ML STRATEGIES

2013-2014 Massachusetts Legislative Session Ends

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- Financial Services
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SERVICE AREAS

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Last week, the 2013-2014 Massachusetts legislative session came to a close amid a flurry of activity on Beacon Hill. Lawmakers rushed to finalize and pass priority bills, working past their deadline on Thursday, sending a number of proposals to the Governor's desk after midnight. Now, Governor Deval Patrick has 10 days to review the legislation he received.

While disagreement between legislators and the Governor over how to raise funds for public transportation services marked the bulk of 2013, 2014 proved to be a fruitful year for lawmaking. The legislature passed laws raising the minimum wage, establishing rights for domestic workers to prevent exploitation, regulating drug compounding pharmacies, and instituting new checks and balances to stamp out avenues for welfare system fraud, just to name a few. This advisory covers recent highlights from the 2013-2014 legislative session and analyzes issues that may resurface in the 2014-2015 legislative session.

Economic Development

- *Economic Development Bill Aims for Job & Economic Growth*
  The compromise economic development package (**H4377**, **S2241**) seeks to increase job growth and economic stability through a focus on emerging industries and training for workers. A major point of contention, language dealing with non-compete agreements, did not survive in the final bill; the Senate-backed initiative to limit the use of non-compete agreements to six months and preclude their use for hourly employees was absent from the compromise. Please see a **prior ML Strategies advisory** for a more complete description of the Massachusetts Legislature's discussion of non-compete agreements. The final bill invests significantly in advanced manufacturing and IT workforce training as well as a "Big Data" innovation, and seeks to spur economic development in Gateway Cities. Additionally, the bill includes financing and changes in policy to help businesses in Boston increase local revenues and sets a sales tax holiday for the weekend of August 16-17, 2014. The bill also creates a state-level Financial Services Advisory Council, comprised of both public and private sector representatives, to grow the state's financial services industry.
- *Massachusetts Broadband Institute to Expand Broadband Infrastructure*
  The Massachusetts Broadband Institute received a mechanism to begin using a $50 million bond to build and acquire conduit, fiber and towers (**S2184**). The Institute will use this funding to expand broadband infrastructure, making broadband more accessible particularly among populations that currently underutilize broadband technologies.
- *Boston Convention & Exhibition Center Expansion Bill Approved*
  The $1.1 billion proposition (**H4308**) for Boston Convention & Exhibition Center expansion has been approved, putting in place a plan to bring substantial economic opportunities to the Commonwealth. The bill requests borrowing to go forward with a plan that includes a 1.3-million square foot addition and allows Boston to host bigger conventions. The expectation is that the bill will not only benefit Boston's convention hosting industry but will also add thousands of jobs and hundreds of millions in new revenue. See a **previous MLS alert** that mentions this bill.
- *Various Commonwealth Capital Projects Receive Funding*
  The House and Senate worked together to develop a plan (**H3933**, **S2197**) to go forward with capital facility repairs and improvements for the Commonwealth, putting forth about $1.4 billion in borrowing. The capital spending includes, in part, financing for State Police as well as funding for social, cultural and recreational projects and a Senate chamber overhaul. Ultimately, it will fall to the next governor to determine which projects are actually launched.
- *Government Technology Investments*
  The House and Senate sent to the Governor on July 30 a $1 billion multi-year technology bond bill (**H4335**) that includes $5 million to improve wireless access at the State House. The legislation mandates that the state's chief information officer adopt new procurement standards that include provisions for effective project management and oversight, which was a response to problems with the state health insurance and unemployment insurance websites. The bill calls for increased competition among technology services vendors and use of commercial off-the-shelf products to save money. The bill also includes $9 million for the state's second active data center; $65 million for the State Lottery Commission; $68.2 million to upgrade the State Police's statewide communication network; $38 million for a public school district broadband access improvement grant program; $12 million for a system to track diagnosis, treatment, services and outcomes of individuals with autism; and $100 million for IT improvements at the Department of Transportation.

- *Improving Housing Authority Performance*
  The House and Senate passed legislation (**H4316**, **S2292**) that aims to increase Department of Housing and Community Development oversight over and set performance standards for local housing authorities in the wake of a scandal involving the Chelsea Housing Authority.

