

HOUSE No. 5130

The Commonwealth of Massachusetts



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KARYN POLITO
LIEUTENANT GOVERNOR

November 10, 2020

To the Honorable Senate and House of Representatives,

Pursuant to Section 5 of Article LXIII, as amended by Section 4 of Article XC of the Amendments to the Constitution, I am today signing House Bill 5102, “An Act Making Appropriations for the Fiscal Year 2020 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects,” but returning one section with amendments.

The bill I am signing today authorizes \$425 million in direct appropriations, or \$198 million net of related revenue. All but \$3 million is for the costs of MassHealth, addressing already-incurred costs of the COVID-19 pandemic. Other spending – for debt service and costs of the presidential primary last March – is similarly unavoidable. The new law also extends authorization into fiscal year 2021 for certain projects whose spending was delayed, typically due to COVID-19.

This bill will also make a variety of adjustments to law, including the establishment of an alternative high unemployment “extended benefits” trigger in the Commonwealth’s Unemployment Benefits statute. This change will permit Pandemic Unemployment Assistance (PUA) beneficiaries to receive an additional 7 weeks of federally financed PUA, extending the maximum benefit entitlement from 39 to 46 weeks. Another notable section allows the MBTA to carry staff costs of capital projects on their capital budget.

While I am signing the majority of this bill, I am returning with amendment section 3, which sets up an off-budget trust for future proceeds from opioid settlements. See Attachment A for further explanation and my recommended changes.

The remainder of this bill I approve.

I approve the remainder of this Act.

Respectfully submitted,

Charles D. Baker,
Governor

ATTACHMENT A

November 10, 2020

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 3 of House Bill No. 5102, “An Act Making Appropriations for the Fiscal Year 2020 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

Section 3 of the Bill establishes an “Opioid Recovery and Remediation Trust Fund” that is intended to receive amounts recovered from claims arising from the manufacture, marketing, distribution or dispensing of opioids. This ongoing litigation is incredibly important to Massachusetts residents and their families and I am supportive of developing a process for the distribution of any funds that are recovered that involves individuals as well as the communities and municipalities that have been impacted. However, the bill as drafted removes the amounts recovered from the Commonwealth’s existing budget process. It is important that the amounts recovered can be utilized in the context of the full Commonwealth budget, particularly in the current and upcoming fiscal years which have been greatly impacted by the COVID-19 pandemic. As a result, I am recommending changes that would allow these funds to be available for expenditure through the annual budget process, so as to allow for the programmatic needs of opioid use disorder prevention, intervention, treatment and recovery options to be accounted for.

For the reasons stated above, I recommend that Section 3 be amended by striking out, in the first sentence of subsection (a) of section 35000 of chapter 10, the word “Trust”;

And further amend said Section 3, by striking out in the second sentence of said subsection (a), the words “without further” and inserting in place thereof the following words:-
subject to;

And further amend said subsection (a), by striking out the second, third, and fourth sentences of the second paragraph and inserting in place thereof the following three sentences:-
Amounts credited to the fund shall be spent subject to appropriation. Monies remaining in the fund at the end of a fiscal year shall not revert to the General Fund, but shall instead be available for expenditure during the next fiscal year. Any fiscal year-end balance in the fund shall be excluded from the calculation of consolidated net surplus pursuant to section 5C of chapter 29.;

And further amend said subsection (a), by striking out in clause (ii) of the second paragraph, the words “appropriations or other monies” and inserting place thereof the following words:- transfers from other funds;

And further amend said Section 3, by inserting in the first sentence of subsection (c) of section 35000 of chapter 10, after the words “to and from the fund”, the following words:- in the prior fiscal year.

Respectfully submitted,

Charles D. Baker
Governor