

# SENATE . . . . . No. 2863

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Senate, July 11, 2024 -- Text of amendment (210) (offered by Senator Timilty) to the Ways and Means amendment (Senate, No. 2856) to the Senate Bill relative to economic development

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## The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court  
(2023-2024)

1 by inserting after section X the following sections:-

2 SECTION XX. Chapter 10 of the General Laws is hereby amended by inserting after  
3 section 35PPP the following section:-

4 Section 35QQQ. (a) As used in this section, the following words shall, unless the context  
5 requires otherwise, have the following meanings:-

6 "Authority", the Massachusetts Public Safety Building Authority, established under  
7 section 1 of Chapter 40Y.

8 "Dedicated sales tax revenue amount", all moneys received by the commonwealth equal  
9 to 1 per cent of the receipts from sales, as defined by chapter 64H, and 1 per cent of the sales  
10 price of purchases, as defined by chapter 64I, from that portion of the taxes imposed under said  
11 chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services,  
12 and upon the storage, use or other consumption of tangible property or of services, including  
13 interest thereon or penalties, but not including any portion of the taxes that constitute special  
14 receipts within the meaning of subsection (b1/2) of section 10 of chapter 152 of the acts of 1997  
15 or within the meaning of subsection (b1/2) of said section 10 of said chapter 152 or any portion

16 of the taxes imposed on the sale of meals as defined in paragraph (h) of section 6 of said chapter  
17 64H. (Marijuana – all moneys received by the commonwealth equal to 33 per cent of the  
18 receipts from sales of marijuana, as defined by chapter 64N, as excises upon the sale at retail of  
19 tangible property, and upon the storage, use or other consumption of tangible property, including  
20 interest thereon or penalties).

21 "Receipts from sales", gross receipts from nonexempt sales, less amounts abated or  
22 reimbursed.

23 "Sales price of purchases", sales price of nonexempt purchases, less amounts abated or  
24 reimbursed.

25 (b) There is hereby established a separate fund to be known as the Public Safety Building  
26 Modernization and Reconstruction Trust Fund. The authority shall administer the fund for the  
27 purpose of assisting municipalities with the construction of or improvements to public safety  
28 buildings, including, but not limited to, police stations and fire stations. There shall be credited  
29 to the fund the dedicated sales tax revenue amount. Annual receipts into the fund on account of  
30 any fiscal year shall be considered to meet the full obligation of the commonwealth to the  
31 authority for such fiscal year.

32 (c) Amounts in the fund shall be held by the state treasurer or a designee, as trustee and  
33 not on account of the commonwealth, exclusively for the purposes of the authority, and the state  
34 treasurer shall disburse amounts in the fund to the authority, without further appropriation, upon  
35 the request from time to time of the executive director of the authority. All amounts in the fund,  
36 including investment earnings, shall be available for expenditure by the authority for any lawful  
37 purpose, including without limitation payment of debt service on debt obligations issued by the

38 authority, and may be pledged to secure debt of the authority in such manner and according to  
39 such priority as the authority may determine.

40 (d) The authority shall certify annually to the treasurer as trustee with copies provided to  
41 the clerks of the house and senate and to the house and senate committees on ways and means  
42 that it has made provision in its annual budget and its capital plan under section 7 of chapter 40Y  
43 for sufficient amounts to be available to meet debt service payments or other payments due under  
44 financing obligations, including, without limitation, leases or grant obligations.

45 (e) Subject to applicable restrictions contained in any bond resolution, trust or security  
46 agreement or credit enhancement agreement, surety bond or insurance policy related to  
47 indebtedness incurred by the authority, including without limitation coverage requirements, if the  
48 authority shall determine that the balance of the fund exceeds the amount necessary to achieve  
49 the purposes of the authority, including, without limitation, to meet debt service payments, lease  
50 payments and grant obligations, the authority may transfer the excess amount to the  
51 commonwealth.

52 (f) In order to increase the marketability of any bonds or notes of the trust which may be  
53 secured by or payable from amounts held in the fund, the sums to be credited to the fund are  
54 hereby impressed with a trust for the benefit of the trust and the holders from time to time of the  
55 bonds or notes, and in consideration of the acceptance of payment for the bonds or notes, the  
56 commonwealth covenants with the purchasers and all subsequent holders and transferees of the  
57 bonds or notes that while the bond or note shall remain outstanding, and so long as the principal  
58 of or interest on the bond or note shall remain unpaid, the sums to be credited to the fund shall  
59 not be diverted from the control of the trust and, so long as the sums are necessary, as determined

60 by the authority in accordance with any applicable bond resolution, trust or security agreement or  
61 credit enhancement agreement, surety bond or insurance policy related to indebtedness incurred  
62 by the trust, for the purposes for which they have been pledged, the rates of the excises imposed  
63 by said chapters 64H and 64I shall not be reduced below the rates prescribed by this section.

