

# **Conference Committee Report on Senate Bill 1940 and House Bill 3949: An Act to Improve the Administration of State Government and Finance**

## **Section-By-Section Summary**

### **Sections 1, 3 to 9 – Operations of the General Court**

This legislation proposes numerous technical revisions to chapter 3 of the General Laws, the chapter governing the operations of the General Court. The revisions reflect current operating practices, and are intended to allow for expanded use of electronic operations in the handling and publishing of legislation.

### **Sections 2, 10, 32, 84 – Printing**

This section repeals chapter 5 of the General Laws, which governs state printing. Provisions of this chapter that remain relevant have been moved or will be moved to other appropriate places in the General Laws: chapter 3 (the Legislature), chapter 7 (Administration and Finance) and chapter 9 (the Secretary of State).

### **Sections 11 to 15 – The Governor’s Office**

These sections update titles and references that appear in chapter 6 of the General Laws and conform to current practices with respect to the role of the Governor’s Council.

### **Sections 16, 17, 40, 113, 119, 121, 122, 132 – State Finance and Governance Board**

These sections replace the Finance Advisory Board with the State Finance and Governance Board and change the composition of the board.

### **Sections 19, 20, 22, 23 – Executive Offices**

These sections update titles and references that appear in chapter 6A of the General Laws and conform to current practices with respect to the role of the Governor’s Council.

### **Sections 21, 24, 37, 102, 126, 127 – Performance Management**

These sections require executive offices and the State Lottery Commission to implement performance management regimes to facilitate the measurement of the performance of all budgeted agencies and to enable better programmatic decision-making by July 1, 2013. For Executive Branch agencies, the implementation and output of these regimes must be coordinated by the Office of Commonwealth Performance, Accountability and Transparency within Executive Office of Administration and Finance.

### **Sections 25 to 31, 33, 35, 36, 38, 39, 41, 43 to 65 – Executive Office of Administration and Finance**

These sections update titles and references that appear in chapter 7 of the General Laws and conform to current practices with respect to the role of the Governor's Council.

### **Sections 66, 67, 68, 82 – Division of Capital Asset Management and Maintenance**

These sections consolidate all statutes concerning the Division of Capital Asset Management and Maintenance in a new chapter, chapter 7C of the General Laws, from their current locations in chapter 7 and 29 of the General Laws.

### **Section 69 – Capital Projects Report**

This section requires the Executive Office for Administration and Finance to report annually on all capital projects to the House and Senate Committees on Bonding, Capital Expenditures and State Assets and the House and Senate Committees on Ways and Means.

### **Section 70 – Office of the Comptroller**

This section clarifies two currently conflicting provisions of the General Laws to specify that the Office of the Comptroller is an independent agency located within the Executive Office of Administration and Finance.

### **Section 71 – Office of the Comptroller**

This section updates a reference in section 2 of chapter 7A to the Secretary of Administration and Finance.

### **Section 72 – Payment Verification**

This section conforms section 3 of chapter 7A of the General Laws with the current practice of submitting electronic verifications for purposes of obligating Commonwealth funds, and adds an explicit requirement that all such authorized payments be contained in a report by the comptroller.

### **Section 73 – Federal Grants and Reimbursements**

This section eliminates a redundant report compiling all federal grants and reimbursements received by the Commonwealth.

### **Section 74 and 75 – Vendor Payments**

These sections clarify the Comptroller's authority to ensure the maintenance of records of payments to vendors by state agencies, and require any schedule for vendor payments promulgated by the Comptroller to consider the impact of such schedule on the Commonwealth's cash flow and to minimize the Commonwealth's short-term borrowing.

### **Section 76 – Prohibition on Consultants**

This section repeals section 6 of chapter 7A, an unenforceable prohibition against the Commonwealth contracting with consultants.

### **Section 77 – Adjustments for Current or Prior Reporting Periods**

This section adds explicit authority for the Comptroller to make adjustments in the Commonwealth's accounts, both for the current reporting period and for prior reporting periods.

### **Section 78 – Conformity with Required Reports**

This section explicitly requires the Comptroller to ensure that all accounting statements contained in reports by state agencies reconcile to the Commonwealth's official statutory basis financial and comprehensive annual financial reports.

### **Section 79 – Office of the Comptroller**

This section clarifies that the Office of the Comptroller operates subject to appropriation.

### **Section 80 – Budget Preparation**

This section eliminates a reference to the Commissioner of Capital Asset Management and Maintenance from a provision for which that Commissioner has no responsibility.

### **Section 81 – Liability Management**

This section strikes an obsolete ceiling on deductibles the Comptroller may establish within the Commonwealth's current liability management program, and eliminates obsolete references in the current statute.

