Massachusetts Department of Revenue
Division of Local Services

Current Developments in Municipal Law

2011

Legislation

Book 1

Navjeet K. Bal, Commissioner
Robert G. Nunes, Deputy Commissioner

www.mass.gov/dls

LEGISLATION

Book 1

Table of Contents

2011 LEGISLATION

PLEASE NOTE THIS COMPILATION WAS MADE FROM ELECTRONIC, NOT OFFICIAL EDITIONS OF ACTS AND RESOLVES (SESSION LAWS) OF MASSACHUSETTS

2011 LEGISLATION

CHAPTER 52 – FISCAL YEAR 2011 SUPPLEMENTAL STATE BUDGET (EXCERPTS)

Effective June 21, 2011

§ 3 Emergency Borrowings. Amends G.L. c. 44, § 8(9), which authorizes borrowing for up to two years for emergency purposes. Under the amended short-term emergency borrowing option, a municipality must (1) authorize the borrowing and (2) obtain the approval of the borrowing from the Director of Accounts. The borrowing may be authorized (1) in the regular manner by two-thirds vote of the municipality's legislative body, and in a city with the approval of the mayor if required by charter, or (2) under an expedited procedure by the municipality's treasurer and chief executive officer. The chief executive officer is the selectboard or mayor unless a local charter designates another officer as the chief executive. Previously, all short-term emergency borrowings had to be authorized by the municipality's legislative body and approved by the Municipal Finance Oversight Board (MFOB).

Also adds a new Clause 9A to G.L. c. 44, § 8 to allow emergency borrowings for longer than two years. These emergency loans, however, require approval of the MFOB and may be used only for capital purposes. Capital purposes include, but are not limited to, the acquisition, construction, reconstruction or repair of public buildings, works, improvements or assets. A long-term emergency borrowing is authorized by the municipality's treasurer and chief executive officer. The MFOB may then approve the loan for up to the maximum term permitted by law for the purpose upon a showing by the municipality that following the regular borrowing authorization procedure would be an undue burden in meeting the emergency. Capital borrowings authorized in the regular manner are not emergency loans under this provision and do not need MFOB approval unless otherwise required by law for that borrowing.

§ 13 Tornado Property Tax Relief. Allows, upon acceptance, any municipality with properties damaged by the June 1, 2011 tornado that had not accepted Chapter 653 to assess fiscal year (FY) 2012 taxes based on the condition of properties as of June 30, 2011. Acceptance requires a majority vote of the selectboard, town council or city council, with the approval of the mayor if required by law.

See Bulletin 2011-09B, *Tornado Damage*, issued June 2011.

CHAPTER 52 OF THE ACTS OF 2011 (EXCERPTS)
An Act Making Appropriations for the Fiscal Year 2011 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 purposes, which are forthwith to make supplemental appropriations for fiscal year 2011 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 3. Section 8 of chapter 44 of the General Laws, is hereby further amended by striking out clause (9) as amended by section 33 of chapter 188 of the acts of 2010, and inserting in place thereof the following 2 clauses:-

(9) For emergency appropriations that are approved by the director, not more than 2 years as determined by the director; provided, however that for the purposes of this clause, "emergency" shall mean a sudden, unavoidable event or series of events which could not reasonably have been foreseen or anticipated at the time of submission of the annual budget for approval; provided further, that emergency shall not include the funding of collective bargaining agreements or items that were previously disapproved by the appropriating authority for the fiscal year in which the borrowing is sought; and provided further, that for the purposes of this clause, debt may be authorized by the treasurer of the city, town or district, with the approval of the chief executive officer in a city or town, or the prudential committee, if any, or by the commissioners in a district.

(9A) For emergency appropriations approved by a majority of the members of the municipal finance oversight board, up to the period fixed by law for such debt as determined by the board; provided, however, that this clause shall apply only to appropriations for capital purposes including, but not limited to, the acquisition, construction, reconstruction or repair of any public building, work, improvement or asset and upon a demonstration by the city, town or district that the process for authorizing debt in the manner otherwise provided by law imposes an undue hardship in its ability to respond to the emergency; provided further, that for purposes of this clause, "emergency" shall mean a sudden, unavoidable event or series of events which could not reasonably have been foreseen or anticipated at the time of submission of the annual budget for approval; and provided further, that for the purposes of this clause, debt may be authorized by the treasurer of the city, town or district, with the approval of the chief executive officer in a city or town, or the prudential committee, if any, or by the commissioners in a district.

SECTION 13. Notwithstanding sections 2A and 38 of chapter 59 of the General Laws or any other general or special law to the contrary, the board of assessors of a city or town in which real property was damaged or destroyed by tornado activity on June 1, 2011 and notwithstanding that the city or town has not accepted the third sentence of subsection (a) of said section 2A of said chapter 59, shall determine the condition of that property as of June 30, 2011 and shall use that condition to determine the assessed valuation of the property for purposes of assessing taxes as of January 1, 2011, for the fiscal year beginning on July 1, 2011. This section shall take effect in a city or town upon its

acceptance by the local appropriating authority as defined in section 21C of said chapter 59.

Approved June 21, 2011

CHAPTER 68 – FISCAL YEAR 2012 STATE BUDGET (EXCERPTS)

Effective July 1, 2011

§ 3 Local Aid Advances. Authorizes the State Treasurer to advance payments of FY12 local aid distributions to a city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance.

§ 33 Regional Greenhouse Gas Initiative Reimbursements. Amends G.L. c. 21A, § 22(c)(1)(i), which provides municipalities with coal-fired electric generating plants an annual reimbursement for loss of property tax revenues due to devaluation of the plant under Regional Greenhouse Gas Initiative (RGGI), which is a compact among Northeastern states including Massachusetts to reduce carbon dioxide emissions from power plants. Under the amendment, the reimbursement will now only apply where a full or partial decommissioning or other change in the operating status of the plant reduces greenhouse gas emissions. The reimbursement will now be calculated based on the difference between tax revenues received in the current fiscal year and the fiscal year before the plant was decommissioned or changed its operating status. Tax revenues are defined as including all payments, including payment in lieu of tax (PILOT) agreement amounts, received by the municipality. If a PILOT agreement is not reached between the plant and municipality, the plant must pay for an independent appraiser selected jointly by the plant and municipality. If they are unable to agree, the Department of Revenue is to select the appraiser.

