

MASSACHUSETTS GENERAL COURT
LEGISLATIVE RESEARCH AND DRAFTING MANUAL

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Counsel to the Senate

State House, Room 200
Boston, MA 02133
(617) 722-1470

**Counsel to the House of
Representatives**

State House, Room 139
Boston, MA 02133
(617) 722-2360

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Dear Legislative Drafter:

The House and Senate Counsel have prepared this manual to help legislative lawyers and other staff who are drafting or reviewing bills for the Massachusetts General Court. We hope you will find it useful.

Its purpose is to promote uniformity in drafting style, and to make the resulting statutes clear, simple and easy to understand and use. This manual is not a substitute for advice and drafting assistance from the House and Senate Counsel. Rather, we hope it will encourage you to call or visit our offices for further help.

We welcome any corrections, suggestions for improvement and other comments.

Sincerely,

Alice E. Moore
Counsel to the Senate

David Namet
Acting Counsel to the House

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Prologue

The purpose of this manual is to assist persons who have had little or no drafting experience as well as to provide a reference and explanatory material to more sophisticated legislative drafters. The Parts 1 through 3 of the manual are designed to instruct the novice drafter how to begin researching and drafting and can be useful to a senior drafter as a reference. The remaining parts highlight specific topics and offer hints and checklists to enhance the knowledge needed for a more comprehensive and useful approach to legislative drafting.

That is the spirit in which we offer the following pointers. We hope that their use will promote uniformity in style within the offices of the House and Senate Counsel and elsewhere in the Legislature. We also hope they will result in laws that are easier to read and to use.

Part 1. Legislative Research, Summary and Analysis

A. Legislative Research

Where to begin? **Appendix A** to this manual contains a research checklist for committee attorneys and staff members to make sure that each piece of legislation has been thoroughly researched. Using this checklist for every proposed bill will help to make each piece of legislation stronger and help answer many of the questions that other legislators and staff may have about a bill.

Seldom does a drafting task involve issues that are completely novel, or ideas never before incorporated into a law or a bill, so some preliminary research is always helpful, if only to provide some direction as to how to start.

First, determine whether the bill is a General Law or a Special Law. A General Law is one that applies to everyone (unless specifically excluding or citing a person or place). A Special Law has limited application. It will reference one town or one person or something that will occur one time or for a limited amount of time. An example of a General Law would be the Small Necessities Leave Act (see example 5 in section D, in Part 2). This legislation would apply to all employees that qualify for the leave. An example of a Special Law would be the naming of a bridge for an individual (see example 3 in section D, in Part 2).

Check the General Laws in case a similar law already exists. If a law or laws already exist on the topic to be addressed, you may achieve the desired goal by amending a current law rather than writing an entirely new law. For instance, to draft a bill to limit the information that may be included and disseminated in a CORI (Criminal Offender Record Information) report, you should review sections 172 to 175, inclusive, of chapter 6 of the General Laws as they set out what information is to be included in CORI reports and under what circumstances those reports may be disseminated. You will need to propose changes to one, or perhaps several, of

those sections that alter the information that may be included in a CORI report and under what circumstances those reports may be disseminated. Alternatively, your search may require locating a law that deals with a different topic. For instance, a law establishing the Organ Transplant Trust Fund may provide a useful outline for drafting a law establishing the Air Quality Improvement Trust Fund.

If the drafting task has to do with a single city or town, look at Special Acts in case the legislation to be drafted has already been enacted for a different municipality. A law that establishes a water district in the city of Lowell will likely be instructive in writing a bill to establish a water district in the city of Brockton.

General and special law searches can be done on the General Court website, Westlaw, Lexis or the Legislative Data Management System (LDMS). Also, the State House Library reference staff is extremely capable and most willing to assist with research tasks. Usually, laws that have already been enacted have been subject to thorough review by the House and Senate Counsel's offices and serve as excellent guides. If you find a bill or a law that is not exactly what is required, the bill or law may nevertheless provide a helpful outline or highlight certain issues, such as the need for an emergency preamble or an effective date section or, perhaps, the inclusion of defined terms or exemptions to the law.

If you cannot locate a similar law or a law addressing a similar topic, try checking whether the legislation contemplated, or a similar proposal, has been drafted previously. A pending bill or previously filed bill, while imperfect, still may provide a good starting point. The General Court website and the LDMS allow for searches of bills pending in the current legislative session and the State House Library has copies of the text of bills filed during past sessions.

If there is not a current law that might be amended and if no pending or previous bill has been found that is helpful, the idea contemplated may have been addressed in another state, in the form of a bill or a law. The Internet is a useful tool in tracking down those bills or laws. Also, the National Conference of State Legislatures assists legislators and their staffs in researching bills and laws filed throughout the United States. The NCSL website provides information on state and federal legislative issues, broken down by topic, and includes lists of recently enacted laws, pending legislation and articles on current trends. You may reach NCSL at www.ncsl.org or by phone at 303-364-7700 or 202-624-5400.

Additional Sources of Legal Research

There are numerous sources of online legal resources for researchers and lawyers. The following online resources are the most comprehensive for the Commonwealth's substantive and administrative law. Some are available free to committee staff, although membership may be required.

Social Law Library (<http://www.sociallaw.com>)- The oldest law library in the United States provides member privileges including numerous online resources to the General Court's committee staff. The online Massachusetts substantive law and administrative agency databases provide the most complete full text and boolean searchable text (the use of "operators" or "connectors" to describe relationships between keywords) from one source of all online legal research.

Massachusetts Trial Court Libraries (<http://www.lawlib.state.ma.us/source/mass/index.html>) - The trial court's website is a good one-stop source for laws by subject or popular name. The website includes executive orders, selected CMRs, links to agency decisions, and town by-laws and ordinances as well as many other legal resources and helpful summaries.

Massachusetts State Library
(<http://www.mass.gov/?pageID=afsubtopic&L=3&L0=Home&L1=Research+%26+Technology&L2=Legal+%26+Legislative+Resources&sid=Eoaf>) - The state library's website includes access to Loislaw, an online legal research boolean search system similar to Westlaw or Lexis/Nexis for state statutes and case law in all jurisdictions. The access to Loislaw includes Massachusetts Continuing Legal Education treatises for numerous subject areas. The website also has links to "Proquest" a periodical database which will provide full text for most Massachusetts newspaper archives. A state library card is necessary for use of online legal resources.

Westlaw- The General Court provides each office with access to the Westlaw online database of the Massachusetts General Laws Annotated. The annotations to each statute provide its history and case law affecting the statute. For more comprehensive Westlaw searches, please see the House and Senate Counsel staff.

Legal Dictionaries- Nolo.com has a free online legal dictionary at <http://www.nolo.com/dictionary/index.html>.

<http://www.lawdictionaries.com/> is a good source for specialized dictionaries.

Statutory citation research and Shepardizing

To determine whether a statute or special act has been amended or repealed or a court has interpreted the law, overturned it, limited it, or questioned it you must "Shepardize" the statute using *Shepard's Citations*, a commercial product published by Lexis/Nexis. There are no free on-line services for this research, but the Social Law library has on-line access at the library. The House and Senate Counsels' offices and the State Library (located on the 3rd floor of the State House) have updated *Shepard's Citations* books available to you. To find a statute's history you may go to the Westlaw online access for the Massachusetts General Laws and review

the legislative and case history at the end of the text (for special acts, however, you must use *Shepard's Citations*).

B. Legislative Summary

Each standing, joint and conference committee reporting a bill should prepare a detailed section-by-section summary. The summary portion should include a summary of the current law and a summary of the proposed change to the law. **Appendix B** contains a checklist for preparing an adequate summary.

C. Legislative Analysis

Your legislative summary should also include a detailed analysis of the legislation that provides the following information: (Please see **Appendix A** for a more thorough checklist)

- What is the history of the legislation?
- What are the legal implications of the legislation?
- What are the political implications of the legislation (who supports/opposes)?
- What are the fiscal implications of the legislation for the state and for municipalities (revenue neutral, spending or revenue enhancing)?
- Would enacting the legislation establish a dangerous or costly precedent?
- Are there any drafting issues with the legislation?
- Is it technically flawed?
- Would it accomplish what its proponents intend?
- Are there any unintended consequences to the legislation?
- Does the legislation need to be enacted by a date certain (are there any legal requirements like a federal mandate or federal or state court order)?
- Does the legislation need a roll call vote?

D. Research Intent

If, in the end, your research has not provided you with a template for your bill, keep in mind that the most important thing is to clarify the intent of your proposal. The more clearly you articulate the goal of the draft, the easier it will be for anyone reading the bill to understand its purpose. Additionally, the attorneys in the offices of the House and Senate Counsel will be better equipped to properly revise the bill to satisfy this intent if the bill reaches third reading.

Part 2- Bill Organization and Drafting

Drafting legislation is an art, not a science. A well-drafted bill results not from slavish deference to numerous arbitrary rules, but rather from thorough knowledge of the subject, careful attention to detail and adherence to common sense principles of simplicity, clarity and good organization.

All laws are organized by chapters and then sections of those chapters. The sections may be further broken down by subsections, clauses, paragraphs, subparagraphs, divisions, subdivisions and, ultimately, sentences and words. The most common bills submitted are related to existing laws and require 1 of 5 actions:

- (1) Add an additional section to an existing law;
- (2) Insert something into an existing law;
- (3) Repeal an existing law;
- (4) Delete a portion of an existing law;
- (5) Delete and replace part of an existing law.

EXAMPLE: A legislator might wish to change various provisions of section 27 of chapter 266 of the General Laws, which currently reads:

Section 27. Whoever steals any tool belonging to any contractor,	1
builder or mechanic from any building during the course of its construc-	2
tion, completion, alteration or repair, shall, for a first offense be punished	3
by a fine of not more than one hundred dollars or by imprisonment for	4
not more than six months, or both, and for a subsequent offence by a fine	5
of one hundred dollars or by imprisonment for six months, or both.	6

If one of the changes the legislator wants is to extend the protection to plumbers, the new bill to amend the section should read:

SECTION 1. Section 27 of chapter 266 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “builder” in line 2, the following word:- , plumber.

SECTION 2. etc.

Note: The capitalized (upper case) “SECTION 1” is used to distinguish the section of the bill being drafted from the existing section that the drafter is citing, in this case Section 27. Note also that the first reference to an existing chapter of the General Laws is always cited “as appearing in the 2008 Official Edition” (or applicable year’s edition).

A clearly drafted amendment allows the reader to easily find the law that is being changed (this indication of where to look is called “preparing the tops”).

A. Bill Organization

1. Basic Organization.

a. Organize the bill in the most useful and logical format for the reader. Avoid an organization that requires an understanding of a later section in order to understand an earlier section. Group together all sections dealing with a common subject matter.

b. Properly drafted bills should be drafted in the following section order, keeping in mind that most bills do not include all or even many of the following features:

- i. Changes to the General Laws (including repeals and new chapters and sections)
- ii. Changes to Special Acts
- iii. “Notwithstanding” a particular General or Special Law
- iv. Transition section
- v. Effective dates.

Chapter 173 of the acts of 2008, the “Corporate Tax” bill is a good example of bill organization.

2. Title.

Use a short, descriptive title for every bill, to help the House and Senate Clerk refer the bill to the proper joint committee.

Examples:

An Act regulating firearms.

An Act establishing the department of social services.

Traditionally, the infinitive form is not used. For example, do not say “An Act to regulate firearms,” but say “An Act regulating firearms.”

3. Legislative Statements.

Although not usually recommended, it is sometimes helpful to include language stating the purpose of a bill or reciting legislative findings of facts upon which a bill is predicated. This language may help a staffer, committee member or member of the public understand the drafter’s intent when reading the bill prior to final passage. It may be appropriate to include this language in the first section of a chapter of the General Laws or of a non-codified bill. This statement should be short and concise. *Please note that the statement will probably be removed during the “3rd reading” of the bill because it lacks legal meaning.*

4. Sections.

a. Number sections with Arabic numerals consecutively throughout the bill or chapter. In a bill, the sections are identified using all capitals, as in "SECTION 2." In chapters of the General Laws, sections are identified with an initial capital and the rest in lower case, as in "Section 2." For an example, please see The Small Necessities Leave Act (see example 5 in section D, in Part 2).

b. Use short sections or subsections. Use a separate section or subsection for each separate topic. The pattern used in the General Laws is:

Section 1

(a)- followed by (b),(c), etc.- normally referred to as subsections

(1)- followed by (2),(3), etc.- normally referred to as paragraphs

(i)- followed by (ii),(iii), etc.- normally referred to as clauses

(A)- followed by (B),(C), etc.- normally referred to as subclauses

c. Divide a section that covers a number of contingencies, alternatives, requirements, or conditions into subsections and paragraphs, as necessary.

d. Designate each subsection, paragraph, subparagraph or clause by a letter or number.

e. There is no need to use SECTION numbers if the bill has only 1 section.

