

MASSACHUSETTS MUNICIPAL LAWYERS ASSOCIATION

TO: MMLA Legislative Committee
FROM: Matthew G. Feher, Chair
RE: 2019-20 MMLA Legislative Package
DATE: December 13, 2018

The MMLA Legislative Committee (“Committee”) met on November 15, 2018 to consider and approve of legislative recommendations to be included as part of the MMLA’s 2019-20 Legislative Package.

This memorandum outlines the bills the Committee recommends the Executive Board to approve to be filed for the 2019-20 Legislative Session:

(1) **An act providing for alternative delivery of infrastructure projects**

Filed by Gov. Charlie Baker as part of the Administration’s Environmental Bond Bill; see Section 31 of H. 4318.

Similar legislation was previously reported out favorably by the Joint Committee for State Administration and Regulatory Oversight.

The bill creates a new local option program whereby municipalities and other public project owners can use innovative public-private partnership (P3) project delivery, such as Design-Build-Operate and Design-Build-Operate-Finance, for water, wastewater and stormwater infrastructure projects. Currently, such projects must be procured using Design-Bid-Build pursuant to G.L. c.30, §39M, and the selected vendor cannot contribute private financing.

(2) **An act relative to authorizing governmental bodies and other approved parties to use shared legal representation and consultants in matters of common interest**

Filed by Rep. Denise Provost (D-Somerville); see H. 1111.

Ordered to Third Reading in the House.

This bill enables two or more municipalities to share legal counsel and/or consultants to represent and serve them in any administrative, judicial or other proceeding in which they have a collective interest notwithstanding any provision of the state’s conflict of interest law to the contrary.

(3) An act relative to the effective enforcement of municipal ordinances and bylaws

Filed by Sen. Jamie Eldridge (D-Acton); see S. 1130.

Engrossed in the Senate and before House Steering and Policy.

The bill authorizes the Superior Court or Land Court to assess a civil fine and attorneys' fees in an equity proceeding brought by a municipality in connection with the enforcement of its ordinances and bylaws.

(4) An act relative to making a technical correction to public construction threshold

Filed by Rep. Chris Walsh (D-Framingham); see H. 1044.

Reported favorably by the Joint Committee on Labor and Workforce Development.

The bill makes a technical correction to the dollar thresholds requiring payment bonds for public construction projects in order to marry with dollar adjustments to the public bidding laws applicable to public works and building projects as part of the Municipal Modernization Act.

(5) An act relative to interest required to be paid by municipalities

Filed by Rep. Danielle Gregoire (D-Marlborough); see H. 2286.

Sent to study by the Joint Committee on the Judiciary.

The bill modifies various provision of G.L. c.231 in order to authorize courts to charge a floating and capped pre-judgment interest rate on judgements imposed against municipalities in certain civil cases. Currently, courts for not have discretion to assess interest based on the floating capped interest rate and such rate is only available to be applied to interest charged on judgments against the Commonwealth.

(6) An act relative to clarifying property tax exemptions for solar and wind systems

Filed by Sen. Michael Rodrigues (D-Westport); see S. 2364.

Engrossed in the Senate and before House Ways and Means.

The bill limits the applicability of the 20-year property tax exemption, pursuant to G.L. c.59, §5(45), to solar and wind facilities serving no more than 125% of the electric needs of the real property on which it is located. This is an attempt to counter recent Appellate Tax Board decisions that have interpreted the current property tax exemption to include net metering facilities.