§§ 49-50, 57 and 206 Local Other Post-employment Benefits Liability Trust Funds. Amends local acceptance G.L. c. 32B, § 20, which allows a city, town, district, county or municipal lighting plant to set up a special trust fund, the Other Post-employment Benefits (OPEB) Liability Trust Fund, for appropriations made to cover its unfunded actuarial liability for health care and other post-employment benefits for its retirees. Appropriations are not required, however. Reimbursements received by the governmental entity from the federal Medicare program for covering retiree drug costs (Medicare Part D) may be credited to the fund as well. Fund monies may be invested consistent with the prudent investor rule for private trusts under G.L. c. 203C. All interest earnings belong to the fund. Acceptance is by vote of town meeting in a town, city council in a city having a Plan D or Plan E charter, city council with the approval of the mayor in any other city, the governing board in a district, county commissioners in a county and board for a municipal lighting plant.

Under the amendments, fund monies are not subject to the claims of general creditors of the governmental unit or light plant. In addition, the governmental unit or plant may now also designate the state Health Care Security Trust (HCST) as the custodian of the fund and upon authorization of the HCST board of trustees, may invest fund monies in the

Retiree Benefits Trust Fund, which is the state OPEB fund. The retirement board may continue to serve as custodian of the fund in those communities where it was authorized to so serve before July 1, 2011. The unit or plant is also no longer required to establish and update a funding schedule to be reviewed by the Public Employee Retirement Administration Commission (PERAC's) actuary. Instead, the unit or plant must submit an annual report to PERAC by December 31 that summarizes its OPEB costs and liabilities as required by GASB 45. PERAC must review that information and advise the unit or plant of any GASB deficiencies. PERAC must also file an annual report with the chairs of the House and Senate Ways & Means committees, the Secretary of A & F and the board of trustees of the HCST.

§§ 53-54 Mandatory Enrollment of Local Retirees in Medicare. Repeals G.L. c. 32B, § 18, and amends G.L. c. 32B, § 18A, which had provided, upon acceptance, for local governmental units to enroll eligible retirees, spouses and dependents in the federal Medicare Part B (doctors' services and outpatient care) program. Under the amended G.L. c. 32B, § 18A, all eligible retirees, spouses and dependents must be enrolled in a Medicare supplemental plan, An exception is made for retirees or spouses with a dependent not eligible for Medicare. The governmental unit is to pay any late premium penalty assessed by the federal government.

§§ 55-56 Public Employee Committees. Amends G.L. c. 32B, § 19 regarding public employee committee (PEC) meetings. Section 55 reduces the required notice for calling a meeting from 30 to 7 days for the initial meeting and to 3 days for any subsequent meeting. Section 56 reduces the required quantum for PEC committee approval of health plan agreements from a 70 percent to a majority vote.

§§ 59-61 Local Tax Filings. Amends G.L. c. 59, §§ 32, 52B and 60 to let taxpayers (or their designated representatives) get copies of personal property returns (forms of list), income and expense returns or abatement and exemption applications they filed with their local assessors. The Supervisor of Public Records had previously advised assessors that they could disclose the filings only to those state and local officials named in the governing statutes.

§§ 73-74 Chapter 70 Deductions. Amends G.L. c. 71, § 19 by adding subsection (e) to authorize deduction of Chapter 70 aid where the home district does not transfer funds for its students attending Recovery High School. Also amends G.L. c. 71, § 92 by adding subsections (q) and (r) to allow school committees operating "virtual" Innovation Schools to allow students from other districts to enroll and authorize deduction of Chapter 70 aid where their home districts do not transfer funds.

§ 131 Payment of Public Employees in Military Service. Amends a 2003 law that required counties, cities, towns and regional school districts that accepted it to compensate public employees in the Army National Guard, the Air National Guard or a reserve component of the armed forces of the United States, who were granted a military leave of absence for service after September 11, 2001, for the difference between their base salaries and certain military pay. St. 2003, c. 137, § 1, as amended by St. 2005, c. 77, which extended the original sunset date from September 11, 2005 to September 11, 2008 and modified the amounts deducted from the compensation that has to be paid to the employees, and St. 2008, c. 182, § 77, which extended the sunset date to September

11, 2011. This section extends the sunset date for another three years, until September 11, 2014.

§ 184 Education Reform Waivers. Permits cities, towns and regional school districts to apply for various adjustments in their FY12 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY2011 operating budgets and those revenues are not available in FY2012, (2) they have extraordinary non-school related expenses in FY2012, or (3) their FY2012 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 FY2011 that are unavailable for FY2012 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, 2011. **See Informational Guideline Release (IGR) 11-302, *Fiscal Year 2012 Waivers to Education Reform Spending Requirements and Minimum Required Local Contributions*, issued July 2011.**

CHAPTER 68 OF THE ACTS OF 2011 (EXCERPTS)
An Act Making Appropriations for the Fiscal Year 2012 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, 2011, 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 3. Notwithstanding …

Advance payments shall be made for some or all of periodic local reimbursement or assistance programs to any city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of the executive office for administration and finance, pursuant to guidelines established by the secretary.

SECTION 33. Paragraph (1) of subsection (c) of section 22 of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) to reimburse a municipality in which the property tax receipts from an electric generating station including, for the purposes of this clause, payments in lieu of taxes and

other compensation specified in an agreement between a municipality and an affected property owner, are reduced due to full or partial decommissioning of the facility or other change in operating status of the facility if such action also reduces the commonwealth's greenhouse gas emissions from the electric generator sector under the goals established under chapter 21N; provided, however that the amount of such reimbursement shall be determined by calculating the difference between the amount of the tax receipts, including payments in lieu of taxes or other compensation paid by the electric generating station in the current tax year and the amount of the tax receipts, including payments in lieu of taxes or other compensation paid by the electric generating station in the year prior to the full or partial decommissioning or other change in operating status of the facility; provided further, that no reimbursement shall be made if, in a tax year, the aggregate amount paid to a municipality by the owner of an electric generating station including, but not limited to, payments in lieu of taxes and other compensation, exceeds the aggregate amount paid to that municipality by that owner in the year prior to the full or partial decommissioning or other change in operating status of the facility. After full or partial decommissioning or other change in operating status of the facility, the electric generating station's tax obligation shall be based, on an annual basis, on tax receipts, including payments in lieu of taxes or other compensation that have been negotiated in good faith by the electric generating station and municipality on or before January 30 of the current tax year; provided however, that if the electric generating station and municipality have not negotiated in good faith payments in lieu of taxes and other compensation in the nature of property tax payments by said January 30, then the facility's tax obligation shall be determined by an independent third party assessor paid by said facility, but selected jointly by the municipality and the facility, or if they are unable to arrive at a joint selection, by the department of revenue. The municipality shall be entitled to reimbursement for the difference between the amount called for in such assessment and the amount of the tax receipts, including payments in lieu of taxes or other compensation paid in the year prior to the full or partial decommissioning or other change in operating status of the facility, provided that such independent assessment is filed with any request for funds under this clause. Payments from the fund shall be prioritized so that the first payments from the fund shall be made to municipalities under this clause.

