preservation fund into the affordable housing trust. The section was ambiguous because G.L. c. 44B does not authorize the community preservation committee to spend money generally and it would have created concurrent spending authority in the trustees of the affordable housing trust and the community preservation committee.

Finally, a technical amendment was made to correct an erroneous reference to the conflict of interest law, G.L. c. 268A, rather than the torts claims act, G.L. c. 258. As a result, the trust rather than the city or town is the public employer for purposes of the tort claims act. This would generally shield municipalities from liability for tortuous actions of employees of affordable housing trusts.

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the Year Two Thousand and Six

AN ACT FURTHER REGULATING MUNICIPAL AFFORDABLE HOUSING TRUST FUNDS.

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. Subsection (a) of section 55C of chapter 44 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

SECTION 2. Said section 55C of said chapter 44, as so appearing, is hereby further amended by inserting after the word "town", in line 12, the following words:- , but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board.

SECTION 3. Subsection (b) of said section 55C of said chapter 44, as so appearing, is hereby amended by adding the following sentence:- Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

SECTION 4. Said section 55C of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 19 and 20, the words "may include, but not be limited to, the following" and inserting in place thereof the following words:- shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section.

SECTION 5. Subsection (c) of said section 55C of said chapter 44, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B.

SECTION 6. Said section 55C of said chapter 44, as so appearing, is hereby further amended by striking out the figure "268A", in line 86, and inserting in place thereof the following figure:- 258.

House of Representatives, June 5, 2006.

Passed to be enacted,



Acting
Speaker.

In Senate, June 7, 2006.

Passed to be enacted,



President.

June 13, 2006.

Approved, at 12:15 PM



Governor.

CHAPTER 122 – FISCAL YEAR 2006 SUPPLEMENTAL STATE BUDGET

Effective June 24, 2006

§18. Bond Premiums. Amends G.L. c. 44, §20 to exempt communities that received bond premiums on or before July 31, 2003 from the requirement of that statute to adjust any Proposition 2½ debt exclusion for the borrowing to reflect the true interest cost. (*Legislature overrode Governor's veto of Section 18*).

§§19 and 20. Notice of Overdue Taxes and Charges. Gives cities and towns until fiscal year 2008 to include a notice of past due municipal taxes and charges on their property tax bills.

Chapter 122

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2006 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith appropriations for the fiscal year beginning July 1, 2005, and to make certain changes in law, 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 supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts and subject to laws regulating the disbursement of public funds. Notwithstanding any general or special law to the contrary, appropriations made in this act shall not revert and shall be available for expenditure until June 30, 2007. The sums in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

JUDICIARY.

Trial Court.

0330-0410 \$83,000

Hampden County District Attorney.

0340-0500 \$680,410

SECRETARY OF THE COMMONWEALTH.

0521-0000 \$67,465

0540-2000 \$42,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

1108-1011 \$35,076

1232-0100 \$5,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

SECTION 16. Chapter 32 of the General Laws is hereby amended by striking out section 90C3/4, as so appearing, and inserting in place thereof the following section:

Section 90C3/4. A former state or metropolitan district police officer, retired before July 1, 1992, who has been retired under this chapter or similar provision or earlier law on account of superannuation after having served in the state or metropolitan district police force for a period of not less than 20 years shall have his retirement allowance increased to an amount not exceeding one-half the rate of regular compensation payable to state police officers holding similar positions, at the time of increasing the allowance, in the comparable grade or classification occupied by the former officer at the time of his retirement.

SECTION 17. Section 17 of chapter 37 of the General Laws is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The salaries of the sheriffs of the counties of Barnstable, Bristol, Norfolk, Plymouth and Suffolk and of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex and Worcester shall be a sum equivalent to 95 per cent of the salary of an associate justice of the superior court. The salaries of the sheriffs of the counties of Dukes County and Nantucket shall be a sum equivalent to 75 per cent of the salary of an associate justice of the superior court.

SECTION 18. Section 20 of chapter 44 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The provisions of the preceding 2 sentences shall not apply to bond premiums received on or before July 31, 2003.

SECTION 19. Section 57 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A real estate tax bill sent out for fiscal year 2008 or any subsequent period pursuant to this section shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charge which may constitute a lien is overdue more than 90 days.

SECTION 20. The seventh paragraph of section 57C of said chapter 59, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- A real estate tax bill sent out for fiscal year 2008 or any subsequent period pursuant to this section shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charge which may constitute a lien is overdue more than 90 days.

House of Representatives, June 15, 2006.

Preamble adopted,

Ther A. Goldsp Acting Speaker.

In Senate, June 15, 2006.

Preamble adopted,

R. E. Sawyer President.

House of Representatives, June 15, 2006.

Bill passed to be enacted,

Robert Conner Acting Speaker.

In Senate, June 15, 2006.

Bill passed to be enacted,

R. E. Sawyer Acting President.

I hereby disapprove the following items:

Section 2

- 0330-0410
- 2000-0100
- 2200-0100
- 2310-0200
- 4000-0112
- 7003-0702
- 7004-0099
- 7007-0900
- 7007-1000
- 7061-9404
- 8700-0001
- 8900-0001

Section 2A

- 0330-0318
- 1100-1560
- 1599-1110
- 1599-7800
- 1599-7900
- 2511-2000
- 4000-0265
- 7035-0123
- 7100-0400
- 7100-0550
- 7509-1000
- 7515-0122

Section 2E

- 7116-0102
- 7509-0102
- 8000-0051

Sections 14, 16, 17, 18, 37, 39, 40, 43, 45, 46, 47, 48, 49, 74, 79, 82, 83, 86, 88, 90, 104, 106, 110, 111, 113, 114, 120, 121, 128, 131, 132, 141, 143, 145, and 146.

I hereby reduce the following items in Section 2 to the following amounts:

Section 2	Reduce By	Reduce To
2030-1000	347,000	50,000
2330-0100	60,000	280,000
2800-0200	2,500,000	250,000
4512-0200	8,249,990	11,850,010
8000-0000	280,000	589,000

I hereby reduce the following items in Section 2E to the following amounts, and disapprove the wording as indicated:

Section 2E	Reduce By	Reduce To	Wording Stricken
2800-0108	3,420,000	7,530,000	" ; provided, that \$50,000 shall be expended for Apponagansett bay in the town of Dartmouth" and " ; provided further, that \$300,000 shall be expended for improvements to Ambrose park in the city of Revere" and " ; provided further, that \$350,000 shall be expended for the Kernwood marina in the city of Salem; provided further, that \$50,000 shall be expended for a feasibility study to extend the Ashuwillticook bike trail from its ending point at the Pittsfield-Lanesborough line for an additional 2 miles into the city of Pittsfield" and " ; provided further, that \$100,000 shall be expended for the restoration of Merrymount park in the city of Quincy" and " ; provided further, that \$300,000 shall be expended for improvements to Frederick's park in the city of Revere" and " ; provided further, that \$20,000 shall be expended for improvements to Warren Manning park in the town of Billerica" and " ; provided further, that \$100,000 shall be expended for improvements to the Vietnam Veterans park in the town of Billerica; provided further, that \$40,000 shall be expended to rehabilitate Havey beach reservation in West Roxbury; provided further, that not less than \$85,000 shall be expended for reconstruction of a boat launching ramp at Magansett harbor in North Falmouth" and " ; provided further that \$250,000 be expended for the athletic fields in the town of Saugus, including a track located on Dow street in the town of Saugus; provided further, that \$25,000 shall be expended for the Indian Lake Watershed Association" and " ; provided further, that \$100,000 shall be expended for improvements to the William A. Meaney playground in Dorchester" and " ; provided further, that \$30,000 shall be expended for improvements to Tercentennial park in the town of Framingham"

CHAPTER 123 - ECONOMIC STIMULUS

Effective June 24, 2006

§§35 and 48. Manufacturing Workforce Training Tax Increment Financing Exemption (MWF-TIF). Section 35 adds a new §60A to G.L. c. 40, creating a new tax increment financing exemption to promote manufacturing workforce training and the growth of pre-existing manufacturing facilities (MWT-TIF). The new TIF is modeled on G.L. c. 40, §§59 and 60, which provide for similar TIF exemptions to promote general economic development and affordable housing. The new exemption works the same way as the existing TIF exemptions. The community exempts some percentage up to 100% of the increased value of the property, after adjusting for inflation, from local property taxes for up to 20 years. TIF plans and agreements for new MWT-TIF exemptions require the approval of the state Economic Assistance Coordinating Council (EACC), which approves economic development TIFs under G.L. c. 40, §59. Section 48 amends Clause 51 of G.L. c. 59, §5, which provides the property tax exemption for economic development TIF parcels, to include the MWT-TIF as well. (*Legislature overrode Governor's veto of Section 35*).

