



Massachusetts Municipal Lawyers Association

June 22, 2018

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The Honorable John Keenan, Chair
The Honorable Nick Collins, Vice-Chair
Senate Committee on Bonding, Capital Expenditures and State Assets
State House
Boston, Massachusetts 02133

Re: H. 4613, An Act promoting climate change adaptation, environmental and natural resource protection, and investment in recreational assets and opportunity, Regarding Public-Private Partnerships

Dear Chairman Keenan and Vice-Chairman Collins:

On behalf of the municipal bar of the Commonwealth, the Massachusetts Municipal Lawyers Association (MMLA) wishes to express its support of language contained in the Governor's version of the Environmental Bond (see Section 31 of H. 4318) that enables municipalities, districts and certain other local authorities to combat an estimated \$40 billion funding gap associated with meeting the state's water, wastewater, stormwater and flood control needs as identified by the state's Water Infrastructure Finance Commission. Most recently, the State Auditor recommended support of this new tool in order to mitigate this ever-growing funding gap, and we likewise urge you to promote innovative project delivery and give add this language to the Committee's report of H. 4613.

The public-private partnership (P3) project delivery methods authorized by the Governor's language builds upon the Massachusetts Department of Transportation (MassDOT) P3 model enacted in 2009 to bring the Commonwealth in line with nearly 40 other states and territories in the United States that enable public agencies to tap into private resources to finance and deliver much-needed infrastructure improvements. The proposed local option P3 program would provide our cities, towns, districts and local authorities with expanded financial capacity to undertake and meet rising water, wastewater, stormwater and flood control infrastructure needs and maximize service delivery cost savings that will significantly mitigate financial burdens borne by taxpayers and ratepayers alike.

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The Governor's proposal borrows from the MassDOT P3 model as well as Special Acts routinely enacted by the Legislature sanctioning the use of alternative project delivery methods in many cities and towns across the state for decades. The legislation contemplates the use of private equity contributions and other private financing in addition to tax-exempt borrowing to finance projects. P3 agreements awarded under the legislation are authorized for a term of as many as 40 years, inclusive of optional renewals, and must include provisions to ensure proper safeguards and adequate oversight. The P3 procurement is subject to competitive bidding and contracts must be awarded pursuant to Chapter 30B of the General Laws to the most advantageous proposal from a responsible bidder. Like the MassDOT act, unsolicited proposals from P3 vendors would be subject to mandatory evaluation procedures and competitive bidding procedures in the event the awarding authority wishes to proceed. Applicable federal and state prevailing wage and other labor laws would be required on all P3 projects.

Again, we urge you to join us in support of the Governor's P3 proposal and to add this language to the Committee's report of its version of the Environmental Bond Bill. Enactment of P3 authority to meet our rising water infrastructure challenges enables our public awarding authorities to achieve a cleaner and safer environment as has been recognized by our state's environmental agencies and the United States Environmental Protection Agency.

Thank you very much for your consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'M. Feher', written in a cursive style.

Matthew G. Feher, Esq.

MMLA Legislative Committee Chair

MGF/jmp