### **Sections 83, 85, 86 – Secretary of State**

These sections eliminate obsolete references to the Governor's Council and Governor with respect to hiring decisions over which the Secretary of State has exclusive authority.

### **Section 87 – State Treasurer**

This section eliminates obsolete references to the Governor's Council and Governor with respect to hiring decisions over which the State Treasurer has exclusive authority.

### **Sections 88 to 90 – Investment Advisory Council**

These sections eliminate the statutory requirement to create an investment advisory council, which has not operated for many years.

### **Section 91 – Deposits in Trust**

This section eliminates an obsolete section requiring a report of every corporation who holds “deposits in trust” with the Commonwealth.

### **Sections 92 and 93 – Debt Reporting**

These sections ensure that the House and Senate Ways and Means Committees receive a report of outstanding debt, and require that all state agencies or authorities that are empowered to issue debt to report any issuance of debt at least quarterly to the State Treasurer.

### **Section 94 – State Treasurer Statement on Transactions**

This section requires the State Treasurer to report to the Legislature annually by the 2nd Wednesday in September on the Department of the State Treasurer’s transactions for the preceding fiscal year.

### **Section 95 – Cash Flow Reports**

This section proposes numerous improvements in the Commonwealth’s current regime of cash flow reporting. This section requires the quarterly cash flow reports to compare actual spending and revenue in a reporting period with estimates previously made for that reporting period, and to analyze possible reasons for variances between estimates and actuals. This section clarifies the Department of Revenue’s responsibility to report tax revenue collections, and the Comptroller’s responsibility to report spending and non-tax revenue collections, and explicitly requires the compliance of all state agencies in submitting such reports, including the State Lottery Commission. This section also requires the State Treasurer to produce monthly variance reports and distribute these compiled monthly reports quarterly to the House and Senate Committees on Ways and Means as well as other relevant state agencies.

### **Section 96 – Metropolitan District Commission**

This section eliminates an obsolete section referring to assessments made by the former metropolitan district commission.

### **Sections 97, 98, 135 – State Lottery Commission Financial Statements**

These sections would require the State Lottery Commission to produce an annual independently audited financial report, and to publish those statements electronically in conformity with the same deadlines established for the Commonwealth’s own financial statements.

### **Sections 99 to 101, 103, 104, 105 – State Lottery Commission**

These sections strike two obsolete paragraphs governing the former arts lottery and the allocation of multi-jurisdictional lottery revenues and update various requirements that lottery proceeds be used to fund local aid for cities and towns, subject to appropriation.

## **Sections 106 to 108 – State Auditor**

These sections eliminate obsolete references to the Governor’s Council and Governor with respect to hiring decisions over which the State Auditor has exclusive authority.

## **Sections 109 to 111 – Department of Revenue**

These sections update titles and references that appear in chapter 14 of the General Laws.

## **Sections 112, 133, 134 – State Finance**

This section strikes existing chapter 29 of the General Laws in its entirety and replaces it with a new proposed chapter 29.

Among the initiatives appearing in the new chapter 29 are:

- **Statutory debt limit** – This initiative rebases the Commonwealth’s debt limit at \$17.07 B starting on the first day of FY 12, and changes the index to make it more responsive to economic conditions. (revised section 60A)
- **Statutory debt affordability** – The Commonwealth currently has debt affordability statute adopted decades ago, which simply provides that “debt service” (which is undefined) cannot exceed 10% of budgeted appropriations. Revised section 60B provides:
  - **Codifies a requirement that a debt affordability study be performed before the Administration establishes a bond cap and issues bonds that fiscal year.**
  - **Requires this study to be performed by an independent capital debt affordability committee, chaired by the Secretary of Administration and Finance.** The other voting members of the committee would be the Comptroller, the Secretary of Transportation, one academic expert in public finance appointed by the Governor, the State Treasurer, and two experts in public finance appointed by the Treasurer who are not employed by the Commonwealth either as state employees or as consultants. The House and Senate chairs and ranking minority members of the Committees on Bonding, Capital Expenditures and State Assets and House and Senate Ways and Means would be non-voting members of the committee.
  - **Establishes criteria for debt that should be counted in that study.**
  - **Requires the committee to establish and review methodologies for how the study should calculate available revenues.**
  - **Requires the committee to establish statutory benchmarks against which to compare Massachusetts.**