§§42, 43, 44, 45, 46 and 47. Research and Development Corporations. Amend G.L. c. 59, §5, Clause 16(3) and (5) and Clause 16A, to create a local option personal property tax exemption for research and development (R & D) corporations and specially defined limited liability companies (LLCs) otherwise engaged in research and development that effectively treats them as manufacturing corporations for local property tax exemption purposes.

Chapter 123

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT RELATIVE TO ECONOMIC INVESTMENTS IN THE COMMONWEALTH TO PROMOTE JOB CREATION, ECONOMIC STABILITY, AND COMPETITIVENESS IN THE MASSACHUSETTS ECONOMY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for economic investments in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and 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 supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006 for the purpose of funding one-time costs for certain capital spending, public investment, and bonded debt of the commonwealth, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those other appropriation acts, for the several purposes and subject to the conditions specified in this act or in those other appropriation acts and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2006; provided, that notwithstanding any general or special law to the contrary, appropriations made herein shall not revert and shall be available for expenditure until June 30, 2007. The sums in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office on Disabilities and Community Services.

4120-2000 \$500,000

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT.

Department of Workforce Development.

7002-0100 \$500,000

7003-0702 \$500,000

Department of Housing and Community Development.

7004-0099 \$75,000

Department of Business and Technology.

7007-0900 \$6,290,000

SECTION 35. Chapter 40 of the General Laws is hereby amended by inserting after section 60 the following section:

Section 60A. (a) Notwithstanding any general or special law to the contrary, a city or town, by vote of its town meeting, town council or city council, with the approval of the mayor where required by law, on its own behalf or in conjunction with 1 or more cities or towns and pursuant to regulations issued by the director of workforce development and in consultation with the department of economic development, may adopt and implement a manufacturing workforce training tax increment financing plan, referred to as a MWT-TIF plan in this section, intended to encourage increased commercial growth of manufacturing facilities that have been located in such city or town for not less than 2 years. Any such MWT-TIF plan shall:

(i) designate 1 or more areas of such city or town as a manufacturing workforce training tax increment financing zone, referred to as a MWT-TIF zone in section, subject to the approval of the department of workforce development under regulations adopted by said department consistent with this section. Any MWT-TIF plan adopted by more than 1 city or town shall be contiguous areas of such cities or towns;

(ii) describe in detail all training, retraining and workforce repositioning contemplated for such MWT-TIF zone as of the date of adoption of the MWT-TIF plan that shall be eligible for the MWT-TIF;

(iii) authorize tax increment exemptions from property taxes, in accordance with clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the MWT-TIF zone and for which an agreement has been executed with the owner thereof in accordance with paragraph (iv). The MWT-TIF plan shall specify the level of exemptions expressed as an exemption percentage, not to exceed 100 per cent, to be used in calculating the exemption under said clause Fifty-first of said section 5 of said chapter 59. Such exemptions shall be calculated for each parcel as provided in said clause Fifty-first of said section 5 of said chapter 59 using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for such exemption pursuant to this paragraph. The inflation factor for each fiscal year shall be a ratio:

(a) the numerator of which shall be the total assessed value of all parcels of all commercial and industrial real estate that is assessed at full and fair cash value for the current fiscal year minus the new growth adjustment for the current fiscal year attributable to the commercial and industrial real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of said chapter 59; and

(b) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator, except that such ratio shall not be less than 1;

(iv) include executed agreements between such city or town and each eligible owner of a parcel of real property which is located in a MWT-TIF zone. Each such agreement shall include the following: (1) all material representations of the parties which served as a basis for the descriptions contained in the MWT-TIF plan in accordance with paragraph (ii) and which served as a basis for the granting of a MWT-TIF exemption; (2) any terms considered appropriate by the city or town relative to compliance with the MWT-TIF agreement including, but not limited to, that which shall constitute a default by the property owner and the remedies that shall be instituted between the parties for any such defaults, including an early termination of the agreement; (3) provisions requiring that 75 per cent of the eligible workforce shall receive training that is designed to retain employment in such city or town; (4) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to such agreement; and (5) a provision that such agreement shall be binding upon subsequent owners of such parcel of real property;

(v) delegate to 1 board, agency or officer of the city or town the authority to execute agreements in accordance with clause (iv); and

(vi) be certified as an approved MWT-TIF plan by the economic assistance coordinating council established by section 3B of chapter 23A pursuant to regulations adopted by said council if the council finds, based on the information submitted in support of the MWT-TIF plan by the city or town and such additional investigation as the council shall make, and incorporate in its minutes, that the plan is consistent with the requirements of this section and shall further the public purpose of retaining or encouraging increased industrial and commercial manufacturing activity in the commonwealth. A city or town may at any time revoke its designation of a TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements pursuant to paragraph (iv). The board, agency or officer of the city or town authorized pursuant to paragraph (v) to execute agreements shall forward to the board of assessors a copy of each such agreement, together with a list of the parcels included therein. An executed and approved MWT-TIF shall be recorded in the registry of deeds or the registry district of the land court for the county wherein such land lies.

SECTION 36. Section 3 of chapter 40A of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

and businesses located in the district. This chapter shall not obligate the municipality to pay any costs for the acquisition, construction, equipping or operation and administration of the improvements located within the district.

Section 14. The district is a distinct and separate entity from the municipality, and the municipality shall not be subject to any claims, actions or liabilities as a result of the establishment of the district, its operations or the actions or inactions of its officers or its prudential committee or employees and there shall be no recourse against the municipality on account of, or arising from such obligations.

Section 15. Provided that all district bonds, notes and other obligations have been paid or satisfied, the municipal governing board of the municipality in which the district is located, on petition of proprietors owning 80 percent of the real property acreage within the district, may vote to terminate the district at any time after 35 years from the date of the declaration of the district's existence by the municipality. Upon such termination all of the property of the district shall be deemed transferred to the municipality.

SECTION 42. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by inserting after the word "corporation", in line 247 the following words:- or a domestic research and development corporation.

SECTION 43. Said section 5 of chapter 59 of the General Laws, as so appearing, is hereby further amended by inserting after the word "corporation", in line 249, the following words:- or a foreign research and development corporation.

SECTION 44. Said section 5 of chapter 59 of the General Laws, as so appearing, is hereby further amended by inserting after the word "corporation", in line 269 the first time it appears, the following words:- a domestic research and development corporation.

SECTION 45. Said section 5 of chapter 59 of the General Laws, as so appearing, is hereby further amended by inserting after the word "corporation", in line 270, the following words:- or a foreign research and development corporation.

SECTION 46. Paragraph (3) of clause Sixteenth of said section 5 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- This clause, as it applies to a domestic research and development corporation as defined in section 38C of chapter 63 or a foreign research and development corporation as defined in section 42B of said chapter 63, shall take effect only upon its acceptance by any city or town.

SECTION 47. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "manufacturing", in lines 275, 285, 288 and in line 292, the following words:- or research and development.

SECTION 48. Said section 5 of said chapter 59 is hereby further amended by striking out clause Fifty-first and inserting in place thereof the following clause:-

Fifty-first, the value of a parcel of real property which is included within an executed agreement under paragraph (v) of section 59, paragraph (v) of subsection (a) of section 60 or paragraph (iv) of subsection (a) of section 60A of chapter 40, together with all personal property situated on such parcel, but taxes on property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt under section 59, section 60 or section 60A of chapter 40, and this exemption shall be for a term not longer than the period specified for the exemption in the agreement. The amount of the exemption under this clause for any parcel shall be the exemption percentage adopted under paragraph (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the amount by which the parcel's value exceeds the product of its assessed value for the last fiscal year before it became eligible for exemption under this clause multiplied by the adjustment factor determined in accordance with said section 59, section 60 or section 60A of said chapter 40. Taxes on property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt under this clause.

