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MTF Bulletin

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Mass Leads Act: Conference Preview

On March 1st, the Healey-Driscoll administration unveiled their economic development bill, *An Act relative to strengthening Massachusetts’ economic leadership*, also known as the Mass Leads Act. The House and Senate have now each acted on their own versions of the bill, and a conference committee has been appointed to reconcile all differences and produce a compromise package.

Across 36 separate authorizations, the House and Senate have proposed a maximum of \$3.96 billion in capital spending; a level nearly \$1.5 billion higher than the last three economic development bills combined. In addition, both bills include major policy differences related to life sciences, juvenile justice, and a range of tax credits.

This bulletin compares the fiscal and policy differences between the House and Senate bills and makes recommendations for policymakers to consider during the conference process.

Spending Authorizations

The House’s version of the Mass Leads Act includes \$3.4 billion in capital authorizations, while the Senate bill includes \$2.9 billion. If the final agreement reflects the maximum authorization level for each program, allowable economic development capital spending would exceed \$3.9 billion. At that total, the compromise bill would be nearly \$1.5 billion greater than the last three economic development bills combined.

Comparison of Economic Development Bond Bill Authorizations

Category	# of Programs	2018 - 2023 Total	Governor	House	Senate	Maximum
Reauthorization	19	\$2,520	\$1,255	\$1,220	\$1,303	\$1,308
New Program	14		\$660	\$1,201	\$935	\$1,671
Life Sciences	1		\$500	\$580	\$226	\$580
ClimateTech	2		\$400	\$400	\$400	\$400
Total	36	\$2,520	\$2,815	\$3,401	\$2,863	\$3,959

\$ in millions

As with the Affordable Homes Act, in developing their own versions of an economic development bond bill, the House and Senate largely followed the framework originally proposed by the Governor. All 27 authorizations included in the administration’s bill were included by either the House or Senate at a level equal to or exceeding the Governor’s recommendation. A complete summary of the Governor’s Mass Leads Act can be found [here](#).

Economic Development Authorizations by Bill

	Number of Authorizations	Maximum Authorization Amount
Included in All	27	\$2,984
House & Senate	2	\$10
House Only	2	\$538
Senate Only	5	\$427

\$ in millions

Across the House and Senate bills, there are seven authorizations unique to either branch, totaling \$975 million. Of that amount, \$864 million (88 percent) is comprised of more than 620 earmarks for local economic development projects. Because bond bills establish upper thresholds for the amount of borrowing that the administration may pursue in support of its capital spending plan, but do not actually appropriate funding, they often include a substantial number of local earmarks. While earmark authorizations are not guaranteed to be included in the Capital Investment Plan (CIP), their inclusion in a bond bill can make the project more likely to receive state support.

In addition to authorizations for local economic development projects, there are six other unique authorizations included in either the House or Senate bills:

Unique House Authorizations

- ***Nursing Facility Capital Improvements*** (\$50 million) – The House bill includes an authorization to support the capital needs of nursing facilities across the Commonwealth. The program would be administered by the Executive Office of Health and Human Services, in consultation with the Massachusetts Senior Care Association, and would provide low- or no-interest loans for capital improvements like the development of specialized care units, HVAC replacement and repair, and innovative projects to convert nursing facilities into affordable housing units.

Unique Senate Authorizations

- ***Agricultural, Fishing, and Cranberry Growing Grants*** (\$21 million) – The Senate bill includes an authorization to support capital grants to promote and sustain the economic competitiveness of the state’s agricultural, commercial fishing, and cranberry growing sectors. The grants may support capital improvements related to energy efficiency, climate resiliency, new product development, and workforce development.
- ***Social Enterprise Capital Grants*** (\$10 million) – This program authorizes a capital grant program to support the development of eligible facilities for non-profit employment social enterprises. Eligible organizations shall provide services to individuals facing barriers to employment, including job training and skill development, job retention services, and performance coaching.

