

SENATE No. 2424

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of the Senate amendment (Ways and Means) to the House Bill relative to municipal relief (House, No 4631).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION Chapter 10 of the General Laws is hereby amended by inserting after section
2 52 the following section:-

3 Section 52A. (a) The council shall establish criteria and guidelines for state-designated
4 cultural districts. A cultural district shall be a geographical area of a city or town with a
5 concentration of cultural facilities located within it. Cultural districts shall attract artists and
6 cultural enterprises to a community, encourage business and job development, establish tourist
7 destinations, preserve and reuse historic buildings, enhance property values and foster local
8 cultural development. The council shall assist a city or town if the city or town wishes to develop
9 or foster a cultural district. The council shall develop an application process, with specific
10 guidelines and criteria, for a city or town that wishes to develop or foster a cultural district.
11 Executive branch agencies, constitutional offices and quasi-governmental agencies shall identify
12 programs and services that support and enhance the development of cultural districts and ensure
13 that those programs and services are accessible to such districts. The council shall consult with

14 the Massachusetts historical commission in developing and establishing criteria and guidelines
15 regarding preservation and reuse of historic buildings.

16 (b) Notwithstanding any general or special law to the contrary, executive branch
17 agencies, constitutional offices, quasi-governmental agencies including, but not limited to, the
18 Massachusetts cultural council and historic preservation programs, shall review and revise
19 regulations and other economic development tools, including the evaluative criteria of such
20 programs, in order to support and encourage the development and success of state-designated
21 cultural districts.

22 SECTION Section 1 of chapter 30B of the General Laws is hereby amended by
23 inserting after the word “section”, in line 6, as appearing in the 2008 Official Edition, the
24 following word:- 11C or section.

25 SECTION Said section 1 of said chapter 30B is hereby further amended by inserting
26 after the word “commonwealth”, in line 12, as so appearing, the following words:- except as
27 pertains to subsection (i) of section 16.

28 SECTION Said section 1 of said chapter 30B, as so appearing, is hereby further
29 amended by adding the following subsection:-

30 (f) This chapter shall be deemed to have been complied with on all purchases made from
31 a vendor pursuant to a General Services Administration federal supply schedule that is available
32 for use by governmental bodies.

33 SECTION Section 2 of said chapter 30B is hereby further amended by inserting after
34 the definition of “Contractor”, as so appearing, the following 2 definitions:-

35 “Cooperative purchasing”, procurement conducted by, or on behalf of, more than 1
36 public procurement unit or by a public procurement unit with an external procurement activity.

37 “Electronic bidding”, the electronic solicitation and receipt of offers to contract for
38 supplies and services; provided, however, that offers may be accepted and contracts may be
39 entered into by use of electronic bidding.

40 SECTION Said section 2 of said chapter 30B is hereby further amended by inserting
41 after the definition of “Employment agreement”, as so appearing, the following definition:-

42 “External procurement activity” means: (a) any public agency not located in this State
43 which would qualify as a public procurement unit; (b) buying by the United States government.

44 SECTION Said section 2 of said chapter 30B is hereby further amended by inserting
45 after the definition of “Labor relations representative”, as so appearing, the following definition:-

46 “Local public procurement unit”, a political subdivision or unit thereof which expends
47 public funds for the procurement of supplies.

48 SECTION Said section 2 of said chapter 30B is hereby further amended by inserting
49 after the definition of “Proposal”, as so appearing, the following definition:-

50 “Public procurement unit”, a local public procurement unit or a state public procurement
51 unit.

52 SECTION Said section 2 of said chapter 30B is hereby further amended by inserting
53 after the definition of “Request for proposals”, as so appearing, the following definition:-

54 “Reverse auction”, an internet-based process used to buy supplies and services whereby
55 the seller of the supplies or services being auctioned anonymously bid against each other until
56 time expires and until the governmental body determines from which sellers it will buy based on
57 the pricing obtained during the process.

58 SECTION Said section 2 of said chapter 30B is hereby further amended by inserting
59 after the definition of “Services”, as so appearing, the following 2 definitions:-

60 “Sound business practices”, ensuring the receipt of favorable prices by periodically
61 soliciting price lists or quotes.

