

HOUSE No. 4284

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
, MA

KARYN POLITO
LIEUTENANT GOVERNOR

March 5, 2018

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Making Appropriations for Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

This bill consists of \$5.4 million in supplemental appropriations to fund a ratified collective bargaining agreement, a retained revenue ceiling increase for the Inspector General, and a public awareness campaign related to the upcoming retail sale of adult use marijuana. In the absence of supplemental funding, these costs would remain unfunded despite the \$104 million deficiency reserve that was established in the FY18 GAA. That reserve has been budgeted for sheriffs’ FY17 payroll costs, a student assessment contract, certain collective bargaining commitments that predate FY18, the costs of indigent legal defense, and the costs of snow and ice removal.

The spending items recommended in this bill include:

- \$3.4 million to fund a ratified collective bargaining agreement recently executed with the American Federation of State, County, and Municipal Employees;
- a \$50,000 increase to the Inspector General’s retained revenue ceiling, to allow the Inspector General to collect more procurement training fees and spend them on trainings;

- \$2 million for a public awareness campaign to be administered by the Department of Public Health for the Cannabis Control Commission, which would educate the public on responsible use of marijuana in the period leading up to the commencement of retail sales of adult use marijuana.

The bill includes a number of minor amendments and corrections to the statutes regulating adult use marijuana and medical use marijuana in the Commonwealth. The proposed sections are designed to clarify and simplify the administration of certain provisions of the marijuana laws while continuing to adhere to the intent of the Massachusetts voters and the General Court. We have developed the amendments in consultation with staff at the Cannabis Control Commission.

The bill also includes a section to clarify that when the Attorney General reviews proposed transactions that involve the conversion or sale of a non-profit hospital or health plan to a for-profit entity and assesses the surviving entity (as provided under existing law) to cover the costs of that review, the Attorney General may expend that assessment without further appropriation.

Sufficient revenues are estimated to be available to finance these appropriations. Because at least one item requires supplemental funding in March, I urge you to enact this legislation promptly.

Respectfully submitted

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act making appropriations for the fiscal year 2018 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 to which are forthwith to make supplemental appropriations for fiscal year 2018 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, 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:

1 SECTION 1. To provide for supplementing certain items in the general appropriation
2 act and other appropriation acts for fiscal year 2018, the sums set forth in section 2 are hereby
3 appropriated from the General Fund unless specifically designated otherwise in this act or in
4 those appropriation acts, for the several purposes and subject to the conditions specified in this
5 act or in those appropriation acts, and subject to the laws regulating the disbursement of public
6 funds for the fiscal year ending June 30, 2018. These sums shall be in addition to any amounts
7 previously appropriated and made available for the purposes of those items.

8

9 SECTION 2.

10 OFFICE OF THE INSPECTOR GENERAL

11 Reserves

12 0910-0210 Public Purchasing Certified Program Retained Revenue \$50,000

13 CANNABIS CONTROL COMMISSION

14 Cannabis Control Commission

15 1070-0840 Cannabis Control Commission. .. \$2,000,000

16 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

17 Reserves

18 1599-4448 Collective Bargaining Contract Costs \$3,400,000

19 SECTION 3. Section 21 of chapter 62C of the General Laws, as appearing in the 2016
20 Official Edition, is hereby amended by striking out, in line 162, the words “chapter 64L” and
21 inserting in place thereof the following words:- chapter 64L or the local option tax imposed
22 pursuant to section 3 of chapter 64N.

23 SECTION 4. Section 6 of chapter 64H of the General Laws, as so appearing, is hereby
24 amended by inserting after the word “provided,” in line 98, the following words:- marijuana
25 products intended for consumption as defined in section 1 of chapter 94G,.

26 SECTION 5. Section 3 of chapter 94G, as amended by chapter 55 of the acts of 2017, is
27 hereby further amended by striking out in paragraph (1) of subsection (a) the words “(i) prevent
28 the conversion of a medical marijuana treatment center licensed or registered not later than July

29 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a
30 marijuana establishment engaged in the same type of activity under this chapter;” and inserting
31 in place thereof the following words:-

32 (i) prevent a medical marijuana treatment center licensed or registered not later than July
33 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products from
34 engaging in the same type of activity under this chapter;.