- ***Small Properties Acquisition Fund*** (\$10 million) – The Senate bill authorizes \$10 million for a Small Properties State Acquisition Funding pilot program, which shall issue soft loans to supplement other loans administered by municipalities or other affordable housing lenders. The funding provided under this program is limited to acquisitions of buildings of one to eight units, and mixed-use buildings.
- ***Downtown Vitality*** (\$9.5 million) – This authorization provides grants to cities and towns to support the vitality of downtowns and main streets, including the strengthening of business districts, town centers, commercial corridors, and other walkable mixed-use areas. The Executive Office of Economic Development may establish additional program requirements through regulation or guidelines.

Lastly, the House and Senate both include funding for two capital programs that were excluded from the Governor’s original bill. Both programs authorize grant funding to support the development of alternative proteins, or plant-based meat products. One program, authorized at \$5 million, provides grants to Massachusetts-based companies; and the other, also authorized at \$5 million, provides matching grants to higher education institutions, non-profits, and other entities in the state.

Capital Spending Context

As with the Affordable Homes Act, the final Mass Leads Act will include far more in authorizations than is likely to be spent over the next five years. In fact, the five-year authorization total in both the House and Senate bills exceeds the authorization totals included in the three previous bond bills combined by nearly \$1 billion.

Mass Leads Five-Year Authorizations Compared

	Five Year Authorization	Difference with Governor
Mass Leads (Gov)	\$2,365.0	
Mass Leads (House)	\$2,951.0	\$586.0
Mass Leads (Senate)	\$2,663.0	\$298.0
Maximum Mass Leads	\$3,508.0	Difference with Maximum Mass Leads
2023 Economic Development	\$740.3	-\$2,767.7
2020 Economic Development	\$626.5	-\$2,881.5
2018 Economic Development	\$1,153.6	-\$2,354.4
2018 - 2023 Total	\$2,520.4	-\$987.6

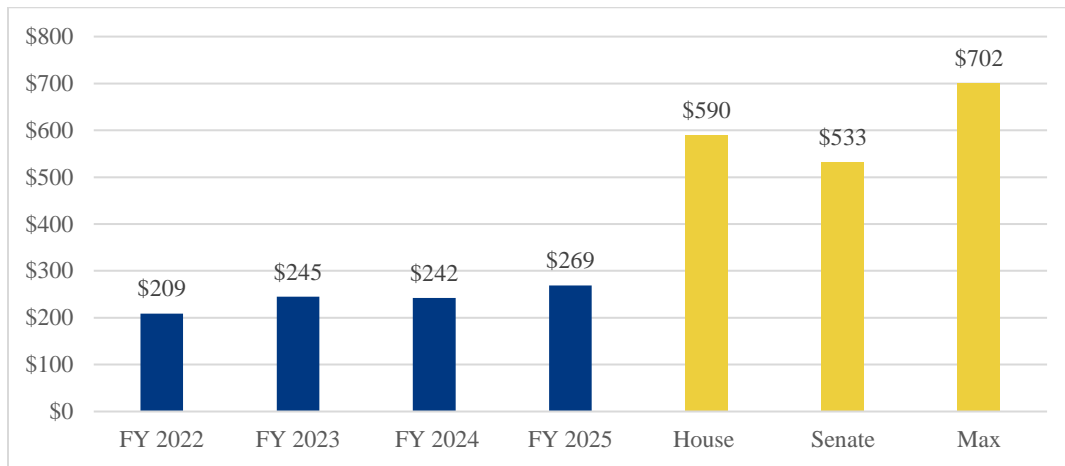
\$ in millions

The size of the potential authorization does not create fiscal challenges for the state – the state’s annual capital spending is subject to strong administrative and statutory limits that are unrelated to authorized spending amounts. In addition, providing larger levels of authorization over a five-

year time horizon gives the administration flexibility to adapt to new needs and circumstances without requiring a new bill to be considered.

