



**RETIREE  
INSURANCE  
UPDATE**

In a recent amendment to the fiscal year 2017 budget, the state Senate unanimously approved a measure extending the municipal retiree insurance premium moratorium for two more years, to July 1, 2018.

Specifically, the moratorium prevents municipalities who utilize §21-22 of the 2011 health insurance reform statute from increasing premium contribution percentage rates for retirees.

The House budget bill does not contain any moratorium.

The budget bill will be negotiated in the Legislative Conference Committee through the month of June, and requires final approval from the House, Senate, and ultimately Governor Baker.

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**BREAKING NEWS:**

**Baker Signs Bill Overhauling State Public Records Law**

On Friday, June 3, 2016, Governor Charlie Baker signed the public records reform bill unanimously approved in late May by both the state Senate and House of Representatives. This is the first major overhaul of the state’s public records law since 1973 (more than four decades).

The bill, which goes into effect on January 1, 2017, looks to enforce timely responses to public record requests and reduce costs to those requesting the records. Governor Baker is quoted as saying that the changes represent “a new way of doing business” in Massachusetts. While the bill was heavily supported by the legislature and critics who felt the current version of the law failed to provide for government transparency, the changes—at least initially—will likely be somewhat burdensome for municipalities and staff responsible for compliance.

**What’s Changing?**

Previously, municipalities were responsible for navigating and ensuring public record compliance on their own. Under the new law, the Supervisor of Records is obligated to disseminate educational materials for municipalities on public records law compliance. In addition, the bill requires all state agencies and municipalities to appoint a point of contact known as a “public-records access officer”, to respond to and facilitate record requests.

The new law also requires that most requests for public records be **fulfilled within 10 business days**, with limited extensions allowed for burdensome requests. This is a significant change from the current version of the law which requires only that a response—either an offer to provide the requested materials or a written denial—be provided within 10 business days. When faced with a burdensome request, an agency or municipality may inform the requestor that due to the magnitude of the request, a response will be provided within 25 business days (an explanation must be provided). In addition, if no more than 20 business days have passed since the date of the initial request and the municipality finds that it is unable to comply with the 25 business day extended timeframe, it may petition the Supervisor of Records for an extension not to exceed 30 business days. Such extensions are at the Supervisor’s discretion and granted only if the municipality can show good cause for the delay.

Both the current public records law and the new law allow municipalities to charge a reasonable fee to cover the cost of complying with a public records request. Under the new reform law, however, a city or town with a population greater than 20,000, may not charge for the first 2 hours of staff time spent searching for and retrieving records. And after that, the hourly rate that can be assessed is capped at \$25 an hour unless the municipality obtains permission from the Supervisor of Records to charge more. A municipality may also charge the actual cost of a storage device or materials as part of the fee and no more than \$.05 per page for black and white copies. This is consistent with the changes made to the regulations last February (see “ALERT! Fee Change for Public Records Requests,” April Client Advisor for more information). In addition, the law encourages (and in some cases requires) municipalities to make records available in electronic formats, and suggests that being able to do so should be a consideration when adopting new electronic databases or software systems.

Another significant change is how the law will be enforced. The burden is on a city or town to prove, by a preponderance of the evidence, that it is justified in withholding a record sought by a member of the public. **In the event a municipality wrongly denies access to a public record and the requestor seeks relief in court, the municipality may now be responsible for the requestor’s attorney fees**, subject to a narrow set of statutory exceptions. While the new law does not mandate attorney fees, it does require judges to explain in writing a decision not to award them.



Please visit our website or call your CLP attorney for a more detailed explanation of the new law.