5. Items and Subsections.

a. Break a sentence into its parts and present them in itemized form if this will help the reader.

b. Use a single "or" to indicate the disjunctive and a single "and" to indicate the conjunctive at the end of the next-to-last item in a series. Use a semicolon at the end of each item in the series. The first letter of each item in the series is not capitalized unless the item is a complete sentence.

c. As an alternative to using "or" or "and" to indicate the disjunctive or conjunctive in a series, use a phrase in the introductory clause of the series that clearly expresses how many of the following items are to be included, such as: "any of the following," "one of the following," "all of the following".

An example (section 38 of chapter 6C of the General Laws) of when “and” is appropriate:

Section 38. The division shall be responsible for the administration and enforcement of chapter 81 and for the administration and management of the state highway system. The division shall: (1) administer the design, construction, reconstruction, repair, rehabilitation, improvement, operation and maintenance of roads and bridges within the commonwealth; (2) enter into any contracts and agreements necessary or desirable to carry out its purposes; (3) make, and from time to time revise, regulations for the conduct of the business of the division and all regulations otherwise required by law; (4) collaborate with other agencies and authorities as may be appropriate in fields related to transportation, development, public safety and security; (5) prepare and submit to the governor, the board and the general court an annual report describing the organization of the division, and with the approval of the secretary, reviewing the work of the division,

recommending legislation and other action by the governor and the general court; and (6) submit such other reports as the secretary or the general court may require from time to time.

NOTE- Section 4 above explains a pattern for sections, subsections and clauses. While this is the preferred method, this example section 38 of chapter 6C is permissible as long as the drafter is consistent in the use of the numbering and reference of the clauses.

An example (section 67 of chapter 6C of the General Laws) of when “or” is appropriate:

Section 67. (a) (1) The department may issue and sell bonds or notes of the department for the purpose of providing funds to carry out sections 62 to 73, inclusive, with respect to the development, financing or operation of a transportation facility or the refunding of any bonds or notes, together with any costs associated with the transaction. (2) Any bond or note issued under this section: (A) constitutes the corporate obligation of the department; (B) shall not constitute a debt of the commonwealth within the meaning or application of the constitution of the commonwealth; and (C) shall be payable solely as to both principal and interest from: (i) the revenues from a lease to the department, if any; (ii) proceeds of bonds or notes, if any; (iii) investment earnings on the proceeds of bonds or notes; or (iv) other funds available to the department for such purpose. (b) (1) For the purpose of financing a transportation facility, the department and operator may apply for, obtain, issue and use private activity bonds available under any Federal law or program. (2) Any bonds, debt, other securities or other financing issued for the purposes of sections 62 to 73, inclusive, shall not be considered a debt of the commonwealth or any political subdivision thereof state or a pledge of the faith and credit of the state or any political subdivision of the commonwealth. (c) Nothing in this section shall limit a local government or any authority of the commonwealth to issue bonds for transportation projects.

B. Basic Principles

1. Simplicity.

a. Select short, familiar words and phrases that best express the intended meaning according to common and approved usage. Avoid “legalese.” The language of a statute should be dignified, not pompous. Examples: Use “after” instead of "subsequent to;" use "before" instead of "prior to."

b. Do not use both a word and its synonym.

c. Use a pronoun only if its antecedent is unmistakable. Repeat the noun rather than use a pronoun unless the antecedent is a series of nouns.

d. Make free but careful use of possessive nouns, for example “the governor’s office,” “the department’s regulation.”

e. Avoid using "aforesaid," "hereinabove," "withheld," "whatsoever" or similar ancient words of reference or emphasis.

f. Do not use "any," "each," "every," "all," or “some” if "a," "an" or "the" can be used with the same result.

g. Do not use "and/or." Use “or” to mean any 1 or more.

h. Do not use "deem" for "consider."

i. Use “the,” “this” or “that” rather than “said” (except when citing a statute).

2. Conciseness.

a. Omit needless language.

b. If a word has the same meaning as a phrase, use the word.

c. Use the shortest sentence that conveys the intended meaning.

3. Consistency.

a. Be consistent in the use of language throughout the bill. Do not use the same word or phrase to convey different meanings. Do not use different language to convey the same meaning.

b. Be consistent in the arrangement of comparable provisions. Arrange sections containing similar material in the same way.

4. Directness.

If a concept can be expressed positively or negatively, express it positively.

5. Ordinary English.

Draft in ordinary English. Avoid words that might be considered slang. Also try to avoid using a complicated word when a simple word will convey the same concept. Generally do not use abbreviations and contractions. In rare instances where an abbreviation is used, insert a definition of the abbreviated term.

6. Appropriate Material for Inclusion.

a. It is usually best not to include material that has no legal effect in a bill.

b. Information about the details of state agency policies is best saved for agency administrative rules. The statutes should set forth legislative policies.

7. Outdated Terminology.

Change or remove questionable, imprecise or outmoded words or terminology. Please check the names of state agencies as they occasionally change.

8. Revision.

After completing the draft of a bill, revise it carefully and critically. Lay the revision aside for a time. Then revise the revision. There is no substitute for time and thoroughness.

Review each use of a defined term to make sure it is used consistently in its defined sense.

C. Sentence Structure

1. Parallel Structure.

Use of correct parallel structure aids comprehension. For example, do not say "A copy may be obtained by mail or if a person appears personally." Instead, say "A person may obtain a copy by mail or by appearing personally."

2. Subject.

Unless it is clear from the context, use as the subject of each sentence the person or entity to whom a power, right or privilege is granted or upon whom a duty, obligation, or prohibition is imposed.

3. Verbs.

a. Use the present tense and the indicative mood.

b. Do not use the passive voice.

c. The singular is sometimes simpler and clearer than the plural. For example, "A possibility of reverter is subject to limitations in the document that creates it." is preferable to "Possibilities of reverter are subject to limitations in the documents that create them." Use the plural, however, if its use is the least awkward solution, especially to avoid gender-specific pronouns.

4. Finite Verbs.

If possible, use finite verbs instead of their corresponding participles, infinitives, gerunds or other noun or adjective forms. Do not say "give consideration to:" say "consider." Do not say "is applicable;" say "applies."

5. Use of Infinitives.

Avoid split infinitives. They often undermine the clarity of the law. If qualifying words separate infinitive phrases repeat "to" in each phrase; if no qualifying words intervene, do not repeat "to."

6. Modifiers.

If a modifier is intended to affect all terms in a series, the terms should be linked together with the conjunctive "and" or the disjunctive "or." If a modifier is intended to affect only one term, the modifier should be placed immediately before or after the term and the other terms in the series should be set off with commas or semicolons.

7. Provisos.

Provisos (which usually begin "provided, however, that") are acceptable, especially in line items of appropriation bills, however because they can unnecessarily complicate a sentence structure, try to avoid them. Instead, depending on context, begin the new clause with "but" or "if" or simply start a new sentence.

D. Bill Examples

These examples of recently enacted bills show the types of bills that are enacted by the legislature on a regular basis. Changes are often made to similar bills and these are meant to be examples.

1. Sick Leave Bank- Please note that an emergency preamble is necessary for this bill to become effective immediately. Also note that if an employee terminates a sick leave bank any remaining time will be transferred to the extended illness leave bank unless the employee works for the trial court. If the employee works in the trial court than any remaining time shall be transferred to the trial court paid leave bank. Also note there is no need for SECTION 1 to appear if a bill is only a 1 section bill.

Chapter 505 of the Acts of 2008

AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHARON PEELER-LA FOUNTAIN, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of correction,

therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Sharon Peeler-La Fountain, an employee of the department. Any employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Sharon Peeler-La Fountain. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department. Whenever Sharon Peeler-La Fountain terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

2. Validating Actions at Annual Town Elections- This type of bill requires either a local approval or a two-thirds vote at enactment if the bill is filed by the Governor (*see* Article 89 analysis below). Local bills or bills filed by the Governor under Article 89 do not need an emergency preamble to become effective immediately; they only need a sentence similar to Section 2 below, or no effective date at all, which would make the act effective in 30 days.

Chapter 344 of the Acts of 2008

AN ACT VALIDATING THE ACTIONS TAKEN AT THE ANNUAL TOWN ELECTION HELD IN THE TOWN OF LANESBOROUGH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding sections 9 and 10 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, the votes taken by the town of Lanesborough at its May 15, 2007, annual town election and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the posting of the warrant for the election.

SECTION 2. This act shall take effect upon its passage.

3. Bridge/Road Designations- These are very similar to bills that designate squares, piers, etc. A drafter should check that the item to be designated is state owned and has not previously been designated.

Chapter 108 of the Acts of 2007

AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF FREETOWN AS THE JOSEPH F. SIMMONS, JR. MEMORIAL BRIDGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

The bridge #F-09-010 on North Main street spanning state highway Route 24 in the town of Freetown shall be designated and known as the Joseph F. Simmons, Jr. Memorial Bridge, in memory of Joseph F. Simmons, Jr. who served for many years as the highway supervisor of the town of Freetown. A suitable marker bearing the designation shall be attached by the department of highways in compliance with the standards of the department.

4. Individual Civil Service Exemptions, Notwithstanding the Maximum Age Requirement- If a bill of this type affects only 1 certain city or town it requires a local approval before it can be acted upon by the General Court.

Chapter 159 of the Acts of 2008

AN ACT AUTHORIZING DANIEL WESINGER TO TAKE THE CIVIL SERVICE EXAMINATION FOR FIREFIGHTER IN THE TOWN OF ARLINGTON.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law to the contrary regulating the maximum age of applicants for appointment, Daniel Wesinger shall be eligible to take the open competitive examination for appointment as a firefighter in the town of Arlington and shall be eligible for appointment to that position if he meets all other requirements.

SECTION 2. This act shall take effect upon its passage and shall expire on December 31, 2012.

5. General Law- This example, adapted from the Small Necessities Leave Act, G.L. c. 149, § 52D, gives the basic structure of a new section created in the General Laws, .

Section 52D. (a) As used in this section, terms shall have the meanings assigned to them by the federal act, notwithstanding any contrary provision of section 1 of this chapter. In addition, the following terms shall have the following meanings:

"Elderly relative", an individual of at least 60 years of age who is related by blood or marriage to the employee, including a parent.

"Federal act", sections 101 to 105, inclusive, of the Family and Medical Leave Act of 1993, 29 U.S.C. sections 2611 to 2615, inclusive, as it may be amended.

"School", a public or private elementary or secondary school; a Head Start program assisted under the Head Start Act, 42 U.S.C. sections 9831 et seq.; and a children's day care facility licensed under chapter 28A.

(b) An eligible employee shall be entitled to a total of 24 hours of leave during any 12-month period, in addition to leave available under the federal act, to:

(1) participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;

(2) accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and

(3) accompany an elderly relative of the employee to:

(i) routine medical or dental appointments; or

(ii) appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

(c) Unless this section provides otherwise, the federal act shall apply to leave under this section. As provided in section 102(d)(2)(A) of the federal act, 29 U.S.C. section 2612(d)(2)(A), an eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for any of the leave provided under this section, but nothing in this section shall require an employer to provide paid sick leave or paid medical leave in any situation in which the employer would not normally provide any such paid leave. Leave under this section may be taken intermittently or on a reduced leave schedule.

(d) If the necessity for leave under this section is foreseeable, the employee shall provide the employer with not less than 7 days' notice before the date the leave is to begin. If the necessity for leave is not foreseeable, the employee shall provide such notice as is practicable.

(e) An employer may require that a request for leave under this section be supported by a certification issued at such time and in such manner as the attorney general may by regulation require.

(f) The attorney general shall enforce this section, and may obtain injunctive or declaratory relief for this purpose. Violation of this section shall be subject to the second paragraph of section 150 and to section 180.