However, it is important that policymakers and those interested in the Commonwealth’s economic development plan understand that actual capital spending on economic development will fall well short of the total authorizations in the bill.

Recent Economic Development Capital Expenditures v. Mass Leads



\$ in millions

Realistically, if economic development spending continues to comprise eight to ten percent of the state’s total bond cap, it will grow to between \$350 and \$410 million over the next five years. Figuring out how to prioritize Mass Leads authorizations within that limit will be the challenge that confronts the Healey-Driscoll administration.

Life Sciences and ClimateTech

Perhaps the biggest theme in Governor Healey’s Mass Leads proposal was continued support for life sciences and the use of the life sciences playbook to support the emerging ClimateTech sector. In life sciences, the administration proposed:

- Reauthorizing funding for the Mass. Life Sciences Center (MLSC) for a further ten years;
- Replacing the MLSC’s Investment Fund with a new, more flexible, Breakthrough Fund;
- Increasing the annual cap on life sciences tax credits from \$30 to \$50 million; and
- Expanding the allowable uses for life sciences grants and loans.

In ClimateTech, the administration proposed:

- Authorizing \$400 million over ten years for the Clean Energy Center to support ClimateTech companies and the broader sector;
- Authorizing up to \$30 million per year in ClimateTech tax credits related to job creation, capital investment, research, and material investments; and
- Expanding eligibility for the existing offshore wind tax credit.

The House and Senate both adopt some, but not all, of the proposals advanced by the administration. The most striking difference is in life sciences, where the Senate only provides five-years of further authorization and does not increase the cap on annual life sciences tax credits.

Comparison of House and Senate in Life Sciences and ClimateTech

Life Sciences	House	Senate
Ten-year authorization	Yes	No
Creation of Breakthrough Fund	Yes	Yes
Increase in tax credit	Yes	No
Climate		
Ten-year authorization	Yes	Yes
Creation of \$30M tax credit	Yes	Yes
Expansion of offshore wind tax credit	No	Yes

Tax Provisions

Outside of life sciences and ClimateTech, both economic development bills include tax changes. The Governor’s initial proposal includes a new live theater tax credit, a tax credit for internships, and expansions and adjustments to the state’s Economic Development Incentive Program (EDIP) tax credit.

The House adopted all of these proposals while adding a tax exemption for purchases made for qualified data centers and a digital interactive media tax credit covering employment and production costs. The Senate bill is more limited on the tax front, not including the live theater tax credit and not adding additional tax proposals. The Senate’s proposal for EDIP is also more limited than that of the Governor and the House.

Tax Comparison of Mass Leads

	Gov.	House	Senate
Live Theater Tax Credit	Yes	Yes	No
Data Center	No	Yes	No
Digital Media	No	Yes	No
EDIP Refundability Cap	Yes	Yes	Yes
EDIP Vacant Storefront Cap	Yes	Yes	No
Other EDIP Changes	Yes	Yes	Yes
Internship Tax Credit	Yes	Yes	Yes
Economic Triggers for Internship Credit	Yes	Yes	Yes
Economic Trigger for Live Theater	Yes	No	NA

Policy Proposals

The House and Senate economic development bills are loaded with dozens of policy proposals, some of which are clearly related to economic development policy and some of which are not. While there is some overlap – especially with the proposals originally included in the Governor’s bill – the differences in the provisions included are enormous and will pose a challenge as conferees look to resolve the bill.

While an individual section does not necessarily translate to a single policy proposal, the sheer number of sections and unique sections between the House and Senate bills provides a sense of the policy differences.

