HOUSE . . . . . No. 6412

The Commonwealth of Massachusetts

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133

MICHAEL S. DUKAKIS
GOVERNOR

August 1, 1990

To the Honorable Senate and House of Representatives:

I am returning as written Sections 67, 138, 260, and 287 of House Bill No. 5701. Pursuant to the authority vested in me by Article LVI of the Amendments to the Massachusetts Constitution, in lieu of vetoing them, I am returning for amendment those sections, with recommended corrective language.

Section 67 would create a new executive office of health and long-term care in order to consolidate health agencies under one secretariat. While I concur with the major thrust of the legislature's proposal, I do not believe that the creation of a new cabinet secretariat is necessary to achieve this purpose. I believe, however, that we should move ahead quickly with a new department of health within the executive office of human services whose sole function would be to concentrate on the pressing health policy and cost containment issues. Under the direction of a commissioner, subject to the supervision of the secretary of human services, the department would be responsible for directing the executive branch's principal health care activities, with particular emphases on cost control, revenue maximization, and strategic planning. More specifically, the new department would provide even better coordination and more cost-effective services by consolidating within one department the following agencies: the department of public health, the medical assistance program of the department of public welfare, the department of medical security and the rate setting commission. In lieu of vetoing Section 67, I therefore propose the following amendment:

SECTION 67: Notwithstanding any general or special law to the contrary, there is hereby established a new department of health which shall be located within the executive office of human services. Said department shall consist of the following state agencies: the department of public health, the department of medical security, the medical assistance program in the department of public welfare, and the rate setting commission.

The secretary of human services shall appoint, with the approval of the governor, a commissioner for said department, who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor. The commissioners and chairmen of the state agencies within said department of health shall be under the direct control and supervision of said commissioner of the department of health and shall henceforth be known as "associate commissioners" and "associate chairmen".

Section 138 establishes a program to encourage and reward efforts by state employees to participate in improving the efficiency of the operations of the agencies in which they are employed. I strongly support such programs and know that they can make important contributions to agency productivity. The section, as drafted, however, has several significant flaws.

First, it substantially overlaps, but is not coordinated with, existing statutory and contractual programs designed to achieve the same goals. In particular, current law (G.L. c. 7, §31A) already provides for an employee suggestion program that includes the authority to grant cash prizes for meritorious suggestions. In addition, existing collective bargaining agreements establish a variety of joint labor-management committees to develop cooperative improvements in government operations. These committees have already produced many valuable innovations, ranging from cost-effective methods to improve air quality in an MDC facility that avoided major capital costs to improved design of DOR's tax forms.

Section 138's detailed requirements and procedures, instead of building on these tried and successful approaches, would set up a conflicting and duplicative employee participation mechanism. Moreover, a number of aspects of the section would impact on existing collective bargaining agreements and could not be implemented without additional collective bargaining.

Therefore, in order to maximize the potential benefits of such employee participation programs, in lieu of vetoing section 138, it should be replaced with the following new section:

SECTION 138: The secretary of administration and finance shall direct each agency, as defined herein, to administer an employee efficiency program, hereinafter referred to as "the program". The program may be referred to as the "Workers Opposed to Waste". Under the program, employees may submit recommendations for improving the efficiency of operations of the agency in which they are employed. Said recommendations may include but need not be limited to the elimination, adoption, or revision of certain employee work practices and procedures, paperwork reduction, and the elimination of employee positions through attrition. Said program shall be designed to conform with the provisions of section 31A of Chapter 7 of the General Laws and with any applicable collective bargaining agreements.

For the purposes of this section, "agency" shall mean any central, regional, or local offices or departments of the commonwealth, including but not limited to state agencies,

boards, commissions, institutions, and quasi-public agencies funded in any part by the commonwealth.

The program shall take effect on September first, nineteen hundred and ninety and shall expire, unless reauthorized by the Legislature, on September first, nineteen hundred and ninety-one.

For the duration of the program, the secretary of administration and finance shall every three months submit a summary of all recommendations, with an accounting of all recommendations implemented, the cost savings achieved, and all awards given, to the committees on ways and means of the house of representatives and senate.

Section 260 requires every state, regional and municipal agency, board and commission to determine the impact of any new law or regulation on agricultural operations. The scope of this language is much too broad and would adversely impact state and local governments' ability to institute laws and regulations. I do, however, understand that agricultural interests are a vital and important part of the Massachusetts economy and recognize the significance of notice of regulations that could potentially adversely effect agriculture in the Commonwealth.

In lieu of vetoing Section 260, I recommend that it be amended by striking the entire section and inserting in its place the following new section:

SECTION 260: Chapter 30A of the General Laws, as appearing the 1988 Official Edition, is hereby amended by adding the following new section:

Section 18: No state agency, board or commission may promulgate any regulation that is likely to have a substantial effect on agriculture within the commonwealth without providing notice of such proposed regulation to the secretary of environmental affairs and to the commissioner of Food and Agriculture at least two weeks prior to any public notification of a hearing, held pursuant to this chapter or other enabling authority. If the secretary determines that the proposed regulation could substantially negatively impact agriculture in the commonwealth, then the secretary shall instruct the promulgating agency to conduct an assessment to determine its impact on agriculture in the commonwealth including its effect on future land use and related environmental impacts. In addition, the promulgating agency shall include in the record of such public hearing the assessment of the anticipated impact of the proposed regulation on agriculture.

Section 287 would greatly restrict the ability to site solid waste facilities within one-half mile of a city or town boundary line. At the same time, I appreciate the need to safeguard the interests of communities that surround a community in which a solid waste facility may be sited. According, I am, in lieu of vetoing this section, amending it with the following corrective language:

SECTION 287: Section 150A of Chapter 111 of the General Laws and appearing in the 1988 Official Edition is hereby amended by inserting immediately after line 54 the following:

A copy of the application for site assignment shall be filed with the board of health of any municipality within a one-half mile radius of the proposed site. Any municipality within that radius shall be afforded all the procedural rights of an abutter for the purpose of an administrative review by the department or public hearing by the board of health where the proposed site is located.

Section 150A of chapter 111 of the General Laws as appearing 1988 Official Edition is hereby amended by adding in line 112 after the word "impact" the following:

Notwithstanding the foregoing, however, or any general or special law to the contrary, no permit shall be granted to establish, construct, or newly operate a facility if the facility is located on a site some or all of which abuts or is within two thousand six hundred and forty feet of a boundary line between the city or town which assigned the site or within which the site is located and an abutting city or town unless the department finds that all environmental impacts have been mitigated to the extent possible, such that the proposed facility will not adversely affect the abutting municipality to an extent significantly greater that it will affect the host city or town. In making this determination, the department shall consider (i) an increase in vehicular traffic; (ii) an increase in noxious odors; (iii) an increase in windblown trash; (iv) a diminishment of natural resources commonly used or enjoyed by the general public; or (v) any other negative impact on the environment, the services offered or provided by the city or town, or the resources available to the city or town. If the department finds that even upon all required mitigation of environmental impacts, the proposed facility will nonetheless adversely affect the abutting municipality to an extent significantly greater than it will affect the host community, the department shall require that the proponent of the facility provide further appropriate mitigation to the abutting municipality.

I urge your favorable consideration of these amendments.

Respectfully submitted,

Michael S. Dukakis
Governor