Health & Human Services

- *Substance Abuse Treatment Accessibility*
  Massachusetts lawmakers passed a bill (**H4236**, **S2142**) geared towards expanding the opportunities for long-term substance abuse treatment and recovery. Under this legislation, there would be an $18 million increase in funding for prevention education and treatment programs as well as money going to a fund that will provide services for drug-addicted residents. An amendment was added late in the process to guarantee health insurance coverage for inpatient treatment for up to 14 days. The Governor is scheduled to sign the measure on Wednesday, and once he signs, Massachusetts will be the second state in the country to remove prior authorization for inpatient services.
- *Safe Access to Reproductive Health Clinics Ensured*
  After the Supreme Court overturned Massachusetts' buffer zone law, Attorney General Martha Coakley urged swift passage of a bill (**S2283**) to ensure safe access for individuals entering or leaving reproductive health care clinics. Members of both parties attempted to balance freedom of speech with actions that may be intimidating to individuals or an impediment to clinic access. The new law, which the Governor signed on July 30, gives public safety officials new powers to clear access ways to reproductive health facilities.
- *Tobacco Control Modernization*
  E-cigarettes or other electronic tobacco products may soon be subject to regulation by the Department of Public Health along with other, more traditional tobacco products; however, the bill in Massachusetts (**H3726**) will have to wait, likely until the 2014-2015 session.
- *2015 Welfare Reform Compromise Settled*
  The legislature completed part two of its welfare reform compromise when the House and Senate agreed to appropriations for fiscal year 2015 (**S2212**). The agreement will provide over $15 million in aggregate funding improvements to the Department of Transitional Assistance (DTA) and the Department of Higher Education (DHE). Specifically, the DTA will receive funding for caseworkers, while the DHE will receive funding for program evaluations and scholarship programs in addition to other funding routes. Part one of the compromise (**S2211**) was focused on policy to lay out the bill, which in part introduces a "full employment program" and looked to identify welfare fraud more effectively.

Energy, Environment & Clean Technology

- *Mercury Recycling Regulation Expands*
  Clarifications and updates (**H814**, **S2302**) were made to laws regulating the management of products containing mercury. The bill takes steps to ensure that mercury is recycled more safely and responsibly. For example, manufacturers of thermostats must make recycling containers available to contractors and wholesalers. Environmental activists had wanted a mandate requiring manufacturers to provide financial incentives for recycling.
- *Environmental Bond Bill*
  The $2.2 billion bond bill (**H4150**, **S2263**), which is to be spread over four years, gives funding to many agencies and individual projects related to a variety of natural resources. The bill focuses on land preservation, water innovation, alternative energy initiatives, and "green" projects to help wean the Commonwealth off of fossil fuels. Specific projects include a tax credit increase from $50,000 to $75,000 for those who donate land through the Conservation Land Tax incentive established in 2008; the Department of Environmental Protection's increased investment in water and air quality protection programs; $100 million for the Department of Conservation and Recreation to design, construct, and preserve forests, parks, harbor islands, and other recreational facilities; and $10 million for the Department of Energy and Resources' Leading by Example Program to reduce greenhouse gas emissions and other environmental impacts.
- *Investments in Water Infrastructure*
  Water infrastructure advocates scored a victory with a bill making grants and low-interest loans available for water upgrades. The new legislation (**H4212**, **S2021**) increases the contract assistance ceiling under a state trust to $138 million per fiscal year (a $50 million increase); requires the state to administer a matching grant program for communities seeking to join the Massachusetts Water Resources Authority system; and appropriates $1.8 million to the state Department of Environmental Protection for technical grants associated with water pollution abatement plans. It also gives the DEP latitude in making regulatory reform.
- *Solar Energy Cap Lift*
  The House and Senate (**H4385**, **S2214**) passed a cap lift on solar production to ensure that municipal and home projects in the pipeline don't stall. The cap on public projects will rise from 3 percent to 5 percent of a utility's total power generation, while the cap for private projects will increase to 4 percent. The measure dashed hopes for a comprehensive overhaul of the system used to facilitate the Commonwealth's solar energy projects.
- *Requiring Recycling in Public Buildings*
  According to a bill the Senate sent to the House on July 24 (**S2308**), as of January 1, 2015, all state-owned buildings with over 50 employees would be required to recycle lead batteries, metal containers, glass containers, single polymer plastics, recyclable paper, yard waste, tires, white goods, fluorescent lamps, cathode ray tubes or the product that contains the cathode ray tube, and construction and demolition material. The program requires each facility to submit an annual report to the Leading by Example Program, which is within the Executive Office of Energy and Environmental Affairs, to oversee and coordinate efforts at state agencies to reduce their environmental impact.

