

# MASSACHUSETTS MUNICIPAL LAWYERS ASSOCIATION

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**TO:** MMLA Executive Board  
**FROM:** Matthew G. Feher, MMLA Vice President & Legislative Chair  
**RE:** 2021-22 MMLA Legislative Package  
**DATE:** February 10, 2021

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The MMLA Legislative Committee (“Committee”) met on February 4, 2021 to consider and approve of legislative recommendations to be included as part of the MMLA’s 2021-22 Legislative Package.

This memorandum outlines the bills the Committee recommends the Executive Board to approve to be filed for the 2021-22 Legislative Session:

**(1) An act providing for alternative delivery of infrastructure projects (REFILE)**

Similar legislation was previously reported out favorably by the Joint Committee for State Administration and Regulatory Oversight, and has received formal support of the Baker Administration.

The bill creates a new local option program whereby municipalities and other public project owners can use innovative public-private partnership (P3) project delivery, such as Design-Build-Operate and Design-Build-Operate-Finance, for water, wastewater and stormwater infrastructure projects. Currently, such projects must be procured using Design-Bid-Build pursuant to G.L. c.30, §39M, and the selected vendor cannot contribute private financing.

**(2) An act relative to authorizing governmental bodies and other approved parties to use shared legal representation and consultants in matters of common interest (REFILE)**

Similar legislation was reported out favorably by committee and has been sent to Third Reading in the House.

This bill enables two or more municipalities to share legal counsel and/or consultants to represent and serve them in any administrative, judicial or other proceeding in which they have a collective interest notwithstanding any provision of the state’s conflict of interest law to the contrary.

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**(3) An act relative to the effective enforcement of municipal ordinances and bylaws (REFILE)**

Similar legislation has been reported out of committee and engrossed in the Senate.

The bill authorizes the Superior Court or Land Court to assess a civil fine and attorneys' fees in an equity proceeding brought by a municipality in connection with the enforcement of its ordinances and bylaws. The Legislative Committee also recommends that the bill be expanded to include the Housing Court.

**(4) An act relative to making a technical correction to public construction threshold (REFILE)**

Similar legislation was previously reported favorably by the Joint Committee on Labor and Workforce Development.

The bill makes a technical correction to the dollar thresholds requiring payment bonds for public construction projects in order to marry with dollar adjustments to the public bidding laws applicable to public works and building projects as part of the Municipal Modernization Act.

**(5) An act relative to remote participation (NEW)**

The bill would allow remote participation of any member for any meeting of a public body. Members remotely participating are to be considered present and in attendance when determining a quorum. The public body must ensure public access and allow any party entitled or required to appear before it to do so through remote means. The executive body of a municipality must develop and adopt standards and guidelines for remote participation prior to any remote meeting held pursuant to this law.

**(6) An act relative to municipal authority in public rights of way (NEW)**

The bill would give municipalities increased authority over utilities that operate in the public right of way. The bill would specify that, if utilities delay in relocating poles and wires, municipalities have the authority to move them and may charge utilities for non-performance. The bill would also provide municipalities the ability to assess fees and levy taxes on utilities that operate within the public right of way and authorize municipalities to adopt local bylaws or ordinances related to the licensing and permitting of utilities in the public right of way. Lastly, the bill would enable municipalities to purchase utility poles from investor-owned utilities at a price that accounts for depreciation.