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CITY & TOWN

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State-Owned Land to Be Revalued

written by Marilyn H. Browne

Over the next fiscal year, the Department of Revenue's Bureau of Local Assessment (BLA) will be estimating the fair market value of approximately 3,100 state-owned properties.[1] Totaling more than 380,000 acres, these parcels are located in 255 cities and towns across the Commonwealth. The valuations will be used as the basis for state reimbursement to municipalities for tax revenues lost because land used for public purposes is exempt from local property taxation. Cities and towns receive their payments for most of these properties through the Cherry Sheets. For watershed land owned by the MDC, there is a direct reimbursement program. The valuation date will be as of January 1, 2000, and the BLA will notify communities of its determination of values no later than June 10, 2000.

Once every five years BLA values state-owned land (SOL). The valuation does not include any improvements to the properties, such as buildings. Eligibility for reimbursement is dependent upon three factors: taxable status prior to state acquisition, land use, and the particular state agency owning or "holding" the land. Properties entitled to reimbursement on a use basis include wild life sanctuaries, fish hatcheries and game preserves. Also, communities receive payments if the land is held by certain public institutions such as those of the Departments of Mental Health, Mental Retardation, Public Health, and Environmental Management. In all cases, the property must have been on the tax rolls prior to the state's obtaining title to the land.

The BLA issued a Request for Responses for professional appraisal services (RFR) to assist its staff with this major valuation project. The RFR requires site inspections of reimbursable parcels acquired by the state after 1985. Additionally, BLA plans to begin a reinspection program of selected parcels acquired prior to 1985. Appraisers bidding for the contracts for the inspection and reinspection projects will bid on a regional basis. The Department's intent is to award a single contract for each of the remaining four regions in central and western Massachusetts (Worcester, Franklin, Hampden, Hampshire and Berkshire Counties). Site visits will begin in FY2000. As one would expect, these projected plans are subject to state budget appropriation.

SOL values are based on the market value of each parcel. Occasionally, BLA receives questions from local officials wanting to know why their land value per acre is not the same as that of a neighboring municipality, particularly if they share a site such as a state park. If comparable properties are selling for similar prices in both communities, then it is fair to expect that the values will be similar. However, as is often the case, neighboring communities' land values differ, sometimes significantly, for reasons such as one community's proximity to transportation, quality of education, and amenities reflected in sales prices and SOL values. BLA will pay particular attention to sites that overlap municipalities.

Before vendors begin working in communities, BLA will send a notification letter to boards of assessors. During the entire process, particularly the site inspection and data collection process, vendors and/or BLA staff will be in close contact with local officials. Municipal assistance is critical to a timely and successful program. Once proposed values are determined, BLA will notify cities and towns.

After notification there will be time for assessors to discuss the values, present documentation to support changes in proposed valuations, and/or formally appeal the values.

The SOL program was reintroduced as a separate reimbursement on the Cherry Sheets in 1993. The FY1993 appropriation of $6.5 million has been increasing in recent years. Last year, FY1999, the program was funded at $12 million, which was 56.2 percent of full funding, just over the halfway mark. House 1 is proposing $15 million for FY2000. BLA preliminary numbers show that appropriation to be the equivalent of approximately 69 percent of full funding. In an outside section of the 1998 state budget, the legislature indicated that it intends to increase this appropriation to achieve full funding by FY2002. ■

1. M.G.L. Ch. 58 §§ 13–17B; Ch.59, § 5G.

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LEGAL

in Our Opinion

Q: *Are Chapter 121A corporations exempt from local taxes?*
A: Yes. Urban redevelopment corporations are exempt from local real estate and personal property taxes, betterments and special assessments for a period of 15 years.[1] This 15-year period may be extended to an aggregate of 40 years. A Chapter 121A corporation, however, is required to pay a calendar year excise which is equal to (1) five percent of its gross income from all sources in the prior calendar year and (2) $10 per thousand upon the fair cash valuation of its real and personal property. Once the exemption period for the project has concluded, the subject parcel will return to the tax rolls.

Q: *What would be the effect on a community's levy limit if a parcel were no longer subject to a Chapter 121A excise?*
A: The community would assess an ordinary real estate tax. Proposition 2½ limits the total taxes assessed by a city or town. The law does provide for tax base growth which includes the "increase in the assessed valuation of any parcel of real … property over the assessed valuation of such property, during the prior year *which shall become subject to taxation for the first time*"[2] (emphasis added). Returning any parcel previously exempt under Chapter 121A to the tax rolls, in our view, would increase the city or town's levy limit.