Education

- *Charter Schools Bill Fails*
  After a contentious debate about education reform, a bill (**H531**) that would have raised the cap on charter schools in Massachusetts stalled in the Senate. The bill faced strong opposition from teachers' unions, but Massachusetts and national charter school advocates made clear they wanted the cap raised. In the end, an overwhelming majority of Senators expressed concerns over the state's ability to reimburse public school districts whose students enroll in charter schools and the mixed data on charter school performance. The bill's supporters are exploring revisiting the issue next legislative session or putting it on the 2016 statewide ballot.

Real Estate & Construction

- *Regulating Real Estate Appraisal Management Companies*
  This bill (**H3849**, **S2307**) called for appraisal management companies to be licensed and regulated in a manner similar to Massachusetts' current treatment of appraisers. This bill contained an exemption to protect brokers providing Broker Price Opinions, estimations of property value distinct from appraisals. As the legislative session came to a close, the House and Senate were unable to agree on a single version of the bill, so this issue will likely return in the 2014-2015 session.
- *SouthField Redevelopment Bill Stalled, not Defeated*
  A bill (**H4372**) facilitating the redevelopment of SouthField, located at the old South Weymouth Naval Air Station, did not receive a final vote before the legislature wrapped up its formal session. The project called for up to 2,855 housing units and between 900,000 and 2-million square feet of commercial development. The bill would have given Weymouth, Abington, and Rockland tax revenues while also tasking those municipalities with service provision to the area. This development was expected to be a significant boon for the economy of the South Shore and could serve as a model for partnerships between public and private entities, as one stated goal of the bill is to maximize the fiscal benefit to the towns. The bill was not passed before the session's conclusion; however, the House enacted the measure on August 5, and the Senate may adopt the bill in informal session up as well.

Judicial System

- *Strengthening Gun Laws*
  A comprehensive gun safety bill (**H4285**, **S2284**) up for review by Governor Patrick calls for Massachusetts to join a national database for criminal and mental-health background checks, requires schools to develop plans to address students' mental health needs, and increases penalties for certain firearm crimes. The legislation also gives police chiefs discretion in issuing firearm identification cards for rifles and shotguns, allowing them to deny a permit if an applicant is deemed unsuitable. The Senate originally rejected this provision but, in the final days of the legislative session, a conference committee convened to resolve it and other issues. Under the compromise, police chiefs have 90 days to appear in court to defend their reasoning for license denial.
- *Overhauling Domestic Violence Laws*
  A bill (**S1897**, **H4037**) overhauling the Commonwealth's domestic violence laws includes new bail guidelines and tougher penalties for abusers. Provisions include a requirement that domestic assault suspects be held for at least six hours after an arrest to allow time for the development of a safety plan for the accuser. If bail is granted, it must be accompanied by a written assessment of the safety risk a defendant might pose. Judges and prosecutors are also provided with access to all available information about a defendant, including prior charges and restraining orders. The bill also requires training for judges, court officials, and prosecutors on domestic violence issues. In April, a conference committee was appointed to weigh the legislation, and on the last day of the legislative session, the bill made it to Governor Patrick's desk.
- *Making Juvenile Murderers Eligible for Parole*
  This law (**H4307**) overhauls sentencing laws to make individuals who commit murder while juveniles eligible for parole. In the wake of state and federal court rulings asserting the unconstitutionality of sentencing juveniles to life without parole, the legislature established a three-tiered system of parole eligibility for juvenile murderers. Juveniles convicted of first-degree felony murder become parole-eligible after serving 20 to 30 years, and juveniles convicted of first-degree murder with premeditation become parole-eligible in 25 to 30 years. Juveniles convicted of first-degree murder with extreme cruelty and atrocity become parole-eligible after serving a minimum of 30 years. The bill is not retroactive, and the roughly 60 people in the prison system who were convicted as juveniles and sentenced to life without parole defaulted to a parole-eligibility term of 15 years as a result of the court rulings.

