

# LEGISLATIVE BULLETIN

To: All School Committee Members and Superintendents  
From: Stephen J. Finnegan Esq., MASC General Counsel  
Re: An Act to Modernize Municipal Finance and Government  
Date: October 12, 2016

## Section by Section Summary of Final Bill Signed on August 9, 2016

**This bill will become effective on November 7, 2016 except as noted in Chapter 218 of the Acts of 2016. The Department of Revenue has published a 17 page summary of the law and below you will find those sections that apply to school committees.**

**Municipal Procurement 1 (2-4, 6-12)** – These sections amend the “horizontal” construction procurement statute, c. 30, § 39M, to increase the dollar threshold for contracts requiring less-than-full competitive bidding from \$10K to \$50K. They also make procurement methods consistent with other construction and municipal procurement statutes by adding a “middle tier” of contracts valued at between \$10K-\$50K, for which public entities may either give public notification of the contract or use OSD statewide contracts or other “blanket” contracts to solicit a minimum of three bids. Finally, these sections make conforming changes to dollar thresholds for existing exemptions under c. 30, § 39M, and the municipal procurement statute, c. 30B.

**Exemptions from Uniform Procurement (5)** – This section removes the existing exemption from the municipal procurement statute, c. 30B, for contracts for bank services that are subject to the maintenance of a compensating balance. The exemption for bank services subject to a compensating balance is removed because municipalities are otherwise subject to c. 30B rules for other types of banking services. This is also consistent with loosening state oversight of such agreements, as described in sections 87-90.

**Retiree Health Cost Sharing (14, 251)** – This section repeals the requirement in c. 32B, § 9A½ that a municipality be reimbursed in full, in the event a retired municipal employee or beneficiary receives healthcare premium contributions under circumstances in which a portion of the retiree’s creditable service is attributable to service in another

municipality. This legislation was enacted in 2010 with municipal support, but has proven to be unworkable in practice.

**OPEB Trust Fund (15, 238)** – These sections permit governmental units – defined broadly to include any political subdivision of the Commonwealth and housing authorities, redevelopment authorities, regional councils of government, regional school districts and educational collaboratives – to establish an OPEB trust fund that complies with the legal requirements for trusts and with GASB. This change is necessary to clarify current language, which only authorizes a reserve/stabilization fund for retiree health insurance purposes. These sections also make clear that any OPEB fund created prior to the effective date of this act will continue unless the governmental unit re-accepts the provisions of this act.

**Rental Revolving Fund (19)** – This section allows cities and towns to create a revolving fund for proceeds from rental of surplus non-school properties, and authorizes expenditures without appropriation for upkeep of such properties. This is an expansion of current law, which authorizes a revolving fund only for the rental of surplus school properties.

**Joint Powers Agreements (20)** – This section allows governmental entities to enter into a joint powers agreement. In a city, these can be entered into with another governmental unit for the joint exercise of any of their common powers and duties within a designated region, except for veterans services, by the council with the approval of the mayor, and in a town, by the board of selectmen. **MASC worked with the legislative leadership to ensure that these agreements will not be used to**

**require school districts to regionalize or to expand superintendency unions, charters, collaboratives or virtual schools. Furthermore, any agreement involving schools must receive school committee approval. See subsection (h) below.**

(h) A regional school district, superintendency union, educational collaborative, charter school or commonwealth virtual school may only be formed as provided in the applicable provisions of the General Laws, and no joint powers agreement made pursuant to this section may, in substance, create such a district, union, collaborative, charter school or virtual school, irrespective of how the entity created pursuant to a joint powers agreement may be characterized or named. A joint powers agreement relating to public schools may only be entered into by the school committee, or other governing board, as applicable.

**Special Education Reserve Fund (24)** – This section allows a school district to establish a reserve fund to pay, without further appropriation, for unanticipated or unbudgeted costs of special education, out-of-district tuition or transportation. The balance in the reserve fund shall not exceed 2% of the annual net school spending of the school district.

**Approval of Bills/Warrants (57-58)** – These sections allow multi-member boards, committee, commissions heading departments, including boards of selectmen, to designate one of its members, to review and approve bills or payment warrants, with a report provided at the next meeting. Currently, a board or committee heading a department may delegate authority to approve payrolls to a member and a regional school committee may designate a subcommittee to approve bills and payrolls with a report to the next meeting of full committee. Absent a charter or special act, boards and committees must approve bills or payment warrants by majority vote at a meeting subject to the Open Meeting Law.