Policy Sections in House and Senate

	Total	Unique	Shared
House	258	126	132
Senate	344	212	
Combined	470	338	132

There are several major proposals, not included in the Governor’s original bill that are either shared or largely similar in both the House and Senate bills. For example:

- Both the House and Senate adopted amendments allowing agencies and municipalities to require the use of project labor agreements (PLA) for public works projects, or require that PLAs be included in project contracts. The language states that in order for a PLA to be required, the municipality or agency would need to certify that a PLA is in the best interest of the entity; however, the determination of “best interest” has no requirement that cost, safety, workforce diversity, and efficiency be part of the assessment.
- Both the House and Senate include several provisions intended to improve educator diversity. While the structure of the approaches in the two bills is different, both direct the Department of Elementary and Secondary Education (DESE) to set educator diversity goals, require districts to establish diversity teams and plans, and create pilot programs for alternative pathways for teacher certification. The Senate includes several additional provisions, including the creation of a teacher apprenticeship program.

This preview will not attempt to provide an exhaustive overview of the hundreds of policy differences between the two bills but will instead highlight several major provisions that could play a prominent role in conference committee negotiations.

Unique House Proposals

- *Civil Service (Sections 7A & 7B, 78A through 78III)* – The House bill makes a number of changes to the state’s civil service law, most notably creating an alternative pathway appointment process outside of traditional civil service. Under the alternative pathway process, municipalities would be able to create their own registries of police and fire

candidates who could be appointed without first passing the civil service exam. The provision details the process that these non-civil service candidates would have to complete to become a full police officer or firefighter.

- *State Athletic Commission Fund (Section 76)* – The House increases the amount the State Athletic Commission can spend from its trust fund each year, without further appropriation, from \$200K to \$500K.
- *Social Work Licensure and Placement (Sections 121B through 121G, 159E)* – The House includes several provisions designed to improve the recruitment and retention of social workers. These include:
 - The creation of a new Field Placement Grant program for social workers to be administered by the Executive Office of Health and Human Services (EOHHS). Under the program, MSW students would be eligible for stipends for their field placement work. The program would prioritize future social workers from historically marginalized and low-income communities.
 - Providing continuing education credit for independent clinical social workers who provide one on one supervision to social workers and those in training to be social workers;
 - Requiring EOHHS to evaluate the impact of removing the licensing exam for licensed certified social workers to assess the likely effect on recruitment, retention, and patient care.
- *Simulcasting and Racetracks (Sections 123 through 124A, 154)* – The House allows horse tracks in Worcester County to simulcast races from other locations. Currently, only horse tracks in Suffolk County can simulcast races. The bill also eliminates any payments from racetracks to the state’s Greyhound Promotional Trust Fund and the Running Horse Capital Improvements Trust Fund and returns any payments already made.
- *Event Ticketing (Sections 126 through 128)* – The House makes a number of changes to the rules governing event ticketing. The changes:
 - Update the law governing who is licensed as a ticket reseller and requires them to put up a bond to be recouped in the case of fraud or extortion;
 - Eliminates the prohibition on ticket resales by those with ownership or investment interest in the event;
 - Eliminates licensing and fees for services that facilitate ticket sales without charging fees above the actual ticket sale (aside from a delivery fee);
 - Prohibits the use of ticket purchasing software by licensed ticket resellers (this is included by the Senate as well);
 - Requires that paperless event tickets sold at regular price must be able to be transferred at any price, at any time, without additional fees;
 - Non-transferable tickets can be allowed in certain circumstances for discounted or special offer tickets
 - Enumerates the circumstances in which a ticket must be fully refunded to the purchaser (this is included by the Senate as well);
 - Requires that service fees be clearly identified on the ticket price.

- *Travel Insurance (Sections 142A & 142B)* – The House creates a new general law chapter (MGL 175N) governing the regulation of travel insurance products which cover personal risks incidental to planned travel and can be purchased by a variety of groups organizing or planning travel, including travel tours, school groups, employers, travel agencies, etc.
- *Menino Convention Center (Section 147)* – The House includes a section naming the Boston Convention Center the Thomas Michael Menino Convention and Exhibition Center.
- *Educator Diversity (Section 147A, 159A through 159D)* – The House creates a five-year pilot program, to be administered by the Department of Elementary and Secondary Education, to create an alternative teacher certification process which would allow for the waiver of one of the two testing requirements. Under the pilot, teachers could be granted permanent certification after four years of teaching based on student growth scores or other factors identified by the Department. The alternative certification process could only be used in districts with significant disparities between the racial and ethnic composition of students and teachers in the school, districts with a shortage of English language instructors and districts with critical shortages in teachers.
- *Future of Credit Card Payment Study (Section 156)* – The House creates a commission to study the future of credit card transactions and other forms of payment and the impacts on small businesses. The study will specifically examine the impact on small businesses of the increasing trend of the use of credit cards in purchases.