35 SECTION 6. Said section 3 of said chapter 94G, as so amended, is hereby further
36 amended by striking out paragraph (2) of subsection (a) and inserting in place thereof the
37 following paragraph: -

38 (2) limit the number of marijuana establishments in the city or town, provided, however,
39 that, in the case of a city or town in which the majority of voters voted in the affirmative for
40 question 4 on the 2016 state election ballot, entitled “Legalization, Regulation, and Taxation of
41 Marijuana,” and, after December 31, 2019 in the case of any other city or town, the city or town
42 shall submit any such by-law or ordinance for approval to the voters pursuant to the procedure in
43 subsection (e) if it would:.

44 SECTION 7. Said section 3 of said chapter 94G, as so amended, is hereby further
45 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

46 (b) The city council of a city and the board of selectmen or town council of a town shall,
47 upon the filing with the city or town clerk of a petition meeting the requirements of this
48 subsection and signed by not fewer than 10 per cent of the number of voters of such city or town
49 voting at the preceding biennial state election, request that the question of whether to allow, in
50 such city or town, the sale of marijuana and marijuana products for consumption on the premises

51 where sold be submitted to the voters of such city or town, shall cause the following question to
52 be placed on the ballot:

53 Shall this [city or town] allow the sale of marijuana products, as those terms are defined
54 in G.L. c.94G, §1, for consumption on the premises where sold, a summary of which appears
55 below?

56 A fair and concise summary of the question shall be prepared by the city solicitor or town
57 counsel.

58 If a majority of the votes cast in the city or town are not in favor of allowing the
59 consumption of marijuana or marijuana products on the premises where sold, such city or town
60 shall not have authorized the consumption of marijuana and marijuana products on the premises
61 where sold.

62 The petition shall be on a form prepared by the secretary of the commonwealth, and shall
63 be submitted forthwith after filing to the board of registrars or election commissioners who shall
64 have seven days after receipt to certify the signatures of registered voters. Upon certification of
65 the signatures, the question shall be placed upon the ballot at the next occurring regular
66 municipal or state election, provided that the question may only appear on a municipal ballot for
67 an election to be held at least 35 days after certification. To have the question appear on the
68 biennial state election, the city or town clerk must provide notice, including the ballot question
69 and summary as prepared by the city solicitor or town counsel, to the secretary of the
70 commonwealth no later than the first Wednesday in August before that election.

71 SECTION 8. Said section 3 of said chapter 94G of the General Laws, as so amended, is
72 hereby further amended by striking out the second sentence of subsection (d) and inserting in

73 place thereof the following sentence:- An agreement between a marijuana establishment or a
74 medical marijuana treatment center and a host community may include a community impact fee
75 for the host community; provided, however, that the community impact fee shall be reasonably
76 related to the costs imposed upon the municipality by the operation of the marijuana
77 establishment or medical marijuana treatment center and shall not amount to more than 3 per
78 cent of the gross sales of the marijuana establishment or medical marijuana treatment center or
79 be effective for longer than 5 years; provided further, however, that these limitations shall not
80 apply to a host community agreement for a medical marijuana treatment center that was entered
81 into before July 1, 2017.

82 SECTION 9. Said section 3 of said chapter 94G of the General Laws, as so amended, is
83 hereby further amended by adding to subsection (d) the following paragraph:- Notwithstanding
84 section 53 of chapter 44 or any other general or special law to the contrary, a city or town that
85 receives payment pursuant to a host community agreement entered into with a marijuana
86 establishment licensed under this chapter or with a medical marijuana treatment center registered
87 under chapter 94I shall establish a separate account into which the impact fees or other payments
88 shall be deposited. In each fiscal year, the amount of the estimated receipts from the fees and
89 other payments under the host agreement may be appropriated by city or town for the purposes
90 specified in such agreement. Any balance in the account at the end of the fiscal year shall be
91 available for appropriation in the next fiscal year. Any deficit in the account at the end of the
92 fiscal year must be raised by taxation, unless the city or town has otherwise provided, and shall
93 be subject to all applicable provisions of chapter 59.

94

95 SECTION 10 Said section 3 of said chapter 94G, as so amended, is hereby further
96 amended by striking out subsection (e) and inserting in place thereof the following subsection:-

97 (e) If an ordinance or by-law must be submitted for approval pursuant to subsection
98 (a)(2), the following procedures will be followed:

99 (1) The city solicitor or town counsel shall prepare a fair and concise summary of the
100 proposed ordinance or by-law which will make clear the number and types of marijuana
101 establishments which will be permitted to operate under the proposed ordinance and by-law and
102 shall be included on the ballot.

