



Massachusetts Municipal Lawyers Association

"Dedicated to Effective Local Government Through the Advancement of Municipal Law"

November 27, 2023

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To: The Honorable, Lieutenant Governor Kim Driscoll
(via Michael Ward at the Collins Center (Michael.Ward@umb.edu))

Re: Input from the Massachusetts Municipal Lawyers Association

Dear Lieutenant Governor Driscoll:

I am writing in response to your September 2023 letter to the Massachusetts Municipal Lawyers Association (the "MMLA"), in my capacity as the President of the organization.

As you know, the MMLA is the Commonwealth's municipal bar association. Our organization has served Massachusetts cities and towns since 1946. We currently have 400 members, representing many of the cities and towns in the Commonwealth. The MMLA provides municipal law educational opportunities to our members and public officials, and advocates on behalf of our members and their cities and towns by providing commentary and testimony on pending legislation and serving as a resource for collaboration and guidance on issues impacting the Commonwealth's municipalities.

At the start of each new legislative session, the MMLA develops its legislative priorities, and throughout the legislative session, the MMLA advocates regarding those priorities and others that arise. The MMLA also responds to requests from our members to support or oppose certain legislation. The criteria the MMLA uses to decide whether to take a position include: (i) whether the matter affects cities and towns generally; (ii) whether any other organizations or bar associations have taken a position; (iii) whether the proposed legislation purports to solve a problem faced by municipalities, add to municipal costs, impact collective bargaining, affect public health, safety or welfare, or increase or decrease the flexibility municipalities have in dealing with local issues; and (iv) whether the legislation would have any unintended consequences for municipalities which the drafters of the proposed legislation have not foreseen.

To that end, the legislative priorities that the MMLA has focused on to date during the 2023-2024 Legislative Session include the following:

- Providing commentary, advocacy, and recommendations in connection with the legislation and regulations regarding cannabis and host community agreements. The MMLA has communicated its significant concerns about the retroactive effect of the Cannabis Control Commission's regulations on existing host community agreements and the unduly burdensome requirements for municipalities in order to meet equity requirements.
- Advocating for the permanent codification of the temporary changes to the Commonwealth's Open Meeting Law (G.L. c. 30A §§ 18 through 25). We advocate in favor of a permanent option for remote participation in meetings of public bodies, and strongly oppose any civil fine on volunteer members of public bodies.
- Advocating in connection with land use and zoning, including in particular, most recently, advocacy and support to the Department of Housing and Community Development (now, the Executive Office of Housing and Livable Communities) in connection with their Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act. We provided advocacy in response to Draft Guidelines sharing that there are a great number of municipal officials who express significant, grave concerns about the Guidelines, including, among other concerns, that they are cumbersome, contain unrealistic requirements and timeframes and, create an unfunded burden upon municipalities; and we continue to provide support as the Final Guidelines are implemented.
- Advocating in support of bills that amend the law relative to legal notices required to be published in newspapers and electronic publications (G.L. c. 4 § 13). Pending bills establish that for an online-only newspaper that does not maintain a print publication, publication on its own website and on a statewide website will satisfy the publication requirement of the statute.
- We are also in support of making necessary technical corrections to Chapter 30B and harmonizing additional sections of the Commonwealth's procurement statutes. Including, for example, HB3127 (HD2918) and SB2019 (SD1028), which amend G.L. c. 30B § 4, relative to the submission of quotations, by raising the threshold at which a procurement officer must get 3 bids for the supply of services from between \$10,000 and \$50,000 to between \$10,000 and \$100,000 (and eliminates the separate provisions for regional school districts).
- The option for alternative delivery of infrastructure projects is also important for our members. We are in favor of SB2069 (SD122), which creates a new local option for municipalities and other public project owners to use public-private partnerships for infrastructure projects. The bill permits greater private sector participation in financing and delivery of projects, while maintaining control and oversight, as well as mitigating legal risks, for public entities.
- Finally, commentary, advocacy, and recommendations for improvements to bills regarding effective enforcement of municipal ordinances and by-laws. In particular, HB2043 (HD954) and SB1295 (SD1229) authorize (i) the assessment of a civil penalty in any suit brought in the Superior Court or the Land Court by a city, town, municipal agency, officer, board or commission having enforcement powers to enforce an ordinance or by-law, if it is found that a violation occurred; (ii) articulate the circumstances to be considered by the Court in determining civil penalties; and (iii) authorize the municipality to determine the use of any funds received as a civil

penalty. These bills are important, but there is room for improvement in the language and proposed procedure for determining and assessing penalties.

We hope these comments are helpful. If you have any questions or would like additional information, please do not hesitate to contact us by way of our Executive Director, James Lampke (jlampke@massmunilaw.org); and, you can also find copies of our recent Legislative Advocacy on our website at: www.massmunilaw.org/Legislation.

Thank you for your leadership and your time and for the opportunity to share this with you.

Sincerely,

/s/ Karis L. North

Karis L. North
President, MMLA

cc: Michael Fishbein (Michael.Fishbein@umb.edu)