SECTION 49. Section 24 of said chapter 32A is hereby amended by inserting after the word "system", in line 16, as so appearing, the following words:- and for depositing, investing and disbursing amounts transferred to it under subsection (d).

SECTION 50. Said section 24 of said chapter 32A is hereby further amended by striking out subsection (d), as so appearing, and inserting in place thereof the following subsection:-

(d) Upon authorization by the board, any political subdivision, municipality, county or agency or authority of the commonwealth may participate in the fund using procedures and criteria to be adopted by the board.

SECTION 53. Section 18 of said chapter 32B of the General Laws is hereby repealed.

SECTION 54. Said chapter 32B is hereby further amended by striking out section 18A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 18A. (a) A retiree, spouse or dependent insured or eligible to be insured under this chapter, if enrolled in Medicare Part A at no cost to the retiree, spouse or dependent or eligible for coverage under Medicare Part A at no cost to the retiree, spouse or dependent, shall be required to transfer to a Medicare health plan offered by the governmental unit under section 11C or section 16, if the benefits under the plan and Medicare Part A and Part B together shall be of comparable actuarial value to those under the retiree's existing coverage, but a retiree or spouse who has a dependent who is not enrolled or eligible to be enrolled in Medicare Part A at no cost shall not be required to transfer to a Medicare health plan if a transfer requires the retiree or spouse to continue the existing family coverage for the dependent in a plan other than a Medicare health plan offered by the governmental unit.

(b) Each retiree shall provide the governmental unit, in such form as the governmental unit shall prescribe, such information as is necessary to transfer to a Medicare health plan. If a retiree does not submit the information required, the retiree shall no longer be eligible for the retiree's existing health coverage. The governmental unit may, from time to time, request from a retiree, a retiree's spouse or a retiree's dependent, proof certified by the federal government, of eligibility or ineligibility for Medicare Part A and Part B coverage.

(c) The governmental unit shall pay any Medicare Part B premium penalty assessed by the federal government on the retiree, spouse or dependent as a result of enrollment in Medicare Part B at the time of transfer.

SECTION 55. The fifth paragraph of subsection (a) of section 19 of said chapter 32B, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following 2 sentences:- Either the public employee committee or the appropriate public authority may convene the initial meeting of the committee at any time upon 7 days notice. Either the public employee committee or the appropriate public authority may convene any subsequent meeting with notice of not less than 3 business days.

SECTION 56. Said section 19 of said chapter 32B, as so appearing, is hereby amended by striking out, in line 58, the words "70 per cent" and inserting in place thereof the following words:- a majority.

SECTION 57. Said chapter 32B is hereby further amended by striking out section 20, as so appearing, and inserting in place thereof the following section:-

Section 20. (a) A city, town, district, county or municipal lighting plant that accepts this section may establish an Other Post-Employment Benefits Liability Trust Fund, and may appropriate amounts to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. section 1395w-132 may be added to and become part of the fund. All monies held in the fund shall be segregated from other funds and shall not be subject to the claims of any general creditor of the city, town, district, county or municipal lighting plant.

(b) The custodian of the fund shall be (i) a designee appointed by the board of a municipal lighting plant; (ii) the treasurer of any other governmental unit; or (iii) if designated by the city, town, district, county or municipal lighting plant in the same manner as acceptance prescribed in this section, the Health Care Security Trust board of trustees established in section 4 of chapter 29D, provided that the board of trustees

accepts the designation. The custodian may employ an outside custodial service to hold the monies in the fund. Monies in the fund shall be invested and reinvested by the custodian consistent with the prudent investor rule established in chapter 203C and may, with the approval of the Health Care Security Trust board of trustees, be invested in the State Retiree Benefits Trust Fund established in section 24 of chapter 32A.

(c) This section may be accepted in a city having a Plan D or Plan E charter, by vote of the city council; in any other city, by vote of the city council and approval of the mayor; in a town, by vote of the town at a town meeting; in a district, by vote of the governing board; in a municipal lighting plant, by vote of the board; and in a county, by vote of the county commissioners.

(d) Every city, town, district, county and municipal lighting plant shall annually submit to the public employee retirement administration commission, on or before December 31, a summary of its other post-employment benefits cost and obligations and all related information required under Government Accounting Standards Board standard 45, in this subsection called "GASB 45", covering the last fiscal or calendar year for which this information is available. On or before June 30 of the following year, the public employee retirement administration commission shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform to the requirements of GASB 45 or other standards that the commission may establish. The public employee retirement administration commission shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance and the board of trustees of the Health Care Security Trust.

SECTION 59. Section 32 of chapter 59 of the General Laws, as amended by section 46 of chapter 188 of the acts of 2010, is hereby further amended by adding the following sentence:- Nothing in this section shall prevent a person who submitted that information, or his designated representative, from inspecting or being provided a copy of the submission upon request.

SECTION 60. Section 52B of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- Nothing in this section shall prevent a person who submitted that information, or his designated representative, from inspecting or being provided a copy of the submission upon request.

SECTION 61. Section 60 of said chapter 59, as so appearing, is hereby amended by inserting, after the word “duties” in line 32 the following words:- ; provided, however, that nothing in this section shall prevent a person who submitted that information, or his designated representative, from inspecting or being provided a copy of the submission upon request.

SECTION 73. Section 91 of chapter 71 of the General Laws, as amended by section 52 of chapter 131 of the acts of 2010, is hereby further amended by adding the following subsection:-

(e) Failure by a school district to transfer funds to a Recovery High School as required in subsection (b) shall result in a deduction of the amount therein from the home school district’s chapter 70 per pupil allotment for the following fiscal year.