6. Resolves. Resolves are legislative actions that are temporary or immediate in nature. Most resolves set up special commissions to investigate and report to the legislature or executive branch on an issue of importance. (see section H of Part 5).

Chapter 1 of the Resolves of 2008

RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO THE HIDDEN WOUNDS OF WAR ON MASSACHUSETTS SERVICE MEMBERS.

Resolved, That a special commission is hereby established for the purposes of making an investigation and study relative to the mental health effects of war on those citizens of the commonwealth returning from active duty and the establishment of a mandatory mental health treatment program for national guard members who engage in combat, a state military family leave policy for caregivers and a statewide education training program to assist law enforcement, corrections officers and other first responders in recognizing the early warning signs of post-traumatic stress disorder. The commission shall consist of: 4 members of the senate, 1 of whom shall be the president of the senate or a designee who shall serve as co-chair, 1 of whom shall be the minority leader of the senate or a designee, 1 of whom shall be the chair of the joint committee on veterans and federal affairs or a designee and 1 of whom shall be the chair of the joint committee on mental health and substance abuse or a designee; 6 members of the house of representatives, 1 of whom shall be the speaker or a designee who shall serve as co-chair, 1 of whom shall be the minority leader of the house of representatives or a designee, 1 of whom shall be the chair of the joint committee on veterans and federal affairs or a designee, 1 of whom shall be the chair of the joint committee on mental health and substance abuse or a designee; the adjutant general of the national guard or a designee; the secretary of veterans' services or a designee; the commissioner of mental health or a designee; the commissioner of probation or a designee; and 5 persons to be appointed by the governor, 1 of whom shall be a representative of the National Alliance on Mental Illness, 1 of whom shall be a veterans' agent to be selected by the president of the Massachusetts Veterans' Service Officers Association, 1 of whom shall be a representative of the Massachusetts District Attorneys Association and 1 of whom shall be a representative of the Massachusetts Chiefs of Police Association.

All appointments shall be made not later than 30 days after the effective date of this resolve. The chairpersons shall meet with the commission not later than 60 days after the effective date of this resolve.

Members shall not receive compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission.

Not later than September 15, 2008, the commission shall report to the general court the result of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the house of representatives who shall forward the same to the joint committee on veterans and federal affairs and the joint committee on mental health and substance abuse.

Part 3- Grammatical Issues

A. Grammar

1. Numbers.

Use numerals rather than words for numbers in the text of bills and resolutions. This includes dates, times, dollar amounts, percentages and citations to the chapter and section numbers of statutes.

For example:

- “This act shall take effect on July 1, 1997.”
- “Violation of section 23 or of this section shall be punished by a fine of not more than \$500.”
- “The document shall be filed not later than 5:00 p.m.”
- “Section 2 of chapter 123 of the General Laws is hereby repealed.”
- “The amount shall increase by 3 per cent annually.”

Use numerals even for numbers from 1 to 10 (this is for consistency and is the practice followed in the United States Code). The only exceptions, consistent with ordinary English usage, are to use words for numbers that begin a sentence, and for “ordinal” numbers (like “fiftieth” and “eighty-fourth”).

For example:

- “The board shall consist of 9 members.”
- “Twelve members of the board shall constitute a quorum.”
- “They shall conduct a census every tenth year.”

2. Gender Neutral Drafting

A drafter, whenever possible, should avoid using the terms “he” or “she” or “him” or “her,” etc. in drafting, except in those rare instances when the topic is gender specific, e.g., a bill dealing with ovarian cancer may, by necessity, include the word “she” or “her” and, similarly, a bill regarding prostate cancer may, by necessity, include “he” or “his.” Otherwise, whenever reasonable, nouns rather than pronouns should be used to refer to persons in order to avoid gender identification.

A drafter may also find the following techniques useful to comply with this policy:

- Use an article such as “the,” “a,” “an” or “that” to replace the personal pronoun.

Example: An applicant must include with the (rather than “his”) application....

- Use a possessive noun:

Example: The comptroller shall issue an annual report and the comptroller’s (rather than “his”) recommendations....

- Repeat the name of the actor:

Example: A person is entitled to a license if the person (not “he”) has

- Use an adjective instead of a pronoun to modify a noun:

Example: A judge shall not lend the prestige of judicial (rather than “his”) office to private interests.

- Use a subordinate clause that operates as an adjective:

Example: An attorney who shows disrespect to the court will be held in contempt. (instead of “If an attorney shows disrespect, he will be held in contempt”).

3. Capital Letters.

a. The normal rules of capitalization do not necessarily apply to language in the statutes. Traditionally, Massachusetts statutory usage requires lower case whenever possible. Avoid using capitals except for proper names. If an agency or entity is created by statute, all references to that agency or entity should follow the same capitalization or lack thereof as the statute that created it. A drafter should use the examples below to help them with capitalization.

b. Proper name, place or designation (street, road, avenue, etc. are usually lower case):

Atlantic Ocean	Great Lakes
Bang's Disease	Camp Hiawatha
Connecticut river	City of Boston
Essex County	World War II
Lake Quinsigamond	Bowdoin street

c. Nation or nationality:

English language	anti-British
Indian Reservation	Spanish-American War
American Indian	un-American

d. Church, religious organization or memorial:

Christian Science Church
Forest Home Cemetery

Roman Catholic Church
Episcopal Church

e. Political party:

Democratic Party
Socialist Party

Republican Party
American Liberty Party

f. State agency, department, quasi-government agency or institution:

department of social services
commissioner of insurance
Massachusetts veterans home investment board
registry of motor vehicles
Massachusetts Development Finance Agency
Massachusetts Department of Transportation
general court

g. Federal agency or department (capitalize agency names):

United States Department of Housing and Urban Development

h. Organization, society or lodge:

American Veterans of World War II
Women's Christian Temperance Union
Loyal Order of Moose

i. Book or publication:

Newsweek magazine

Atlas

j. Act or law when referred to in body of an act or resolve:

"section 2 of chapter 90 of the General Laws" (note that General Laws is capitalized)

"section 1 of chapter 300 of the acts of 1986"

"section 101 of the federal Family and Medical Leave Act of 1993, 29 U.S.C. section 2611"

k. Legal holiday:

Christmas
Memorial Day

Independence Day
Labor Day

l. Capitalize the names of all funds:

General Fund

Commonwealth Stabilization
Fund

m. Lower case in statutes:

attorney general
president of the United States
constitution
supreme judicial court
congress
superior court
governor
district court
general court

4. Spelling of Particular Words.

Use the following uniform spellings:

By-law

Full-time (use the hyphen when the word is used as an adjective, i.e. full-time employee, but when it is used as a noun, there should be no hyphen, i.e. the employee works full time.)

Firefighter

Part-time (use the hyphen when the word is used as an adjective, i.e. part-time employee, but when it is used as a noun, there should be no hyphen, i.e. the employee works part time.)

Per cent

5. Punctuation.

a. Punctuate carefully. Changing a comma can change the entire meaning of a sentence.

b. Ordinarily, do not use a comma before "and" or "or" to separate the last of a conjunctive series of three or more words, phrases or clauses in a sentence. Example: "men, women and children."

c. Use a colon to introduce a list of items.

d. Try to avoid using parentheses except in the designating of section divisions. Example: "subsection (a)".

e. Do not use brackets as punctuation.

f. Use quotation marks when defining a word or phrase.

Example: In this section, “cost of construction” shall mean....

g. Use commas for clarity, especially to set off an introductory phrase or clause, or to separate independent clauses.

Example: “The committee shall have several responsibilities, including, but not limited to, analyzing cases and recommending possible reforms.”

B. Simple Language

Do not say:

absolutely null and void
and of no effect
accorded
adequate number of
adjudged, ordered, and decreed
admit of
among and between

approximately
at the place where
by means of
cause it to be done
constitute and appoint
corporation organized & existing
under the laws of the commonwealth
do and perform
does not operate to
during such time as
during the course of
endeavor (as a verb)
enter into a contract with
evidence, documentary and otherwise
evinced
except that
for the reason that
forthwith
frequently
full and adequate (or, full and complete)
herein

Say:

void

given
enough
adjudged
allow
among (if more than two involved); between (if two or more but treated individually)
about
where
by
have it done
appoint
a Massachusetts corporation

do
does not
while
during
try
contract with
evidence
show
but
because
immediately
often
full

in this act (or section or item)

heretofore	before this.....takes effect
in accordance with	under
in the event that	if
in the interest of	for
is authorized and directed	shall
is authorized to	may
is directed	shall
is entitled (in the sense of has the name)	is called
it is the duty	shall
it shall be lawful to	may
law passed	enacted
occasion (as a verb)	cause
or, in the alternative	or
party of the first part	(the party's name)
per annum	per year
per centum	per cent
prosecute its business	carry on its business
provision of law	law
pursuant to	under
render	give
said, same, such	the, this, that, these, those
shall be deemed to be	is or shall be
subsequent to	after
successfully completes or passes	completes, or passes
suffer (in the sense of permit)	permit
to the effect that	that
until such time as	until
with the object of changing (or other gerund)	to change (comparative infinitive)

C. Use of Particular Words

1. “And” and “or.”

“And” means all of a list of items. “Or” means any one or more of a list of items. Do not use “and/or”; use “or” instead.

2. “Said” and “such.”

In general, avoid use of “said” and “such.” (“Said” may be used to refer to a previously cited statute.) Instead, use “the” if the reference is unambiguous. Otherwise, use “this,” “that,” “these” or “those.”

3. “Shall” and “may”.

- a. A duty, mandate, obligation, requirement or condition precedent is expressed by "shall."
- b. Use "shall" if the verb it qualifies is in the active voice. Example: "The aggrieved party shall file (active verb in active voice) the application."
- c. Use "may" to confer a power, privilege, or right.

Examples: "The applicant may demand (power) an extension of time."

"The applicant may appeal (right) the decision."

- d. Use "shall not" to express a prohibition.
- e. Do not use qualifiers, such as "will," "should" and "ought," in the text of a bill.

4. “Which” and “that”.

- a. Use "which" to introduce a nonrestrictive clause.

Example: "An applicant shall sign the application, which need not be verified."

- b. Use "that" to introduce a restrictive clause modifying the nearest antecedent. Example: "An applicant may apply to renew a license that has been revoked."

5. Avoid “the provisions of.”

Instead of the wordy “in accordance with the provisions of this section,” say “under this section.”

6. Use of the Phrase “of the General Laws.”

Do not use the phrase "of the General Laws" in the text of the General Laws. In those parts of the acts and resolves that will not be incorporated into the General Laws, when you wish to refer to a section of the statutes, the reference should read, for example, "as required by chapter 6 of the General Laws" or "subject to review under chapter 227 of the General Laws."

D. Particular Provisions

1. Statutes in the General Laws.

Codify in the General Laws statutes that apply throughout the Commonwealth and are not certain to be temporary. Otherwise, the provisions belong in a special act. Try to avoid putting effective dates and other “transitional” provisions in the text of the General Laws; instead put them in a separate, non-codified section at the end of the bill.

2. Transition.

An essential step in the preparation of a bill is to determine the effect the bill would have on existing rights, liabilities and proceedings. Draft any savings clauses and transitional provisions that are necessary to provide appropriate rules governing these matters. If existing rights are preserved, it may be desirable to require that they be asserted within a short, specified period after the effective date of the bill. For an example of a transition provision when new agencies replace old ones, *see* St. 1996, c. 151, § 634.

Appropriate savings clauses and transitional provisions make it possible for a bill to take effect with minimal disruption of existing expectations and liabilities. Great care must be exercised in drafting these clauses. Again, these transition sections do not belong in the text of a General Law, but should appear in a bill or session law at the end but always before the effective date sections. The transition sections remain non-codified.

3. Effect on Present Relationships.

Give consideration to the effect of a bill on existing relationships, whether they are business, personal or governmental. "Grandfather" provisions are commonly used to resolve similar conflicts. Make a careful check of current laws.

4. Severability.

Avoid using a severability clause. Since G.L. c. 4, § 6(11), provides for severability, no further language is necessary. Further use of severability clauses in some acts but not others may create a negative implication that severability is not intended in acts where the language does not appear.

5. Establishing an Agency.

Use simple language in the present tense to create or establish an agency, commission, or office.

