

**Massachusetts House of Representatives  
Bill Summary**

- Bill #:** H.2333 / S.1452
- Title:** An Act establishing a Municipal Building Assistance Program and Building Authority.
- Sponsor:** Rep. Margaret Scarsdale / Sen. Edward Kennedy
- Committee:** Municipalities and Regional Government
- Hearing Date:**
- Prior History:** Refile of H.3801 (Study Order H.4573) and S.1303 (Study Order S.2647)
- Current Law:** Chapter 10 of MGL concerns the Department of the State Treasurer.
- Chapter 12A of MGL governs the office of the Inspector General. The law defines the term “public funds” as meaning state, federal and local funds.
- Chapter 30 of MGL concerns general provisions relative to state departments, commissions, officers, and employees.
- Section 6A outlines the procedure for an absence or disability of members of permanent state boards or commissions.
  - Section 42 deals with the Record Conservation Board, its powers and duties, the sale or destruction of records, the definition of records, and inquiries.
  - Chapter 30A of MGL is the State Administrative Procedure.
  - Section 11A1/2 was repealed and replaced by the current version of the Open Meeting Law (Sections 18-25 of Chapter 30A)
- Chapter 64H of MGL deals with the tax on retail sales of certain tangible personal property.
- Chapter 64I of MGL concerns the tax on the storage, use, or other consumption of certain tangible personal property.
- Chapter 66 of MGL governs public records.
- Section 10 deals with the inspection and copies of public records, requests, written responses, extension of time and fees.

Chapter 70B of MGL deals with the School Building Assistance Program.

- Section 17 concerns the annual report of the program and the anticipated needs for school facilities projects.

Chapter 268A of MGL concerns the conduct of public officials and employees (ethics).

Chapter 268B of MGL deals with the financial disclosures by certain public officials and employees.

Chapter 152 of the Acts of 1997 concerns the construction and financing of convention and exhibition centers in the Commonwealth.

- Section 10 of this special act creates a Boston Convention and Exhibition Center Fund. This section outlines how this fund shall be financed, the limitations of how the money in this fund can be used, and how the funds shall be distributed.

**Summary:**

This legislation would add a new Chapter to the General Laws (40X) to authorize the establishment of a municipal building assistance program and accompanying authority to help cities and towns pay the costs of constructing new municipal buildings.

The first section of the proposed new law contains the legislative intent or purpose, citing the increased costs of municipal building construction and the need for local governments to have flexibility in how such projects are designed, planned, and financed. The language states that it is in the best interests of the Commonwealth to create an authority to achieve these public objectives of effective management and planning, thereby ensuring the health, safety, security, and well-being of the people using these buildings. Related goals include easing and preventing overcrowding, maintaining good repair, efficient and economical construction and maintenance, financial sustainability of the program, thoughtful community development, and smart growth and accessibility.

Section 1A of the new chapter would create a body politic and corporate and public instrumentality known as the Massachusetts Municipal Building Authority, which would be an independent public authority. Subsection (a) states that the authority would be authorized to exercise the powers conferred upon it by this new chapter, and not be subject to any other offices, departments, agencies, etc. except as specifically provided in any general or special law.

New subsection (b) lists the 7 persons who shall comprise the authority:

- State Treasurer (Chairperson)

- Secretary of Administration and Finance
- Massachusetts Municipal Association Representative
- Four additional members appointed by the state treasurer, 2 of whom shall have practical experience in public building construction, or architecture and design, and 2 of whom shall be in the field of municipal management with demonstrated knowledge of facility needs and federal and state building standards

Each member would serve a 2-year term and could appoint a designee. If a vacancy occurs, then the person appointed to fill that vacancy would serve for the remainder of the unexpired term. Members would be eligible for reappointment. There is no limit on the number of terms a member could serve. The authority would annually elect one person would be elected to serve as vice-chairperson. Each member serving ex officio may appoint a designee pursuant to Chapter 30 Section 6A.

Subsection (c) holds that four members of the authority shall constitute a quorum, and the affirmative vote of 4 members of the authority shall be necessary and sufficient for any action taken by the authority. Vacancies shall not prevent the 4-person quorum from acting. Members shall serve without pay but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The chairperson shall report to the governor and to the general court annually, to assist the executive and legislative branches in coordinating community development and fiscal policies of the Commonwealth.