SECTION 49. Paragraph (1) of subsection (j) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

A taxpayer or nonprofit organization which commences and diligently pursues an environmental response action on or before August 5, 2011, and who achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations promulgated pursuant thereto which includes an activity and use limitation shall, at the time such permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998, and January 1, 2012, for any property it owns or leases for business purposes and which is located within an economically-distressed area as defined in section 2 of chapter 21E. Such costs shall be not less than 15 per cent of the assessed value of the property prior to response action on or before remediation and the site shall be reported to the department of environmental protection. A credit of 50 per cent of such costs shall be allowed for any such taxpayer or nonprofit organization which achieves and maintains a permanent solution or remedy operation status in compliance with said chapter 21E and the Massachusetts Contingency Plan at 310 CMR 40.00, as amended, which does not include an activity and use limitation. Only a

House of Representatives, June 15, 2006.

Preamble adopted,

John C. Gellera Acting Speaker.

In Senate, June 15, 2006.

Preamble adopted,

Richard E. Murray President.

House of Representatives, June 15, 2006.

Bill passed to be enacted,

Robert Conner Acting Speaker.

In Senate, June 15, 2006.

Bill passed to be enacted,

Richard E. Murray President.

I hereby disapprove the following items:

Section 2

7004-0099
7007-0900

Section 2A

7004-0090
7007-9031
7007-9033
7100-8181

Sections 3, 6, 7, 14, 15, 24, 35, 37, 39, 41, 49, 53, 54, 55, 65, 83, 85, 87, 88, 89, 91, 96, 97, 103, 104, 109, 110, 111, 117, and 122.

I hereby reduce the following items in Section 2 to the following amounts:

Section 2	Reduce By	Reduce To
7003-0702	200,000	300,000

I hereby reduce the following items in Section 2A to the following amounts, and disapprove the wording as indicated:

Section 2A	Reduce By	Reduce To	Wording Stricken
7004-2051	1,000,000	25,000,000	"; and provided further, that not less than \$1,000,000 shall be expended for repairs and improvements to the Stoughton train station and the surrounding central business district in the town of Stoughton, including but not limited to infrastructure and parking improvements, sidewalks, lighting, safety, and aesthetic improvements, and salaries and/or fees for professional municipal planning work related to said repairs and improvements"
7007-9036	1,000,000	2,100,000	"; and provided further, that not less than \$1,000,000 shall be expended for economic revitalization in and around the Central avenue business district in the town of Milton, including, but not limited to, infrastructure and road improvements, side walks, lighting, safety and aesthetic improvements"

I hereby return for amendment, pursuant to the authority vested in me by Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, Sections 21, 25, 26, 27, 28, 31, 52, 59, 74, 92, and 95. The text of my recommended amendments is set forth in separate letters of this date to the Senate and House of Representatives.

The remainder of this bill I hereby approve.

Approved, June 24, 2006

at 8 o'clock and 15 minutes, A.M.


Mitt Romney
Governor

CHAPTER 131 - CONSERVATION COMMISSION CONSULTANT FUNDS

Effective September 11, 2006

Amends G.L. c. 44, §53G, to clarify that consultant fees imposed by a conservation commission on applicants for permits or determinations under its enabling statute, G.L. c. 40, §8C, the state Wetlands Protection Act, G.L. c. 131, §40, and local wetlands by-laws, may be deposited in a consultant fee revolving fund for use in assisting the commission review the applications.

Chapter 131

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT RELATIVE TO THE AUTHORITY OF CONSERVATION COMMISSIONS TO IMPOSE CONSULTANT FEES.

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

Section 53G of chapter 44 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding section 53, any city or town that provides by rules promulgated under section 9 or 12 of chapter 40A, section 21 of chapter 40B, section 81Q of chapter 41 or section 31 of chapter 111, or by rules promulgated by a conservation commission established by a city or town under section 8C of chapter 40 when implementing the authority conferred under said section 8C of said chapter 40, section 40 of chapter 131, or under any local wetlands ordinance or by-law, for the imposition of reasonable fees for the employment of outside consultants may deposit such fees in a special account.

House of Representatives, June 22, 2006.

Passed to be enacted,

Paul Donato

Acting Speaker.

In Senate, June 22, 2006.

Passed to be enacted,

Paul F. [Signature]

Acting President.

June 28, 2006.

Approved, at 5:21 PM

Michelle Romney
Governor.

CHAPTER 139 – FISCAL YEAR 2007 STATE BUDGET

Effective July 1, 2006

§41. Senior Property Tax Exemption. Creates a new local option property tax exemption, G.L. c. 59, §5, Clause 41C½, for the domiciles of seniors 70 or older, which if accepted would replace the Clause 41, 41B or 41C senior exemption currently used by the city or town. Acceptance is by referendum. The exemption is 5% of the average assessed value of residential parcels in the city or town. As with the Clause 41B and 41C exemptions, taxpayers must be domiciled in Massachusetts for 10 years and have owned a domicile here for 5 years. However, there is no asset (whole estate) limit and the income (gross receipts) limit is tied to the senior circuit breaker state income tax credit limit for single persons who are not heads of households, which was \$45,000 for the 2005 state tax year. G.L. c. 62, §6(k). That limit increases each year by a cost of living adjustment factor and is generally higher than the maximum adjusted limit a community using Clause 41C could adopt. The municipality's legislative body can increase the exemption amount to up to 20% of the average assessed value of residential property, reduce the eligibility age to 65 and reduce the residency requirements to 5 years.

§127. Education Reform Waivers. Annual provision that permits cities, towns and regional school districts to apply for various adjustments in their fiscal year 2007 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support fiscal year 2006 operating budgets and those revenues are not available in fiscal year 2007, (2) they have extraordinary non-school related expenses in fiscal year 2007, or (3) their fiscal year 2007 municipal revenue growth factor is at least 1.5 times the statewide average and is deemed to be excessive. Regional school districts that used non-recurring revenues in fiscal year 2006 that are unavailable for fiscal year 2007 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Requests for waivers must be made by October 1, 2006. **IGR 06-301, Fiscal Year 2007 Waivers to Education Reform Spending Requirements and Minimum Required Local Contributions, issued July 2006.**

Chapter 139

In the year two thousand and six

MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2007 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

Whereas, the deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2006, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

To provide for the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in sections 2, 2B, 2D and 3, for the several purposes and subject to the conditions specified in sections 2, 2B, 2D and 3, are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof for the fiscal year ending June 30, 2007. All sums appropriated under this act, including supplemental and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of an agency, board, department, commission or division receiving monies under this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth. Each agency, board, department, commission or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in-service or apprenticeship training programs and all terms and conditions of employment.

who knowingly makes a deposit in violation of subsection (a) shall be guilty of misconduct and maladministration in his office, and a depository institution knowingly receiving a deposit in violation of subsection (a) shall be disqualified from receiving such monies for the period of 3 years from the date of the deposit.

(c) All interest received on any deposits under this section shall be paid to the commonwealth.

SECTION 39. Section 34A of said chapter 29, as so appearing, is hereby repealed.

SECTION 40. Section 38 of said chapter 29, as so appearing, is hereby amended by adding the following subsections:-

(l) In shares of beneficial interest issued by money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, operated in accordance with section 270.2a-7 of Title 17 of the Code of Federal Regulations, that have received the highest possible rating from at least 1 nationally recognized statistical rating organization. The purchase price of shares of beneficial interest purchased pursuant to this section shall not include a commission charged by the money market funds.

(m) In any other security that qualifies for inclusion in a fund operated in accordance with section 270.2a-7 of Title 17 of the Code of Federal Regulations, as amended.

(n) In investment agreements or guaranteed investment contracts rated, or with a financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time the agreement or contract is entered into, in 1 of the 2 highest rating classifications by a nationally recognized rating service if the agreements or contracts do not exceed 1 year in duration.

(o) In investment agreements with a corporation whose principal business is to enter into the agreements if: the corporation and the investment agreements of the corporation are each rated in 1 of the 2 highest rating classifications by a nationally recognized rating service; the commonwealth has an option to terminate each agreement in the event that the rating is downgraded below the 2 highest rating classifications; and the agreements or contracts do not exceed 1 year in duration.

SECTION 41. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by inserting after clause Forty-first C the following clause:-

Forty-first C 1/2, Real property, of an amount equal to 5 per cent of the average assessed value of all Class one parcels within the city or town of the principal residence of a taxpayer as used by the taxpayer for income tax purposes of a person who has reached his seventieth birthday before the beginning of the fiscal year for which an exemption is sought and occupied by the person as his domicile, or of a person who owns the same jointly with his spouse, either of whom has reached his seventieth birthday before the beginning of the fiscal year for which an exemption is sought and occupied by them as their domicile, or of a person who has reached his seventieth birthday before the beginning of the fiscal year for which an exemption is sought who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile if: (A) the person (1) has been domiciled in the commonwealth for the preceding 10 years, (2) has so owned and occupied the real property or other real property in the commonwealth for 5 years, or (3) is a surviving spouse who inherits the real property and has occupied this real property in the commonwealth 5 years and who otherwise qualified under this clause; and (B) the taxpayer's gross receipts from all sources do not exceed the dollar amount calculated to be the income limits on a taxpayer's total income for a single individual who is not the head of a household for the purposes of paragraph (3) of subsection (k) of section 6 of chapter 62 for the most recently completed state tax year, as determined by the commissioner of revenue.