Budget Vetoes, Overrides & Outcomes

- *Patrick's vetoes*
  Of the $36.5 billion budget (**H2**) Governor Patrick signed off on, he vetoed only $16.1 million (less than one percent). Among the most significant vetoes were a reduction in earmarks for several departments and nixing the weakening of a new MBTA retirement fund law. See a **previous ML Strategies advisory** for more detail on the Governor's vetoes.
- *Legislative Response*
  Vetoes were sent back to the legislature for possible overrides. Amid a nationwide uptick in opioid addiction, the legislature chose to override a budget veto that would increase the criminal penalties for heroin trafficking. While Patrick thought the increases represented "disproportionate maximum penalties," Democrats and Republicans in both houses supported increasing prison sentences from 20 to 30 years for those trafficking between 18 and 99 grams. Both branches overrode a veto of $1 million in funding for unpaid internship programs at the Department of Higher Education, and lawmakers overrode a veto of $2.2 million for the Department of Corrections. The appropriation will go to the prisoner mitigation program which supports communities that house prisons.

- *County Government Financial Management*
  Declining to adopt the Governor's proposed amendments, the House and Senate approved **H4295**, a bill on county government financial management. This bill mandates that each county government submit to the division of local services the annual or supplementary budget of the county and quarterly updates on the county's budget. Minor amendments to county budgets were also made. Patrick's proposal, by contrast, sought more state oversight over counties to ensure their budgets balanced.
- *Increasing District Attorney Salaries*
  This legislation (**H4294**), included in the fiscal year 2015 budget, increases the salaries of the state's 11 district attorneys from $148,843 to $171,561, in effect as of July 1, 2014. An amendment proposed by the Governor to create a commission to study the salaries of assistant district attorneys and public defenders was rejected. Please see a **previous ML Strategies Advisory** for a more complete description of the Governor's FY2015 vetoes and amendments.

Looking Ahead

With the last formal session of the Massachusetts Legislature concluded, lawmakers will now focus on the upcoming November elections, which will bring new leadership to Beacon Hill. Although Representative Robert DeLeo is set to serve as Speaker of the House until at least 2016, Senate President Therese Murray will not be seeking reelection, and will be replaced by Senator Stanley Rosenberg. The Commonwealth will have a new governor by the time the 2015-2016 legislative session commences.

The upcoming 2014-2015 session, which commences January 6, 2015, will likely include reconsideration of previously filed legislation discussed throughout this ML Strategies advisory. For example, the legislature may attempt to address charter schools again, especially given that activists are considering a ballot initiative campaign for 2016 to expand charter school enrollment opportunities.

Governor Patrick championed several policy initiatives this session that were not enacted, including a ban on non-compete agreements in Massachusetts, the introduction of large-scale renewable hydroelectric power to Massachusetts, and a complex plan to expand solar in Massachusetts. Depending on the priorities of the incoming governor, these issues may receive more attention in the next session.

The legislature can still pass bills during informal sessions; however, any lawmaker has the ability to block bills, and veto overrides and land-taking require roll call votes, meaning they cannot be handled during informal sessions.

As the legislature continues to meet informally, ML Strategies will monitor the progress of notable developments in the Commonwealth, including the upcoming elections and the four statewide ballot measures. In November, voters will decide whether to (1) repeal the 2013 law that automatically increases gas taxes according to inflation; (2) expand the state's beverage container recycling law to include all non-alcoholic containers; (3) repeal the 2011 law allowing resort casinos; and (4) entitle certain employees to earn and utilize paid sick days.

Authors

Julie Cox

George Atanasov

Amarynth Sichel

Candice Porter

Patrick Regan

Conor Henrie