Q: *What should the collector do if personal property taxes are uncollectible?*
A: If the collector is satisfied that any outstanding personal property taxes cannot be collected due to death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay, the collector notifies the assessors in writing and under oath, stating why the taxes cannot be collected.[3] The assessors must make due inquiry and act within 30 days after receipt of the collector's notice. The board of assessors may abate the tax in whole or in part. They certify the amount abated to the collector, thereby discharging the collector from any further duty to collect the tax so abated.

Q: *Can a town's elected officials and its non-union employees receive retroactive pay increases?*
A: Yes, if certain conditions are satisfied. The salary and compensation of all elected officials must be fixed annually by vote of the annual town meeting.[4] By law, a special town meeting can revise the salary of an elected official by two-thirds vote, but such revision must take place prior to the setting of the tax rate for that fiscal year. Any increase in salary for an elected official can be retroactive for only one year, i.e., to the start of the fiscal year in which the vote is taken. Town meeting must also fund any increase in salary to effectuate it.

With regard to non-union, non-school employees, town meeting by majority vote can appropriate an increase in salary, retroactive to the beginning of the fiscal year, prior to the fiscal year in which such vote is taken.[5] A majority vote of the school committee, however, is required to increase salaries of school department employees for the same time frame. There must be sufficient unencumbered funds in the school department's operating budget. Otherwise, a supplementary appropriation by town meeting is required to cover the increase.

Q: *Is a town meeting vote required to place a debt exclusion question on the ballot?*
A: No. Although a two-thirds vote of town meeting is required to authorize any borrowing, there must be a two-thirds vote by the local appropriating authority to place the question of exceeding the limits imposed by Proposition 2½ for the purpose of raising funds for debt service costs on the ballot. In a town the "local appropriating authority" is the board of selectmen.[6] The debt exclusion referendum question must then be approved by the majority of the voters.

Q: *A town meeting had adopted M.G.L. Ch.44 § 53D which establishes a park and recreation self-supporting revolving fund. The town made a contract with a local concession firm to provide food to participants in activities at the town playground. Under the terms of the annual contract, the vendor would pay $1,200 in six installments. The first payment was due May 1 and the last payment was due on October 1. How should the accountant enter these receipts in the books and records of the town?*
A: M.G.L. Ch. 44 § 53D is a local option statute which, if adopted, authorizes a city or town to establish "a revolving fund which shall be kept separate and apart from all other monies by the treasurer and in which shall be deposited the receipts received in connection with the conduct of self-supporting recreation and park services of said city or town." The Property Tax Bureau has previously interpreted the statute to mean that proceeds from concessions and the rental of recreational facilities could become part of the revolving fund revenue if generated in connection with self-supporting activities sponsored by the recreation department. In our view, these vendor payments could be broadly construed as revenue derived from and associated with the summer park programs sponsored by the park and recreation department. Accordingly, these rent payments from the concession operator should be deposited in the park and recreation revolving fund and not be considered local estimated receipts.

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FOCUS on Municipal Finance

Overlay Reserve

Assessors must annually establish an account, commonly known as the overlay, to cover the anticipated abatements and exemptions for property taxes levied in that year.[1] To establish the appropriate amount, they must evaluate prior years' overlay reserve accounts and any potential liabilities, such as cases pending at the Appellate Tax Board. The overlay reserve is not established through the normal appropriation process, but rather the amount needed is raised on the tax rate recapitulation sheet. Assessors must try to assure that the reserve is set at a level sufficient to provide for abatements and exemptions in that fiscal year. When the amount of overlay raised in a given year is insufficient to cover abatements for that year, a deficit occurs. This deficit must be provided for in the next fiscal year on the tax rate recapitulation sheet.

Generally, assessors know approximately how much money they will need to cover exemptions in each year; however, the amount they will need for abatements can vary. The amount of money reserved for certain exemptions has been declining because fewer people qualify. For example, the article on elderly exemptions in the March 1999 issue of *City & Town* pointed out that the income restrictions for elderly exemptions have not been adjusted since 1986, and the number of exemptions granted declined by 18.6 percent between FY1992 and FY1998.[2]

The Bureau of Local Assessment reviews the proposed real and personal property values estimated by local assessors once every three years. Historically, there have been more applications for abatements during these recertification years and assessors have safeguarded against these increases by allocating larger than usual amounts to their overlays. *City & Town* last analyzed overlay reserves in its July 1991 issue. At that time, 73 percent of communities established higher than average overlay reserve accounts in recertification years. Since then, however, more and more assessors have been adjusting values annually to reflect the real estate market and avoid the large spikes in values that can happen when revaluation only occurs triennially. Also, assessing practices have improved over recent years, resulting in fewer abatements. From FY 1997 through FY1999 only 142 communities (41 percent) established higher than usual overlay reserve accounts in their recertification years.