SECTION 74. Section 92 of said chapter 71, inserted by section 8 of chapter 12 of the acts of 2010, is hereby amended by adding the following 2 subsections:-

(q) A school committee operating an Innovation School that is a virtual public school may vote to allow students who do not reside in the district to enroll in the virtual public school pursuant to section 12B of chapter 76; provided, however, that the vote and policy is consistent with department of elementary and secondary education regulations governing enrollment at such schools; provided further, that any student enrolled in a virtual public school shall have no right to attend any other school operated by that school committee. Notwithstanding subsection (b), an Innovation School that is a virtual public school may receive each school year from the school committee less than the same per pupil allocation as any other district school receives.

(r) Failure by a school district to transfer funds to an Innovation School, as required in subsection (b) shall result in a deduction of the amount therein from the home school district's chapter 70 per pupil allotment for the following fiscal year.

SECTION 131. Section 21 of chapter 137 of the acts of 2003, as appearing in section 77 of chapter 182 of the acts of 2008, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Section 1 shall expire on September 11, 2014.

SECTION 184. (a) Notwithstanding any general or special law to the contrary, upon the request of the board of selectmen in a town, the city council in a city with a plan E form of government 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, 2012. Based on the criteria established 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 elementary and secondary education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which are not available for use in the next fiscal year or that shall 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, 2011, for an adjustment of its minimum required local contribution and net school spending.

(c) If an appeal 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 June 30, 2012, 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 appeal regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of elementary and secondary 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 city with a plan E form of government, 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 are not available for use in the next fiscal year may appeal to the department of revenue not later than October 1, 2011, for an adjustment to its net school spending requirement. If an appeal 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 elementary and secondary 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 determined pursuant to 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 elementary and secondary 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 in this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized by this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2012 pursuant to 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 pursuant to this section.

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

SECTION 206. Nothing in section 20 of chapter 32B of the General Laws shall affect the validity of any action taken before July 1, 2011 by a city or town that authorizes the contributory retirement system of which the employees of that city or town are members to be the custodian of an Other Post-Employment Benefits Liability Trust Fund.

SECTION 221. Except as otherwise specified, this act shall take effect on July 1, 2011.

Approved (in part) July 11, 2011

CHAPTER 69 – MUNICIPAL HEALTH INSURANCE REFORM

Effective July 12, 2011

Amends the municipal group insurance statute, G.L. c. 32B, to establish a process for changing the co-pays, deductibles and other design features of health insurance plans provided by municipalities and other governmental units to their employees and retirees. Specifically, it amends §§ 2 (definitions) and 12 (joint purchase group) and adds §§ 21-29 to G.L. c. 32B.

Under the amendments, the governmental unit seeking to change health insurance benefits has an alternative to the process laid out in G.L. c. 32B, § 19. That governmental must accept G.L. c. 32B, § 21 and determine the savings from the proposed changes in the design of its health care plan or proposed move of employees into the state Group Insurance Commission (GIC). It must notify the Insurance Advisory Committee of the estimated savings and notify the PEC of the proposed changes in benefits, an estimate of the anticipated savings to the employer for the first 12 months of the implementation, and a proposal to mitigate out-of-pocket costs for certain subscribers, with up to 25 percent of the savings shared with subscribers. The PEC and employer have 30 days from the receipt of the notice to negotiate the changes and a savings mitigation proposal. If they do not come to a written agreement to implement the changes within that 30 day period, the proposal is submitted to a three member panel that includes an employer appointee, PEC appointee, and one member designated by the Secretary of A & F. The third member is to have experience in dispute mediation and municipal finance. The panel has 10 days to reach a final and binding decision. It must accept any proposal that keeps co-pays and deductibles equal to or less than the most popular GIC plan. If the proposal would move the municipality into the GIC, the panel must certify that any savings would be 5 percent greater than they would be by implementing plan design changes. Except for FY2012, governmental units planning to move their employees to GIC by July 1 of a fiscal year must notify the GIC by the prior October 1. For FY2012, the law allows municipality entry dates into the GIC of January 1, 2012, April 1, 2012, and July 1, 2012, with notice at least 4 months in advance of those dates.

The Executive Office of A & F is required to adopt regulations to provide guidance on implementing the new expedited negotiation procedure. It has issued emergency regulations that outline the administrative process of the negotiations and the process for the health insurance review panel if the matter is not resolved during local negotiations. See 801 Code of Massachusetts Regulations (CMR) 52.00 *Municipal Health Insurance*, The GIC has also amended its regulations to address entry to the GIC under the new procedure. See 805 CMR 8.05, *Appropriate Public Authorities' Entry into the GIC.*

CHAPTER 69 OF THE ACTS OF 2011
An Act Relative to Municipal Health Insurance

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to authorize municipalities to implement local health insurance changes, 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. Chapter 32B of the General Laws is hereby amended by striking out section 2, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

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

"Appropriate public authority", as to a county, except Worcester county, the county commissioners; as to a city, the mayor; as to a town, the selectmen; as to a district, the governing board of the district and for the purposes of this chapter if a collective bargaining agreement is in place, as to a commonwealth charter school as defined by section 89 of chapter 71, the board of trustees; and as to an education collaborative, as defined by section 4E of chapter 40, the board of directors.

"Commission", the group insurance commission established by section 3 of chapter 32A.

"Dependent", an employee's spouse, an employee's unmarried children under 19 years of age and any child 19 years of age or over who is mentally or physically incapable of earning the child's own living; provided, however, that any additional premium which may be required shall be paid for the coverage of such child 19 years of age or over; provided further, that "dependent" shall also include an unmarried child 19 years of age or over who is a full-time student in an educational or vocational institution and whose program of education has not been substantially interrupted by full-time gainful employment, excluding service in the armed forces; provided further, that any additional premium which may be required for the coverage of such student shall be paid in full by the employee. The standards for such full-time instruction and the time required to complete such a program of education shall be determined by the appropriate public authority.

"District", any water, sewer, light, fire, veterans' services or other improvement district or public unit created within 1 or more political subdivisions of the commonwealth to provide public services or conveniences.