Senate Unique Proposals

- *Raise the Age (Sections 4, 6, 101 & 102, 165 through 169, 179 through 218, 254, 257 through 280, 308)* – The Senate adopted an amendment to increase the age to be tried as an adult from 18 to 19.
- *Elimination of Mass. Growth Capital Corporation (Sections 7, 41, 46 through 48, 50, 52 through 57, 252, 303 & 304)* – The Senate includes a number of sections eliminating the Mass. Growth Capital Corporation (MGCC) as a separate entity and instead making it a unit within MassDevelopment. The MGCC is a quasi-public agency, within the Executive Office of Economic Development designed to invest and support small businesses and to expand economic opportunity for low- and moderate-income residents.
- *EV Charger Data Collection (Section 20)* – The Senate includes a section requiring EOEEA to track a variety of metrics related to the use, availability, and reliability of electric vehicle chargers. Under the language, charging station electricity providers and charging stations are also required to provide data, free of charge, to third-party software developers to make information on charging type and availability accessible to EV owners.
- *DOER Clean Fuel Standard (Section 97)* – This section requires the Division of Energy Resources to establish a clean fuel standard that reduces the carbon intensity of transportation fuels by 80 percent from 1990 levels by 2050. The standard must include a mechanism for trading market rate credits to implement the standard.
- *Childcare Election Expenses (Sections 121 & 122)* – The Senate includes a section allowing campaign contributions to be used to cover eligible childcare services.

- *Wireless Device Repair (Section 164)* – The section creates a new chapter of General Law requiring manufacturers of cellphones and other wireless devices to make repair information, software, and parts available to repair providers unaffiliated with the manufacturer (as well as device owners) on fair and reasonable terms.
- *Local Public Health (Section 172 & 320 through 322)* – The Senate added a section overhauling DPH’s role in working with local boards of health to create a foundational level of public health services around the Commonwealth. Under the language:
 - DPH would develop a set of foundational public health services that should be available around the Commonwealth;
 - DPH would be asked to provide resources, subject to appropriation, to improve local provision of public health services;
 - DPH would be required to provide comprehensive training to local boards of public health, subject to appropriation;
 - DPH would provide foundational funding (subject to appropriation) to local boards of public health based on the level of implementation of public health standards in the community;
 - Local boards of public health would be required to implement and comply with the foundational standards, provided they have the necessary resources to do so;
 - DPH would administer a competitive grant program to incentivize effective merging and regionalization of public health standards;
 - DPH is empowered to coordinate public health response efforts with local boards when warranted by a public health situation.
- *Foreign Trained Physicians (Section 175)* – The Senate includes a provision, also included as a section proposed in Governor Healey’s bill, which would streamline the process for foreign-trained physicians to enter the health care workforce, and ultimately practice, in Massachusetts.
- *Nurse Licensure Compact (Section 178)* – The Senate adopted an amendment that would include Massachusetts to enter an interstate nurse licensure compact that would enable an existing multistate license to be used by qualified nurses to work in Massachusetts.
- *Farmer’s Market Alcohol Sales (Section 226 through 229)* – The Senate includes several sections that allow alcoholic beverages to be sold for consumption at farmers markets.
- *Happy Hour (Section 234)* – The Senate included a section allowing municipalities to allow happy hours at bars and restaurants.
- *Robot Safety (Section 235)* – The Senate creates a new section of law regulating the manufacturing, sale, or use of robotic devices or equipment that has a weapon and making it a crime to use such a device in the commission of a crime. The section also requires that law enforcement agencies must obtain a warrant or appropriate judicial approval to deploy a robotic device on private property or to conduct surveillance in a situation where other surveillance activity would require a warrant. The section requires law enforcement to document all instances in which a robotic device is used and to submit that information to the Executive Office of Public Safety and Security (EOPSS).
- *Shared Appreciation Mortgage (Section 256)* – The Senate includes a section codifying the practice of shared appreciation mortgages, a product used to assist homeowners to stay in