- **Update the statutes governing the investments of the state’s assets.** These changes also require the re-procurement of management of the Massachusetts Municipal Depository Trust, the entity holding much of the Commonwealth’s cash deposits. (revised sections 34, 38 and 38A)
- **Adjust sections 9B and 9C to current electronic allotment practices**
- **Improve oversight of non-tax revenue collections.** This change would require the Comptroller to promulgate a common uniform schedule for classifying non-tax revenue collections by state agencies of the Commonwealth. (revised section 2)
- **Alter the presentation and content of sections 1A, 1B, and 2C of the budget.** These sections of the budget recite budgeted revenues. This initiative would require section 1B to present restricted and unrestricted revenues by department, according to revenue category (state tax revenue, federal reimbursements, departmental revenues and consolidated transfers). Section 2C would include any authorizations to continue a prior appropriation. (revised section 6D)
- **Improve treatment of federal grants** (revised section 6B)
- **Conform provisions concerning the reimbursement of fringe and indirect costs to current practice** (revised section 5D)
- **Index counter-cyclically the \$1 B ceiling on capital gains revenues to inflation** (revised section 5G)
- **Require a presentation, with House 1, of anticipated budget trends for the succeeding five years after the year for which we are budgeting.** (revised section 7H)
- **Expand the tax expenditure budget and require it to compare estimates with actual.** The current tax expenditure budget is incomplete, as it only addresses tax expenditures in the income tax, business and corporate tax, and sales tax categories. It also does not compare past estimates with actual results, a best practice that results in improved forecasting. This initiative requires the budget to present tax expenditures in the financial institutions and insurance tax categories as well, and requires each budget to compare prior estimates with actual results and analyze reasons for discrepancies and how those discrepancies might improve forecasts. This initiative also clarifies the application of the definition of “tax expenditure” to three features of the state’s sales tax. (revised sections 1 and 5B)
- **Eliminate various statutory requirements that a “maintenance budget” be developed.** Many of our state finance laws are organized around the notion that the starting point for any state budget – and, in fact, the purpose of any state budget – is to preserve existing programs and existing state agencies. These assumptions are at odds with a more modern notion of budgeting that the Commonwealth should continuously evaluate agencies and programs for performance, and invest in the higher-performing programs. This initiative eliminates various requirements in state finance laws that the Governor develop a maintenance budget.

## Sections 114 and 115 – Small Business Impact Statements

These sections require the Secretary of State to include the full text of any small business impact statement on proposed regulations online.

### **Sections 116 and 136 – Local Aid**

These sections propose to start distributing unrestricted local aid (general government aid, chapter 70 aid and payments in lieu of taxes) monthly rather than quarterly, beginning in the fiscal year starting July 1, 2013. This initiative will aid the cash flow of cities and towns, and is intended to mitigate the Commonwealth's need to issue revenue anticipation notes.

### **Sections 117 and 118 – Temporary Holding Fund**

These sections eliminate the temporary holding fund, a device that hurts the Commonwealth's cash flow without any real benefit for the Commonwealth's budgeting.

### **Section 120 – Highways**

This section moves two sections out of chapter 29 into their correct chapter of the General Laws, chapter 81.

### **Section 123 – Derivative Financial Products**

This section amends the definition of "derivative financial products" as included in the section 29 of Chapter 304 of the Acts of 2008.

### **Section 124 – Registry of Deeds Modernization and Efficiency Commission**

This section establishes a registry of deeds modernization and efficiency commission for the purpose of identifying best practices and efficiencies for the registry of deeds.

### **Section 125 – State Authority Employee Compensation**

This section requires each state authority to compile a report on the salaries and compensation of various highly-compensated employees to be submitted to the Legislature no later than July 1, 2013.

### **Section 128 – Report on a Statewide Publically Accessible Employment Posting System**

This section requires the human resources division to investigate and report on the feasibility and cost of developing a statewide publically accessible web-based employment posting and referral system for all Commonwealth employment opportunities.

### **Section 129 – Report on Short-Term Borrowing from the Commonwealth Stabilization Fund**

This section requires the Secretary for Administration and Finance, in consultation with the State Treasurer, to report and make recommendations on the feasibility of short-term borrowing by the State Treasurer from the Commonwealth Stabilization Fund.

### **Section 130 – Zero-Based Budget Commission**

This section establishes a zero-based budget commission to consider and make recommendations on the feasibility of transitioning to a zero-based budget for the fiscal year beginning on July 1, 2016.

### **Section 131 – Report on Fiscal Impact Statements for Ballot Questions**

This section requires the Secretary for Administration and Finance, in consultation with the Secretary of State, to report on the feasibility and cost of requiring the Secretary to prepare and the Secretary of State to print and send a fiscal impact statement for any question to be placed on the ballot.

### **Section 137 – Effective Date**

This section provides that the effective date of this act is January 1, 2013, unless otherwise stated.