A city or town, by vote of its legislative body, subject to its charter, may adjust the exemption contained in this clause by: (1) increasing the amount of the exemption to as much as 20 per cent of the average assessed value of all Class one parcels within the city or town; (2) reducing the requisite age of

eligibility to any person age 65 years or older; and (3) reducing the residency requirements to not less than 5 years.

This clause shall take effect in any city or town that votes to accept its terms at the next regularly scheduled municipal election for any fiscal year commencing on or after July 1, 2006. The question appearing on the official ballot shall be in the following form:

“Shall section ___ of the acts of ____ granting real estate property tax reductions to qualifying senior citizens be accepted?”

If a majority of the votes cast in answer to this question is in the affirmative, the clause shall take effect, but not otherwise.

In those cities and towns that accept this clause, clauses Forty-first, Forty-first B and Forty-first C shall not apply but any amount of money annually appropriated by the commonwealth for the purpose of reimbursing cities and towns for taxes abated under this clause, clause Forty-first, clause Forty-first B and clause Forty-first C shall be distributed as provided in said clause Forty-first.

SECTION 42. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as amended by section 5 of chapter 163 of the acts of 2005, is hereby further amended by adding the following subparagraph:-

(15) Amounts expended by an individual for tolls paid for through a Fast Lane account or for weekly or monthly transit commuter passes for Massachusetts Bay Transit Authority transit, bus, commuter rail or commuter boat, not including amounts reimbursed by an employer or otherwise. In the case of a single person or a married person filing a separate return or a head of household, this deduction shall apply only to the portion of the expended amount that exceeds \$150, and the total amount deducted shall not exceed \$750. In the case of a married couple filing a joint return, this deduction shall apply only to the portion of the amount expended by each individual that exceeds \$150, and the total amount deducted shall not exceed \$750 for each individual. The commissioner of revenue shall adopt regulations necessary for the implementation of this section.

SECTION 43. Section 2 of chapter 70B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 68 and 69, the words “grant representing the commonwealth’s total contribution” and inserting in place thereof the following words:- total grant with respect.

SECTION 44. Section 3 of said chapter 70B, as so appearing, is hereby amended by inserting after the word “grants”, in line 6, the following words:- and loans.

SECTION 45. The fifth paragraph of said section 3 of said chapter 70B, as so appearing, is hereby amended by striking out clause (r) and inserting in place thereof the following clause:-

(r) disburse amounts due to cities, towns and regional school districts under grants approved by the authority to finance or refinance costs of approved school projects and, in conjunction therewith, finance or refinance the local share of costs of these projects, through the purchase of bonds, notes or other evidences of local indebtedness, at the rates and on the terms that the authority may in its discretion determine, and provide for the payment of all costs of the authority, including professional and financial services incident to the conduct of its operations;

SECTION 46. Said chapter 70B is hereby further amended by inserting after section 3D the following section:-

Section 3E. In addition to other remedies of the authority under any bond, note or other evidence of indebtedness, if at any time any amount is distributable or payable by the commonwealth to any city, town or regional school district, and a sum is due to the authority from that city, town or regional school district, for any cause whatsoever, the sum due to the authority, as certified by the authority to the state treasurer, shall be deducted by the state treasurer from the amount distributable or payable to the city, town or regional school district and shall be paid promptly to the authority. Payment by the state treasurer under this section shall continue to be made until the deficiency on the part of the city, town or regional school

develop a schedule and make a series of transfers not to exceed \$346,000,000 from the General Fund to the MassHealth provider payment account in the Medical Assistance Trust Fund.

SECTION 124. Notwithstanding any general or special law to the contrary, the division of capital asset management and maintenance shall submit a report to the house and senate committees on ways and means not later than January 15, 2007 detailing each district attorney's office use of private rental space. The report shall include, but not be limited to, the following: 1) the annual cost of leasing private space for each district attorney's office; 2) the existence and availability of any state owned space within each district attorney geographical jurisdiction that could accommodate the minimum square footage needs of the district attorney's offices; and 3) by each district attorney's office, future savings that could be achieved by relocating any district attorney's office from privately leased space to state owned space. The division shall also submit a report to the house and senate committees on ways and means not later than February 15, 2007 detailing the use of private lease space throughout the trial court. The report shall include, but not be limited to, the following: (1) the annual cost of private lease space used by the central administration office of the trial court and any department of the trial court; (2) the existence and availability of any state-owned space that could accommodate the minimum square footage demands of the central administration office of the trial court; (3) future savings that could be achieved by relocating the central administration office of the trial court to 3 Pemberton square in the city of Boston; and (4) future savings that could be achieved by relocating non-state agencies from state-owned space to accommodate the minimum square footage demands of the central administration office of the trial court.

SECTION 125. The department of education, in consultation with the department of social services, shall develop a consistent reporting method for determining the numbers of foster children and wards of the state educated in each public school district and the number of days each child is enrolled in the district. The reporting method shall be developed for use within the foundation budget calculation, as defined in section 2 of chapter 70 of the General Laws, or for use in developing a reimbursement program pursuant to section 7 of chapter 76 of the General Laws to reflect the cost of educating these students. In developing the reporting method, the department of education, the department of social services and public school districts shall keep the names and addresses of foster children and wards of the state enrolled in a school system and the designation of the students as foster students or wards of the state confidential and shall not disclose such information except for the purposes set forth in this section.

SECTION 126. Notwithstanding any general or special law to the contrary, the corporations established pursuant to chapter 138 of the acts of 1992 and chapter 163 of the acts of 1997 shall not be considered auxiliary organizations of the university.

SECTION 127. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2007. Based on the criteria in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which will not be available for use in the next fiscal year, or that will be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year, or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor, may appeal to the department of revenue not later than October 1, 2006 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2007 shall affect the calculation of the minimum required local contribution in

subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) The board of selectmen in a town, the city council in a plan E city, the mayor in any other city, or a majority of the member municipalities of a regional school district, which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year, may appeal to the department of revenue not later than October 1, 2006 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined under this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2007 under chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

SECTION 128. There shall be a special commission to make an investigation and comprehensive study of the system and process used to collect, maintain and distribute criminal offender record information (CORI) by the criminal history systems board. The commission shall consist of the co-chairs of the joint committee on judiciary, 2 members of the senate to be appointed by the senate president, 1 member of the senate to be appointed by the minority leader, 2 members of the house of representatives to be appointed by the speaker, 1 member of the house of representatives to be appointed by the minority leader, the attorney general or his designee, the commissioner of probation or his designee, the executive director of the criminal history systems board or his designee, the executive director of the Massachusetts district attorneys association or his designee, and the chief counsel of the committee for public counsel

CHAPTER 205 - EXPEDITED PERMITTING FEES AND REVOLVING FUND

Effective August 2, 2006

Section 11 amends General Laws, Chapter 43D, which was enacted in 2004 to allow communities to adopt procedures to expedite local permitting and zoning decisions. Rather than designating an office as the single contact for coordinating and facilitating expedited reviews of permits for all projects, the revised chapter allows cities and towns that accept it to designate priority development sites, including smart growth locations, for expedited permitting procedures.

It retains a provision that allows the municipality to charge a fee, in addition to any permit or consultant fees that would otherwise be charged, to defray the expenses associated with carrying out its duties under the chapter. The fees may be set by the municipality's governing body, which is defined as the board of selectmen in a town, city manager and city council in cities with Plan D or E charters, and the mayor and city council in all other cities. The fees are to be credited to a separate fund that may be spent by the governing body without appropriation. Interest earned on the fees belongs to the revolving fund. The special fee and fund is now found in Section 6(b) of the amended G.L. c. 43D.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT RELATIVE TO STREAMLINING AND EXPEDITING THE PERMITTING PROCESS IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith expedite the permitting process in 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. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2006 the sums set forth herein are hereby appropriated from the General Fund unless specifically designated otherwise herein or in said appropriation acts, for the several purposes and subject to the conditions specified herein or in said appropriation acts, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006 provided, that the sums shall be in addition to any amounts previously appropriated and made available for the purposes of the items; and provided further, that all funds appropriated in this section shall be available for expenditure through June 30, 2007.