64 SECTION XXX. The General Laws are hereby amended by inserting after chapter 40X  
65 the following chapter:-

66 CHAPTER 40Y.

67 Section 1. (a) There is hereby created a body politic and corporate and a public  
68 instrumentality to be known as the Massachusetts Public Safety Building Authority, which shall  
69 be an independent public authority not subject to the supervision and control of any other  
70 executive office, department, commission, board, bureau, agency or political subdivision of the  
71 commonwealth except as specifically provided in any general or special law. The exercise by the  
72 authority of the powers conferred by this chapter shall be considered to be the performance of an  
73 essential public function.

74 (b) The authority shall consist of the state treasurer, who shall serve as chairperson, the  
75 secretary of administration and finance in coordination with the secretary of public safety, and 4  
76 additional members appointed by the state treasurer, 2 of whom shall have practical experience  
77 in public safety facilities planning, public safety building construction, or architecture and public  
78 safety building design, and 2 of whom shall be persons in the field of public safety with  
79 demonstrated knowledge of Massachusetts public safety services and other relevant federal and  
80 state public safety standards, each of whom shall serve a term of 2 years; but, a person appointed  
81 to fill a vacancy shall serve only for the unexpired term. An appointed member of the authority

82 shall be eligible for reappointment. The authority shall annually elect 1 of its members to serve  
83 as vice-chairperson. Each member of the authority serving ex officio may appoint a designee  
84 pursuant to section 6A of chapter 30.

85 (c) Four members of the authority shall constitute a quorum, and the affirmative vote of 4  
86 members of the authority shall be necessary and sufficient for any action taken by the authority.  
87 No vacancy in the membership of the authority shall impair the right of a quorum to exercise all  
88 the rights and duties of the authority. Members shall serve without pay but shall be reimbursed  
89 for actual expenses necessarily incurred in the performance of their duties. The chairperson of  
90 the authority shall report to the governor and to the general court no less than annually, to assist  
91 the executive and legislative branches in coordinating public safety, community development  
92 and fiscal policies of the commonwealth.

93 (d) Any action of the authority may take effect immediately and need not be published or  
94 posted unless otherwise provided by law. The authority shall be subject to all provisions of  
95 chapter 30A, and records pertaining to the administration of the authority shall be subject to  
96 section 42 of chapter 30 and section 10 of chapter 66. All moneys of the authority shall be  
97 considered to be public funds for purposes of chapter 12A. The operations of the authority shall  
98 be subject to chapter 268A and chapter 268B and all other operational or administrative  
99 standards or requirements to the same extent as the office of the state treasurer.

100 Section 2. For the purposes of this chapter, the following words shall have the following  
101 meanings:-

102 "Authority", the Massachusetts Public Safety Building Authority.

103           “Public safety services”, city or town police, fire, and emergency medical  
104 service departments.

105           Section 3. There is hereby established a public safety building assistance program. The  
106 purpose of said program is generally to encourage and foster the thoughtful establishment and  
107 maintenance of public safety facility space in and among the cities and towns of the  
108 commonwealth; to conduct surveys and studies relative thereto; and to administer the provisions  
109 of this chapter relative to grants and loans to cities and towns for the planning and construction  
110 of public safety buildings and public safety facility projects.

111           The purposes of the program shall be the provision of financial assistance to cities and  
112 towns as beneficiaries of the trust to finance and refinance the costs of approved public safety  
113 projects as provided in, and as necessary to implement this chapter, including without limitation  
114 providing for the payment of grants approved pursuant to this chapter and the payment of all  
115 costs of the authority, including professional and financial services incident to the conduct of its  
116 operations.

117           The authority shall establish general policy and review standards regarding public safety  
118 building construction, renovation, maintenance and facility space and administer the public  
119 safety building assistance program in accordance with this chapter. In carrying out its duties, the  
120 authority shall be guided by the following principles: preservation of open space and  
121 minimization of loss of such open space, emphasis on thoughtful community development, and  
122 project flexibility that addresses the needs of individual communities and municipalities. In  
123 accordance with the terms of any bond resolution, trust or security agreement or credit  
124 enhancement agreement, surety bond or insurance policy related to indebtedness incurred by the

125 authority secured by amounts provided to the trust in accordance with section 35QQQ of chapter  
126 10, the holders of indebtedness and the providers of any credit enhancement, surety bond or  
127 insurance policy shall also be beneficiaries of the trust. The authority shall apply and disburse  
128 moneys and revenues of the trust without further appropriation or allotment.