Example: "There shall be a division of patient protection in the department of public health."

Part 4- Drafting Hints- General Legislation

A. Amending the General Laws

The Official Edition of the General Laws of Massachusetts is republished every 2 years. The 2008 Official Edition is an 18 volume non-annotated set. Most often the Official Edition is the master source you need to amend when you are changing General Laws. If the law you are amending has already been amended since the last publication of the Official Edition, however, you should refer to the amended law.

The “corrective change” laws compiled by the Senate and House Counsels at the end of each 2-year General Court contain helpful examples. Examples of the corrective change laws are: [chapter 161 of the acts of 1998](#), [chapter 313 of the acts of 2000](#), [chapter 438 of the acts of 2002](#) and [chapter 451 of the acts of 2008](#). The session laws are available on the General Court’s website. (<http://www.malegislature.gov/Laws/Search>).

Please refer to *Attachment C* for a useful reference guide to drafting the “tops.”

1. Inserting a New Chapter:

SECTION 1. The General Laws are hereby amended by inserting after chapter 156 the following chapter:-

CHAPTER 156A. BUSINESS VENTURES.

Section 1. No person shall

2. Inserting a Section:

SECTION 2. Chapter 156A of the General Laws is hereby amended by inserting after section 1 the following section:-

Section 1A. After a hearing

[Note: You do not need to use the phrases “as appearing in the 2008 Official Edition” or “as so appearing” if you are inserting or adding a new section in an existing chapter of the General Laws.]

3. Striking Out or Repealing a Section:

SECTION 3. Section 2 of chapter 156A of the General Laws is hereby repealed.

[Note: You do not need to use the phrases “as appearing in the 2008 Official Edition” or “as so appearing” if you are repealing a section of the General Laws.]

4. Revising or Replacing a Section:

SECTION 4. Said chapter 156A is hereby further amended by striking out section 3, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 3. In a city or town with a population

5. Inserting a Paragraph:

SECTION 5. Section 4 of said chapter 156A, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

If a firefighter injured while

6. Revising or Replacing a Paragraph:

SECTION 6. Section 5 of said chapter 156A, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

A person who violates this section

7. Inserting a Word:

SECTION 7. The first sentence of section 1 of chapter 189 of the General Laws, as appearing in section 2 of chapter 341 of the acts of 2008, is hereby amended by inserting after the word "travel" the following words:- to or from the area of

[Note: If you are inserting a word or words with a reference to a word and a line number in a statute, the actual line number is set off by commas after the word being cited as a reference point.]

8. Striking Out Words:

SECTION 8. Section 108 of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 469, the words "for any claim relating to dental services".

[Note: If you are striking out words in a statute with reference to a line number, the line number is set off by commas before the words being stricken.]

Other notes:

a. The phrase "as appearing in the 2008 Official Edition" follows the reference to the section and chapter of the General Laws being affected. Example: "Section 2 of chapter 111 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-"

b. As paragraphs 4, 5 and 6 above demonstrate, the phrase “as so appearing” should be used instead of “as appearing in the 2006 Official Edition” if the previous bill section also contains a reference to the Official Edition.

c. If the provision of the General Laws that you are amending has been inserted or amended after the most recent Official Edition of the General Laws has been published, it may be appropriate to include a reference to the act that made the most recent amendment. Example: Section 12B of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in line 12, as amended by section 69 of chapter 176 of the acts of 2008, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

B. Bills Amending Special Acts

SECTION 9. The second paragraph of section 1 of chapter 93 of the acts of 2002 is hereby amended by striking out, in line 3, the word “may” and inserting in place thereof the following word:- shall. [Count line numbers in each paragraph of the official Acts and Resolves.]

Note: the Acts and Resolves are the master source when amending special acts.

C. Floor Amendments of Bills- If you are adding punctuation into the law put it inside the quotation marks, otherwise all punctuation should be outside the quotation marks.

1. Inserting a New Text:

[Mr.] [Ms.] moves to amend the bill (Senate, No. 1234) by striking out all after the enacting clause and inserting in place thereof the following text:-

"SECTION 1. Section 2 of chapter 156B of the General Laws is hereby....."

2. Striking Out a Section:

[Mr.] [Ms.] moves to amend the bill (Senate, No. 1234) by striking out section 4.

3. Striking Out a Word:

[Mr.] [Ms.] moves to amend the bill (Senate, No.1234), in section 5, by striking out, in line 14, the word "felony".

4. Revising a Section:

[Mr.] [Ms.] moves to amend the bill (Senate, No. 1234) by striking out section 6 and inserting in place thereof the following section:-

"SECTION 6. A person who violates this section shall be punished by....."

5. Amending a Pending Amendment:

[Mr.][Ms.] moves to amend the pending amendment (No. 15, by [Mr.][Ms.]) by

D. Floor Amendments of Appropriation Bills

(Note: since an appropriation bill is often the only major bill that the Senate or House is considering at the time, referring to the bill number is usually not necessary.)

1. Revising an Item:

[Mr.] [Ms.] moves to amend the bill, in section 2, by striking out item 3456-0010 and inserting in place thereof the following item:-

"3456-0010 For the office of the director, including not more than 20 positions
.....\$300,000".

2. Revising Words:

[Mr.] [Ms.] moves to amend the bill, in section 2A, in item 3456-0010, by striking out the wording and inserting in place thereof the following wording:-

"For the office of the fire protection division; provided, however, that not more than \$1,000 may be expended for communication equipment, including not more than 20 positions."

3. Changing Figures in an Item:

[Mr.] [Ms.] moves to amend the bill, in section 2A, in item 1359-0011, by striking out the figure "\$250,000" and inserting in place thereof the following figure:- "\$130,000".

4. Inserting a New Item:

[Mr.] [Ms.] moves to amend the bill, in section 2A, by inserting after item 1234-0001 the following item:-

"1234-0002 For the King's Highway regional district, prior appropriation
continued.....\$1,000,000."

5. Changing a Word:

[Mr.] [Ms.] moves to amend the bill, in section 2B, in item 8129-3310, by striking out the word "definite" and inserting in place thereof the following word:- "indefinite".

6. Striking Out a Word:

[Mr.] [Ms.] moves to amend the bill, in section 2, in item 1233-0022, by striking out the word "definitive".

Note- If more than one member shares the same last name, please spell out the member's entire name. For instance, "Mr. Richard T. Moore moves to amend..."

7. Changing an Item Number:

[Mr.] [Ms.] moves to amend the bill, in section 2, by striking out item number "1432-0000" and inserting in place thereof the following item number:- "1432-1000".

Part 5- Bill Information- General Laws

A. Effective Dates and Emergency Preambles

In Massachusetts, a bill has the "force of law" when: (1) the Governor signs it, (2) when the Governor lets a bill become law by taking no action on the bill for 10 days after it is "laid before the Governor," (3) when both houses of the Legislature, each by a two-thirds roll call vote, pass the bill over the Governor's veto, or (4) if an initiative petition is successful (additional information about the initiative petition or Referendum is available from the Clerks' and Counsel's offices).

The effective date of a bill depends upon whether it is subject to the Referendum under Article 48 of the Constitution. The bullets below are an attempt to help a drafter understand when a bill is effective and what it needs to make it effective sooner than the Constitution provides.

1. A law subject to a referendum petition that is passed without an emergency preamble, takes effect in 90 days.
2. A law subject to referendum that is passed with an emergency preamble takes effect upon its passage.
3. A law subject to referendum that is passed with a governor's statement of emergency attached takes effect when the statement is received by the state secretary.
4. A law not subject to referendum takes effect in 30 days unless otherwise specified in the law itself.
5. A law not subject to referendum may be passed with a governor's statement of emergency and takes effect when the statement is received by the state secretary.
A law is not subject to referendum if it:
 - a) relates to religion, religious practices or religious institutions;
 - b) relates to the appointment, qualification, tenure, removal or compensation of judges;
 - c) relates to the powers, creation or abolition of the courts;
 - d) is restricted in its operation to a particular town, city or other political division or to particular districts or localities of the commonwealth; or

- e) appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions.

7. When counting days, the day of the governor's approval is excluded. In the case of a legislative override of a veto, the day of the override is excluded.

8. The usual form of an emergency preamble is:

“Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to [state the purpose, including some reference to the reason for immediate effect], therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public [peace, health, safety, or convenience].”

B. Governor’s Vetoes and Recommended Amendments

After the Legislature enacts a bill and lays it before the Governor, the Governor has 10 days to sign it, veto it or return it to the Legislature with recommended amendments. See Mass. Const. pt. 2, c. 1, § 1, art. 2, as amended by amend. art. 90, §1; amend. art. 56, as appearing in amend. art. 90, § 3. If the Legislature “prorogues” or ends its annual session before the ten days expire, the Governor may “pocket veto” a bill simply by not signing it. Mass. Const. amend. art. 1, as appearing in amend. art. 90, § 2.

This 10-day period includes Sundays and holidays, even if they fall on the tenth day. See *Opinion of the Justices*, 291 Mass. 572, 575 (1935); letter to Brackett B. Denniston III (Governor’s Chief Legal Counsel) from Louis A. Rizoli (House Counsel) and David E. Sullivan (Senate Counsel), July 10, 1996. For appropriation bills, the Governor has certain additional powers. A bill makes an appropriation if any part of it sets apart a certain sum of public money for a particular purpose, so that an executive branch officer may expend it without further legislative action. *Slama v. Attorney General*, 384 Mass. 620, 625 (1981). So for these purposes appropriation bills may include bond authorization bills and bills directing revenue to a trust fund for expenditure without further appropriation.

In appropriation bills, the Governor may separately veto or reduce the dollar amount of line items and may veto certain language in line items. See Mass. Const. amend. art. 63, § 5, as appearing in amend. art. 90, § 4. But the Governor cannot separately veto line-item language that imposes conditions or restrictions on appropriated funds, thus freeing appropriated funds for purposes the Legislature did not approve. *Opinion of the Justices*, 419 Mass. 1201 (1994). The Governor may veto such a restriction only if he also reduces the funds appropriated in that item by the amount for the vetoed provision. Of course, the Governor may also veto the entire item.

The Governor may also separately veto individual outside sections of appropriation bills if they are not closely related to appropriations, but he cannot veto part of an outside section. *Opinion of the Justices*, 411 Mass. 1201, 1215-16 (1991). In addition, the Governor may return with recommended amendments either an entire appropriation bill or a separate outside section of such a bill (again, if the section is not closely related to appropriations). *Alliance v. Secretary of Administration*, 413 Mass. 377, 384-85 (1992).

When the Governor returns a bill with recommended amendments, the Legislature may accept or reject the Governor's amendments, or adopt any other amendment, and then re-enact the bill. No two-thirds or roll call vote is needed, unless the Constitution requires it for some other reason (e.g., borrowing, *see* section D of Part 5). The Governor then has his usual veto power over the reenacted bill, but may not recommend further amendments.

The Legislature may override any veto (or line-item reduction) by a two-thirds roll call vote of both houses, starting with the branch to which the Governor returns the bill.

C. Article 97

Article 97 of the Amendments to the Constitution of Massachusetts requires that lands acquired for natural resource purposes "shall not be used for other purposes or otherwise disposed of except by laws enacted by a two-thirds vote, taken by yeas and nays, of each branch of the general court." Mass. Const. art. 97

ARTICLE XCVII OF THE AMENDMENTS TO THE CONSTITUTION REQUIRES TWO-THIRDS ROLL CALL VOTE ON ENACTMENT Senate/House.....Committee on BTR Correctly Drawn	This sticker is required to appear on any bill that involves land that is covered under Article 97 of the Massachusetts Constitution. It signifies that the vote on final enactment of the bill must be done by a roll-call.
For the Senate Committee	

The scope of Article 97 should be broadly construed. The types of natural resources covered by Article 97 are varied and include "air, water, wetlands, rivers, streams, lakes, ponds, coastal, underground and surface waters, flood plains, seashores, dunes, marine resources, ocean, shellfish and inland fisheries, wild birds including song and insectivorous birds, wild mammals and game, sea and fresh water fish of every description, forests and all uncultivated flora, together with public shade and ornamental trees and shrubs, land soil and soil resources, open spaces, natural areas, and parks and historic districts and sites." *Op. Att'y Gen. 45 (1973)*. The Attorney General's enumeration of Article 97 property types also include "parks, monuments, reservations, athletic fields, concert areas and playgrounds" and the Attorney General stated that other types of land were subject to the Article. *Id.* "Given the spirit of the Amendment and the duty of the General Court, it would seem prudent to classify land and easements taken or

acquired for a specific purpose not found verbatim in Article 97 as nevertheless subject to Article 97 if reasonable doubt exists concerning their actual status” *Id.*, p139.