SECTION 2. 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 sums set forth herein are hereby appropriated from the General Fund unless specifically designated otherwise herein, for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006 provided, that the sums shall be in addition to any amounts previously appropriated and made available for the purposes of the items; and provided further, that all funds appropriated in this section shall be available for expenditure through June 30, 2007.

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT.

Office of the Secretary.

7002-0013 For the streamlining of state and local permitting processes; provided, that not less than \$3,000,000 shall

its findings to the board. It shall be the responsibility of each regional planning agency to work under the guidance of the board to assist in the development of a state-wide model. The board shall report to the house and senate committees on ways and means not later than November 1, 2007, on recommendations necessary to implement the state-wide model proposed to effectuate such expedited permitting.

The regional planning districts shall, at the request of a member city or town, provide the city or town services and assistance to:-

- (1) reduce unnecessary delays and create certainty and predictability as well as promote an efficient and timely appeals process;
- (2) create a positive regulatory culture with a bias toward making decisions;
- (3) conduct on-going staff training to address applicant questions;
- (4) select sites for expedited permitting, while identifying potential issues, concerns, or problem areas;
- (5) prepare applications for approval of the sites;
- (6) establish clear criteria for determining the completeness of permit applications;
- (7) update or eliminate conflicting, cumbersome, and redundant permit processes and procedures;
- (8) examine and redraft zoning by-laws to aid in the balanced development of the community; and
- (9) develop plans and incentives for residential and commercial development, while taking steps to mitigate the environmental and transportation impacts of new growth.

(b) A city or town shall not be required to receive technical assistance from a regional planning agency in order to participate in the expedited permitting process, pursuant to chapter 43D.

SECTION 11. The General Laws are hereby further amended by striking out chapter 43D and inserting in place thereof the following chapter:-

CHAPTER 43D.

Expedited Permitting.

Section 1. Notwithstanding any general or special law, charter provision, by-law or ordinance to the contrary this chapter shall apply upon its acceptance by a city or town.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Governing body", in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen.

"Interagency permitting board", the board, as described in section 62 of chapter 23A, established to review and approve or deny municipal priority development site proposals and to grant and administer technical assistance grants.

"Issuing authority", a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

"Permit", a permit formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use or development of land, buildings, or structures required by any issuing authority including but not limited to those under statutory authorities contained in chapter 40A, sections 81A to 81J, inclusive, and sections 81X to 81GG, inclusive, of chapter 41, sections 40 and 40A of chapter 131, sections 26 to 32, inclusive, of chapter 111, chapter 40C, sections 13 and 14 of chapter 148, chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance, and all associated regulations, by-laws and rules, but not including building permits or approvals pursuant to sections 81O to 81W, inclusive, of chapter 41. "Permit" shall not include the decision of an agency to dispose of property under its management or control; predevelopment reviews conducted by the municipal office of permit coordination or a technical review team; or permits granted by the Massachusetts Water Resources Authority.

"Priority development site", a privately or publicly owned property that is: (1) commercially or industrially zoned; (2) eligible under applicable zoning provisions, including special permits or other discretionary permits, for the development or redevelopment of a building at least 50,000 square feet of gross floor area in new or existing buildings or structures; and (3) designated as a priority development site by the board. Several parcels or projects may be included within a single priority development site. Wherever possible, priority development sites should be located adjacent to areas of existing development or in under utilized buildings or facilities, or close to appropriate transit services.

"Secretary", the secretary of the executive office of economic development.

"Technical review team", an informal working group consisting of representatives of the various issuing authorities designed by the head of their issuing authority to review requests submitted under this chapter. The technical review team shall not include members of the zoning board of appeals.

Section 3. (a) For a property to receive a designation as a priority development site, the governing body, after approval by a town meeting in a town, shall file a formal proposal with the board. The proposal shall include: (1) a detailed description of the property; (2) good faith commitment to comply with this chapter; (3) written authorization of the property owner; and (4) at the discretion of the governing body, a request for a technical assistance grant.

(b) All requests for a technical assistance grant shall include a detailed description of how the grant will be used and shall be submitted with the formal proposal as described in subsection (a). The grants shall be used to implement the requirements of this chapter, which shall include but not be limited to, professional staffing assistance, local government reorganization, and consulting services. The amount of any single grant awarded from the fund, shall not exceed \$150,000. The board shall review and determine eligibility of the proposals and approve requests within 60 days of receipt of the proposals. In special circumstances where a specific and originally unforeseen need can be demonstrated, the governing body may be eligible for an additional technical assistance grant if approved by the board and the secretary.

Section 4. Within 120 days of the acceptance of this chapter the governing body shall implement the following: (a) appoint a single point of contact to serve as the primary municipal liaison for all issues relating to this chapter; (b) amend rules and regulations on permit issuance to conform to this chapter; (c) along with the issuing authority, collect and ensure the availability of all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit; (d) establish a procedure whereby the governing body shall determine all permits, reviews and predevelopment reviews required for a project; all required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities and a procedure for notifying the applicant; and (e) establish a procedure, following the notification of the required submissions for review as set forth in clause (d), for determining if all the materials required for the review of the project have been completed.

Section 5. (a) Priority development permit reviews and final decisions shall be completed within 180 days subject to the extension herein. The time period shall begin the day after the issuance of the notice that the application materials are complete pursuant to clause (e) of section 4. The governing body shall notify the applicant in writing within 20 business days

from receipt of the completed form of additional information needed or requirements that it may have. The governing body may provide for pre-application conferences to facilitate this process.

(b) The resubmission of the application or the submission of such additional information required by the governing body shall commence a new 30-day period for review of the additional information.

(c) If, at any time, an issuing authority determines that a permit or other predevelopment review is required which it did not previously identify, it shall immediately notify the applicant by certified mail and shall where public notice and comment or hearings are not required complete action on the application filed for the previously unidentified permit within 30 days of receipt of the completed application or not later than the latest required decision date for a pending permit, whichever is later. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows. The failure of the governing body to notify an applicant of the requirement of a public hearing or comment period shall not constitute a waiver of the requirement.

Section 6. (a) In accordance with this chapter, the governing body may establish an informal procedure to allow permit applicants to obtain advisory review by a technical review team of any issue of law, policy, procedure, or classification that the applicant claims is in dispute between the applicant and the issuing authority which has affected or will affect the ability of the applicant to obtain timely review of the permit application. The procedures shall provide for filing a request for review by the applicant, representation by the issuing authority on the technical review team, and a period not to exceed 30 days for issuance of a decision. Use of this procedure shall toll the review time periods. An advisory determination or ruling made pursuant to a procedure established in this section shall not constitute a decision or final action and shall not be subject to any right of administrative or judicial review

(b) The governing body may establish an additional and separate fee, in addition to any fees that may be assessed by an issuing authority in order to carry out its duties under this chapter, and may deposit the fees in a special account to be maintained by the treasurer. The special account, including any accrued interest shall be expended at the direction of the governing body, without further appropriation; but, the funds shall be expended only in carrying out its responsibilities under this chapter.

Section 7. Failure by any issuing authority to take final action on a permit or approval within the 180-day period or extended time, if applicable, shall be considered a grant of the relief requested of that authority. In that event, within 14 days after the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to notice of hearing in connection with the application.

Section 8. The grant shall not occur where: (1) the governing body has made a timely determination that the application is not complete in accordance with its requirements and notified the applicant as set forth herein and the applicant has not made a timely response to complete the application; (2) the governing body has determined that the final application contained false or misleading information; or (3) the governing body has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

Section 9. The 180 day time period may be waived or extended for good cause upon written request of the applicant with the consent of the governing body or upon written request of the issuing authority with the consent of the applicant. The 180-day period may be extended for up to 30 days by the governing body in the event an additional permit or other predevelopment review is required in accordance with subsection (c) of section 5, if the requirement for the previously unidentified permit or review has been determined no less than 150 days after the issuance of the notice of completeness. The 180 day time period shall be extended when the issuing authority determines either: (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In those circumstances, the issuing authority shall provide written notification to the secretary. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued. An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter. If the Martha's Vineyard commission as described in chapter 831 of the acts of 1977, or the

Cape Cod commission, as described in chapter 716 of the acts of 1989, require or allow referral of a permit application, the 180-day time period as described in this chapter shall be suspended upon receipt of the permit application. The 180-day time period shall recommence at the completion of the regional commission's review; but if either commission denies a regional permit on a priority development site, section 7 shall not apply and the issuing authority, upon receipt of the denial notice, shall permanently cease the 180 day time period.