The overlay reserve account is carried forward from year to year until the assessors determine that the reserve for that particular fiscal year is no longer necessary. Assessors must retain sufficient money in the overlay reserve to cover any abatements which may be granted by the Appellate Tax Board (ATB). If there are cases pending at the ATB, assessors must make their best estimate of the amount needed to cover potential settlements. The overlay cannot be reduced by transfer below the sum of (1) uncollected taxes outstanding against the collector's warrant, and (2) collected taxes that may have to be refunded because of abatements granted. If uncollected real estate taxes are secured by a tax title, the community has an almost guaranteed method of collecting the taxes. The amounts of such taxes are no longer outstanding against the collector's warrant and do not have to be reserved.

Once the assessors determine that there is no likelihood of additional abatements, they can declare the unused balance for that year as surplus. The balance is then transferred into an overlay surplus account. At the end of each fiscal year, unused overlay surplus is "closed" to surplus revenue; in other words, it becomes a part of free cash. Both free cash and overlay surplus can be appropriated for any lawful municipal purpose.

Within 10 days of a written request by the chief executive officer of a city or town, the assessors *must* provide a certification of the excess amount of overlay available for transfer. A "chief executive officer" can mean the board of selectmen in a town, or the mayor or city manager in a city. Although the community's chief executive officer can

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Table 1

State Totals

	Overlay reserve	Tax levy	Overlay as percent of levy
FY89	$143,651,488	$4,122,104,932	3.48
FY90	$139,071,345	$4,464,634,291	3.11
FY91	$139,472,348	$4,775,254,916	2.92
FY92	$143,439,128	$5,017,705,745	2.86
FY93	$155,240,515	$5,249,675,623	2.96
FY94	$157,921,506	$5,464,414,052	2.89
FY95	$159,210,658	$5,701,066,408	2.79
FY96	$163,242,225	$5,920,694,306	2.76
FY97	$159,943,482	$6,160,184,909	2.60
FY98	$168,585,924	$6,455,892,738	2.61
FY99	$168,231,716	$6,753,085,969	2.49