The Executive Office of Energy and Environmental Affairs has adopted the following “no net loss policy” when considering Article 97 land bills (but note that this is the agency’s policy and not necessarily that of the General Court).

Standard Procedures When Municipalities Consider the Disposition of Article 97 Land

Overview: The protection of conservation, park, agriculture and water supply land is declared a public purpose in Article 97. Therefore, the disposition of Article 97 land for other purposes should be considered only when other options to avoid the Article 97 disposition have been explored and no feasible and substantially equivalent alternatives exist. Dispositions of conservation, park, agriculture or water supply land are usually mitigated with replacement of land dedicated to the same purpose. EEA’s policy does allow Article 97 land dedicated to one of these purposes to be replaced with other Article 97 land if land dedicated to the same purpose is not available. Dispositions of municipal Article 97 land for private purposes are generally an inappropriate use of this land and should be discouraged. If this type of disposition is proposed, the private party should be responsible for the acquisition of a parcel of equal or greater size and value for the Article 97 purpose for which the parcel in Section 1 has been dedicated. The parcels in Sections 1 and 2 should both be described via a survey plan with the acreage listed. For dispositions of municipal Article 97 land for public purposes, Section 2 should describe the parcel to be used for mitigation via survey plan with acreage listed, if possible. If no other alternative to the disposition is feasible and there is no specific parcel offered for mitigation, the following language requiring mitigation as a condition of the disposition is recommended in order to meet the “No Net Loss” policy. Section 1 describes the parcel that is being taken out of Article 97 use. This section should describe the parcel via a survey plan with acreage and current purpose for which it is under Article 97 dedication. Town procedures required for Home Rule petitions should be followed in filing Article 97 legislation. It is strongly advised that flexibility for the legislature to make language amendments be allowed in the local votes (see Home Rule Sections Part 4 sections 4A or 4C – not 4B above).

1) Municipal Disposition of land for non-article 97 town purposes

Standard language:

SECTION 2. As a condition of the conveyance authorized in section 1, the town of _____ shall transfer a parcel of land under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the conservation commission (or where appropriate the Park Commission or the Water Department or District) and such parcel shall be dedicated for conservation purposes (or where appropriate for Park, Agriculture or water protection purposes). If no suitable parcel can be transferred to the

conservation commission, the town shall acquire a parcel of land or a conservation restriction upon private or public land as defined at section 31 of chapter 184 of the General Laws. Such land shall be dedicated or restricted to conservation purposes (or where appropriate for Park, Agriculture or water protection purposes) and under the jurisdiction of the conservation commission (or where appropriate the Park Commission or the Water Department of District). The parcel dedicated pursuant to this section, shall be of equal or greater size and value for conservation, park, or water supply purposes when compared to the parcel described in section 1.

SECTION 3. If the land conveyed pursuant to section 1 ceases to be used for the purposes described in said section 1, the land shall revert to the town of _____ for conservation, water supply or public park purposes.

2) Private disposition of land for non-article 97 private development purposes

Disposition of town land for non-article 97 private development purposes should be discouraged, whenever possible. The private party should be responsible for providing a specific parcel in the legislation that the conservation commission affirms is of equal or greater size and value for conservation, park, or water supply purposes. Appraisal language below is necessary in most cases, unless there are other independent and objective means of determining that the replacement parcel meets this standard (for example, a statement from the conservation commission attesting to the fact that the replacement parcel is larger in size and/or greater in ecological value:

Standard language:

SECTION 2. As a condition of the conveyance authorized in section 1, the grantee shall transfer to the town a parcel of land or a conservation restriction upon private land, as defined at section 31 of chapter 184 of the general laws. Such land shall be dedicated to conservation purposes and under the jurisdiction of the conservation commission (or where appropriate the Park Commission or the Water Department or District). [Describe specific parcel here] The parcel dedicated or restricted pursuant to this section, shall be of equal or greater size, fair market value and equal or greater value for conservation, park or water supply purposes. [The fair market value of the parcel in Section 1 shall be equal or greater than the fair market value of the property described in this Section, as determined by an independent appraisal. For the purposes of these appraisals, the fair market value of the property shall be calculated in its highest and best use and, where applicable, as assembled with other lands owned or otherwise controlled by the grantee. If there is a disparity in these values in favor of the grantee, the grantee will pay a sum equal to the difference to the town for deposit in its open space fund or otherwise dedicated to open space preservation.]

SECTION 3. If the land conveyed pursuant to section 1 ceases to be used for the purposes described in said section 1, the land shall revert back to the town for

conservation, water supply or public park purposes and value for park purposes to the portion of the parcel described in section 1.

D. Other Special Enactment Requirements

In addition to Article 97 bills, some legislation requires more than a standard majority vote to be enacted. Below is a brief description of those situations as well as the sticker that needs to be included on the bill. Please note that while some votes require a two-thirds margin, a vote does not need to be taken by roll call vote unless specifically required by the Constitution.

Article 48 of the Amendments to the Massachusetts Constitution requires an emergency preamble to be adopted by a two-thirds vote of the House and of the Senate. The effect of the vote would be to make a bill effective either immediately or upon a specific effective date located within the language of the legislation. The vote must be either a standing or roll call vote.

EMERGENCY PREAMBLE

Senate/House.....Correctly Drawn

Contains an Emergency Preamble

For the Senate/House Committee on

Bills in the Third Reading

Section 3 of Article 62 of the Amendments to the Constitution requires a two-thirds **roll call** vote of the House and Senate to enact a bill that authorizes the Commonwealth to borrow money. (This applies to a bill changing the purpose of an existing bond authorization, but not to a time extension or a bill establishing the terms of the bonds.)

ARTICLE LXII APPLICABLE

Yays and Nays Required

Senate/HouseCorrectly Drawn

Provides for the borrowing of money by the Common-wealth and comes within the provisions of Section 3 of Article LXII of the Amendments of the Constitution.

For the Senate/House Committee on

Bills in the Third Reading

Section 1 of Article 62 of the Amendments to the Constitution requires a two-thirds roll call vote of the House and Senate to enact a bill that gives loans or pledges the credit of the Commonwealth. (This may include the Commonwealth's agreement to indemnify. <i>Raisman v. J. Cunningham, Inc.</i>, No. 93-5070-G [Mass. Super., Suffolk Sept. 24, 1995].)	ARTICLE LXII APPLICABLE Yeas and Nays Required <i>Senate/House.....Correctly Drawn</i> <i>Provides for the gift, loan or pledge of the credit of the Commonwealth and comes within the provisions of</i> <i>The first sentence of Section 1 of Article LXII of the Amendments of the Constitution.</i> <i>For the Senate/House Committee on Bills</i> <i>in the Third Reading</i>
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E. Separation of Powers.

1. Massachusetts Constitutional Requirements.

Article 30 of the Massachusetts Constitution's Declaration of Rights is a strong "separation of powers" provision. It prohibits the executive, legislative and judicial branches of state government from exercising another branch's powers. In addition, Mass. Const. part 2, c. 1, § 1, art. 2, says that the Legislature may act only by both houses passing a bill or resolve and laying it before the Governor for action (the "presentment" requirement).

2. Specific Limits on Legislative Power.

The Legislature may not:

(a) condition executive action on approval by a legislative officer or committee, subject executive action to disapproval by any method other than passing a law (a "legislative veto"), or

delegate lawmaking or appropriation powers to a legislative officer or committee. *See Opinion of the Justices*, 384 Mass. 840 (1981); *Opinion of the Justices*, 375 Mass. 827 (1978); *Opinion of the Justices*, 369 Mass. 990 (1976). *See also* Senate Committee on Ways and Means Policy Report, “Separation of Powers and the Legislative Veto,” FY 1993 Budget Recommendations 1-118 (May 1992); or

(b) provide for its own members to perform executive functions or to participate in appointing executive officers. *See Opinion of the Justices*, 365 Mass. 639, 644 (1974); *Opinion of the Justices*, 303 Mass. 615, 624 (1939).

3. Permissible Legislative Action.

The Legislature may:

- (a) put legislators on purely advisory commissions;
- (b) provide for municipal or private-sector individuals to serve on bodies exercising executive power;
- (c) require agencies to “report and wait” before taking action (especially adopting regulations) to allow time for legislative reaction either informally or by statute and
- (d) pass a law to counteract executive action of which it disapproves.

4. Judicial Interference.

Whenever a court interferes with the legislative branch, the involvement must be carried out with extreme caution in order not to violate the separation of powers doctrine. Judicial mandamus as a method of check and balance is not generally available against the Legislature as a whole. Mandamus however, is available against an individual legislator for the purpose of compelling or ordering the legislator to fulfill a non-discretionary, statutory obligation. *Baskin, et al. v. Finneran*, Civ.Action No. 01-04262-C (Sup. Ct. Oct. 26, 2001) (mandamus allowed to be brought forth against the speaker to place a special election date on the house agenda).

In other situations, judicial interference has been ruled inappropriate. The Legislature has the “exclusive, comprehensive, and final [jurisdiction] to judge the elections, returns, and qualifications of its members.” *Wheatley v. Secretary of the Commonwealth*, 439 Mass. 849, 855-6 (2003). In the absence of any election irregularities, the Legislature’s decision to seat a member is unreviewable.

F. Money Bills

The Massachusetts Constitution requires: “All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.” Pt. 2, c. 1, § 3, art. 7. “Money bills” are those that affect state tax revenue for general purposes; appropriation bills, which involve spending state funds, are not “money bills.” *Opinion of the*

Justices, 126 Mass. 557 (1878). Therefore, the Senate can (and does) originate appropriation bills. See, e.g., St. 2000, c. 384 (\$57 million supplemental appropriation act, originating as S. 2310, first reported by the Senate Committee on Ways and Means).

A “money bill” may either reduce general state tax revenue or increase state tax revenue. *See Armstrong v. United States*, 759 F.2d 1378, 1381-82 (9th Cir. 1985); *Wardell v. United States*, 757 F.2d 203, 205 (8th Cir. 1985).

The Senate may even originate some bills that increase revenue. The Justices of the Supreme Judicial Court follow court decisions interpreting the parallel “Origination Clause” of the United States Constitution, *Opinion of the Justices*, 337 Mass. 800, 809 (1958). Under these cases, the Senate could originate a bill raising the following kinds of revenue:

- Non-tax revenue, such as fees or fines. *Opinion of the Justices*, 337 Mass. 800, 809 (1958), quoting *United States v. Norton*, 91 U.S. 566, 569 (1876) (limitation “confined to bills to levy taxes in the strict sense of the words”).
- Local taxes, including property taxes or assessments. *Sprint Communications Co. v. Kelly*, 642 A.2d 106 (D.C.), *cert. denied*, 513 U.S. 916 (1994).
- State tax revenue specifically earmarked for a particular program. “[A] statute that creates a particular governmental program and that raises revenue to support that program, as opposed to a statute that raises revenue to support Government generally, is not a ‘Bil[l] for Raising Revenue’ within the meaning of the Origination Clause.” *United States v. Munoz-Flores*, 495 U.S. 385, 398 (1990). “Whatever taxes are imposed are but means to the purposes provided by the act.” *Opinion of the Justices*, 337 Mass. 800, 810 (1958) (citations omitted).

G. Reorganization Plans

A reorganization plan under Article 87 of the Amendments to the Constitution to transfer, abolish, consolidate or coordinate the whole or any part of an agency within the executive department must comport with the following process:

Within 5 days of filing by the Governor, the plan shall be referred to its appropriate joint standing committee.

The committee shall hold a public hearing on the plan within 30 days after it receives the plan.

Within 10 days following the hearing, the committee shall report the plan either “ought to be approved” or “ought not to be approved.” Identical reports, including majority and minority reports of the committee, shall be filed with the House and Senate clerks. Official papers shall be filed with the Senate clerk. The reports shall be read in each branch and placed on the calendars of the House and Senate for the next session.