"Employee", any person in the service of a governmental unit or whose services are divided between 2 or more governmental units or between a governmental unit and the commonwealth, and who receives compensation for any such service, whether such person is employed, appointed or elected by popular vote, and any employee of a free public library maintained in a city or town to the support of which that city or town annually contributes not less than one-half of the cost; provided, however, that the duties of such person require not less than 20 hours, regularly, in the service of the governmental unit during the regular work week of permanent or temporary employment; provided further, that no seasonal employee or emergency employees shall be included, except that persons elected by popular vote may be considered eligible employees during the entire term for which they are elected regardless of the number of hours devoted to the service of the governmental unit. A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an employee, if approved by vote of the municipal legislative body, and the municipality shall charge such individual 100 per cent of the premium. If an employee's services are divided between governmental units, the employee shall, for the purposes of this chapter, be considered an employee of the governmental unit which pays more than 50 per cent of the employee's salary. But, if no one governmental units pays more than 50 per cent of

that employee's salary, the governmental unit paying the largest share of the salary shall consider the employee as its own for membership purposes, and that governmental unit shall contribute 50 per cent of the cost of the premium. If the payment of an employee's salary is equally divided between governmental units, the governmental unit having the largest population shall contribute 50 per cent of the cost of the premium. If an employee's salary is divided in any manner between a governmental unit and the commonwealth, the governmental unit shall contribute 50 per cent of the cost of the premium. An employee eligible for coverage under this chapter shall not be eligible for coverage as an employee under chapter 32A. Teachers and all other public school employees shall be deemed to be employees during the months of July and August under this chapter; provided, however, that employee contributions for such health insurance for those 2 months are deducted from the compensation paid for services rendered during the previous school year. A determination by the appropriate public authority that a person is eligible for participation in the plan of insurance shall be final. Nothing in this paragraph shall apply to Worcester county or its employees.

"Employer", the governmental unit.

"Governmental unit", any political subdivision of the commonwealth.

"Health care flexible spending account", a federally-recognized tax-exempt health benefit program that allows an employee to set aside a portion of earnings to pay for qualified expenses as established in an employer's benefit plan.

"Health care organization", an organization for the group practice of medicine, with or without hospital or other medical institutional affiliations, which furnishes to the patient a specified or unlimited range of medical, surgical, dental, hospital and other types of health care services.

"Health reimbursement arrangement", a federally-recognized tax-exempt health benefit program funded solely by an employer to reimburse subscribers for qualified medical expenses.

"Optional Medicare extension", a program of hospital, surgical, medical, dental and other health insurance for such active employees and their dependents and such retired employees and their dependents, except elderly governmental retirees insured under section 11B, as are eligible or insured under the federal health insurance for the aged act, as may be amended from time to time.

"Political subdivision", any county, except Worcester county, city, town or district.

"Savings", for the purposes of sections 21, 22 and 23, shall mean the difference between the total projected premium costs for health insurance benefits provided by a political subdivision with changes made to health insurance benefits under section 22 or 23 for the first 12 months after the implementation of such changes and the total projected premium costs for health insurance benefits provided by that subdivision without such changes for the same 12 month period.

"Subscribers", employees, retirees, surviving spouses and dependents of the political subdivision and may include employees, retirees, surviving spouses and dependents of a district who previously received health insurance benefits through the political subdivision.

SECTION 2. Section 12 of said chapter 32B is hereby amended by adding the following paragraph:-

The board of a trust or joint purchase group established by 2 or more governmental units may vote to implement changes to co-payments, deductibles, tiered provider network

copayments and other cost-sharing plan design features which do not exceed those which an appropriate public authority may offer under section 22; provided, however, that each governmental unit that is a member of a trust or group shall comply with the requirements set forth in section 21 before any such changes may be applied to the health insurance coverage of such governmental unit's subscribers. If such changes to the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features do not exceed those permitted under section 22, such changes shall be approved in accordance with the provisions of section 21.

SECTION 3. Said chapter 32B is hereby further amended by adding the following 9 sections:-

Section 21. (a) Any political subdivision electing to change health insurance benefits under sections 22 or 23 shall do so in the following manner: in a county, except Worcester county, by a vote of the county commissioners; in a city having Plan D or a Plan E charter, by majority vote of the city council and approval by the manager; in any other city, by majority vote of the city council and approval by the mayor; in a town, by vote of the board of selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the district at a district meeting. This section shall be binding on any political subdivision that implements changes to health insurance benefits pursuant to section 22 or 23.

(b) Prior to implementing any changes authorized under sections 22 or 23, the appropriate public authority shall evaluate its health insurance coverage and determine the savings that may be realized after the first 12 months of implementation of plan design changes or upon transfer of its subscribers to the commission. The appropriate public authority shall then notify its insurance advisory committee, or such committee's regional or district equivalent, of the estimated savings and provide any reports or other documentation with respect to the determination of estimated savings as requested by the insurance advisory committee. After discussion with the insurance advisory committee as to the estimated savings, the appropriate public authority shall give notice to each of its collective bargaining units to which the authority provides health insurance benefits and a retiree representative, hereafter called the public employee committee, of its intention to enter into negotiations to implement changes to health insurance benefits provided by the appropriate public authority. The retiree representative shall be designated by the Retired State, County and Municipal Employees Association. A political subdivision which has previously established a public employee committee under section 19 may implement changes to its health insurance benefits pursuant to this section and sections 22 and 23.

Notice to the collective bargaining units and retirees shall be provided in the same manner as prescribed in section 19. The notice shall detail the proposed changes, the appropriate public authority's analysis and estimate of its anticipated savings from such changes and a proposal to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected.

(c) The appropriate public authority and the public employee committee shall have not more than 30 days from the point at which the public employee committee receives the notice as provided in subsection (b) to negotiate all aspects of the proposal. An agreement with the appropriate public authority shall be approved by a majority vote of the public employee committee; provided, however, that the retiree representative shall have a 10 per cent vote. If after 30 days the appropriate public authority and public employee committee are unable to enter into a written agreement to implement changes

under section 22 or 23, the matter shall be submitted to a municipal health insurance review panel. The panel shall be comprised of 3 members, 1 of whom shall be appointed by the public employee committee, 1 of whom shall be appointed by the public authority and 1 of whom shall be selected through the secretary of administration and finance who shall forward to the appropriate public authority and the public employee committee a list of 3 impartial potential members, each of whom shall have professional experience in dispute mediation and municipal finance or municipal health benefits, from which the appropriate public authority and the public employee committee may jointly select the third member; provided, however, that if the appropriate public authority and the public employee committee cannot agree within 3 business days upon which person to select as the third member of the panel, the secretary of administration and finance shall select the final member of the panel. Any fee or compensation provided to a member for service on the panel shall be shared equally between the public employee committee and the appropriate public authority.

