

SENATE No. 2455

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of amendment (23) offered by Mr. Richard T. Moore to the pending Senate Ways and Means amendment (Senate, No. 4) to the House Bill making appropriations for the fiscal year 2010 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.

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

1) The commission’s action in exempting an agency, authority or advisory
2 committee under this section must be done by an affirmative record vote and must be decided by
3 a majority of all members present and voting.

4 Section 13. During each legislative session, the staff of the commission shall monitor
5 legislation affecting agencies, authorities and advisory committees that have undergone sunset
6 review and shall periodically report to the members of the commission on proposed changes
7 which would modify prior recommendations of the commission.

8 Section 14. An advisory committee, the primary function of which is to advise a
9 particular agency or authority, shall be abolished on the date set for abolition of the agency or
10 authority unless the advisory committee shall have been expressly continued by law.

11 Section 15.

12 (a) During the annual session immediately before the abolition of an agency, authority or
13 an advisory committee that is subject to this chapter, the legislature may continue the agency,
14 authority or advisory committee for a period not to exceed 12 years.

15 (b) This chapter shall not prohibit the legislature from:

16 (1) terminating a state agency, authority or advisory committee subject to this
17 chapter at a date earlier than that provided in this chapter; or

18 (2) considering other legislation relative to a state agency, authority or
19 advisory committee subject to this chapter.

20 Section 16.

21 (a) An agency, authority or advisory committee that is abolished in an odd-numbered
22 year may continue in existence until June 30 of the following year to conclude its business.
23 Unless the law provides otherwise, abolition does not reduce or otherwise limit the powers and
24 authority of the agency or authority during the concluding year. An agency or authority is
25 terminated and shall cease all activities at the expiration of the 1-year period. Unless the law
26 provides otherwise, all rules that have been adopted by the agency or authority expire at the
27 expiration of the 1-year period.

28 (b) An un-obligated or unexpended appropriation of an abolished agency or advisory
29 committee shall lapse on September 1 of the year after abolition.

30 (c) Except as provided by subsection (f) or as otherwise provided by law, all money
31 in a dedicated fund of an abolished state agency, authority or advisory committee on September
32 1 of the year after abolition shall be transferred to the General Fund. The part of the law

33 dedicating the money to a specific fund of an abolished agency becomes void on September 1 of
34 the year after abolition.

35 (d) Unless otherwise provided otherwise, an abolished state agency, authority or
36 advisory committee funded by the legislature may not spend or obligate any of the money
37 appropriated beyond 1 year from the date of abolition.

38 (e) Unless the governor designates an appropriate agency as prescribed by subsection
39 (f), property and records in the custody of an abolished state agency, authority or advisory
40 committee on September 1 of the year after abolition shall be transferred to the state archives. If
41 the governor designates an appropriate agency, the property and records shall be transferred to
42 the designated agency.

43 (f) The legislature recognizes the state's continuing obligation to pay bonded
44 indebtedness and all other obligations, including lease, contract, and other written obligations,
45 incurred by an agency or authority abolished under this chapter, and this chapter shall not impair
46 or impede the payment of bonded indebtedness and all other obligations, including lease,
47 contract and other written obligations, in accordance with their terms. If an abolished agency or
48 authority has outstanding bonded indebtedness or other outstanding obligations, including lease,
49 contract or other written obligations, the bonds and all other obligations, including lease, contract
50 and other written obligations shall remain valid and enforceable in accordance with their terms
51 and subject to all applicable terms and conditions of the laws and proceedings authorizing the
52 bonds and all other obligations, including lease, contract and other written obligations. The
53 governor shall designate an appropriate agency or authority that shall continue to carry out all
54 covenants contained in the bonds and in all other obligations, including lease, contract and other