If the committee fails to make a report within 40 days after referral, the clerks shall place the matter in their respective calendars within 13 days. During the 40 days after referral, a

motion to discharge the committee is prohibited, however, if the clerks fail to place an unreported plan on the calendar at the end of the 40-day period, a member may move to discharge the committee, and the motion may be decided by a majority vote of the branch in which the motion is made.

The question before each branch is “Shall this reorganization plan be approved?” The legislature cannot change or amend the plan.

While under consideration, amendments shall not be allowed, but as motions to postpone, to commit, to recommit, to lay on the table (Senate only), to take a recess, to close debate, to order the main question, and to reconsider are allowed. If the matter was placed before the body because no action had been taken by the fifty-second day, then only motions to take a recess, to adjourn, to order the main question or to close debate are in order.

Unless disapproved by a majority vote of either branch within 60 days of filing by the Governor, the plan shall stand approved.

H. Resolves

A resolve is a legislative mandate to undertake certain actions, usually in the form of special commissions to study legislative or executive branch issues or to discharge moral obligations. It has the same force and effect as a general or special law. A special commission can be made up of members of the legislature or appointees by the Governor or members of the executive branch by virtue of their positions. Resolves normally have reporting requirements to the legislature and expire on a date certain. If an expiration date is not listed in a resolve, then a resolve approved by the Governor in an even-numbered year expires on the last Wednesday in December in that even-numbered year or if the resolve is approved by the Governor in an odd-numbered year it expires on the last Wednesday in January in the following year (*see* G.L. c. 4, § 2A). (*see* example 6 in section D of Part 2.)

When drafting a resolve providing for a special commission, remember that section 2A of chapter 4 of the General Laws requires that if senators or representatives are to be members of the special commission they “shall be designated by the president of the senate and the speaker of the house of representatives, respectively.”

Also, be aware that special commissions are subject to section 11A ½ of chapter 30A of the General Laws governing open meetings of governmental bodies.

Part 6- Bill Information- Home Rule Petitions

A. Effective Date

The effective date of a bill depends upon whether it is subject to the Referendum under Article 48 of the Constitution (local bills that are restricted in their operation to a particular town, city or other political division or to particular districts or localities of the commonwealth) and is normally effective 30 days after it becomes law. In order to make a local bill effective immediately a drafter should put, as the last section of the bill, the following language.

“SECTION X. This act shall take effect upon its passage.”

The effect of this section would be to make the bill effective the same day it becomes law.

B. Home Rule Petitions

1. Local Approval Requirements.

Section 8 of the Home Rule Amendment (Mass. Const. amend. art. 2, as appearing in amend. art. 89) requires special procedures, either prior local government approval or a two-thirds vote by each house following the Governor's recommendation -- when the Legislature acts "in relation to" a single city or town.

The Supreme Judicial Court has held that this restriction on legislative power "is to be narrowly construed" and in two cases emphasized that it does not prevent legislation on state, regional or general matters. *Clean Harbors of Braintree, Inc. v. Board of Health*, 415 Mass. 876, 881 (1993); *Gordon v. Sheriff of Suffolk County*, 411 Mass. 238, 244 (1991).

In *Gordon*, the court upheld provisions of the FY 1992 main budget transferring the new Suffolk County House of Correction from the Boston penal institutions department to the Suffolk County sheriff. Recognizing that "[o]peration of county correctional facilities has always been a matter of State and general concern," 411 Mass. at 246, the court concluded that the legislation's "special effect on Boston's penal institution's department . . . neither diminishes its broader purpose nor serves to make the Home Rule Amendment applicable." *Id.* at 245.

In the *Clean Harbors* case, the court upheld a law exempting pre-existing facilities from a statute requiring local boards of health to approve sites for certain hazardous waste facilities. Even though site proceedings were pending before the Braintree Board of Health and the court assumed that the new exemption applied in fact only to this single facility, there was no violation of section 8 because "the waste treatment performed at [this] facility is certainly a matter of State, regional and general concern." 415 Mass. at 882.

On the other hand, the court invalidated an appropriation item that sought to condition distribution of funds to Boston, but no other municipality, on the city's maintaining a certain

level of police and fire services. *Mayor of Boston v. Treasurer and Receiver General*, 384 Mass. 718 (1981).

2. How Often Must Local Approval Be Obtained?

The general policy of the Senate is that whenever a new petition for local legislation is filed in a new 2-year session of the General Court, it must be based upon a new local approval – not the old local approval used to file a bill in a previous session of the General Court; however the Senate allows a petition that is accompanied by a local approval dated within 1 year of the start of a new General Court as long as that local approval was not part of a bill that reached the floor (i.e. 2nd reading or further) in either branch during the previous session of the General Court.

A petition accompanied by a local approval voted on during a 2 year session is valid throughout the entire session.

3. Proper Local Approval.

Section 8(1) of the Home Rule Amendment provides that the Legislature may enact special laws relating only to a single city or town "on petition filed or approved by the voters of a city or town, or the mayor and city council, or other legislative body, of a city, or the town meeting of a town."

Direct voter approval is allowed if the city or town charter provides for the local initiative (or for a referendum to review approval by the local legislative body). *E.g.*, G.L. c. 43, §§ 37-44 (procedures in "plan" cities). *Opinion of the Justices*, 370 Mass. 879 (1976); *Marino v. Town Council*, 7 Mass. App. Ct. 461 (1979).

Otherwise, the local approval must be by vote of the city or town council (with the mayor's approval if the charter requires it for other municipal legislation) or town meeting. In two advisory opinions to the Legislature, the Justices of the Supreme Judicial Court have interpreted section 8(1) to require approval by "the responsible legislative body of the municipality." *Opinion of the Justices*, 375 Mass. 843, 845 (1978); *Opinion of the Justices*, 365 Mass. 655, 658 (1974). In both cases, the Justices consulted the municipality's charter to ascertain the procedures required for other local legislation, and advised that section 8 required those same procedures to be followed for approving home rule petitions: "§8 evinces no intention to prescribe different legislative procedures for a [home rule petition] from the procedures otherwise followed by the [municipal] legislative body." 365 Mass. at 659-60 (bill allowing town manager or administrator in "town council" municipalities to veto home rule petitions violated §8, because this official "has no such power in any other legislative context" under the charter). See 375 Mass. at 845-46 (Cambridge's "Plan E" Mayor had no power to veto home rule petition, because Plan E charter gives him "no legislative powers apart from those powers he possesses as a member of the city council," including no veto power). But see *Opinion of the Justices*, 429 Mass. 1201 (1999) (city council cannot override mayor's veto of home rule petition).

Before it can pass a special law based on a home rule petition, the Legislature must have evidence of approval by the municipal legislative body. This should take the form of a copy of the body's vote (or a certificate of the voters' vote on an initiative measure), including the date, attested by the original signature of the city or town clerk. The vote must request some action by the Legislature or "General Court."

4. Amending Home Rule Petitions.

Courts applying section 8(1) of the Home Rule Amendment have held that the municipal vote approving a home rule petition may be general or specific. *Newell v. Rent Board of Peabody*, 378 Mass. 443, 446-48 (1979); *Opinion of the Justices*, 356 Mass. 775, 791 (1969); *Nugent v. Town of Wellesley*, 9 Mass. App. Ct. 202 (1980). If the local approval is general (as it was in all three of these cases) -- or if the municipal vote does not restrict amendments -- the Legislature has considerable freedom to amend "within the scope of the general public objectives of the petition." *Opinion of the Justices*, 356 Mass. 775, 791 (1969). If the municipality wishes to restrict or preclude legislative amendments to its proposal, the municipal vote must say so in unambiguous terms.

A municipality has essentially three options when it approves a home rule petition:

(a) General vote. The municipal legislative body may approve a vote requesting legislation to accomplish a general purpose. Draft legislation may be attached, but the mere approval of proposed legislation by the municipal legislative body does not restrict legislative amendments. (See Special Commission on Implementation of the Home Rule Amendment, Second Report, Senate No. 10, at 11 [1967].) For example, if the vote sets forth the text of the proposed legislation and requests that the Legislature "enact the following," this is a general vote because it does not specifically preclude legislative amendments. If a draft bill is not approved, the legislation may be drafted by the municipal executive (the mayor, manager or selectmen), the state legislator who files it, or their respective counsel. One town uses the following form for such a general vote:

Voted, to authorize the Selectmen to petition the Legislature to enact legislation to [insert purpose]; provided, that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

(b) Vote restricting amendments. The municipal vote may preclude substantive legislative amendments by clearly saying so. The City of Boston and some other municipalities routinely use this form:

Ordered: That a petition to the General Court, accompanied by a bill for a special law relating to the [city or town of] to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:- [insert text of bill].

The risk of using such language, especially for a town meeting that meets infrequently, is that an amendment necessary to secure passage of the bill may not be approved for many months.

Municipalities should not use the phrase “in substantially the following form” or “substantially as follows,” since the meaning of “substantially” is ambiguous. This phrase may mean that no amendments of “substance” are allowed, or that no “important” amendments are allowed. If the municipality desires the first meaning, it should use the Boston language.

(c) Vote allowing the municipal executive to approve amendments. A third option is to use the restrictive language of option (b), but also to include language allowing the municipal executive (especially the selectmen in towns) to approve amendments within the scope of the general public objectives of the petition. Municipalities should use the following form:

Voted, to petition the General Court to the end that legislation be adopted precisely as follows. The General Court may make clerical or editorial changes of form only to the bill, unless the Selectmen [or other municipal executive] approve amendments to the bill before enactment by the General Court. The Selectmen [or other municipal executive] are hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition. [insert text of bill]

C. Special Enactment Requirements

Article 89 of the Amendments to the Constitution, The Home Rule Amendment, requires a two-thirds vote of the House and Senate to enact a bill recommended by the Governor that relates to a single city or town but has not received local approval (section B of Part 6).	ARTICLE LXXXIX OF THE AMENDMENTS TO THE CONSTITUTION REQUIRES
	TWO-THIRDS VOTE ON ENACTMENT <i>Senate/House.....Committee on BTR</i> <i>Correctly Drawn</i>
	<i>For the Senate Committee</i>

Article 115 of the Amendments to the Constitution requires a two-thirds vote of the House and Senate to enact a bill that imposes additional cost on cities or towns by regulating municipal employment (if each city or town does not have to accept it and the Legislature does not assume, or appropriate, the cost).	ARTICLE CXV APPLICABLE Two-thirds Vote Required Senate/House.....Committee on BTR Correctly Drawn. Provides for additional cost on two or more municipalities for the compensation, hours, status, conditions or benefits of municipal employment and comes within the provisions of Article CXV of the Amendments to the Constitution. For the Senate/House Committee
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D. Local Mandates

1. The “local mandates” Statute.

The voters originally enacted the local mandates statute, G.L. c. 29, § 27C, as part of the 1980 initiative law called “Proposition 2½.” It says that laws (including state agency regulations) “imposing any direct service or cost obligation upon any city or town” are not effective unless either the municipal legislative body votes to accept the law, or the Legislature appropriates the cost every year.

The local mandates law does not apply to:

- pre-1981 laws.
- “incidental local administration expenses.” These are “relatively minor expenses related to the management of municipal services . . . that . . . are subordinate consequences of a municipality's fulfillment of primary obligations.” *City of Worcester v. The Governor*, 416 Mass. 751, 758 (1994).
- laws that the Legislature specifically exempts (e.g., the Education Reform Act of 1993, see G.L. c. 70, § 15; St. 1993, c. 71, § 67).

- mandates resulting from court decisions, or contained in a law “enacted . . . as a direct result of such a decision.”
- state laws implementing federal mandates (e.g., the state “motor voter” law, St. 1993, c. 475).
- statutory clarifications of existing statutory requirements. *City of Worcester v. The Governor*, 416 Mass. 751 (1994).
- benefits of municipal employees subject to Article 115 (*see below*).
- legislative conditions attached to appropriated state funds received by a municipality. *School Committee of Lexington v. Commissioner of Education*, 397 Mass. 593 (1986).
- laws governing a regulated industry in which a municipality voluntarily chooses to participate (e.g., maintenance of a municipal landfill, *Town of Norfolk v. DEQE*, 407 Mass. 233 (1990)).