(d) The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 22; provided, however, that any increases to plan design features have been made in accordance with the provisions of section 22. The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 23; provided, that the panel confirms that the anticipated savings under those changes would be at least 5 per cent greater than the maximum possible savings under section 22. If the panel does not approve implementation of changes made pursuant to section 22 or section 23, the public authority may submit a new proposal to the public employee committee for consideration and confirmation under this section.

(e) Within 10 days of receiving any proposed changes under sections 22 or 23, the municipal health insurance review panel shall: (i) confirm the appropriate public authority's estimated monetary savings due to the proposed changes under section 22 or 23 and ensure that the savings is substantiated by documentation provided by the appropriate public authority; provided, however, that if the panel determines the savings estimate to be unsubstantiated, the panel may require the public authority to submit a new estimate or provide additional information to substantiate the estimate; (ii) review the proposal submitted by the appropriate public authority to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected; and (iii) concur with the appropriate public authority that the proposal is sufficient to mitigate, moderate or cap the impact of these changes for subscribers, including retirees, low-income subscribers and subscribers with high out-of-pocket health care costs, who would otherwise be disproportionately affected or revise the proposal pursuant to subsection (f).

(f) The municipal health insurance review panel may determine the proposal to be insufficient and may require additional savings to be shared with subscribers, particularly those who would be disproportionately affected by changes made pursuant to sections 22 or 23, including retirees, low-income subscribers and subscribers with high out-of-pocket costs. In evaluating the distribution of savings to retirees, the panel may consider any discrepancy between the percentage contributed by retirees, surviving spouses and their dependents to plans offered by the public authority as compared to other subscribers. In reaching a decision on the proposal under this subsection, the municipal health insurance review panel may consider an alternative proposal, with supporting documentation, from

the public employee committee to mitigate, moderate or cap the impact of these changes for subscribers. The panel may require the appropriate public authority to distribute additional savings to subscribers in the form of health reimbursement arrangements, wellness programs, health care trust funds for emergency medical care or inpatient hospital care, out-of-pocket caps, Medicare Part B reimbursements or reimbursements for other qualified medical expenses; provided, however that in no case shall the municipal health insurance review panel designate more than 25 per cent of the estimated savings to subscribers. The municipal health insurance review panel shall not require a municipality to implement a proposal to mitigate, moderate or cap the impact of changes authorized under section 22 or 23 which has a total multi-year cost that exceeds 25 per cent of the estimated savings. All obligations on behalf of the appropriate public authority related to the proposal shall expire after the initial amount of estimated savings designated by the panel to be distributed to employees and retirees has been expended. The panel shall not impose any change to contribution ratios.

(g) The decision of the municipal health insurance review panel shall be binding upon all parties.

(h) The secretary of administration and finance shall promulgate regulations establishing administrative procedures for the negotiations with the public employee committee and the municipal health insurance review panel, and issue guidelines to be utilized by the appropriate public authority and the municipal health insurance review panel in evaluating which subscribers are disproportionately affected, subscriber income and subscriber out-of-pocket costs associated with health insurance benefits.

Section 22. (a) Upon meeting the requirements of section 21, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers not enrolled in a Medicare plan under section 18A, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a non-Medicare plan with the largest subscriber enrollment; provided, however, that for subscribers enrolled in a Medicare plan pursuant to section 18A the appropriate public authority may include, as part of the health plans that it offers to its subscribers, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a Medicare plan with the largest subscriber enrollment. The appropriate public authority shall not include a plan design feature which seeks to achieve premium savings by offering a health benefit plan with a reduced or selective network or providers unless the appropriate public authority also offers a health benefit plan to all subscribers that does not contain a reduced or selective network of providers.

(b) An appropriate public authority may increase the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features; provided that, for subscribers enrolled in a non-Medicare plan, such features do not exceed plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a non-Medicare plan with the largest subscriber enrollment and, for subscribers enrolled in a Medicare plan under section 18A, such features do not

exceed plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a Medicare plan with the largest subscriber enrollment; provided, however, that the public authority need only satisfy the requirements of subsection (a) of section 21 the first time changes are implemented pursuant to this section; and provided, further that the public authority meet its obligations under subsections (b) to (h), inclusive, of section 21 each time an increase to a plan design feature is proposed.

Nothing herein shall prohibit an appropriate public authority from including in its health plans higher copayments, deductibles or tiered provider network copayments or other plan design features than those authorized by this section; provided, however, such higher copayments, deductibles, tiered provider network copayments and other plan design features may be included only after the governmental unit has satisfied any bargaining obligations pursuant to section 19 or chapter 150E.

(c) The decision to accept and implement this section shall not be subject to bargaining pursuant to chapter 150E or section 19. Nothing in this section shall preclude the implementation of plan design changes pursuant to this section in communities that have adopted section 19 of this chapter or by the governing board of a joint purchasing group established pursuant to section 12.

(d) Nothing in this section shall relieve an appropriate public authority from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter.

(e) The first time a public authority implements plan design changes under this section or section 23, the public authority shall not increase before July 1, 2014,the percentage contributed by retirees, surviving spouses and their dependents to their health insurance premiums from the percentage that was approved by the public authority prior to and in effect on July 1, 2011; provided however, that if a public authority approved of an increase in said percentage contributed by retirees before July 1, 2011, but to take effect on a date after July 1, 2011, said percentage increase may take effect upon the approval of the secretary of administration and finance based on documented evidence satisfactory to the secretary that the public authority approved the increase prior to July 1, 2011.

Section 23. (a) Upon meeting the requirements of section 21, an appropriate public authority which has undertaken to provide health insurance coverage to its subscribers may elect to provide health insurance coverage to its subscribers by transferring its subscribers to the commission and shall notify the commission of such transfer. The notice shall be provided to the commission by the appropriate public authority on or before December 1 of each year and the transfer of subscribers to the commission shall take effect on the following July 1. On the effective date of the transfer, the health insurance of all subscribers, including elderly governmental retirees previously governed by section 10B of chapter 32A and retired municipal teachers previously governed by section 12 of chapter 32A, shall be provided through the commission for all purposes and governed under this section. As of the effective date and for the duration of this transfer, subscribers transferred to the commission's health insurance coverage shall receive group health insurance benefits determined exclusively by the commission and the coverage shall not be subject to collective bargaining, except for contribution ratios.