**Year End Transfers (75-76)** – These sections eliminate the limits on types and amounts of appropriation transfers that can be made by the selectmen with finance committee approval at end of year. This would allow end-of-fiscal-year transfers from health insurance, debt service or other unclassified/non-departmental line item appropriation and eliminate a cap of 3% on the amount that may be transferred from any department (school and light department line items remain exempt from this procedure). Eliminating the cap on transfers will provide for greater flexibility in

avoiding deficits and eliminate the need for additional town meetings by July 15 for minor transfers.

**Insurance/ Restitution Funds (84)** – This section amends the statute that requires all municipal receipts to be deposited to the general fund and be appropriated. This current statute includes several exceptions that allow certain receipts to be spent without appropriation for particular purposes, including insurance and restitution proceeds. This section increases the amount that may be spent without appropriation to restore or replace the damaged property from \$20,000 to \$150,000 and updates the lost or damaged school book and materials restitution exception to include electronic devices and equipment provided to students.

**Scholarship and Educational Funds (159-162)** – These sections amend the authorization for cities and towns to form such funds to clarify that each fund is separately accepted and to clarify the distinct purposes for which such funds can be used.

**Regional School District Debt (179)** – Makes a technical change, inserting the word “committee”, to clarify that it is the regional district school committee that may require the approval of any particular authorized issue of indebtedness by referendum.

**Regional School District Transportation (181)** – Clarifies that any funds to be reimbursed by the Commonwealth for regional school district transportation are subject to appropriation.

**Regional School District Stabilization Fund (183)** – Under current law, a regional school district can have a stabilization fund, not to exceed 5% of the total assessment upon member communities. These amendments substitute the Commissioner of Elementary and Secondary Education instead of the Director of Accounts to approve a higher level of stabilization fund appropriation and expenditures from the fund for other than capital purposes.

**Extended School Programs (185-187)** – Under current law, school committees may provide pre-school and extended school services for certain children and establish a revolving fund for payments made by parents and other monies received in connection with these programs. These amendments would remove outdated restrictions on the students who may receive the services and extend these sections to regional school committees.

**Community School Program Fund (188)** – Increases the current community school fund’s \$3,000 expenditure limit for material and equipment purchases within a fiscal year, to \$10,000.

**School Revolving Fund (189)** – Qualifies revenue received from enrichment and summer programs authorized by the school committee, and parking fees as monies received in connection with the “use of school property” for the purposes of the district’s revolving fund.

**Vocational School Revolving Fund (190)** – Removes the \$5,000 expenditure limit placed on vocational schools’ revolving funds, used for culinary arts or other related programs.

**Municipal Procurement 2 (224-230)** – These sections amend the “vertical” construction procurement statute, c. 149, § 44A, to increase the dollar threshold for contracts requiring less-than-full competitive bidding from \$25K to \$50K. It also makes procurement methods consistent with other construction and municipal procurement statutes by modifying the method for “middle tier” contracts, valued at between \$10K-50K, to permit public entities to either give public notification of the contract or use OSD statewide contracts or other “blanket” contracts to solicit a minimum of three bids. These sections increase the dollar thresholds for contracts requiring competitive bidding (from \$100K to \$150K for first tier) and for triggering the requirement to submit “sub-bids” and “sub-trade” bids.

**Review of Regionalization Opportunities (240)** – Requires each secretary of an executive office to evaluate all grant, loan, and technical assistance programs administered under their office for opportunities to promote, facilitate and implement inter-municipal cooperation, collaboration, and regional service delivery at the local level, and report the results of that evaluation to A&F by December 31, 2016.

**Prioritizing Grant Funds to Communities who Regionalize (241)** – Requires any executive agency that administers a program through which funding may be provided to municipalities, where regionalization may be feasible, to encourage municipal efficiencies by prioritizing those applications for funds which come from municipalities that have developed a method by which to jointly and more efficiently utilize such funding. **Reduction of the Cost of Textbooks/other Educational Materials (244)** – Requires the Operational Services Division (OSD) to develop procedures allowing for the reduction of the cost of textbooks and other educational materials through methods including, but not limited to, bulk purchasing and statewide contracts for bulk purchasing for elementary and secondary public schools and for public institutions of higher education in accordance with 34 CFR 668.164.

**The general provisions of Chapter 218 become effective on November 7, 2016. Sections 246-253 establish different effective dates for certain provisions.**