New subsection (d) states that any action of the authority may take effect immediately and does not need to be published or posted unless otherwise required by law. Meetings of the authority shall be subject to the Open Meeting Law but shall not apply to members serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matters relating to the official business of the authority are discussed and decided at the meeting. The authority would need to keep records as provided by law and be made available for inspection and copying as provided by law. All money of the authority shall be considered public funds and therefore subject to oversight by the Inspector General's office. Operations of the authority would be subject to the laws governing ethics and financial disclosures by public officials and employees, as well as all other operational and administrative standards or requirements to the same extent as the office of the state treasurer.

Section 2 of this legislation amends Chapter 10 of MGL by inserting a new section following Section 35SSS.

Section 35TTT (a) provides definitions for the following words: authority, dedicated sales tax revenue amount, receipts from sales, and sales prices of purchases.

Section 35TTT (b) establishes a separate fund to be known as the Municipal Building Modernization and Reconstruction Trust Fund. A dedicated sales tax revenue amount shall be credited to the fund. This authority intends to use 0.5% of the sales tax revenue as the funding source. Annual receipts into this fund on account of any fiscal year shall be considered to meet the full obligation of the commonwealth to the authority for such fiscal year.

Subsection (c) of this new section holds that amounts in this fund shall be held by the state treasurer or their designee, as trustee and not on account of the commonwealth, exclusively for the purposes of the authority, and the treasurer shall disburse amounts in the fund to the authority, without need for further appropriation, upon the request from time to time of the executive director of the authority. All amounts in the fund, including investment earnings shall be available for expenditure by the authority for any lawful purposes, including without limitation payment of debt service on debt obligations issued by the authority, and may be pledged to secure debt of the authority in such manner according to such priority determined by the authority.

The new subsection (d) requires the authority to certify annually to the treasurer as trustees with copies provided to the clerks of the House and Senate and to the House and Senate committees on ways and means that it has made provision in its annual budget and its capital plan under Chapter 70B Section 17 of MGL for sufficient amounts to be made available to meet debt service payments or other payments due under financing obligations, including, without limitation, leases, or grant obligations.

Subsection (e) authorizes the authority to transfer excess funds to the commonwealth if the authority determines that the balance of the fund exceeds the amount necessary to achieve the purposes of the authority, including, without limitation, to meet debt service payments, lease payments, and grant obligations. The provisions in this subsection shall be subject to applicable restrictions from any bond resolution, trust or security agreement or credit enhancement agreement, surety bond, or insurance policy related to indebtedness incurred by the authority.

Subsection (f) holds that to increase the marketability of any bonds or notes of the trust, the sums to be credited to the fund are impressed with a trust of the bonds or notes from time to time to benefit the trust and its holders. In consideration for the acceptance of the payment for the bonds or notes, the commonwealth pledges with

the purchasers and all subsequent holders and transferees of the bonds or notes, that while the bond or note shall remain outstanding, and so long as the principal of or interest on the bond or note is unpaid, the sums credited to the fund shall not be diverted from the control of the trust so long as the sums are necessary, as determined by the authority in accordance with any applicable bond resolution, trust, security, or credit enhancement agreement, surety bond, or insurance policy related to indebtedness. The rates of the excises imposed by Chapters 64H and 64I of MGL shall not be reduced below the rates prescribed by this section.

**Notes:**

This legislation does not explicitly authorize the promulgation of rules or regulations for the operation of the authority, but that may be implied by the fact that an independent authority is being created.

Section 2 of this legislation holds that the dedicated source of funding for this authority shall be all moneys received by the commonwealth equal to 0.5 per cent of the receipts from sales, and 0.5 per cent of the sales price of purchases from that portion of the taxes imposed under Chapters 64H and 64I of MGL as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property or of services, including interest or penalties, but not including any portion of the taxes that constitute special receipts or any portion of the taxes imposed on the sale of meals. While this section defines a dedicated source of funding for the operations of this authority, there is no stated mechanism for applying for and receiving grants or a list of criteria that would be used to evaluate such requests. Additionally, the authority will not be taking the sales taxes that are collected in the convention center districts.