Section 10. (a) Appeals from issuing authority decisions or from a grant by operation of law shall be filed within 20 days after the last individual permitting decision has been rendered or within 20 days after the conclusion of the 180 day period as set forth in subsection (a) of section 5, whichever is later. The 180 day period shall be increased by the number of days in any extension granted under this chapter.

(b) A person aggrieved by a final decision of any issuing authority, or by the failure of that authority to take final action concerning the application within the time specified, whether or not previously a party to the proceeding, or any governmental officer, board, or agency, may appeal to the division of administrative law appeals by bringing an action within 20 days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. This section shall not apply to appeals pursuant to sections 40 and 40A of chapter 131, which shall continue to be appealed in accordance with said chapter 131, chapter 30A and applicable regulations.

(c) When hearing appeals under this chapter, the division shall revise its rules, procedures and regulations to the extent necessary to accord with the requirements of this chapter.

(d) The division shall render a final written decision within 90 days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the superior court department by bringing an action within 20 days after the division has rendered a final decision.

Section 11. (a) Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.

(b) Issuing authorities having substantive jurisdiction over permit issuance may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in conjunction with this chapter.

(c) Issuing authorities shall make reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 20 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original review period for permit categories as set forth in section 5 shall apply.

(d) Permits issued pursuant to this chapter shall expire 5 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of 1 building shall preserve the permit validity. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

Section 12. A priority development site shall be eligible for the following:-

- (a) priority consideration for community development action grants, and public works economic development grants;
- (b) priority consideration for other state resources such as quasi-public financing and training programs;
- (c) brownfields remediation assistance;
- (d) enhanced marketing by the Massachusetts office of business development, and the Massachusetts alliance for economic development; and
- (e) technical assistance provided by the regional planning council.

Section 13. (a) Technical assistance funding is intended to be a one-time grant to municipality, if the municipality has adopted expedited permitting as provided in sections 3 to 11, inclusive.

(b) A municipality shall be eligible for technical assistance funding, which may be less than the previous amounts awarded, for a second time if it has identified and successfully permitted one priority development site.

Section 14. Any required reviews established under sections 61 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive, of chapter 9 shall conclude within 120 days of a state determination of completeness of required review materials, as established by the executive office of environmental

affairs in consultation with the state secretary. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

Section 15. Nothing in this chapter shall be construed to alter the substantive jurisdictional authority of issuing authorities.

Section 16. The secretary shall promulgate rules and regulations to implement this chapter.

SECTION 12. Section 21 of chapter 81 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

The commissioner of highways shall adopt regulations to effectuate the purposes of this section.

SECTION 13. Section 32 of chapter 184 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Such conservation, preservation, agricultural preservation, watershed preservation and affordable housing restrictions are interests in land and may be acquired by any governmental body or such charitable corporation or trust which has power to acquire interest in the land, in the same manner as it may acquire other interests in land. The restriction may be enforced by injunction or other proceeding, and shall entitle representatives of the holder to enter the land in a reasonable manner and at reasonable times to assure compliance. If the court in any judicial enforcement proceeding, or the decision maker in any arbitration or other alternative dispute resolution enforcement proceeding, finds there has been a violation of the restriction or of any other restriction described in clause (c) of section 26 then, in addition to any other relief ordered, the petitioner bringing the action or proceeding may be awarded reasonable attorneys' fees and costs incurred in the action proceeding. The restriction may be released, in whole or in part, by the holder for consideration, if any, as the holder may determine, in the same manner as the holder may dispose of land or other interests in land, but only after a public hearing upon reasonable public notice, by the governmental body holding the restriction or if held by a charitable corporation or trust, by the mayor, or in cities having a city manager the city manager, the city council of the city or the selectmen of the town, whose approval shall be required, and in case of a restriction requiring approval by the secretary of environmental affairs, the Massachusetts historical commission, the director of the division of water

Preamble adopted,



, acting Speaker.

In Senate, July 27, 2006.

Preamble adopted,



, acting President.

House of Representatives, July 27, 2006.

Bill passed to be enacted,



, acting Speaker.

In Senate, July 29, 2006.

Bill passed to be enacted,



, President.

August 2, 2006.

Approved,

at 11 o'clock and 31 minutes, A. M.


Governor.

CHAPTER 231 - SEWER ASSESSMENTS

Effective August 9, 2006

Makes a technical amendment to G.L. c. 83, §15A, which allows a city or town to redetermine the rate used to allocate sewer construction costs against abutters as sewer betterments. Under G.L. c. 83, §15, cities and towns can assess sewer construction costs using a uniform rate method (by front footage, valuation, etc.) or by the now more commonly used uniform unit method (number of actual and potential residential units or residential equivalent units based on current zoning). The uniform unit method was added as an allowable assessment method in 1978, but §15A was not amended to reflect the change at that time.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT REGULATING THE REDETERMINATION OF MUNICIPAL SEWER ASSESSMENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith redetermination of sewer assessments made by the uniform unit method, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Chapter 83 of the General Laws is hereby amended by striking out section 15A, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

Section 15A. Any city at any meeting of the proper municipal authority, or any town at a town meeting, may, from time to time, redetermine the uniform rate or uniform unit fixed under section 15, or under any special law, and charged to abutters for, or to the existing and potential sewer units to be served by, the construction of sewers, but this section shall not apply to the Massachusetts Water Resources Authority.

House of Representatives, July 26, 2006.
Preamble adopted, [Signature], Speaker.
In Senate, July 31, 2006.
Preamble adopted, [Signature], Acting President.
House of Representatives, July 31, 2006.
Bill passed to be enacted, [Signature], Acting Speaker.
In Senate, July 31, 2006.
Bill passed to be enacted, [Signature], Acting President.
8-9, 2006.
Approved,
at 5 o'clock and 20 minutes, P. M.

[Signature]
Governor.

CHAPTER 260 - VETERANS TAX EXEMPTIONS

Effective November 12, 2006

Expands eligibility for two local property tax exemptions for disabled veterans, increases the amount of all exemptions for those veterans and increases the Commonwealth's reimbursement to communities granting the exemptions. G.L. c. 59, §5, Clauses 22, 22A, 22B, 22C, 22D and 22E.

First, it makes a technical correction that allows the Clause 22E exemption for a veteran who has a 100% disability rating and is unable to work to be granted if title to the veteran's domicile is held in the name of the spouse. This makes Clause 22E consistent with the provisions of Clauses 22A, 22B and 22C. Previously, the spouse would have only qualified for a lesser exemption benefit under Clause 22.

In addition, it expands the definition of eligible recipients of Clause 22D to the surviving spouses of soldiers, sailors or members of the National Guard whose death was a direct result of an injury or disease as a result of being in a combat zone or who have been classified as missing in action as a result of combat. The surviving spouses will receive a full exemption of their property taxes for five years from the date of death, with the exemption capped at \$2,500 in years thereafter. The Commonwealth will fully reimburse cities and towns for the exemptions granted. Previously, the exemption under Clause 22D was \$250 and was limited to surviving spouses of soldiers or sailors who lost their lives in combat at the islands of Quemoy and Matsu.

The increased exemption and reimbursement amounts for the other property tax exemptions for disabled veterans are:

Clause	Current		New	
	Exemption	State Reimbursement	Exemption	State Reimbursement
22(a-f)	\$250	\$ 75	\$400	\$225
22A	425	250	750	575
22B	775	600	1,250	1,075
22C	950	775	1,500	1,325
22E	600	425	1,000	825

The act also makes all peace and war time veterans as defined in G.L. c. 4, §7 eligible for the motor vehicle excise exemptions provided to veterans with certain disabilities under G.L. c. 60A, §1. Previously, the exemptions were limited to veterans of certain wars. In addition, veterans who are determined to be permanently disabled by the Medical Advisory Board within the Registry of Motor Vehicles for the purpose of issuing disabled veteran license plates will now be eligible for an excise exemption. G.L. c. 90, §8C. Those veterans who have been determined disabled by the board and have been issued a disabled veteran's license plate will also qualify for a sales tax exemption on their purchases of motor vehicles under G.L. c. 64, §6(u). Previously, only veterans with certain defined disabilities qualified for excise and sales tax exemptions.