129 Specific powers of the authority shall include, but not be limited to, the following:

130 (a) review, approve or deny grant applications, waivers and other requests submitted to  
131 the program; review, approve and recommend changes to grant payment schedules or suspend  
132 said schedules for program projects such as refinancings, audit findings and such other  
133 circumstances that may warrant such action;

134 (b) provide architectural or other technical advice and assistance, training and education,  
135 to cities and towns or to joint committees thereof and to general contractors, subcontractors,  
136 construction or project managers, designers and others in the planning, maintenance and  
137 establishment of public safety facility space;

138 (c) recommend to the general court such legislation as it may deem desirable or necessary  
139 to further the purposes of this chapter;

140 (d) develop a formal enrollment projection model or consider using projection models  
141 already available;

142 (e) to apply for, receive, administer and comply with the conditions and requirements  
143 respecting any grant, gift or appropriation of property, services or moneys;

144 (f) to enter into contracts, arrangements and agreements with other persons and execute  
145 and deliver all trust agreements, grant agreements and other instruments necessary or convenient  
146 to the exercise of the powers of the trust;

147 (g) to borrow and repay money by issuing bonds or notes of the trust, to apply the  
148 proceeds thereof as provided in this chapter and to pledge or assign or create security interests in  
149 any revenues, receipts or other assets or funds of the trust to secure bonds or notes;

150 (h) develop a project priority system;

151 (i) collect and maintain a clearinghouse of prototypical public safety building plans which  
152 may be consulted by eligible applicants;

153 (j) collect and maintain resource library relating to regulations established by the United  
154 States Department of Labor Occupational Safety and Health Administration and  
155 recommendations established by public safety services professional organizations, including but  
156 not limited to the International Association of Fire Fighters;

157 (k) determine eligibility of cost components of projects for reimbursement, including  
158 partial or full eligibility for project components for which the benefit is shared between the  
159 public safety entity and other municipal entities;

160 (l) establish appropriate rules and regulations as may be necessary to carry out the  
161 purposes of this chapter;

162 (m) prepare an annual budget for the administration of the program;



163 (n) collect and maintain data on all the public building facilities in the commonwealth,  
164 including information on size, services, number of employees, available facility space,  
165 maintenance;

166 (o) perform or commission a needs survey to ascertain the capital construction,  
167 reconstruction, maintenance and other capital needs for public safety services in the  
168 commonwealth;

169 (p) develop a long term capital plan in accordance with needs and projected funding;

170 (q) adopt and amend bylaws and such rules, regulations and procedures for the conduct of  
171 the business of the trust as the board shall deem necessary to carry out the provisions of this  
172 chapter;

173 (r) establish and maintain reserves;

174 (s) disburse amounts due to cities and towns under grants approved by the authority to  
175 finance or refinance costs of approved public safety projects and, in conjunction therewith,  
176 finance or refinance the local share of costs of these projects, through the purchase of bonds,  
177 notes or other evidences of local indebtedness, at the rates and on the terms that the authority  
178 may in its discretion determine, and provide for the payment of all costs of the authority,  
179 including professional and financial services incident to the conduct of its operations;

180 (t) invest the funds of the trust in such investments as may be legal investments for funds  
181 of the commonwealth or any fiduciary in the commonwealth;

182 (u) obtain insurance and enter into agreements of indemnification necessary or  
183 convenient to the exercise of the powers of the trust;

184 (v) sue and be sued and to prosecute and defend actions relating to the affairs of the trust;  
185 but the trust shall not be authorized to become a debtor under the United States Bankruptcy  
186 Code;

187 (w) engage accounting, management, legal, financial, consulting and other professional  
188 services necessary to the operations of the trust; and

189 (x) do all things necessary or convenient to carry out the purposes of this chapter.

190 The chairperson of the authority shall appoint an executive director, who shall supervise  
191 the administrative affairs and general management and operations of the authority and who shall  
192 also serve as secretary of the authority, ex officio. The executive director shall receive a salary  
193 commensurate with the duties of the office, and may be removed by the board for cause. The  
194 executive director may appoint other officers of the authority necessary to the functioning of the  
195 authority. The executive director shall designate no fewer than 1 employee to be a municipal  
196 liaison to assist cities and towns with concerns regarding the construction of public safety  
197 buildings. Sections 9A, 45, 46, and 46C of chapter 30, chapter 31 and chapter 150E shall not  
198 apply to the executive director or any other employees of the authority. The executive director  
199 shall, with the approval of the authority: (i) plan, direct, coordinate and execute administrative  
200 functions in conformity with the policies and directives of the authority; (ii) employ professional  
201 and clerical staff as necessary; (iii) report to the authority on all operations under his control and  
202 supervision; (iv) prepare an annual budget and manage the administrative expenses of the  
203 authority; and (v) undertake any other activities necessary to implement the powers and duties  
204 set forth in this chapter.