Overlay Reserve

Municipality	Overlay Recert Yr.	Overlay % of levy 97	98	99	Avg. 97–99
Abington	98	3.12	2.78	1.92	2.61
Acton	98	1.69	2.02	1.35	1.69
Acushnet	98	2.96	3.18	3.01	3.05
Adams	97	3.42	3.38	3.34	3.38
Agawam	97	2.77	2.95	2.51	2.74
Alford	99	1.59	2.77	5.02	3.13
Amesbury	99	3.05	6.95	3.30	4.43
Amherst	97	1.33	1.29	1.45	1.36
Andover	97	1.56	1.69	1.58	1.61
Aquinnah	99	1.46	1.29	1.26	1.34
Arlington	98	1.67	2.09	1.86	1.87
Ashburnham	97	1.91	1.03	1.07	1.34
Ashby	97	1.77	1.95	1.91	1.88
Ashfield	98	1.42	1.34	1.28	1.35
Ashland	97	1.92	1.80	1.36	1.69
Athol	98	3.56	4.13	3.19	3.63
Attleboro	99	1.49	1.47	0.99	1.32
Auburn	98	3.95	4.15	3.92	4.01
Avon	99	2.42	2.93	3.28	2.88
Ayer	99	2.34	2.17	1.80	2.10
Barnstable	98	1.42	2.24	1.67	1.78
Barre	98	3.05	3.59	2.81	3.15
Becket	98	3.16	1.70	1.90	2.25
Bedford	99	2.79	2.23	3.02	2.68
Belchertown	97	2.63	3.57	1.95	2.72
Bellingham	98	2.08	2.49	4.21	2.93
Belmont	98	2.25	2.09	1.99	2.11
Berkley	98	1.56	1.65	1.39	1.53
Berlin	98	5.65	6.94	7.50	6.70
Bernardston	98	1.93	2.12	1.78	1.94
Beverly	99	1.29	1.36	1.26	1.30
Billerica	97	1.44	1.55	1.85	1.61
Blackstone	98	1.62	1.97	1.71	1.77
Blandford	98	3.53	2.42	3.18	3.04
Bolton	97	0.96	0.94	0.85	0.92
Boston	98	5.08	5.21	5.21	5.17
Bourne	97	1.81	2.69	1.69	2.06
Boxborough	97	3.27	2.60	2.63	2.83
Boxford	97	1.32	0.93	0.69	0.98
Boylston	99	1.73	1.91	2.13	1.92
Braintree	97	2.89	2.47	2.35	2.57
Brewster	98	2.40	2.08	1.85	2.11
Bridgewater	97	2.27	1.24	1.09	1.53
Brimfield	99	3.25	3.37	2.22	2.95
Brockton	99	2.28	2.20	2.13	2.20
Brookfield	98	1.60	1.59	1.73	1.64
Brookline	97	2.50	2.27	2.54	2.44
Buckland	98	1.07	1.15	1.16	1.13
Burlington	97	2.03	1.50	2.02	1.85
Cambridge	99	2.87	2.75	2.67	2.76
Canton	98	4.23	6.04	3.63	4.63
Carlisle	98	1.32	1.58	1.00	1.30
Carver	97	2.53	2.45	2.36	2.45
Charlemont	99	1.32	1.29	1.35	1.32
Charlton	99	1.98	1.27	1.64	1.63
Chatham	98	2.25	1.93	1.72	1.97
Chelmsford	98	1.30	1.87	1.78	1.65
Chelsea	98	2.25	2.41	2.49	2.38
Cheshire	98	1.88	1.77	2.22	1.96
Chester	97	3.84	2.35	2.29	2.83
Chesterfield	98	1.27	1.61	1.14	1.34
Chicopee	99	4.51	2.71	4.42	3.88
Chilmark	97	1.90	1.68	2.11	1.90
Clarksburg	98	4.30	6.01	4.03	4.78
Clinton	97	2.88	2.31	2.14	2.44
Cohasset	99	1.56	1.73	1.47	1.59
Colrain	98	2.40	2.53	2.59	2.51
Concord	99	1.03	1.06	0.99	1.03
Conway	99	0.76	0.72	0.95	0.81
Cummington	99	1.15	1.18	1.12	1.15
Dalton	98	1.51	1.80	1.65	1.65
Danvers	98	1.59	2.00	1.48	1.69
Dartmouth	99	1.83	1.78	1.59	1.73
Dedham	98	3.39	3.33	3.66	3.46
Deerfield	99	2.24	2.03	1.92	2.06
Dennis	99	1.67	1.65	1.50	1.61
Dighton	98	1.86	1.96	1.56	1.79
Douglas	99	2.56	1.82	2.82	2.40
Dover	99	1.73	1.38	1.81	1.64
Dracut	97	2.40	2.19	2.11	2.23
Dudley	99	2.63	2.57	3.51	2.90
Dunstable	99	1.39	1.29	1.19	1.29
Duxbury	97	1.19	1.58	1.72	1.50
E. Bridgewater	98	3.55	4.93	4.30	4.26
E. Brookfield	99	2.60	2.53	4.34	3.16
E. Longmeadow	99	1.74	1.23	1.38	1.45
Eastham	98	1.08	1.05	1.03	1.05
Easthampton	98	2.63	3.05	2.42	2.70
Easton	98	1.61	1.77	1.45	1.61