Subscribers transferred to the commission who are eligible or become eligible for Medicare coverage shall transfer to Medicare coverage, as prescribed by the commission. In the event of transfer to Medicare, the political subdivision shall pay any Medicare part B premium penalty assessed by the federal government on retirees, spouses and

dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan. For each subscriber's premium and the political subdivision's share of that premium, the subscriber and the political subdivision shall furnish to the commission, in such form and content as the commission shall prescribe, all information the commission deems necessary to maintain subscribers' and covered dependents' health insurance coverage. The appropriate public authority of the political subdivision shall perform such administrative functions and process such information as the commission deems necessary to maintain those subscribers' health insurance coverage including, but not limited to, family and personnel status changes, and shall report all changes to the commission. In the event that a political subdivision transfers subscribers to the commission under this section, subscribers may be withdrawn from commission coverage at 3 year intervals from the date of transfer of subscribers to the commission.

The appropriate public authority shall provide notice of any withdrawal by October 1 of the year prior to the effective date of withdrawal. All withdrawals shall be effective on July 1 following the political subdivision's notice to the commission and the political subdivision shall abide by all commission requirements for effectuating such withdrawal, including the notice requirements in this subsection. In the event a political subdivision withdraws from commission coverage under this section, such withdrawal shall be binding on all subscribers, including those subscribers who, prior to the transfer to the commission, received coverage from the commission under sections 10B and 12 of chapter 32A and, after withdrawal from the commission, those subscribers who received coverage from the commission under said sections 10B and 12 of said chapter 32A shall not pay more than 25 per cent of the cost of their health insurance premiums. In the event of withdrawal from the commission, the political subdivision and public employee unions shall return to governance of negotiations of health insurance under chapter 150E and this chapter; provided, however, that the political subdivision may transfer coverage to the commission again after complying with the requirements of subsections (b) to (h), inclusive, of section 21.

The commission shall issue rules and regulations consistent with this section related to the process by which subscribers shall be transferred to the commission.

(b) To the extent authorized under chapter 32A, the commission shall provide group coverage of subscribers' health claims incurred after transfer to the commission. The claim experience of those subscribers shall be maintained by the commission in a single pool and combined with the claim experience of all covered state employees and retirees and their covered dependents, including those subscribers who previously received coverage under sections 10B and 12 of chapter 32A.

(c) A political subdivision that self-insures its group health insurance plan under section 3A and has a deficit in its claims trust fund at the time of transferring its subscribers to the commission and the deficit is attributable to a failure to accrue claims which had been incurred but not paid may capitalize the deficit and amortize the amount over 10 fiscal years in 10 equal amounts or on a schedule providing for a more rapid amortization. Except as provided otherwise herein, subscribers eligible for health insurance coverage pursuant to this section shall be subject to all of the terms, conditions, schedule of benefits and health insurance carriers as employees and dependents as defined by section 2 and commission regulations. The commission shall, exclusively and not subject to collective bargaining under chapter 150E, determine all matters relating to subscribers' group health insurance rights, responsibilities, costs and payments and obligations excluding contribution ratios, including, but not limited to, the manner and

method of payment, schedule of benefits, eligibility requirements and choice of health insurance carriers. The commission may issue rules and regulations consistent with this section and shall provide public notice, and notice at the request of the interested parties, of any proposed rules and regulations and provide an opportunity to review and an opportunity to comment on those proposed rules and regulations in writing and at a public hearing; provided, however, that the commission shall not be subject to chapter 30A.

(d) The commission shall negotiate and purchase health insurance coverage for subscribers transferred under this section and shall promulgate regulations, policies and procedures for coverage of the transferred subscribers. The schedule of benefits available to transferred subscribers shall be determined by the commission pursuant to chapter 32A. The commission shall offer those subscribers the same choice as to health insurance carriers and benefits as those provided to state employees and retirees. The political subdivision's contribution to the cost of health insurance coverage for transferred subscribers shall be as determined under this section, and shall not be subject to the provisions on contributions in said chapter 32A. Any change to the premium contribution ratios shall become effective on July 1 of each year, with notice to the commission of such change not later than January 15 of the same year.

(e) A political subdivision that transfers subscribers to the commission shall pay the commission for all costs of its subscribers' coverage, including administrative expenses and the governmental unit's cost of subscribers' premium. The commission shall determine on a periodic basis the amount of premium which the political subdivision shall pay to the commission. If the political subdivision unit fails to pay all or a portion of these costs according to the timetable determined by the commission, the commission may inform the state treasurer who shall issue a warrant in the manner provided by section 20 of chapter 59 requiring the respective political subdivision to pay into the treasury of the commonwealth as prescribed by the commission the amount of the premium and administrative expenses attributable to the political subdivision. The state treasurer shall recoup any past due costs from the political subdivision's cherry sheet under section 20A of chapter 58 and transfer that money to the commission. If a governmental unit fails to pay to the commission the costs of coverage for more than 90 days and the cherry sheet provides an inadequate source of payment, the commission may, at its discretion, cancel the coverage of subscribers of the political subdivision. If the cancellation of coverage is for nonpayment, the political subdivision shall provide all subscribers health insurance coverage under plans which are the actuarial equivalent of plans offered by the commission in the preceding year until there is an agreement with the public employee committee providing for replacement coverage.

The commission may charge the political subdivision an administrative fee, which shall not be more than 1 per cent of the cost of total premiums for the political subdivision, to be determined by the commission which shall be considered as part of the cost of coverage to determine the contributions of the political subdivision and its employees to the cost of health insurance coverage by the commission.

(f) If there is a withdrawal from the commission under this section, all retirees, their spouses and dependents insured or eligible to be insured by the political subdivision, if enrolled in Medicare part A at no cost to the retiree, spouse or dependents, shall be required to be insured by a Medicare extension plan offered by the political subdivision under section 11C or section 16. A retiree shall provide the political subdivision, in such form as the political subdivision shall prescribe, such information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information

required, the retiree shall no longer be eligible for the retiree's existing health insurance coverage. The political subdivision may from time to time request from a retiree, a retiree's spouse and dependents, proof certified by the federal government of the retiree's eligibility or ineligibility for Medicare part A and part B coverage. The political subdivision shall pay the Medicare part B premium penalty assessed by the federal government on those retirees, spouses and dependents as a result of enrollment in Medicare part B at the time of transfer into the Medicare health benefits supplement plan.

