

Massachusetts 2013 – 2014 Legislative Session Preview

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The 188th Massachusetts Legislature began the 2013 – 2014 legislative session on January 2. This alert identifies the key public policy issues that will likely emerge in the current session and offers insight into their possible implications.

Legislative Leadership & Priority Issues

Legislators re-elected Senate President Therese Murray and House Speaker Bob DeLeo to their respective leadership posts. Murray and DeLeo laid out their visions for the current legislative session and highlighted priorities issues, which include the items discussed below.

Short-Term Priorities

Transportation: The state's transportation system is in need of an estimated \$1 billion annually to address a gap between revenues and costs. All eyes are on Governor Deval Patrick and the Legislature to present a comprehensive transportation financing proposal to address this long-term issue. A menu of financing options will be considered, including an open road tolling system and an increase in the gas tax, as well as other revenue enhancing measures. Leaders in both branches, as well as Governor Patrick, have stated their intentions to design a solution that will promote safety, efficiency and reflect a sense of regional equity.

Unemployment Insurance: The scheduled increase in the rates of unemployment insurance will also be addressed early in the new session. Lawmakers have frozen the rates multiple times over the last several years to avoid increased costs to employers in a soft economy and potential job loss. Leadership has promised a focus on reforms that address long-term liabilities while being sensitive to the impact on Massachusetts employers. Subsequently, Governor Patrick filed a package of reforms that are designed to lower business costs. The Governor's bill includes the unemployment rate freeze. In addition to the rate freeze, the Governor's bill proposes a new "employer responsibility contribution" in lieu of the existing "fair share contribution" currently paid by certain employers.

Fiscal Year 2013 Supplemental Budget: Decreased revenues and unforeseen circumstances have resulted in an estimated budgetary gap of \$540 million. The federal government's final approach to the "fiscal cliff" resolution will further impact Massachusetts' bottom line. The Governor filed legislation in December that proposes emergency spending cuts as well as an additional transfer from the state's "rainy day fund." The Legislature will consider the supplemental budget very early in the session. Additionally, it is rumored that the bill may serve as a vehicle for technical corrections to Chapter 224, the health care cost containment legislation.

Other Leadership Priorities

Revenue: The fiscal health and welfare of the Commonwealth continues to dominate the agenda and determine the outcome of almost every other issue under consideration. Costly initiatives such as transportation finance, health care, infrastructure needs and drinking and wastewater reform will be competing for limited revenue. The Tax Expenditure Commission issued a report toward the end of the last session that identified all existing tax expenditures and the cumulative cost thereof. The report also contained recommendations pertaining to the measurement of the effectiveness of each particular expenditure at achieving a clearly articulated public policy goal. Although stopping short of calling for the repeal of specific benefits, the Commission called for the periodic review of all expenditures based on measurement. Undoubtedly, the contents of the report will emerge as the state continues to grapple with revenue shortfalls. In addition to an examination of existing credits and deductions, potential increases in taxes will be considered. Specifically, increases of the gas tax, income tax, or sales tax have been mentioned as possibilities. Other revenue sources, such as the expansion of the bottle bill, have been discussed as well.

Economic Development: In addition to the unemployment insurance rates, other economic development, labor and workforce issues will receive consideration, such as paid sick leave, independent contractors, job creation and the need to address the gap between skills and employment needs.

Infrastructure: In addition to the statewide transportation infrastructure improvements, Senate President Murray has prioritized the need to revisit numerous capital spending initiatives that have been authorized in various bond bills over the last several sessions to resolve outstanding infrastructure needs and to promote the state's economic recovery and independence. The Senate President has also identified drinking and wastewater reform as a top priority. Citing the findings of the Water Infrastructure Finance Commission, President Murray estimates a \$20 billion gap in drinking water and wastewater funding.

Small Business Regulations Review: In a process that began late last March, the Governor has plans to overhaul regulations that affect small businesses. So far, his office has proposed changing or eliminating 286 of the estimated 2,000 sets of regulations on state books. Some of the modifications can be made administratively, but for others the Governor will have to seek the assistance of the Legislature. Notably, Patrick announced that he will streamline or eliminate several licensing boards to help simplify bureaucracy for small businesses.

Implementation or Reconsideration: The implementation of issues that were addressed in the prior session will be the focus of attention as regulations or technical corrections are proposed. Such issues include health care cost containment, casino gaming and reforms to foreclosure laws welfare, and sentencing.

Health Policy Commission: The Health Policy Commission (HPC) is established by Chapter 224 of the Acts of 2012, "An Act Improving the Quality of Health Care and Reducing Costs through Increased Transparency, Efficiency and Innovation." The HPC is a new independent state agency that monitors the reform of the health care delivery and payment systems in Massachusetts and develops health policy to reduce overall cost growth while improving the quality of patient care. The 11-person HPC Board will meet regularly, developing a regulatory scheme that will be critical to the implementation of the state's payment reform law, as well as the continued growth of the health care industry. The HPCs far-reaching decisions will draw close scrutiny and attention from the broader health care industry, including hospitals, pharmaceutical and medical device companies.