Edgartown	99	0.41	0.32	0.68	0.47
Egremont	99	1.44	1.57	1.79	1.60
Erving	97	1.54	1.15	1.01	1.23
Essex	98	1.89	3.48	1.18	2.18
Everett	97	3.34	2.45	2.29	2.69
Fairhaven	99	2.92	2.78	2.90	2.87
Fall River	98	2.69	2.50	3.46	2.88
Falmouth	99	0.93	1.10	1.37	1.13
Fitchburg	98	2.13	2.17	2.05	2.12
Florida	98	4.82	7.35	2.55	4.91
Foxborough	98	2.43	2.48	2.07	2.33
Framingham	97	2.53	2.34	2.00	2.29
Franklin	99	1.01	1.35	3.84	2.07
Freetown	98	2.43	2.17	2.08	2.23
Gardner	99	1.77	1.68	1.83	1.76
Georgetown	98	0.81	0.84	0.67	0.77
Gill	99	2.00	2.85	2.33	2.39
Gloucester	99	1.97	1.67	1.74	1.79
Goshen	97	1.50	1.47	1.34	1.44
Gosnold	99	1.31	1.32	1.59	1.41
Grafton	98	1.47	2.06	1.78	1.77
Granby	98	2.53	2.93	2.28	2.58
Granville	98	0.91	1.09	1.04	1.01
Grt. Barrington	98	1.89	1.77	1.07	1.58
Greenfield	99	1.42	1.35	1.31	1.36
Groton	99	0.77	0.71	0.81	0.76
Groveland	98	1.12	0.93	0.93	0.99
Hadley	99	1.85	1.39	1.59	1.61
Halifax	98	4.78	4.71	5.00	4.83
Hamilton	97	1.54	1.39	1.33	1.42
Hampden	97	1.58	1.54	1.44	1.52
Hancock	98	2.36	2.10	1.88	2.11
Hanover	99	1.16	1.01	0.97	1.05
Hanson	98	1.82	1.74	1.56	1.71
Hardwick	97	3.78	2.65	2.60	3.01
Harvard	99	0.98	1.12	1.04	1.05
Harwich	98	2.79	2.05	2.02	2.29
Hatfield	98	2.95	2.58	1.69	2.41
Haverhill	99	2.24	1.95	1.71	1.97
Hawley	97	2.27	1.50	1.48	1.75
Heath	99	1.21	1.34	1.81	1.45
Hingham	99	1.02	1.13	1.38	1.18
Hinsdale	97	3.47	2.44	2.30	2.74
Holbrook	98	3.54	4.85	3.55	3.98
Holden	98	1.29	1.25	1.87	1.47
Holland	98	1.66	1.61	1.49	1.59
Holliston	98	1.04	2.12	1.11	1.42
Holyoke	98	2.84	2.44	3.49	2.92
Hopedale	97	2.65	1.38	2.20	2.08
Hopkinton	98	1.74	2.17	1.58	1.83
Hubbardston	98	1.44	1.68	1.67	1.60
Hudson	98	1.99	2.03	2.07	2.03
Hull	98	4.01	3.33	1.19	2.84
Huntington	98	1.44	1.34	1.38	1.39
Ipswich	98	1.80	1.80	1.65	1.75
Kingston	98	1.41	1.62	1.32	1.45
Lakeville	99	1.75	1.63	1.88	1.75
Lancaster	99	2.31	1.62	1.65	1.86
Lanesborough	99	1.52	1.71	3.09	2.11
Lawrence	97	3.26	3.32	3.36	3.31
Lee	99	3.10	2.85	2.44	2.80
Leicester	99	1.68	1.62	1.66	1.65
Lenox	99	2.94	2.44	2.36	2.58
Leominster	97	3.01	2.95	3.00	2.99
Leverett	97	1.43	1.10	0.91	1.15
Lexington	99	0.59	1.02	0.91	0.84
Leyden	99	1.29	1.27	1.46	1.34
Lincoln	98	0.89	0.84	0.78	0.84
Littleton	98	1.87	1.51	2.28	1.89
Longmeadow	97	0.81	0.77	0.78	0.79
Lowell	99	4.76	4.89	4.79	4.81
Ludlow	99	2.01	2.30	1.83	2.05
Lunenburg	97	1.35	1.11	1.01	1.16
Lynn	99	3.86	3.76	3.29	3.64
Lynnfield	99	1.50	1.38	1.62	1.50
Malden	98	2.93	2.75	3.15	2.94
Manchester	98	1.17	1.84	1.47	1.49
Mansfield	99	2.14	2.22	2.07	2.14
Marblehead	98	0.96	1.29	1.25	1.17
Marion	97	2.09	2.13	1.92	2.05
Marlborough	97	2.37	2.15	2.47	2.33
Marshfield	99	1.58	1.66	1.64	1.63
Mashpee	99	1.80	1.89	1.76	1.82
Mattapoisett	97	2.12	2.15	2.15	2.14
Maynard	98	1.89	2.16	1.56	1.87
Medfield	98	0.53	0.66	0.41	0.53
Medford	98	1.98	2.36	1.93	2.09
Medway	97	2.02	1.85	2.46	2.11
Melrose	99	2.03	2.41	2.29	2.24
Mendon	99	1.76	1.57	1.74	1.69
Merrimac	98	0.76	1.12	0.98	0.95