In addition, the state auditor’s division of local mandates (DLM) has advised that the local mandates law does not apply to the following 2 situations, but these situations remain uncertain because no court has yet addressed them:

- laws imposing costs on municipal retirement systems (which DLM regards as distinct from municipal governments).
- laws creating or expanding property tax exemptions that simply shift costs to other taxpayers.

DLM (10 West Street, 6th floor, Boston, MA 02114, telephone 617-727-0980) gives nonbinding advice about the local mandates law, including estimates of municipal costs.

Only a court can decide that a municipality need not comply with a law that violates the local mandates statute, but the remedy may not include reimbursement. *City of Worcester v. The Governor*, 416 Mass. 751, 761-62 (1994). In practice, however, if the Legislature still wants the law enforced, it will need to appropriate the necessary funds for the future.

2. Article 115.

A 1980 amendment to the Massachusetts Constitution, Article 115, says that state laws regulating municipal employment conditions or benefits are not effective unless (a) the municipal legislative body votes to accept the law; or (b) the Legislature appropriates the cost; or (c) the Legislature enacts the law by a two-thirds vote of both houses.

This constitutional provision does not apply to laws generally regulating benefits of all employees, including private sector as well as municipal employees. *City of Cambridge v. Attorney General*, 410 Mass. 165 (1991).

3. Municipal Acceptance and Revocation of Statutes.

“It is well established that when a locality exercises its option to accept the provisions of general legislation, absent a provision in the statute permitting revocation of such acceptance, the statute is operative in the community until it is repealed or amended by the Legislature.” *Chief of Police of Dracut v. Dracut*, 357 Mass. 492, 496-498.

Part 7- Assistance from the House and Senate Counsel's Offices

A. Legislation

When requested by a member or a member's staff, the offices of the House and Senate Counsel will:

- answer questions about the form, substance and legality of bills;
- review and comment on draft bills prepared by a member's staff or others; or
- draft legislation based on an outline.

B. Resolutions

The House and Senate follow different procedures for the resolution process.

Resolutions are drafted by a member's staff, and are assigned to an Assistant Counsel for editing. The Counsel's office then delivers the completed resolution to the Clerk for action in the appropriate chamber. Please use a citation (forms available from the Clerk's office) not a Resolution, for example, for Eagle Scout ceremonies.

1. House Counsel's Procedure for the Adoption of a Resolution

In the House, please contact the House Counsel's office (617) 722-2360 for any assistance and e-mail your draft resolutions to either linda.picard@mahouse.gov or jolanta.stone@mahouse.gov. The House requires that a resolution be submitted 1 week prior to the pick-up day. Resolutions will not be accepted for the following:

Birthdays under the age of 80

Wedding anniversaries less than 50 years

Anniversaries of organizations less than 20 years

Profitable organizations (we will accept resolutions of nonprofit organizations)

Deceased persons

Class Reunions

In addition, the General Court does not declare days, weeks or months. Resolutions should not have more than 5 WHEREAS and 2 RESOLVES clauses.

2. Senate Counsel's Procedure for the Adoption of a Resolution.

Resolutions express the sense of the Senate about some issue or in recognition of some organization or group.

When you propose a Resolution, please follow these procedures:

(a) Draft your Resolution. If you are unfamiliar with the procedure, contact the Senate Counsel's office and we can make copies of previous Resolutions for your reference.

(b) The Senate does not have the authority to "proclaim" a day, a week, or a month, or otherwise; that is the exclusive province of the Governor. The Senate may only support the observance of any day, week, or month the Governor has proclaimed.

(c) E-mail your draft, in a Word attachment, to the mailbox "counselreso" available in the Address Book.

(d) In your e-mail, please provide the date that you would like the Senate to adopt the Resolution, and the contact person in your office. Please send it counselreso at least 24 hours before that Senate session.

(e) Either in your e-mail, or in the attached Word document following the Resolution's text, please list all co-sponsors alphabetically with the lead sponsor's name appearing first.

If the Resolution is a joint one with the House, please include the House sponsors' names as well. (A joint Resolution is initiated in either branch. If it is initiated in the House, your House sponsors should send it to the House Counsel's office, which will automatically notify us; you should not send it to us separately. In either case, both branches must adopt a joint Resolution in sessions on the same day.)

Please call the Senate Counsel administrative staff at 617-722-1470 if you have questions.

C. Research and Advice on Legal Matters

The Counsel's offices will research and provide advice about legal matters related to House and Senate business.

D. Research and Advice on Procedural Matters

Members and staff should direct inquiries about procedural matters and matters relating to the House, Senate or Joint Rules to the House or Senate Clerk.

E. Library. The House and Senate Counsel's libraries are available to members and their staffs whenever the office is open. The House Counsel's Library is in room 341 and the Senate Counsel's Library is in room 200.

Part 8- Glossary of Terms (Adopted in part from “Massachusetts Legislative Procedure and History,” by Mary Ann Neary, MCLE 2002.)

Act

Legislation that has become law, either by the Governor’s signature, the Governor’s inaction within 10 days of receiving the bill or by legislative override of a Governor’s veto. Each act has a chapter number indicating the order in which it became law during the then current year.

Acts and Resolves

A compilation of the bills and resolves that become law that are bound in a volume on a yearly basis.

Amendment

A proposed modification to a legislative document that is submitted by or on behalf of a committee or a legislator to a clerk and is considered on the floor. An amendment may be in the form of a redraft or a substitute.

Bill

Document accompanying a petition, usually asking for legislative action on a particular matter.

Calendar

An agenda for each day of formal session; also called the orders of the day. There are 3 different calendars, a House calendar, a Senate calendar, and a Joint Session calendar. Calendars are available to legislative users and to the public on the General Court website.

Committee

One of 27 joint standing committees, one of 9 House standing committees, or one of 8 Senate standing committees. Committees and their membership sizes are set forth in the Rules and may be changed periodically.

Committee on Bills in the Third Reading

A committee which is empowered to examine and make technical corrections to bills and resolves prior to their final reading in the Senate or House, to resolutions prior to their adoption and to amendments to bills, resolves and resolutions adopted by the other branch and which is before the body for concurrence. The Senate and House committees work closely with their respective counsels to prepare the legislative documents for floor action.

Concurrence

Agreement by one branch with an action originating in the other branch.

Conference Committee

Committee consisting of 3 members from each body appointed by the legislative leaders to resolve differences between the 2 bodies with regard to specific matter, with one senator and one representative acting as chairmen. Failure of the committee to agree or failure of 1 body to accept the committee's recommendation results in the appointment of a new conference committee. Usually the committees are made up of 2 members of the majority party and 1 member of the minority party from each body.

Emergency Preamble

A preamble to a bill setting forth the facts constituting an emergency, and the statement that the law is necessary for the immediate preservation of the public peace, health, safety or convenience. Matters with emergency preambles become law immediately upon approval by the Governor. To make a matter effective immediately or upon a date certain less than 90 days either the Governor may attach an emergency letter or the legislature may attach a preamble. The legislature must adopt an emergency preamble "on enactment", i.e., after the bill is engrossed in both branches, by a two-thirds vote.

Enactment

Final passage of a bill by the House or Senate. All bills must be enacted in the House first. After a bill is enacted by the Senate it is "laid before the Governor".

Engrossed Bill or Resolve

Final version of a bill or resolve before the House or Senate for final action after being prepared on special parchment by the Legislative Engrossing Division and certified by the clerk.

Formal Session

Meeting to consider and act upon reports of committees, messages from the Governor, petitions, orders, enactments, papers from the other branch, matters in the *Orders of the Day (calendar)* which are generally required to be made available for formal sessions and various other matters which may be controversial in nature and during which roll call votes may be taken.

General Laws

Legislative acts applying generally to the Commonwealth and its citizens.

House and Senate Rules

Rules of order and procedure adopted by that branch at the beginning of each biennial session.

Informal Sessions

Meetings designated by the Speaker of the House and Senate President to consider reports of committees, enactments, papers from the other branch, amendments and

various other matters which are of a *noncontroversial* nature. Any session may be declared an informal session with prior notice given or in cases of an emergency.

Initiative Petition

Request by a specified number of voters to submit a constitutional amendment or law to the General Court and, if not approved, to the people for approval or rejection. The petition is introduced into the General Court if signed by a number of citizens equaling 3 per cent of the entire vote for Governor in the preceding gubernatorial election. If a proposed initiative law fails to pass the General Court, additional signatures are required to place it on the ballot. A proposed initiative constitutional amendment approved by at least one quarter of the General Court, sitting in joint sessions by 2 consecutively-elected General Courts, can be placed on the ballot.

Joint Committees

Twenty-seven committees, generally consisting of 6 senators and 11 representatives, responsible for holding public hearings and reporting on all legislative matters referred to them.

Joint Rule 10

Rule ordering that all matters referred to joint committees (except for the Joint Committee on Health Care Financing) be reported out of committees by the third Wednesday in March of the second annual session and within 30 days on all matters referred to them on or after the third Wednesday in February of the second annual session of the General Court.

Joint Rules

Rules for the governing of the 2 bodies that are adopted by both branches.

Laid before the Governor

Presentment of a bill before the Governor for his action after the bill has been engrossed and enacted or reenacted by both branches. The Governor has 10 days beginning on the day after presentment to either sign the bill, let it become law without his signature, return the bill to its branch of origin with a recommended amendment (except for reenacted bills) or veto the bill.

Lay on Table

To temporarily lay aside the consideration of a specific bill, resolve, report, amendment or motion. If laid on the table, consideration is postponed until a subsequent motion taking the item off the table succeeds. A motion to lay on the table can be made only in the Senate.

[Massachusetts General Laws](#)

All of the laws of Massachusetts of a general and permanent nature as embodied in the Official Edition of the Massachusetts General Laws (which are updated on a monthly basis), together with all amending and related general statutes subsequently enacted through the current session of the General Court.

Money Bill

A bill that transfers money or property from the people to the Commonwealth, i.e., a bill that imposes a tax. These bills must be taken up in the House first.

Order

Formal motion in writing, not requiring the Governor's signature, which is temporary in nature and is used to establish investigative committees, to change rules and for other parliamentary actions.

Orders of the Day (Calendar)

Listing of most matters to be considered by the Senate and the House at each formal sitting.

Outside Section

A section of an appropriation bill that may deal with an existing line item in an appropriation, but may also amend an existing law or create a new law

Override

To overturn the Governor's veto by a two-thirds vote of the members present in both the House and Senate.

Pass a Resolve

Final passage of a resolve by the House or Senate.

Petition

A request describing the nature of the proposed legislation and the objects sought by it, signed by the primary sponsor and a petitioner or multiple petitioners, and accompanied by a draft of the bill or resolve embodying the legislation proposed.

Pocket Veto

A veto resulting from the Governor's failure to sign a bill following prorogation or dissolution of the General Court. Because the session has ended, the bill will not automatically become law after 10 days and the General Court has no opportunity to override the veto.

Point of Order

Challenge to the breach of order or rule.

Proposal

Document accompanying a petition or a committee redraft introducing legislative amendments to the Constitution of the Commonwealth.

Prorogation

Termination of a legislative year by agreement of the Governor and both legislative bodies.

Quorum

Twenty-one members in the Senate; 81 members in the House. Quorum is established by the Constitution.

Recess

Temporary delay in proceedings.

Reconsideration

Motion to reconsider a vote on action previously taken. Any member may propose reconsideration and, if the motion prevails, the matter is voted on again. A motion to reconsider must be moved prior to entering upon the Orders of the Day on the next legislative session.

Referendum Petition

A petition signed by a specified number of voters to repeal a law enacted by the legislature and requesting that the legislation be suspended until the vote is taken.

Report of Committees

Recommendation on a legislative matter by the committee to which it was referred.

Resolution

Documents which may or may not accompany a petition expressing an opinion of the sentiment of one or both branches of the General Court, used for congratulations, for memorializing the Congress of the United States regarding public questions, etc. Resolutions do not require the Governor's signature.

Resolve

Document accompanying a petition, usually asking for legislative action of a temporary or immediate nature; e.g., establishing temporary investigative commissions. Resolves do require the Governor's signature to the same extent as an act.

Senate and House Journals

Records of proceedings in each chamber for each legislative day, including matters considered, amendments offered and votes taken.

Special Law

Legislative act applying to a particular county, city, town or district, individual or group of individuals and not general in nature.

Veto

Governor's objection in writing to legislation enacted by the General Court. The legislation is returned to its branch of origin.