(g) The decision to implement this section shall not be subject to collective bargaining pursuant to chapter 150E or section 19.

(h) Nothing in this section shall relieve a political subdivision from providing health insurance coverage to a subscriber to whom it has an obligation to provide coverage under any other provision of this chapter or change eligibility standards for health insurance under the definition of "employee" in section 2.

Section 24. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter may provide health care flexible spending accounts to allow certain subscribers, as determined by the appropriate public authority, to set aside a portion of earnings to pay for qualified expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 25. Notwithstanding any general or special law or regulation to the contrary, the appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter or transfer its subscribers to the commission under this chapter may provide health reimbursement arrangements to reimburse subscribers for qualified medical expenses which may include, but shall not be limited to, out-of-pocket costs such as inpatient and outpatient copayments, calendar year deductibles, office visit copayments and prescription drug copayments.

Section 26. An appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers under this chapter shall conduct an enrollment audit not less than once every 2 years. The audit shall be completed in order to ensure that members are appropriately eligible for coverage.

Section 27. An insurance carrier, third party purchasing group or administrator or the commission in the case of a governmental unit, which has undertaken to provide health insurance coverage to its subscribers by acceptance of sections 19 or 23, shall, upon written request, provide the governmental unit or public employee committee with its historical claims data within 45 days of such request; provided, that all personally identifying information within such claims shall be redacted and released in a form and manner compliant with all applicable state and federal privacy statutes and regulations including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996.

Section 28. Nothing in section 21, 22 or 23 shall be construed to prevent 2 or more governmental units under a joint purchase or trust agreement from jointly negotiating and purchasing coverage as authorized in section 12.

Section 29. Each fiscal year, the commission shall prepare and place on its website a report delineating the dollar amount of the copayments, deductibles, tiered provider network co-payments and other design features offered by the commission in the non-Medicare plan with the largest subscriber enrollment and the dollar amount of the copayments, deductibles, tiered provider network copayments and other design features offered by the commission in the Medicare extension plan with the largest subscriber enrollment. The commission shall also provide information on its plans with the largest subscriber enrollment upon request of any appropriate public authority or political subdivision.

SECTION 4. Notwithstanding any general or special law to the contrary, an appropriate public authority that implements changes to health insurance benefits pursuant to sections 22 and 23 of chapter 32B of the General Laws shall delay implementation of such changes, as to those subscribers covered by a collective bargaining agreement or section 19 agreement that is in effect on the date of implementation of such changes, of any changes to the dollar amounts of copayments, deductibles or other cost-sharing plan design features that are inconsistent with any dollar limits on copayments, deductibles or other cost-sharing plan design features that are specifically included in the body of that collective bargaining agreement or section 19 agreement, until the initial term stated in that collective bargaining agreement or section 19 agreement has ended.

SECTION 5. Nothing in this act shall be construed to alter, amend or affect chapter 36 of the acts of 1998, chapter 423 of the acts of 2002, chapter 27 of the acts of 2003 or chapter 247 of the acts of 2004.

SECTION 6. Notwithstanding any general or special law to the contrary, the group insurance commission shall prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before January 1, 2012, if such political subdivision provides notice to the group insurance commission on or before September 1, 2011, that it is transferring its subscribers to the group insurance commission under sections 19 or 23 of chapter 32B of the General Laws; provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before April 1, 2012, if such political subdivision provides notice to the group insurance commission on or before December 1, 2011, that it is transferring its subscribers to the group insurance commission under said sections 19 or 23 of said chapter 32B; provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before July 1, 2012, if such political subdivision provides notice to the group insurance commission on or before March 1, 2012, that it is transferring its subscribers to the group insurance commission under said sections 19 or 23 of said chapter 32B.

SECTION 7. Notwithstanding any general or special law to the contrary, unless otherwise agreed, a governmental unit transferring its subscribers to the group insurance commission under section 23 of chapter 32B of the General Laws shall use current contribution ratios in existence for each class of plan for each collective bargaining unit in order to transfer to the commission. If a governmental unit was not offering both a preferred provider organization plan or an indemnity plan on the date of transfer to the

commission, the governmental unit's initial contribution ratio toward the commission's preferred provider organization plans and indemnity plans shall be the ratio that the governmental unit was contributing toward its preferred provider organization plan or indemnity plan for each collective bargaining unit on that date. Except as specifically provided in this section, all contribution ratios shall remain subject to bargaining pursuant to chapter 32B of the General Laws and chapter 150E of the General Laws.

Approved July 11, 2011

CHAPTER 85 – QUINN BILL COMMISSION

Effective July 28, 2011

Establishes an 8 member special commission to study funding levels and municipal contractual obligations under G.L. c. 41, § 108L, the police career incentive pay program (Quinn Bill), and report to the Legislature by April 30, 2012. Members include the Secretary of Public Safety and Security or designee, one appointee each by the Senate President, Speaker of the House, Senate Minority Leader and House Minority Leader and a representative from the Massachusetts Chiefs of Police Association, Massachusetts Coalition of Police and Massachusetts Municipal Association.

CHAPTER 85 OF THE ACTS OF 2011
An Act Establishing a Special Commission to Study the Police Career Incentive Pay Program

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a special commission on the police career incentive pay program, 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:

There shall be established a commission to investigate and report on current funding levels and municipal contractual obligations established by section 108L of chapter 41 of the General Laws, known as the police career incentive pay program. The commission shall be composed of 8 members, 1 appointed by the speaker of the house of representatives, 1 appointed by the senate president, 1 appointed by the minority leader of the house of representatives, 1 appointed by the minority leader of the senate, the secretary of the executive office of public safety and security or the secretary's designee, a representative from the Massachusetts Chiefs of Police Association, a representative from the Massachusetts Coalition of Police and a representative from the Massachusetts Municipal Association. The commission shall file a report with its findings and any legislative recommendations with the house and senate clerks on or before April 30, 2012.

Approved July 28, 2011