Municipality	Overlay Recert Yr.	Overlay % of levy 97	98	99	Avg. 97–99
Methuen	97	1.53	3.57	1.55	2.22
Middleborough	98	2.45	3.07	2.06	2.53
Middlefield	99	1.61	0.95	1.08	1.21
Middleton	99	3.11	2.76	2.85	2.91
Milford	98	2.43	2.58	1.81	2.27
Millbury	97	4.12	3.91	3.55	3.86
Millis	99	1.19	1.69	1.15	1.34
Millville	99	4.48	3.28	1.78	3.18
Milton	97	1.71	1.61	1.43	1.58
Monroe	97	1.45	1.33	1.38	1.39
Monson	99	1.77	1.33	1.54	1.55
Montague	98	3.61	3.59	3.27	3.49
Monterey	97	2.84	2.44	2.12	2.47
Montgomery	98	2.89	3.52	2.79	3.07
Mt. Washington	98	1.09	1.04	1.10	1.08
Nahant	99	1.80	1.49	1.50	1.60
Nantucket	98	3.25	2.40	2.73	2.79
Natick	98	2.01	3.13	2.17	2.44
Needham	97	1.62	1.59	1.66	1.62
New Ashford	97	0.80	1.23	1.93	1.32
New Bedford	98	4.52	4.73	4.47	4.57
New Braintree	98	1.28	3.57	1.60	2.15
New Marlborough	98	1.25	1.49	1.97	1.57
New Salem	97	2.01	1.43	1.35	1.60
Newbury	98	0.90	1.77	0.94	1.20
Newburyport	99	1.57	1.50	2.39	1.82
Newton	99	1.79	1.79	1.40	1.66
Norfolk	98	0.85	0.80	0.74	0.80
N. Adams	98	2.55	2.42	2.76	2.58
N. Andover	98	1.38	1.33	1.02	1.24
N. Attleboro	99	2.41	2.33	2.26	2.33
N. Brookfield	98	2.68	2.83	2.93	2.81
N. Reading	99	1.70	1.62	1.64	1.65
Northampton	98	1.88	1.87	1.80	1.85
Northborough	98	1.17	1.88	1.07	1.37
Northbridge	99	2.19	2.08	2.04	2.10
Northfield	98	1.17	1.16	1.07	1.13
Norton	97	2.47	2.38	1.95	2.27
Norwell	97	2.63	2.01	2.87	2.50
Norwood	97	2.04	2.01	2.14	2.06
Oak Bluffs	99	1.23	1.72	1.60	1.52
Oakham	99	1.43	1.46	1.72	1.54
Orange	99	3.20	3.02	2.90	3.04
Orleans	99	2.15	1.80	1.84	1.93
Otis	98	1.92	1.71	1.63	1.75
Oxford	99	4.06	3.16	3.33	3.52
Palmer	99	1.75	1.83	2.04	1.87
Paxton	98	0.84	1.12	0.84	0.93
Peabody	98	2.56	2.34	2.26	2.39
Pelham	99	1.33	1.28	1.03	1.21
Pembroke	99	2.05	2.00	2.08	2.04
Pepperell	99	1.93	5.33	1.80	3.02
Peru	99	2.28	2.34	2.37	2.33
Petersham	98	1.59	1.60	1.48	1.56
Phillipston	98	0.77	0.80	0.73	0.77
Pittsfield	99	2.14	1.81	1.77	1.91
Plainfield	97	1.89	1.59	1.60	1.69
Plainville	97	2.56	2.43	3.50	2.83
Plymouth	99	1.58	1.35	1.55	1.49
Plympton	99	1.28	0.95	1.57	1.27
Princeton	97	1.43	1.09	1.11	1.21
Provincetown	97	2.99	2.05	1.86	2.30
Quincy	99	3.36	3.78	3.33	3.49
Randolph	99	2.35	2.29	2.48	2.37
Raynham	98	2.34	2.28	3.07	2.56
Reading	99	1.58	1.46	1.41	1.48
Rehoboth	98	2.19	2.07	1.69	1.98
Revere	99	2.44	2.16	2.21	2.27
Richmond	99	0.64	0.71	1.02	0.79
Rochester	99	1.56	1.53	2.41	1.83
Rockland	97	2.03	1.86	1.64	1.84
Rockport	98	1.95	1.93	1.77	1.88
Rowe	97	4.84	1.84	1.83	2.84
Rowley	99	1.90	1.60	2.35	1.95
Royalston	99	5.84	4.54	3.57	4.65
Russell	98	3.96	4.77	4.88	4.54
Rutland	99	2.16	2.18	2.25	2.20
Salem	98	1.79	2.37	1.48	1.88
Salisbury	97	1.56	1.20	0.98	1.25
Sandisfield	98	1.73	3.05	2.50	2.43
Sandwich	99	1.47	1.43	3.37	2.09
Saugus	99	1.79	1.73	1.99	1.84
Savoy	98	3.22	3.25	3.17	3.21
Scituate	97	1.63	1.56	1.26	1.48
Seekonk	97	2.21	1.68	1.29	1.73
Sharon	98	2.06	2.30	1.92	2.09