103 (2) A ballot shall be prepared asking "Shall the following [by-law or ordinance] be in
104 effect in [city or town]?" [solicitor/counsel summary] [full text of by-law or ordinance]

105 (3) If the majority of the votes cast in answer to the question are in the affirmative, the
106 by-law or ordinance shall be in effect, but if the majority is in the negative, the by-law or
107 ordinance shall have no legal effect.

108 A ballot question under this subsection may be placed on the ballot at a regular or special
109 election held by the city or town by a vote of the board of selectmen or city or town council, with
110 the approval of the mayor, and subject to a municipal charter, if applicable.

111 SECTION 11. Section 4 of said chapter 94G, as so amended, is hereby further amended
112 by striking out paragraph (x) of subsection (a ½) and inserting in place thereof the following
113 paragraph:-

114 (x) requirements for fingerprinting and any other methods of identification of an
115 applicant for a license or a licensee that the commission may adopt;

116 SECTION 12. Section 9 of said chapter 94G, as so amended, is hereby further amended
117 by adding the following subsection:-

118 (c) an entity required to register with the secretary of the commonwealth pursuant to
119 chapters 156C, 156D, or 180 and organized for the purpose of operating as a licensed marijuana
120 establishment in the commonwealth may specify as its lawful corporate purpose the conduct of
121 all activities of a marijuana establishment authorized by this chapter.

122 SECTION 13. Section 13 of said chapter 94G, as so amended, is hereby further
123 amended by striking out in the second sentence of subsection (a) the words “section 8” and
124 inserting in place thereof the following words:- section 7.

125 SECTION 14. Section 15 of said chapter 94G, as amended by Chapter 55 of the Acts of
126 2017, is hereby further amended by striking out in the third sentence of paragraph 5 of
127 subsection (b) the words “may include” and inserting in place thereof the following words:- shall
128 include.

129 SECTION 15. Section 2 of chapter 94I of the General Laws, as inserted by section 44 of
130 chapter 55 of the acts of 2017, is hereby amended by striking out subsection (b)(2) and inserting
131 in place thereof the following subsection:-

132 (b)(2) A qualifying patient or a personal caregiver shall not be subject to arrest or
133 prosecution, or civil penalty, for medical use marijuana possessed or provided as authorized by
134 this chapter.

135 SECTION 16. Said section 2 of said chapter 94I, as so inserted, is hereby further
136 amended by inserting by adding the following subsection:-

137 (f) an entity required to register with the secretary of the commonwealth pursuant to
138 chapters 156C, 156D, or 180 and organized for the purpose of operating as a registered
139 marijuana treatment center in the commonwealth may specify as its lawful corporate purpose the
140 conduct of all activities of a marijuana treatment center authorized by this chapter.

141 SECTION 17. Section 8A of chapter 180 of the General Laws, as appearing in the 2016
142 Official Edition, is hereby amended by inserting after the word “amounts,” in line 52, the
143 following words:- , not subject to appropriation,.

144 SECTION 18. Section 56 of chapter 55 of the acts of 2017 is hereby amended by striking
145 out paragraph (i) of subsection (a) and inserting in place thereof the following paragraph:-

146 (i) are registered marijuana dispensaries with a final or a provisional certificate of
147 registration in good standing with the department of public health pursuant to 105 CMR 725.00;
148 or.

149 SECTION 19. Section 72 of chapter 55 of the acts of 2017 is hereby amended by striking
150 out the final sentence and inserting in place thereof the following sentence:- Notwithstanding any
151 law to the contrary, neither the entity conversion nor the issuance of any shares, interests, or
152 other securities, obligations, rights to acquire interests or other securities, cash, other property or
153 any combination of the foregoing, set forth in and necessary to effect the plan of entity
154 conversion shall be subject to taxation or result in the imposition of any tax by the
155 commonwealth.

156 SECTION 20. Item 0910-0210 of section 2 of chapter 47 of the acts of 2017 is hereby
157 amended by striking out the figure “\$850,000” and inserting in place thereof the following
158 figure:- \$900,000

159 SECTION 21. Sections 6 and 10 shall not apply retroactively and shall not affect votes
160 already completed under section 3 of chapter 94G of the General Laws, subsections (a)(2) and
161 (e). Any votes under those subsections after the effective date of this act, however, shall be
162 subject to said sections 6 and 10.

163 SECTION 22. The salary adjustments and other economic benefits authorized by the
164 following collective bargaining agreement shall be effective for the purposes of section 7 of
165 chapter 150E of the General Laws:

166 (1) Between the Commonwealth of Massachusetts and the American Federation of State,
167 County and Municipal Employees, Unit 2.