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## **Municipal Modernization Act Changes (Just About) Everything**

On August 9, 2016, Governor Baker signed into law *An Act Modernizing Municipal Finance and Government*. While the Act has been promoted as updating the legal strictures applicable to municipal government and bringing local governance into the 21st century, it may be better understood as addressing a laundry list of concerns that cities and towns have raised over time, while leaving others unaddressed. The Act is less about modernization, and more about making small, but important, changes to a large number of local government practices. Unless otherwise noted, the Act will take effect on November 7, 2016. Some of the key changes include:

**Procurement:** The Act raises the dollar thresholds for requiring an Invitation for Bids or, where permitted, a Request for Proposals for supply and service contracts under the *Uniform Procurement Act, M.G.L. c.30B* from \$35,000 to \$50,000. Now, supply and service contracts valued between \$10,000 and \$50,000 may be solicited by obtaining three written quotes. Oral quotes are no longer permitted.

**Small Construction Contracts and Public Works Contracts:** The Act makes the contracting processes for public works and for public construction projects more consistent, increases the dollar threshold for which sealed bidding must be utilized, and amends notice requirements to include additional methods of providing notice, such as posting notice on a town's website.

In particular, Section 39M(a) of Chapter 30 of the General Laws now provides a method of procurement for public works contracts valued at less than \$10,000. Consistent with *M.G.L. c.149, §44A* and *M.G.L. c.30B, §4*, municipalities can use "sound business practices" prior to entering into such contracts. The Act also permits cities and towns to utilize a vendor on a statewide contract or a blanket contract on any public works or public construction contract valued at less than \$10,000. Public works contracts and construction contracts valued between \$10,000 and \$50,000 can now be obtained by soliciting at least three written quotes. Towns must make a "public notification" of all such contracts, by posting on the municipality's website, on the COMMBUYS system, in the Central Register, and in a conspicuous place in or near the primary office of the City or Town.

The Act also increased the dollar threshold for public works contracts and construction contracts obtained by means of sealed bids pursuant to *M.G.L. c.30, §39M*. Now all such contracts valued between \$50,000 and \$150,000 must be obtained in accordance with the procedures described *M.G.L. c.30, §39M*.

Expenditure of Insurance Funds: The expenditure of insurance proceeds to replace damaged equipment will now be permissible without a specific appropriation as long as the amount involved is less than \$150,000. This provision will eliminate the appropriations delay in physically replacing police cruisers and other damaged equipment using insurance proceeds.

Special Speed Limits: Communities are now allowed to impose speed limits of 25 miles per hour on any roadway (except state highways) inside a thickly settled area or in an established business district. With the approval of MassDOT, cities and towns may also create safety zones, which would have a posted speed limit of 20 miles per hour.

Joint Powers Agreements: Any Chief Executive Officer, Board, Committee, or Officer authorized to sign a contract on behalf of a local government may enter into “joint powers agreements” with other governmental units for the joint exercise of any common powers and duties within a geographic region designated in the agreement. Excluded, however, are agreements for veterans’ services, which will remain subject to Chapter 115 of the General Laws. The Act provides that any entity established by a joint powers agreement will have a separate legal existence with a full range of powers and liabilities: the power to sue and be sued; to make and execute contracts or other instruments to exercise its powers; to adopt governing policies and procedures; to receive and expend funds; and to apply for and receive federal, state, or other grants. Joint powers agreements would be excluded from the bargaining requirements of Chapter 150E.

Special Education Funds: The Act creates a local option statute that allows for the establishment of a reserve fund that can be used in future fiscal years, without further appropriation, for unanticipated or unbudgeted costs of special education, out-of-district tuition, or transportation. The Act specifies that acceptance of its provisions requires two votes: (1) A majority vote of the School Committee; and (2) a majority vote of the legislative body (or, in the case of a Regional School District, majority vote of the legislative bodies in a majority of the member communities).

Other Post-Employment Benefits (OPEB) Liability Trust Fund: The Act replaced the text of Chapter 32B, Section 20 in its entirety. Among the new definitions in Section 20, “governmental units” are defined broadly and include any political subdivision of the Commonwealth, a municipal light plant, a local housing or redevelopment authority, a regional council of government, or an

educational collaborative. Governmental units that accept the new Section 20 are obligated to establish on their books and accounts the Other Post-Employment Benefits Liability Trust Fund (OPEB Fund), with the assets in the OPEB Fund to be held solely to meet the current and future liabilities of the governmental unit for group health insurance benefits for retirees and their dependents. A two-thirds vote of the governing body of the governmental unit will allow the appropriation of OPEB Fund dollars for paying the unit's share of health insurance benefits after the OPEB Fund's trustee or board of trustees certify that the amounts are available in the fund.

Chapter 61A (Agricultural) Land: The Act adds a new Section 2A, which permits renewable energy generation sources to be sited on land used primarily for agricultural or horticultural purposes. The energy produced on Chapter 61A land must be used exclusively for the agricultural or horticultural activities on that land or on other land owned or leased by the same person. The energy produced cannot exceed 125% of the annual energy needs of the land and farm upon which it is located. The Act also amends the roll-back taxes provisions of Section 13 to prohibit the collection of roll-back taxes if the land is converted to a renewable energy generating source.

Parking: The Act allows a City or Town to establish parking fees to manage parking supply and to use the fees collected for the acquisition, installation, maintenance and operation of parking meters and other parking payment and enforcement technology, as well as to pay for the regulation of parking, including parking management personnel and other transportation related improvements. The Act also allows for the establishment of geographically defined parking districts. Parking revenue collected within such a district may be earmarked (in whole or in part) for use in that district through a designated fund