The act also creates a new local option statute, G.L. c. 59, §5L, that allows Massachusetts National guardsmen and reservists deployed outside the state to defer paying their taxes without interest or penalties until 180 days after that service. It is patterned after a provision of the Servicemembers Civil Relief Act under which active duty personnel, including guardsmen called to Federal service and activated reservists, can defer payment of federal, state or local income taxes interest and penalty free up to 180 days after termination or release from service. 50 U.S.C. App. §570. There is no comparable deferral for payment of real and personal property taxes, however, although collection activities are stayed and interest runs at 6% with no other penalties allowed. 50 U.S.C. App. §561. Acceptance would be by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4. **BULLETIN 2006-14B issued September 2006.**

Chapter 260

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT ESTABLISHING THE MASSACHUSETTS MILITARY ENHANCED RELIEF INDIVIDUAL TAX (MERIT) PLAN.

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 5 of chapter 59 of the General Laws as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 557 and 591, the figure "\$250" and inserting in place thereof, in each instance, the following figure:- \$400.

SECTION 2. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 619, the figure "\$75" and inserting in place thereof the following figure:- \$225.

SECTION 3. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 640 and in line 645, the figure "\$425" and inserting in place thereof, in each instance, the following figure:- \$750.

SECTION 4. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 661, the figure "\$250" and inserting in place thereof the following figure:- \$575.

SECTION 5. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 681 and 686, the figure "\$775" and inserting in place thereof, in each instance, the following figure:- \$1,250.

SECTION 6. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 702, the figure "\$600" and inserting in place thereof the following figure:- \$1,075.

SECTION 7. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 719 and 724, the figure "\$950" and inserting in place thereof, in each instance, the following figure:- \$1,500.

SECTION 8. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 740, the figure "\$775" and inserting in place thereof the following figure:- \$1,325.

SECTION 9. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out clause Twenty-second D and inserting in place thereof the following clause:-

Twenty-second D, Real estate to the full amount of the taxable valuation of real property of the surviving spouses of soldiers and sailors and members

of the National Guard whose death occurred as a proximate result of an injury sustained or disease contracted in a combat zone, or who are missing in action with a presumptive finding of death, as a result of combat as members of the armed forces of the United States, if the real estate is occupied by the surviving spouse as a domicile, and if the surviving spouse has been domiciled in the commonwealth for 5 consecutive years next before the date for filing for exemption under this clause or the soldier or sailor or member of the National Guard was domiciled in Massachusetts for at least 6 months before entering service.

This exemption shall be available until the time that the surviving spouse dies or remarries, but in no case shall the abatement amount exceed the sum of \$2,500 in any fiscal year following the fifth fiscal year immediately following the death of the soldier or sailor or member of the National Guard.

No real estate shall be so exempt which has been conveyed to the surviving spouse to evade taxation. The amount of the exemption shall be borne by the commonwealth, and the state treasurer shall annually reimburse the city or town for the amount of the tax which otherwise would have been collected for this exemption.

SECTION 9A. Said section 5 of said chapter 59, as so appearing, is hereby amended by inserting after the word "sailors", in line 759, the following words:- and their spouses.

SECTION 10. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 769 and 774, the figure "\$600" and inserting in place thereof, in each instance, the following figure:- \$1,000.

SECTION 11. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 789, the figure "\$425" and inserting in place thereof the following figure:- \$825.

SECTION 12. Said chapter 59 is hereby further amended by inserting after section 5K the following section:-

Section 5L. Upon acceptance of this section by a municipality and notwithstanding any other provision of this chapter to the contrary, any taxes due under this chapter by a member of the Massachusetts National Guard or reservist or a dependent of a member of the Massachusetts National Guard or reservist shall be deferred while that member is on active service outside the commonwealth and for the next 180 days after that service. No interest or penalties shall be assessed for any period before the expiration of those 180 days.

SECTION 13. Section 1 of chapter 60A of the General Laws, as so appearing, is hereby amended by striking out, in lines 95 to 96, inclusive, and in lines 100 to 101, inclusive, the words "World War I, World War II, Korean or

Vietnam veteran" and inserting in place thereof, in each instance, the following words:- veteran, as defined in section 7 of chapter 4,

SECTION 14. Said section 1 of said chapter 60A, as so appearing, is hereby further amended by inserting after the word "hands", in line 99, the following words:- , or has been determined by the medical advisory board established under section 8C of chapter 90 to be permanently disabled.

SECTION 15. Section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting, after the word "arm", in line 309, the following words:- or by and for the use of a veteran who has been determined to be permanently disabled by the medical advisory board established under section 8C of chapter 90 and has been issued a disabled veteran number plate under section 2 of said chapter 90.

SECTION 16. This act shall be known as the Edward G. Connolly Massachusetts Military Enhanced Relief Individual Tax (MERIT) Plan.

SECTION 17. Section 9 shall take effect as of September 11, 2001, for those soldiers, sailors and members of the National Guard who died or who became missing in action with a presumptive finding of death on or after September 11, 2001.

House of Representatives, August 2, 2006.

Passed to be enacted,

Paul J. Donato , Acting Speaker.

In Senate, August 7, 2006.

Passed to be enacted,

Richard T. Moore , Acting President.

August 14 , 2006.

Approved, at 11:00 Am

M. T. Romney
Governor.

CHAPTER 271 - STATE MINIMUM WAGE

Effective July 31, 2006

Increases the state's minimum wage to \$7.50 as of January 1, 2007 and to \$8.00 as of January 1, 2008. G.L. c. 151, §1. In a city or town that has accepted G.L. c. 59, §5K, the senior work abatement program, the state minimum wage is the maximum hourly wage that it may pay participants in its program.

Chapter 271

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Six

AN ACT INCREASING THE MINIMUM WAGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase forthwith the minimum wage, 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 1 of chapter 151 of the General Laws, as appearing in the 2004 Official Edition. is hereby amended by striking out, in line 5, the figure "\$6.75" and inserting in place thereof the following figure:- \$7.50.

SECTION 2. Said section 1 of said chapter 151 is hereby further amended by striking out the figure "\$7.50", inserted by section 1, and inserting in place thereof the following figure:- \$8.00.

SECTION 3. Section 1 shall take effect on January 1, 2007.

SECTION 4. Section 2 shall take effect on January 1, 2008.

House of Representatives, July 25, 2006.

Preamble adopted,

[Signature] Acting Speaker.

In Senate, July 25, 2006.

Preamble adopted,

[Signature] President

House of Representatives, July 25, 2006.

Bill passed to be re-enacted,

[Signature] Acting Speaker.

In Senate, July , 2006.

Bill passed to be re-enacted,

[Signature] President.

, 2006.

Approved,

at o'clock and minutes, M.

Governor.

House of Representatives, July 31, 2006.

This Bill having been returned by His Excellency the Governor with his objections thereto in writing (see House 5251) has been passed by the House of Representatives, notwithstanding said objections, two-thirds of the House (154 yeas to 0 nays) having agreed to pass the same.

Sent to the Senate for its action.

Salvatore F. Pappalardo, Speaker.

Steven T. James, Clerk.

Senate, July 31, 2006.

Passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present (38 yeas to 0 nays) having approved the same.

P. E. Sawyer, President.

William F. Welch, Clerk.

OFFICE OF THE SECRETARY, Boston, Massachusetts,

August 21, 2006

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on July 31, 2006, and in concurrence by the Senate on July 31, 2006, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

William Francis Galvin

William Francis Galvin
Secretary of the Commonwealth

CHAPTER 289 - COMMUNITY PRESERVATION FUND

Effective December 5, 2006

Amends the Community Preservation Act (CPA), G.L. c. 44B, §5(b)(2), to make acquisition of affordable housing a purpose for which community preservation fund monies may be spent. Under current law, communities may use fund monies for the creation, preservation or support of affordable housing, or the rehabilitation or restoration of affordable housing acquired or created with fund monies. The change clarifies that a municipality can use fund monies to acquire affordable housing restrictions or units. While those uses could be considered allowable creation or support of affordable housing, a fee or other interest in real property is acquired by the municipality, and since the CPA expressly allows fund monies to be used to acquire such interests for open space, historic or recreational purposes, there had been some uncertainty about whether use of fund monies to acquire them for affordable housing purposes was allowable. The amendment does not completely resolve the related uncertainty regarding the use of fund monies as grants to housing authorities to acquire affordable housing restrictions or units, as the CPA still requires that any real property acquired with fund monies be owned by the municipality. G.L. c. 44B, §12(b).

