



## ML Strategies Alert

# FY2018 Massachusetts Budget Update: Final Senate Budget

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On May 25, 2017, the Massachusetts Senate unanimously approved a \$40.84 billion [FY2018 budget](#) by a 38-0 roll call vote. Over three days of debate, Senators considered 1,031 amendments to the [budget proposed](#) by the Ways and Means Committee and took 35 roll call votes, all but one of which were unanimous. The Senate added 150 policy sections through floor amendments, adding to the 111 policy sections already in the Senate budget. The 261 Senate policy sections compare to 156 in the House. The final Senate budget added \$52.1 million in new spending to the [Ways and Means Committee plan](#). Of the new spending adopted, \$30.3 million funded local earmarks, \$7.325 million was provided for education, \$3.78 million for health and human services, \$2.725 million for tourism and economic development, \$1.8 million for environment, \$2.25 million for judiciary, and \$2.2 million for public safety. Highlights of the final amended budget include:

### Health Care

- The Senate adopted an amendment directing the Health Policy Commission to study and issue a report on quality and safety concerns related to the emerging health insurance industry practice of requiring the “brown-bagging” and “white-bagging” of cancer and chronic-illness-related pharmaceuticals. A similar provision was included in the House Ways and Means version of the budget.

Initiatives that were adopted in the Senate but not in the House version include the following:

- An amendment allowing hospitals to apply for a one-year hardship waiver from the reimbursement contracting rate restrictions set by MassHealth last year was adopted.
- The Senate adopted an amendment that seeks to address “surprise bills” and payments for out-of-network services. The adopted language establishes balance billing protections for patients. It creates an initial provider reimbursement threshold of up to 80% of charges for two years, and then authorizes a Health Policy Commission rate setting process thereafter. It also requires increased levels of provider information sharing.
- The Senate adopted an amendment intended to assist those struggling to pay the high cost of EpiPens. The provision would establish a bulk purchasing fund for municipalities that could be financed by contributions from the state, cities and towns or private donors.
- The Senate also adopted an amendment that would strike the existing five-year sunset on the drug stewardship program which was included in *an act relative to substance use, treatment, education and prevention* passed last legislative session.

## Public Health & Human Services

- The Senate passed, without opposition, an amendment to increase taxes on cigars flavored with fruity or other artificial flavors. The higher taxes would replenish funding for the Prevention and Wellness Trust Fund.
- The Senate adopted a budget amendment directing the Department of Public Health (DPH) to study whether supervised injection facilities could be effective in addressing the opiate epidemic in Massachusetts. The language directs DPH to partner with law enforcement and medical professionals to conduct a feasibility study focusing on the public safety and public health impacts that supervised injection sites could have on Massachusetts.

## Education

- An amendment to establish a commission to investigate and study college affordability, including authorization to investigate the finances of public and private universities, was rejected.
- An amendment allowing the Board of Higher Education to enter into interstate reciprocity agreements that authorize accredited, degree-granting institutions of higher education located in Massachusetts to voluntarily participate in reciprocity agreements was rejected. This provision was included in the House budget.

## Local Aid

- The Senate budget included a commission to examine ways to improve the fairness of general local aid distribution, taking into consideration appropriate criteria for distributing aid and methods to distribute aid equitably.

## Transportation

- The Senate adopted an amendment to develop a blueprint for more consistent passenger rail service to New York City. The amendment tasks the state Department of Transportation with establishing a working group to study what would be required to establish the service.
- An amendment directing the Department of Transportation to study the expansion of East-West rail service was adopted unanimously. This measure was included in the conference committee report for the FY17 budget, but was vetoed by Gov. Charlie Baker.
- An amendment regarding the MBTA Pacheco Law Exemption was adopted. The amendment would require the MBTA General Manager to affirm to the Fiscal & Management Control Board, prior to pursuing privatization of MBTA core or maintenance services, that good faith negotiations occurred with the union representing MBTA employees performing those services. Those good faith negotiations would have to occur prior to the consideration of privatization, with dates, times and length of negotiation sessions documented by the General Manager, along with a declaration on whether an impasse had occurred. In addition, the section allows the Control Board to review and amend any proposed or existing outsourced contracts the MBTA has entered into under the same terms as above – including those entered into prior to the Board's creation. The language explicitly includes paratransit and commuter rail contracts as eligible for review.

## Taxes and Revenue

- The Senate preserved a tax on all short-term room rentals, such as those offered through the Airbnb online portal. The chamber's chief budget-writer said this initiative would raise \$18 million in new revenue. The Senate dismissed an effort by Senate Republicans to limit the proposed tax to those who rent a property for 30 days or more. House Speaker Robert DeLeo has tasked Rep. Aaron Michlewitz with developing a plan to tax and regulate the short-term rental accommodations industry. The first hearing on the subject is scheduled for June 5 in Lenox.

- A sales tax prepayment amendment that would require merchants with an annual tax liability of \$1,000,000 or more during the preceding 12 months to make estimated monthly tax payments of at least 50% of the liability for the same calendar month of the preceding year was withdrawn. This language would have replaced the section of the Ways and Means budget authorizing accelerated sale tax remittance. This language is problematic for retailers, payment processors, payment card networks, financial institutions and others.
- The Senate voted to limit the film tax credit. Under previous law, film companies could become eligible for the tax credit if half their production expenditures were made in Massachusetts or if half of their principal photography days were spent in the state. The adopted amendment would require those companies to either spend 75% of their production costs or shoot 75% of their film in Massachusetts to qualify. According to Senator Michael Rodrigues, raising the bar from half to 75% would save the state about \$15 million annually from the \$80 million it now extends in credits.
- An amendment which would have allowed the sale of online and electronic multi-district lottery games other than casino games was withdrawn.
- An amendment that proposed striking mutual fund service corporations from being covered by the Single Sales Factor apportionment was withdrawn. A related amendment requiring the Department of Revenue (DOR) to perform an analysis on the impact of changing to a single sales tax rate factor in the Commonwealth was redrafted and adopted.

## Economic Development

- An amendment for a FinTech study to understand the status of and current trends in the financial technology services sector and the next-generation uses of financial data was rejected.
- An amendment to establish a system of community benefit districts under which certain designated property owners, including nonprofit entities that are not subject to property tax, be considered in a fee formula for supplemental services and programs as outlined in a management plan was adopted.

## Next Steps

A six-member Conference Committee has been appointed and will now meet to resolve the differences between the [final House](#) and Senate versions of the budget. (Please refer to the House [Budget Alert](#) to view amendment highlights). The Committee will be chaired by House Ways and Means Committee Chairman Rep. Brian Dempsey of Haverhill and Senate Ways and Means Chairwoman Karen Spilka of Ashland. They will be joined by Ways and Means vice chairs Rep. Stephen Kulik of Worthington and Sen. Sal DiDomenico of Everett. Sen. Vinny deMacedo of Plymouth and Rep. Todd Smola of Warren will serve as Republican conference members. Final spending and revenue decisions for the FY2018 budget will likely be adjusted to account for a projected tax shortfall between \$375 and \$575 million for the first ten months of FY2017 that has lowered prospects for collections in the current fiscal year. The reconciled budget will then go back to each branch for approval before reaching the Governor's desk. The current fiscal year ends on June 30.

ML Strategies will continue to monitor the negotiations as lawmakers further develop their spending plan for FY2018.

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