Massachusetts Gaming Commission: With resort-style gaming now legal in the Commonwealth, the Massachusetts Gaming Commission (MGC) has begun its work to establish the regulatory framework for expanded gaming. Under its current strategic plan, the MGC set a January 15, 2013 deadline for "suitability" applications, which will ultimately establish the field of gaming license applicants. From there, the MGC anticipates awarding licenses in early- to mid-2014.

Other Public Policy Considerations

Certain items have emerged as priorities as a result of recent tragic events, such as the Sandy Hook massacre, the evidence tampering at the state's drug lab, the meningitis outbreak at a local compounding pharmacy, and the sexual abuse of many minors resulting from perceived inadequacies in the tracking and classification of known sexual predators.

Gun Control: After the tragic shootings in Newtown, Connecticut, gun control has once again become a topic on the minds of national and statewide politicians. Both Speaker DeLeo and President Murray spoke of addressing gun control in their inaugural speeches. Additionally, Governor Patrick has indicated support for strengthening gun control, especially in connection with mental health issues. State Rep. David Linksy (D-Natick) hosted a private meeting to discuss gun control. After drawing half of the Legislature, Rep. Linksy said he will introduce a comprehensive gun control law within the first few weeks of the legislative session.

Compounding Pharmacies: The outbreak of meningitis linked to tainted steroids from the New England Compounding Center, located in Framingham, brought an obscure concern, the regulation of compounding pharmacies, to the attention of both national and statewide legislators. Governor Patrick has filed a bill that would create a special license for sterile compounding facilities to institute fines for compounding companies that violate regulations, to require licensees for out-of-state pharmacies operating in Massachusetts, and to provide protections for whistleblowers.

Medical Marijuana: Passed by a ballot initiative in November, medical marijuana became legal on January 1. The Department of Public Health (DPH), however, has yet to issue regulations about who can obtain marijuana and precisely how it will be obtained. At most, 35 vendors of the drug can be established throughout the state and some businesses have already begun establishing a foothold in the market. Some towns are trying to prevent the distributors from locating there by changing their town's zoning bylaws. Under the ballot measure, the DPH has until May 1, 2013 to issue regulations, but it has indicated that it would like more time to do so. State Senator John Keenan (D-Quincy) said that the Legislature will address the issue early in the new session.

Newly Elected Legislators

There were three new members elected to the Senate, and 16 new members elected to the House.

Senate:

KATHLEEN O'CONNOR IVES (D-Newburyport) will represent the 1st Essex District.

JOAN LOVELY (D-Salem) will represent the 2nd Essex District.

MICHAEL BARRETT (D-Lexington) will represent the 3rd Middlesex District.

House:

BRIAN MANNAL (D-Barnstable) will represent the 2nd Barnstable District

PAUL HEROUX (D-Attleboro) will represent the 2nd Bristol District.

ALAN SILVIA (D-Fall River) will represent the 7th Bristol District.

LEONARD MIRRA (R-West Newbury) will represent the 2nd Essex District.

DIANA DIZOGLIO (D-Methuen) will represent the 14th Essex District.

FRANK MORAN (D-Lawrence) will represent the 17th Essex District.

AARON VEGA (D-Holyoke) will represent the 5th Hampden District.

DANIELLE GREGOIRE (D-Marlborough) will represent the 4th Middlesex District.

KENNETH GORDON (D-Bedford) will represent the 21st Middlesex District.

DAVID ROGERS (D-Cambridge) will represent the 24th Middlesex District.

MARJORIE DECKER (D-Cambridge) will represent the 25th Middlesex District.

JEFFREY ROY (D-Franklin) will represent the 10th Norfolk District.

JOSH CUTLER (D-Duxbury) will represent the 6th Plymouth District.

CLAIRE CRONIN (D-Easton) will represent the 11th Plymouth District.

JONATHAN ZLOTNIK (D-Gardner) will represent the 2nd Worcester District.

MARY KEEFE (D-Worcester) will represent the 15th Worcester District.

Special elections have been scheduled to fill two vacant seats in the House. Representative Joyce Spiliotis (D-Peabody) passed away in December. Representative Stephen Stat Smith (D-Everett) resigned after pleading guilty to sending fraudulent absentee ballots. Both primaries will be held on March 5 followed by a special election on April 2.

We expect that leadership will issue committee assignments by late January or early February.

ML Strategies will monitor all legislative and regulatory developments as they unfold and issue periodic updates. We wish you a healthy and prosperous New Year and we look forward to ongoing collaboration on these and other important issues.

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