Appendix A.

Legislative Research Checklist

(i) Legislative History:

Previous Session History:

Has the legislation been filed in previous sessions? If yes, in what sessions and what were the bill numbers (please include copies of the previous bills and a bill history sheet, if available)?

To what primary joint committee was the legislation referred to in the previous session(s) (please include a printout of the bill history sheet available on the General Court webpage)?

Was the legislation heard at a public hearing of the primary joint committee? If so, when was the hearing and is there any testimony available (please request copies of all testimony/other relevant documentation from the primary joint committee or any other committee which has heard the bill at a public hearing)?

Was there a subcommittee of the primary joint committee formed to review the issue related to this legislation? If yes, is there any information available?

What action did the primary joint committee take on the legislation?

Was the legislation referred to House or Senate Ways and Means (H/SWM) during a previous session?

Did H/SWM previously report on the legislation? If yes, did H/SWM amend or redraft the legislation? If yes, does the pending legislation include the H/SWM amendments/redrafted language?

Current Session History:

To what primary joint committee was the legislation originally referred (please include a printout of the bill history sheet available on the General Court webpage)?

Was the legislation heard at a public hearing of the primary joint committee? If so, when was the hearing and is there any testimony available (please request copies of all testimony/other relevant documentation from the primary joint committee or any other committee which has heard the bill at a public hearing)?

Was the legislation reviewed/reported by any other committee prior to its referral to H/SWM?

Was there a subcommittee of the primary joint committee formed to review the issue related to this legislation? If yes, is there any information available?

Did the primary joint committee, or any other committee, amend, redraft or otherwise change the legislation in any manner? If yes, please include copies of the original and the amended versions.

Was the legislation ever offered as a floor amendment during budget debate? If so please provide the date and a copy of the amendment.

(ii)Primary Sources of Legal Research:[\[1\]](#)

Constitution of the United States

Would the bill violate any provisions of the Constitution (e.g., encroach on the enumerated powers of the federal government, contract clause, etc.)? If yes, which provisions?

Constitution of the Commonwealth

Would the bill violate any provisions of the Constitution? If yes, what provisions?

Does the constitution require any special action be taken on the legislation (e.g., roll call vote for land taking, roll call vote for pledging of full faith and credit, etc.)? If yes, please specify the action.

General Laws

Would the legislation create a new General Law? If yes:

- What is the proposed new chapter number?
- Has the proposed number/version of the General Law ever been previously repealed?

Would the legislation amend any existing General Laws? If so, please list and answer the following:

- What is the history of the section of General Law being amended (when was it enacted, last amended, etc.)?
- Have there been any court decisions based on the section of General Law which would be impacted?

If the legislation would create a new General Law or amend an existing General Law, is this the appropriate type of legislative instrument (i.e., should this be a special act)?

Would the bill in any other way affect any existing General Laws?

- Would it conflict with other General Laws?
- Would it duplicate other General Law?
- Are the definitions used in the legislation consistent with section 7 of chapter 4 of the General Laws?

Does the legislation include references to other statutes (federal, state, special acts)? If yes, are the references correct? Also if yes, please provide copies of the statutes.

Does the legislation include an effective date or an emergency preamble and, if not, does it need to include an effective date or an emergency preamble?

Special Acts

Would the legislation create a new special act? If yes, has the proposed version of the special act ever been previously introduced or repealed?

Would the legislation amend any existing special acts? If so please list (and please provide copies of any special acts that would be amended).

If the legislation would create a new special act or amend an existing special act, is this the appropriate type of legislative instrument (i.e., should this be a General Law amendment or special act)?

Would the bill in any other way affect any existing special acts or General Laws (e.g., conflict with other General Laws, duplicate other General Laws, are definitions used in the legislation consistent with section 4 of chapter 7, etc.)?

Does the legislation include references to other statutes (federal, state, special acts)? If yes, are the references correct? Also if yes, please provide copies of all the statutes?

Does the legislation include an effective date and, if not, does it need to include an effective date or an emergency preamble?

Case Law

Is the legislation the result of a federal or state court action (e.g., was it filed in response to coverage of a perceived statutory deficiency, filed in response to a specific court reference of a statutory deficiency, etc.)? If yes, please provide a citation and include a copy of the relevant court documents.

Are there any law review articles/comments written on the case? If yes, please provide copies.

Code of Massachusetts Regulations

Are there regulations in effect covering the subject matter addressed by the legislation? If so, please provide a citation and a copy of the regulations.

Would this legislation conflict with the current regulations? If so, how?

United States Code Annotated/Code of Federal Regulations

Would the legislation address issues already addressed by an existing federal statute/regulation? If so, would it conflict with the federal statute/regulation? If so, please describe the conflict and include a copy of the relevant federal statute/regulation.

Would the legislation in any other way affect any existing federal statute/regulation (e.g., duplicate or expand upon an existing federal statute/regulation, etc.)? If so, please describe and include a copy of the relevant federal statute/regulation.

(iii) Secondary Sources of Legal Research

Primary Joint Committee:

Please include a copy of the file from the primary joint committee, including any testimony.

Who is the staff contact on the primary joint committee?

Is the legislation a priority of the primary joint committee?

Secondary Committee (if applicable)

Please include a copy of the file from the secondary committee, including any testimony.

Who is the staff contact on the secondary committee?

Is the legislation a priority of the secondary committee?

Executive Order

Has the topic of the legislation ever been subject to an Executive Order? If so, please include a copy of the Executive Order.

Executive Office/Department/Division/Quasi-Public Agency

Please send to the appropriate Executive Office, Department, Division *and* Quasi Public Agency a Legislative Agency Questionnaire and include a copy of the returned questionnaire in the file.

Please identify the staff contact at each Executive Office, Department, Division and Quasi-Public Agency with whom you communicated on this legislation.

Attorney General (if applicable)

Please send to the Attorney General's Office a Legislative Agency Questionnaire and include a copy of the returned questionnaire in the file.

Please identify the staff contact at the Attorney General's Office with whom you communicated on this legislation.

Secretary of State (if applicable)

Please send to the Secretary of State's Office a Legislative Agency Questionnaire and include a copy of the returned questionnaire in the file.

Please identify the staff contact at the Secretary of State's Office with whom you communicated on this legislation.

State Treasurer (if applicable)

Please send to the State Treasurer's Office a Legislative Agency Questionnaire and include a copy of the returned questionnaire in the file.

Please identify the staff contact at the State Treasurer's Office with whom you communicated on this legislation.

Chief Justice of the Trial Court for Administration and Management (if applicable)

Please send to the CJAM and the appropriate department (Probation, Community Corrections, etc.) a Legislative Agency Questionnaire and include a copy of the returned questionnaire in the file.

Please identify the staff contact within CJAM and the appropriate department with whom you communicated on this legislation.

Interest Groups

Please identify any interest groups supporting or opposing the legislation and include any copies of any written information either submitted by the groups or discovered through your research.

Newspapers/Periodicals

Has the legislation been the topic of any newspaper/magazine, etc., stories, columns or editorials? If so, please provide copies.

Law Reviews

Are there any law review articles/comments on the topic of the proposed legislation?

Internet Search

Please provide copies of any relevant information you obtain on the legislation/issue from an internet search using a search engine (e.g., Google).

Other State Actions (limited to major policy initiatives)

Have other states enacted or are they considering similar legislation? If so, please provide details.

Appendix B. Bill Summary

Bill Summary

Bill No.

Sponsor:

Committee:

Hearing Date:

Prior History:

Summary:

Section 1.

Current Law:

Summary:

Section 2.

Current Law:

Summary:

Appendix C.

Section Tops Reference

ITEM (1)	ACTION (2)	LEADING REFERENCE	OF THE ...	IS HEREBY ...*	DESCRIPTION
CHAPTER	ADD	NOT USED.			
CHAPTER	INSERT	The General Laws		are hereby amended by	inserting after chap ** the following chapter:—
CHAPTER	REPEAL	Chapter **	of the ****	is hereby repealed.	
CHAPTER	REPLACE	NOT USED.			
SECTION	ADD	Chapter **	of the ****	is hereby amended by	adding the followin section:—
SECTION	INSERT	Chapter **	of the ****	is hereby amended by	inserting after sect ** the following section:—
SECTION	REPEAL	Section ** of chapter **	of the ****	is hereby repealed.	
SECTION	REPLACE	Chapter **	of the ****	is hereby amended by	striking out section as appearing in the XXXX Official Editi and inserting in pla thereof the followin section:—
PARAGRAPH	ADD	Section ** of chapter **	of the ****	is hereby amended by	adding the followin paragraph:—
PARAGRAPH	DELETE	Section ** of chapter **	of the ****	is hereby amended by	striking out the ** paragraph.
PARAGRAPH	INSERT	Section ** of chapter **	of the ****	is hereby amended by	inserting after the * paragraph the following paragraph:—
PARAGRAPH	REPLACE	Section ** of chapter **	of the ****	is hereby amended by	striking out the ** paragraph and inserting in place thereof the followin paragraph:—
SENTENCE	ADD	Section ** of chapter **	of the ****	is hereby amended by	adding the followin sentence:—
SENTENCE	DELETE	Section ** of chapter **	of the ****	is hereby amended by	striking out the ** sentence.
SENTENCE	DELETE	The ** paragraph of section ** of chapter **	of the ****	is hereby amended by	striking out the ** sentence.
SENTENCE	INSERT	Section ** of chapter **	of the ****	is hereby amended by	inserting after the * sentence the following sentence
SENTENCE	REPLACE	Section ** of chapter **	of the ****	is hereby amended by	striking out the ** sentence and inserting in place

						thereof the following sentence:—
	CLAUSE	ADD	The ** paragraph of subdivision (**) of section ** of chapter **	of the ****	is hereby amended by	adding the following clause:—
	CLAUSE	DELETE	The ** paragraph of subdivision (**) of section ** of chapter **	of the ****	is hereby amended by	striking out clause (**).
	CLAUSE	INSERT	The ** paragraph of subdivision (**) of section ** of chapter **	of the ****	is hereby amended by	inserting after clause (**) the following clause:—
	CLAUSE	REPLACE	The ** paragraph of subdivision (**) of section ** of chapter **	of the ****	is hereby amended by	striking out clause (**) and inserting in place thereof the following clause:—
	WORD	ADD	NOT USED.			
(c)	WORD	DELETE	Section ** of chapter **	of the ****	is hereby amended by	striking out, in line **, the word **.
(c)	WORD	INSERT	Section ** of chapter **	of the ****	is hereby amended by	inserting after the word "**, " in line **, the following words:—
(c)	WORD	REPLACE	Section ** of chapter **	of the ****	is hereby amended by	striking out, in line **, the word "****" and inserting in place thereof the following word:—
	SUBDIVISION	REPLACE	Section ** of chapter **	of the ****	is hereby amended by	striking out subdivision (**) and inserting in place thereof the following subdivision:—
	SUBPARAGRAPH	DELETE	Subsection (**) of section ** of chapter **	of the ****	is hereby amended by	striking out subparagraph (**).
	SUBSECTION	REPLACE	Section ** of chapter **	of the ****	is hereby amended by	striking out subsection (**) and inserting in place thereof the following subsection:—

(1) 11 types of items: figure (for numbers), word, sentence, clause, subclause, subparagraph, paragraph, subdivision, subsection, section, chapter.

(2) 5 types of actions: repeal (only for chapters and sections) or delete (strike out) or add (at the end) or insert (in between) or replace (strike out and insert)

**** = "acts of XXXX" or "General Laws". Use "as appearing in the XXXX Official Edition" or "as so appearing" (see (a) re: 2nd references) after MGL references unless repealing, adding or inserting a chapter or a section. Always use the most current edition.

(a) For 2nd or subsequent reference to an item, use: (1) "said" item, (2) "as so appearing," and (3) "is hereby further amended by" if the previous bill section also refers to the Official Edition.

(b) If adding or inserting more than 1 item, say "by adding (or inserting) the following 2 or more items:—"

(c) Note: "striking out, in line **," vs. "inserting after the word **, in line **,". You need to count the line numbers yourself if amending Special Acts.

(d) Refer to subsequent acts if amended since the last official edition.

(e) Remember to replace numbers written as words with numbers written as figures when replacing an item.

[\[1\]](#) Please Shepardize all citations when appropriate.