62 “State public procurement unit”, the offices of the chief procurement officers and any
63 other purchasing agency of the commonwealth or any other state.

64 SECTION Section 4 of said chapter 30B, as so appearing, is hereby amended by striking
65 out, in line 24, the words “generally accepted” and inserting in place thereof the following
66 word:- sound.

67 SECTION Said chapter 30B is hereby further amended by inserting after section 6 the
68 following section:-

69 Section 6A. (a) A chief procurement officer may enter into procurement contracts for
70 \$25,000 or more utilizing reverse auctions for the acquisition of supplies and services. The
71 reverse auction process shall include a specification of an opening date and time when real-time
72 electronic bids shall be accepted and shall provide that the procedure shall remain open until the
73 designated closing date and time.

74 (b) All bids on reverse auctions shall be posted electronically on the internet, updated on
75 a real-time basis, and shall allow registered bidders to lower the price of their bid below the
76 lowest bid on the internet.

77 (c) The chief procurement officer shall require vendors to register before the reverse
78 auction opening date and time and, as part of the registration, agree to any terms and conditions
79 and other requirements of the solicitation.

80 (d) Any mechanism including, but not limited to, software, developed by the operational
81 services division to conduct reverse auctions by the commonwealth, shall provide for the
82 utilization of that mechanism by municipalities.

83 (e) The operational services division may assess a municipality utilizing the reverse
84 auction mechanism a reasonable fee, calculated to compensate for any increased cost attributable
85 to such utilization, which shall be credited to the General Fund.

86 (f) Reverse auctions shall not be subject to clause (1) of subsection (b) or subsection (d)
87 of section 5 but shall be subject to all other provisions of said section 5.

88 SECTION Said chapter 30B is hereby further amended by adding the following
89 section:-

90 Section 22. A public procurement unit may participate in, sponsor, conduct or administer
91 a cooperative purchasing agreement for the procurement of supplies with public procurement
92 units or external procurement activities in accordance with an agreement entered into between
93 the participants. The public procurement unit conducting the procurement of supplies shall do so
94 in a manner that constitutes a full and open competition.

95 SECTION The definition of “Regular compensation” in section 1 of chapter 32 of the
96 General Laws, as amended by section 2 of chapter 21 of the acts of 2009, is hereby further
97 amended by inserting after the second paragraph the following paragraph:-

98 Notwithstanding any provision of this chapter to the contrary, regular compensation for
99 any person who becomes a member after July 1, 2010, shall not include salary, wages or other
100 compensation in whatever form in any calendar year in excess of 64 per cent of the annual
101 limitation that may be imposed under federal law on the amount of compensation that may be
102 taken into account when calculating benefits under plans described in 26 U.S.C. 401(a)
103 including, but not limited to, the applicable limits for any calendar year under 26 U.S.C.
104 401(a)(17).

105 SECTION Said section 1 of said chapter 32 is hereby further amended by striking out,
106 in line 488, as appearing in the 2008 Official Edition, the word “may” and inserting in place
107 thereof the following word:- shall.

108 SECTION Section 3 of said chapter 32, as so appearing, is hereby amended by adding
109 the following subdivision:-

110 (9) Notwithstanding any provision of this chapter to the contrary, a member who is
111 reinstated to or re-enters the active service of a governmental unit or who is eligible to receive
112 credit for other service under this section and does not within 1 year of the date of reinstatement
113 or re-entry either: (i) pay into the annuity savings fund of the system make-up payments of an
114 amount equal to the accumulated regular deductions withdrawn by the member, together with
115 buyback interest; or (ii) make provision for the repayment in installments, upon such terms and
116 conditions as the board may prescribe, to pay into the annuity savings fund of the system make-

117 up payments of an amount equal to the accumulated regular deductions withdrawn by the
118 member, together with buyback interest shall, in order to be entitled to creditable service
119 resulting from the previous employment, be required to pay actuarial assumed interest instead of
120 buyback interest on all make-up payments.

121 SECTION Section 5 of said chapter 32 is hereby amended by inserting after the
122 word “service”, in line 38, as appearing in the 2008 Official Edition, the following words:- ,
123 together with buyback interest, and shall satisfy the requirements for reinstatement under section
124 105.