205           Section 3A. The authority, in cooperation with the state treasurer, shall at all times keep  
206 accounts of all receipts, expenditures and disbursements and all assets and liabilities of the  
207 authority, which shall be open to inspection by any officer or duly appointed agent of the  
208 commonwealth.

209           Section 4. Within 365 days of the effective date of this act and prior to the review of grant  
210 applications, the authority shall conduct a comprehensive review of all municipal public safety  
211 buildings in the Commonwealth, including, but not limited to, determining the total number of  
212 public safety buildings, the date of initial construction, the number of public safety services  
213 based in each public safety building, the number of cities and towns actively renovating or  
214 constructing a public safety building, the total population served by each public safety service in  
215 each public safety building, the unique needs of each public safety service and their impact on  
216 the construction of a public safety building, how construction of the public safety building  
217 impacts dispatch response time, how to prioritize health and safety of public safety personnel in  
218 the construction of a public safety building, and how public safety equipment and vehicles are  
219 stored in existing public safety buildings. This review shall be the responsibility of an  
220 independent, third-party research firm, as identified by the authority, and based on criteria set  
221 forth in this section.

222           Section 5. Any eligible applicant may apply to the authority for reimbursement, in whole  
223 or in part, of any expenses incurred for educational, engineering and architectural services  
224 incidental to the planning of a public safety building or any expenses incurred for surveys made  
225 of public safety building needs and conditions, the contract for which has been approved by the  
226 authority. Such application shall be accompanied by information and documentation that the  
227 authority may require.

228           Section 6. An eligible applicant may submit to the authority a statement of interest which  
229 shall be approved by a vote of the applicable local governing body or bodies as set forth and in a  
230 form prescribed by the authority, and which shall state what the eligible applicant believes are  
231 the deficiencies in said eligible applicant's respective public safety facilities that meet one or  
232 more of the priorities established by the authority. Said statement of interest shall be  
233 accompanied by such additional forms, documents, and information as the authority shall deem  
234 necessary to review the statement. The submission for a statement of interest shall not commit  
235 the authority to accept any further application materials, approve an application, or provide a  
236 grant or any other type of funding, or place any other obligation or requirement upon the  
237 authority. The authority shall notify an eligible applicant if the authority determines that the  
238 statement of interest has not met the criteria established by the authority.

239           If the authority determines that the statement of interest and associated material merits  
240 further consideration, the authority may, in its discretion, invite the eligible applicant to apply to  
241 the authority for a public safety facilities grant to meet in part the cost of a public safety building  
242 project; but, a city or town shall not have an entitlement to funds under this chapter except at the  
243 discretion of the authority in accordance with this chapter. Application shall mean a series of  
244 documents, forms, letters, statements, certifications, plans, studies, drawings, and other data and  
245 information required by the authority to be submitted within the deadlines and in the format  
246 prescribed by the authority and shall be accompanied or supplemented by drawings, plans,  
247 estimates of cost and proposals for defraying the costs or any additional information the authority  
248 may require, before construction is undertaken. The authority shall require a maintenance plan to  
249 be submitted as part of the application to address any required updates to the public safety  
250 building following the completion of construction. The authority shall promulgate regulations

251 establishing the procedural steps by which applications must be made and reviewed, and may at  
252 any time during the application process determine that the application does not warrant further  
253 consideration, pursuant to the priority criteria established by the authority. In the event that an  
254 eligible applicant undertakes construction before approval is obtained, the eligible applicant shall  
255 remain subject to the authority's approval process as if the construction were not undertaken.

256           Section 7. (a) On or before June 30 of each year, the authority shall submit a report to the  
257 governor, the house and senate committees on ways and means, the joint committee on public  
258 safety and homeland security, the joint committee on bonding, capital expenditures and state  
259 assets, and the joint committee on municipalities and regional government, which analyzes the  
260 anticipated financial needs for public safety facilities projects of the kind that qualify for  
261 assistance under this chapter. The report shall include a listing of each public safety building,  
262 together with a description of its public safety services, number of population served, age and  
263 state of maintenance and whether it is likely to require construction, enlargement, reconstruction,  
264 rehabilitation or improvement due to such factors as deterioration, lack of adequate facilities to  
265 meet public safety services' needs and changing number of population served.

266           (b) The authority shall also conduct periodic surveys of the cities and towns to determine  
267 the need for new public safety facility construction to meet demand.

268           (c) The authority shall develop a long-term capital plan in accordance with needs and  
269 funding projected to be available in the trust under this chapter for purposes of planning and  
270 guiding the policies of the authority.

271           (d) The capital plans, needs surveys and reports of the authority shall not give rise to any  
272 claim, legal or moral, or enforceable right in any party to benefits or funds from the trust or from  
273 other sources.