Sheffield	98	1.04	1.32	1.29	1.22
Shelburne	99	1.61	0.92	1.17	1.23
Sherborn	97	0.66	0.42	0.41	0.50
Shirley	98	3.71	3.53	3.34	3.53
Shrewsbury	98	0.94	1.10	0.93	0.99
Shutesbury	99	1.56	1.48	1.67	1.57
Somerset	98	2.96	3.24	2.55	2.92
Somerville	98	3.89	4.20	2.69	3.59
S. Hadley	98	2.36	2.27	2.08	2.24
Southampton	99	1.67	1.61	1.69	1.66
Southborough	98	2.72	2.00	1.42	2.05
Southbridge	98	2.14	1.87	1.86	1.96
Southwick	98	2.41	3.39	1.40	2.40
Spencer	98	2.26	3.37	2.55	2.73
Springfield	99	6.19	5.43	4.43	5.35
Sterling	98	0.97	0.90	0.72	0.86
Stockbridge	99	2.45	2.64	3.17	2.75
Stoneham	97	3.06	3.34	2.92	3.11
Stoughton	99	3.29	3.30	1.71	2.77
Stow	98	0.71	0.71	0.88	0.77
Sturbridge	99	1.91	1.31	1.33	1.52
Sudbury	98	0.80	0.93	1.62	1.12
Sunderland	99	2.08	1.93	1.88	1.96
Sutton	97	1.84	1.43	1.69	1.65
Swampscott	99	1.50	1.71	2.20	1.80
Swansea	99	2.65	3.05	3.13	2.94
Taunton	98	1.52	2.13	2.03	1.89
Templeton	98	5.18	4.05	3.90	4.38
Tewksbury	98	2.26	2.05	2.08	2.13
Tisbury	99	1.67	1.91	1.82	1.80
Tolland	97	4.48	3.96	2.30	3.58
Topsfield	98	1.18	1.23	0.97	1.13
Townsend	97	1.12	1.05	1.04	1.07
Truro	99	0.72	0.55	1.23	0.83
Tyngsborough	98	2.05	1.85	1.70	1.87
Tyringham	99	1.95	1.07	2.63	1.88
Upton	99	1.98	1.83	1.62	1.81
Uxbridge	98	2.40	2.29	2.17	2.29
Wakefield	99	2.13	1.93	2.47	2.18
Wales	99	1.25	1.26	2.35	1.62
Walpole	99	1.48	1.25	1.38	1.37
Waltham	98	3.20	2.88	3.15	3.08
Ware	97	2.97	2.80	2.47	2.75
Wareham	97	2.67	2.04	1.69	2.13
Warren	99	1.74	1.65	2.10	1.83
Warwick	98	2.38	3.00	1.52	2.30
Washington	98	2.30	1.98	1.87	2.05
Watertown	98	1.57	1.59	1.50	1.55
Wayland	97	1.11	0.75	0.81	0.89
Webster	97	4.53	3.45	2.41	3.46
Wellesley	97	1.29	0.83	0.74	0.95
Wellfleet	98	1.06	1.13	0.99	1.06
Wendell	97	1.20	1.45	1.61	1.42
Wenham	97	1.38	1.32	1.16	1.29
W. Boylston	99	1.54	1.77	1.38	1.56
W. Bridgewater	97	2.44	2.50	2.23	2.39
W. Brookfield	99	3.17	3.04	4.47	3.56
W. Newbury	98	0.85	1.37	0.81	1.01
W. Springfield	99	2.81	2.37	2.28	2.49
W. Stockbridge	98	1.58	2.38	1.91	1.96
W. Tisbury	99	1.02	1.02	1.50	1.18
Westborough	97	2.75	2.52	2.48	2.58
Westfield	98	2.44	1.99	1.65	2.03
Westford	99	1.03	1.63	1.53	1.40
Westhampton	98	1.16	1.38	1.16	1.23
Westminster	98	4.78	3.08	3.48	3.78
Weston	99	1.02	0.93	1.43	1.13
Westport	97	2.75	2.90	1.79	2.48
Westwood	97	1.61	1.30	1.30	1.40
Weymouth	99	2.28	1.98	1.94	2.07
Whately	99	1.04	0.94	0.90	0.96
Whitman	99	1.35	1.32	1.41	1.36
Wilbraham	98	0.98	1.02	0.93	0.98
Williamsburg	98	1.62	1.59	1.47	1.56
Williamstown	97	1.53	1.38	1.21	1.37
Wilmington	98	2.37	2.25	2.20	2.27
Winchendon	97	2.01	1.96	1.91	1.96
Winchester	99	0.79	0.79	1.12	0.90
Windsor	97	1.33	1.23	0.89	1.15
Winthrop	97	2.04	2.00	1.99	2.01
Woburn	99	3.15	3.35	3.17	3.22
Worcester	99	2.71	2.58	2.50	2.60
Worthington	99	1.87	1.62	1.55	1.68
Wrentham	98	1.77	2.26	1.03	1.69
Yarmouth	98	2.41	2.93	2.69	2.68
State totals		**2.12**	**2.12**	**2.00**	**2.08**

