

Chapter

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Five

AN ACT RELATIVE TO SMART GROWTH ZONING AND HOUSING PRODUCTION.

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. The General Laws are hereby amended by inserting after chapter 40R the following chapter:-

CHAPTER 40S

SMART GROWTH SCHOOL COST REIMBURSEMENT

Section 1. As used in this chapter, the following words shall have the following meanings:-

"Additional chapter 70 aid", for each municipality, an amount calculated by the department of education equal to the actual increase in chapter 70 aid payments, including, but not limited to, foundation aid increases and minimum aid increases, that is attributable to the number of each municipality's eligible students from the school district. In the case of a regional school district, the amount of additional chapter 70 aid in the region shall be apportioned among member communities proportionally based upon the number of eligible students from each member municipality. For any municipality with eligible students from more than 1 school district, additional chapter 70 aid shall be the sum of the additional chapter 70 aid at the municipal school district plus the municipality's share of additional chapter 70 aid at each district of which the municipality is a member.

"Average actual net school spending per student", for each school district, the actual net school spending per pupil, as defined by and reported to the department of education, for the immediately preceding fiscal year.

"Division", the division of local services within the department of revenue.

"Education percentage", the average across all communities in the commonwealth of total education expenditures in relation to total municipal expenditures as certified at the end of the preceding fiscal year by the department of revenue. This percentage shall be the total actual net school spending of

all districts as defined by the department of education divided by the sum of total General Fund municipal spending and regional school district aid.

"Eligible student", a child living in a new smart growth development that is enrolled as of the prior year in a district or charter school in kindergarten through grade 12, attends a residential or other school pursuant to special education requirements, attends pre-kindergarten or post 12th grade sessions pursuant to special education requirements, or attends a school district through the so-called school choice program, established under section 12B of chapter 76, or a similar program.

"Local smart growth excise tax revenues", for each municipality the total excise taxes for the subject year on vehicles garaged at a new smart growth development, as calculated by the division.

"Local smart growth property tax revenues", for each municipality, the product of the local levy rate times the amount of assessed valuation due to new smart growth development as certified by the commissioner of revenue, as calculated by the division.

"Local smart growth revenues for education", for each municipality, the product of the education percentage times the sum of local smart growth property tax revenues plus local smart growth excise tax revenues, each for the preceding fiscal year.

"New smart growth development", any new residential or commercial development, including the substantial redevelopment of existing properties, subject to the payment of local property taxes that: (a) occurs in a smart growth zoning district after the adoption of such zoning by the community, and (b) is permitted under the provisions of the smart growth zoning district. A redevelopment shall be considered substantial if its cost exceeds 50 per cent of the building's pre-renovation assessed value or if it constitutes a change in use from nonresidential to residential.

"Smart growth zoning district", a zoning district adopted by a community and approved by the department of housing and community development which is eligible, and which remains eligible for density bonus payments under chapter 40R.

"Total education cost for eligible students", for each municipality, the product of the total number of eligible students in the prior fiscal year times the average actual net school spending per student as calculated by the department of education. This calculation shall first be made separately for

each school district attended by eligible students, and the results of such calculations shall then be summed.

Section 2. Subject to appropriation, for each fiscal year commencing with fiscal year 2008, any city or town that has established 1 or more smart growth zoning districts shall receive smart growth school cost reimbursement from the commonwealth. This reimbursement shall be equal to the positive difference, if any, between: (i) total education cost for eligible students, and (ii) the sum of local smart growth revenues for education plus additional chapter 70 aid. The department of education shall add the smart growth school cost reimbursement amounts to each district's required net school spending, as defined in chapter 70. For purposes of the net school spending calculation, the department shall allocate a municipality's smart growth school cost reimbursement among the districts to which it belongs in proportion to the number of eligible students from the municipality attending each district.

Section 3. (a) Upon certifying and approving a zoning district as a smart growth zoning district under chapter 40R, the department of housing and community development shall provide a list of all addresses of new smart growth development within each smart growth zoning district, in this chapter called the smart growth address list, to the municipality, the department of education, the division of local services within the department of revenue, and the registry of motor vehicles.