55 written obligations, to complete the construction of projects or the performance of other
56 obligations, including lease, contract, and other written obligations. The designated agency or
57 authority shall provide payment from the sources of payment of the bond under the terms of the
58 bonds and shall provide payment from the sources of payment of all other obligations, including
59 lease, contract and other written obligations, under their terms, whether from taxes, revenues, or
60 otherwise, until the bonds and interest on the bonds are paid in full and all other obligations,
61 including lease, contract and other written obligations, are performed and paid in full. If the
62 proceedings so provide, all funds established by laws or proceedings authorizing the bonds or
63 authorizing other obligations, including lease, contract and other written obligations, shall remain
64 with the comptroller or the previously designated trustees. If the proceedings do not provide that
65 the funds remain with the comptroller or the previously designated trustees, the funds shall be
66 transferred to the designated agency or authority.

67 Section 17.

68 (a) The commission may issue a subpoena to compel the attendance of witnesses and
69 the production of books, records, papers and other objects necessary or proper for the purposes
70 of the commission proceedings. The subpoena may be served on a witness at any place in the
71 commonwealth.

72 (b) If a majority of the commission directs the issuance of a subpoena, the chairman
73 shall issue the subpoena in the name of the commission.

74 (c) If the chairman is absent, the chairman's designee may issue a subpoena or other
75 process in the same manner as the chairman.

76 (d) If necessary to obtain compliance with a subpoena or other process, the
77 commission may issue attachments. The attachments may be addressed to and served by a
78 constable, sheriff or deputy sheriff in the commonwealth.

79 (e) Testimony taken under subpoena must be reduced to writing and given under oath
80 subject to the penalties of perjury.

81 (f) A witness who attends a commission proceeding under process shall be paid the
82 same fees and mileage paid witnesses in courts of the commonwealth.

83 Section 18.

84 (a) The commission may request the assistance of agencies. When assistance is
85 requested, an agency or an agency officer shall reasonably assist the commission.

86 (b) In carrying out its functions under this chapter, the commission or its designated
87 staff member may inspect the records, documents and files of any agency or authority.

88 Section 19.

89 (a) A working paper, including all documentary or other information, prepared and
90 maintained by the commission staff in performing its duties under this chapter or other law to
91 conduct an evaluation and prepare a report is exempted from the public disclosure requirements
92 of chapter 66.

93 (b) A record held by another entity that is considered to be confidential by law and
94 that the commission receives in connection with the performance of the commission's functions
95 under this chapter or another law remains confidential and is exempted from the public
96 disclosure requirements of chapter 66.

97 Section 20. If an employee is displaced because an agency, authority or advisory
98 committee is abolished, reorganized or continued, the head of the agency, authority or advisory
99 committee and the personnel administrator of the commonwealth shall make a reasonable effort
100 to relocate the displaced employee. Except as otherwise expressly provided, abolition of an
101 agency, authority or advisory committee shall not affect the rights and duties that matured,
102 penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were
103 begun before the effective date of abolition.

104 Section 21.

105 (a) Each bill filed in the legislature that would create a new agency, authority or
106 advisory committee to an agency shall be reviewed by the commission.

107 (b) The commission shall review the bill to determine whether:

108 (1) the proposed functions of the agency, authority or committee could be
109 administered by 1 or more existing agencies, authorities or advisory committees;

110 (2) the form of regulation, if any, proposed by the bill is the least restrictive
111 form of regulation that will adequately protect the public;

112 (3) the bill provides for adequate public input regarding any regulatory
113 function proposed by the bill; and

114 (4) the bill provides for adequate protection against conflicts of interest within
115 the agency, authority or advisory committee.

116 (c) On request, the commission shall forward a written comment on the legislation to
117 the author of the bill and to the presiding officer of the legislative committee to which the bill has
118 been referred.

119 Section 22. (a) The commission may accept from any source any grant, donation, gift or
120 other form of conveyance of land, money, other real or personal property or other item of value
121 made to the commonwealth or the commission for carrying out the purpose of this section and
122 sections 1 to 21, inclusive.