Chapter *289*

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the Year Two Thousand and Six

AN ACT RELATIVE TO THE COMMUNITY PRESERVATION ACT.

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

Section 5 of chapter 44B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 38, the word "creation" and inserting in place thereof the following words:- acquisition, creation.

House of Representatives, August *28*, 2006.

Passed to be enacted,



Acting
Speaker.

In Senate, August *31*, 2006.

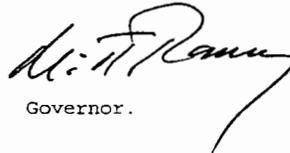
Passed to be enacted,



President.

9-6, 2006.

Approved, *at 10:47 AM*



Governor.



Informational Guideline Release

Bureau of Accounts
Informational Guideline Release (IGR) No. 06-101
August 2006

GUIDELINES FOR THE APPLICATION
OF
SCHOOL BUILDING ASSISTANCE GRANTS

(G. L. Ch. 70B and Chapter 208 of the Acts of 2004)

This Informational Guideline Release provides guidance for local officials on the accounting treatment and expenditure of grants from the Massachusetts School Building Authority.

Topical Index Key:

Accounting Policies and Procedures
Borrowing
Schools

Distribution:

Mayors/Selectmen
City/Town Managers
Finance Directors
Finance Committees
Municipal/Regional School Treasurers
Municipal/Regional School Superintendents
Accountants/Auditors
Regional School Business Managers
City Solicitors/Town Counsels

**GUIDELINES FOR THE APPLICATION
OF
SCHOOL BUILDING ASSISTANCE GRANTS**

(G. L. Ch. 70B and Chapter 208 of the Acts of 2004)

SUMMARY:

These guidelines were developed after consultation with the Massachusetts School Building Authority (MSBA) to provide guidance to local officials on the accounting treatment and expenditure of school building assistance grants.

In 2004, the MSBA was created to administer a new grant program to assist cities, towns and regional school districts with their school construction and renovation projects. G.L. Ch. 70B; St. 2004, c. 208. The MSBA is authorized to borrow to fund these grants, with a portion of the state's sales tax revenue dedicated to funding repayment of that debt. Under the former school building assistance program, cities, towns and districts borrowed the entire project cost and received annual payments from the state in order to offset their budgeted debt service expenses. Chapter 645 of the Acts of 1948, as amended. Under the new grant program, the MSBA will make distributions representing the state's share during the construction of an approved project and pay retained amounts after completion of a project audit. G.L. Ch. 70B. Cities, towns and districts will issue permanent debt for their shares and their financing costs will not be eligible for funding from the MSBA. As the transition to the new program is being made, the MSBA is making lump sum or ongoing grant payments to cities, towns and districts with projects that were previously approved by the Board of Education under the former program but were waiting for funding. The timing of these grant payments is dependent on whether the recipient has issued temporary or permanent debt for the project.

In order to ensure compliance with the purpose of the school building assistance program, it is essential that cities, towns and regional school districts apply all monies received from the MSBA only to pay approved project costs. By law, grants made to municipalities and districts are ordinarily accounted for separately and spent without appropriation solely for the purposes of the grant. See G.L. Ch. 44, §§6A, 53A and 53B. Therefore, municipalities and regional school districts that are recipients of school building assistance grants must generally apply funds disbursed by the MSBA to pay project costs or to reduce the amount of permanent debt issued to finance project costs. Grant payments for transitional projects may not be used as budgetary revenues, except to the extent that the grants reimburse for costs already funded in the recipient's current or prior year's budgets.

These guidelines prescribe uniform accounting standards for monies received by cities, towns and districts from the MSBA. G.L. Ch. 44, §38. See also G.L. Ch. 44, §43. They explain the accounting treatment and expenditure of grant proceeds based on the timing of the MSBA disbursements. They also provide general guidance for future votes to authorize borrowing for school building projects under G.L. Ch. 70B.

GUIDELINES:

I. TREATMENT OF MSBA PAYMENTS

A. Pre-MSBA Reimbursements

Municipalities and districts that were receiving scheduled annual reimbursements for school building projects before the MSBA was created will continue to treat reimbursements in the same manner as when they were included on the Cherry Sheet. The municipality or district will appropriate the full amount of the debt service cost and treat the annual reimbursement now coming from the MSBA as general fund revenue. The scheduled reimbursement will be shown on the tax rate recapitulation form on page 2, under “Estimated Receipts – State”, line III-a.2.

B. MSBA Grants

Grants from the MSBA for transitional or new Ch. 70B school building projects are to be segregated and spent **without appropriation** to pay project costs or debt depending on the timing of the disbursements.

1. Payments Received Before Permanent Debt Issued

a. Partial or Lump Sum Payments

Where the MSBA makes partial disbursements of a grant (“progress payments”) to the municipality or district on a monthly or other schedule that allows the recipient to use the grant proceeds directly to make timely payments of bills for project costs, the payments should be so used, thereby reducing the amount of temporary financing the grant recipient will need.

If a recipient has used either internal borrowing under G.L. Ch. 44, §20A, or temporary debt to pay project costs, grant proceeds must be applied to pay off either the internal borrowing or temporary debt.

b. Payments with Interest Reimbursements

For transitional projects where the grant disbursement also includes a component to reimburse interest incurred for temporary debt, the recipient may use as a current budget revenue the amount of the grant that is included as a reimbursement of such interest costs only to the extent the costs have been included in the current or prior fiscal years' budgets. The balance of the grant must be used to pay off the bond anticipation notes when they come due.

EXAMPLE

A municipality receives a school building assistance grant for \$6,000,000 to reimburse part of total project costs of \$10,000,000. The grant includes \$400,000 of interest on outstanding bond anticipation notes that the municipality has raised in its tax rates while awaiting funding. The grant is reimbursing 60% of the project costs.

The municipality may use \$240,000 (60% of \$400,000) as general fund revenue and in that case, would report it on the tax rate recapitulation form, page 3, as a non-recurring local estimated receipt. The remaining \$5,760,000 of the grant must be used to pay off the bond anticipation notes when they come due.

2. Payments Received After Permanent Debt Issued

a. Annual Payments

When a recipient has issued permanent debt for the project costs, and the MSBA disburses the grant in scheduled annual payments over the remaining term of the recipient's debt, the annual payments are to be applied against the debt service, with only the unreimbursed portion of the debt service being appropriated and raised in the tax levy. For Fiscal Year 2007, if a municipality has already appropriated the full amount of the school project debt service in the tax levy and budgeted the MSBA reimbursement as general fund revenue, the payment may be reported on the tax rate recapitulation form as a local estimated non-recurring receipt.

b. Lump Sum Payments

If the grant is disbursed in whole or in part as a lump sum, whether after completion of an audit or otherwise, and the bonds are not retired or refunded, the grant must be reserved and applied over the remaining term of the bond issue to pay the same percentage of each annual principal payment on the recipient's debt for the project. Interest earned on the balance is general fund revenue. In these cases, bond counsel should be consulted to ensure that to the extent applicable, the reservation and investment of the grant proceeds are consistent with federal arbitrage regulations on tax-exempt borrowings.

For transitional projects where the lump sum disbursement includes principal, interest and other project costs already included in the recipient's current and prior years' budgets, a portion of the disbursement may be used as current budget revenue as explained in Section B-1-b above. The balance must be used to pay off the bonds as explained in this section unless the amount disbursed in a fiscal year is less than 0.25 percent of the gross amount of the city, town or regional school district budget for the prior fiscal year. In that case, the payment may be used as a local estimated receipt in the fiscal year it is received.

II. CHAPTER 70B BORROWING AUTHORIZATIONS

For grants being sought by cities, towns and regional school districts under the new G.L. Ch. 70B program for school construction and renovation projects after July 1, 2007, the MSBA will require that a separate vote be taken for each school project for which funding is sought and that each vote be in a specified format. Votes approving capital plans involving the construction or rehabilitation of several buildings under a single omnibus bond authorization will no longer be accepted.

Local appropriation votes will be taken after the proposed project has been reviewed by the MSBA and it enters into a Project Scope and Budget Agreement with the municipality or district. The agreement will set out various project details, including the total project cost, time line for construction, grant reimbursement rate, grant amount and local share. Bond counsel should be consulted about the specific form of any vote authorizing borrowing, but it should generally (1) identify the specific project, including the project site and scope as set forth in the agreement, (2) authorize borrowing for the total budgeted cost, and (3) provide that the amount authorized will be reduced by any grants made by the MSBA.