(b) The chief executive officer of every municipality with a smart growth zoning district shall appoint a smart growth reporting officer who shall be responsible for collecting all relevant data and transmitting it to the appropriate state agencies in a timely fashion. The reporting officer shall transmit the smart growth address list to the superintendent of schools of the municipal school district and to the superintendent of each district or charter school in which local residents were enrolled as of October 1. Superintendents shall provide to the reporting officer a list of each eligible student from the school. The reporting officer shall compile these data into a single list of eligible students, in this chapter called the eligible student list, including the name, address and school district of each eligible student, and transmit the eligible student list to the department of education. The reports and list shall be made in a manner and form to be prescribed by the commissioner of education.

(c) Upon receipt of the eligible student list, the department of education shall certify that all students listed are living in new smart growth development within a smart growth zoning district. Upon such certification, the department shall calculate the additional chapter 70 aid amount, and the total education cost for eligible students and shall transmit the calculation to the division of local services and to the municipal reporting officer.

(d) The reporting officer shall provide the smart growth address list to the municipality's assessors, who shall be responsible for providing the reporting officer with a compilation of all commercial and residential development comprising new smart growth development in the smart growth zoning district and all vehicles garaged therein. Said compilation shall contain the addresses of each parcel within the zoning district, the classification code for each parcel, the assessed value of the parcel, the number of units at each address, the number of vehicles garaged at each address, and the excise tax paid on each vehicle. The reporting officer shall transmit the assessors' list to the registry of motor vehicles and the division of local services. The reports and lists required by this paragraph shall be made in manner and form to be prescribed by the commissioner of revenue.

(e) Upon receipt of the assessors' list, the registrar of motor vehicles shall verify the number of vehicles and the excise tax paid on these vehicles and provide that verification to the division of local services. The division shall use these lists to calculate local smart growth excise tax revenues, local smart growth property tax revenues, and local smart growth revenues for education.

(f) Upon receipt of all data and calculations required by this section, the division of local services shall calculate the smart growth school cost reimbursement pursuant to section 2. Subject to appropriation, the commissioner of revenue shall make a single payment to each municipality for the amount of its smart growth school cost reimbursement; but if the appropriation is insufficient to fully fund the cost of the reimbursement, the division shall calculate the percentage of each municipality's reimbursement as a share of the statewide reimbursement, and pro-rate each municipality's reimbursement proportionally.

(g) The commissioner of revenue, in consultation with the commissioner of education, the director of housing and community development, and the regis-

trar of motor vehicles, shall adopt all regulations necessary to carry out this chapter.

Section 4. The commissioners of revenue and education, the director of housing and community development and the registrar of motor vehicles shall annually report on the cost and effectiveness of the reimbursement program. This report shall include, but not be limited to, the number of municipalities which have adopted the provisions of chapters 40R and 40S, the number of smart growth zoning districts in the commonwealth, the number of eligible students per municipality, the number of municipalities receiving the smart growth school cost reimbursement, and the total reimbursement and per pupil reimbursement provided to each municipality. They shall provide the report to the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on housing, the house and senate chairs of the joint committee on community development and small business, the house and senate chairs of the joint committee on education, and the secretary of administration and finance.

SECTION 2. Section 367 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 3. Notwithstanding any general or special law to the contrary, the smart growth school cost reimbursement required by chapter 40S of the General Laws, shall be included as local aid on the cherry sheets distributed by the division of local services. For fiscal year 2008, the division shall include such calculations as an amendment to the initial cherry sheets. For fiscal year 2009 and after, the division shall include on the cherry sheets an estimated reimbursement amount based on the previous year's reimbursement, and provide updated reimbursement figures upon completion of the required calculations.

SECTION 4. Notwithstanding any general or special law to the contrary, the initial regulations required by section 3 of chapter 40S of the General Laws shall be adopted no later than 150 days after the effective date of this act.

UNSIGNED COPY

House Of Representatives, November , 2005.

Passed to be enacted,

, Speaker.

In Senate, November , 2005.

Passed to be enacted,

, President.

, 2005.

Approved

Governor.

UNSIGNATURE