their homes if which the owner agrees to share a portion of the future appreciation of the home with a lender, thereby allowing for more affordable financial terms. The language limits recourse for both the owner and the lender to legally challenge the agreement once it is undertaken.

- *Everett Soccer Stadium (Section 305)* – The Senate includes a section removing a parcel of land in Everett from the Mystic River Designated Port Area (DPA) for use of the parcel as a professional soccer stadium and waterfront park. If that project fails to move forward, the DPA restriction would return. The section also requires the Department of Environmental Protection to conduct a review of existing DPA criteria and update regulations as appropriate. The section also returns to the City of Boston a parcel of land previously identified as needed for the state highway system.

Bottom Line

The 2024 economic development bill currently being resolved in Conference Committee is notable for three things:

- *The scope of the potential authorizations* – The final bill could total close to \$4 billion, far more than the prior three economic development bills combined.
- *The shared focus on life sciences and ClimateTech* – The Healey-Driscoll administration made clear from the time this bill was filed that extending the Commonwealth’s primacy on life sciences and building similar strengths in ClimateTech was a major priority. The focus on these areas can be seen in both the House and Senate versions, though the Senate is notably less ambitious on life sciences.
- *The variety of policies to be resolved* – As demonstrated above, the more than 300 unique policy sections included by the House and Senate make this an unwieldy bill to negotiate. Furthermore, the range of those unique proposals – from criminal justice, to housing to health care, to civil service – make it challenging to compare the relative value of differing sections.

Given these three things, it is critical that the House and Senate resolve an economic development bill by the end of formal sessions on July 31st. The bill reauthorizes a number of critical programs, launches important new ClimateTech initiatives, and includes a number of smart policies designed to remove barriers to investment and improve economic access.

There are several principles on which the final bill should focus as conferees negotiate the differences outlined above:

- *Maintain and grow the things we do well* – This means providing funding certainty to the life sciences sector with a ten-year authorization and giving the administration the flexibility to increase annual tax credit spending up to \$50 million. This also means making sure that reauthorizations for existing programs are continued without interruption.
- *Keep the focus on workforce* – Both the House and Senate include provisions designed to remove or reduce workforce barriers in critical areas, like education, social work, nursing, and medical practice by those with foreign training. The final bill should include these

types of proposals that can provide employers and the state with more tools to address workforce shortages and provide more options for residents seeking work.

- ***Mind the fiscal context*** – The state is no longer in the heady fiscal days of FY 2021 and FY 2022. The Governor was forced to make mid-year budget reductions in FY 2024 and FY 2025 begins with fiscal uncertainty. The Governor’s bill capped the exposure for newly proposed credits and put in place fiscal triggers for the launch of internship and theater tax credits. Cost caps and mechanisms to ensure we are in a sound financial position before launching new tax credits make sense.

The fiscal context also extends to expectation setting for the relationship between capital spending authorized in the bill and actual economic development spending over the next five years. As noted in this Preview, the Administration will need to carefully prioritize spending among the programs in this bill and within the larger capital investment plan.

The last several sessions demonstrate the challenges in negotiating a wide-ranging economic development bill in a matter of days – and 2022 shows that success is not guaranteed. Focusing on the principles identified above and prioritizing action on the billions in authorizations and major policy proposals common to both bills will enable a final economic development bill to land on the Governor’s desk for the start of August.