Table 2

Overlay Reserve
➡ *continued from page three*

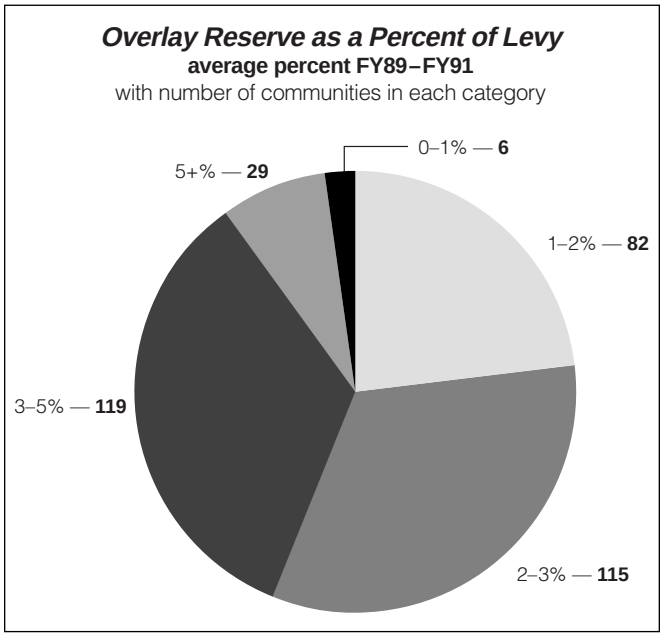


Figure 1

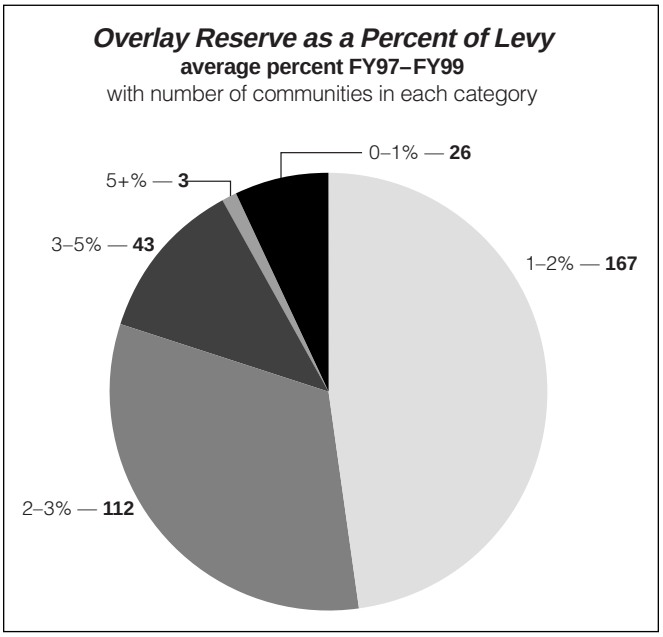


Figure 2

require the assessors to determine the amount available for transfer, the assessors make the determination of how much of a given year's overlay account can or will be transferred to the surplus account, and when and if the transfer should take place.

Findings

Table 1 shows overlay reserves as a percentage of the statewide tax levy from FY1989 through FY1999. Statewide, the total overlay reserve declined from FY1989 to FY1990 and then began a steady increase until FY1996. It declined in FY1997, increased in FY1998, and declined slightly in FY1999. The total was $144 million in FY1989. In FY1999, the total was $168 million, an increase of 17 percent. When analyzed as a percent of the tax levy, however, the percent has declined steadily from 3.48 percent in FY1989 to 2.49 percent in FY1999.

Table 2 lists the 351 cities and towns and shows their overlay reserves and overlays as a percent of the levy for FY1997, FY1998 and FY1999, as well as their average overlays as a percent of the levy for the three-year period. It also shows their triennial recertification dates. The amount of money communities reserve as overlay varies considerably. Berlin had the highest percentage in the three years analyzed with 7.5 percent in FY1999. Edgartown had the lowest percentage, 0.32 percent in FY1998.

In *City & Town's* previous look at overlay reserve, we included a graph grouping communities by overlay reserve as a percent of the levy, using the average percent from FY1989 to FY1991 (*Figure 1*). At that time 29 communities (or 8 percent) had overlays greater than 5 percent of their levies; 119 communities (or 34 percent) had overlay reserves equal to from 3 to 5 percent of their levies; 115 communities (or 33 percent) had overlays of 2 to 3 percent of their levies; 82 communities (or 23 percent) had overlays of 1 to 2 percent; and only 6 communities (or 2 percent) had levies of from 0 to 1 percent. As shown in *Figure 2* there is a definite change in philosophy toward overlay reserve accounts. Looking at the average overlay reserve from FY1997 to FY1999, only 3 communities (or .009 percent) had overlays equal to more than 5 percent of their levies. In the category of communities with overlays of 3 to 5 percent of the levy, there were 43 cities and towns (12 percent). There were 112 communities (or 32 percent) with overlays of 2 to 3 percent; 167 communities (or 48 percent) with overlays of 1 to 2 percent; and 26 communities (or 7 percent) with overlays equal to less than 1 percent of their levies. The impact of good assessment practices, as well as the declining number of exemptions granted, on the need to retain large overlay reserves accounts is evident. ■

written by Jean McCarthy
data provided by Debbie DePerri

1. M.G.L. Ch. 59, § 25.
2. M.G.L. Ch. 59, § 5 (41C).

DLS UPDATE

Has Your Community Complied?

Municipalities must comply with certain rules and regulations. The following are two recent examples:

Every employer, including public employers, must *conspicuously post unemployment benefit information* at each site operated by the employer. The notice must state the name, mailing address, the Division of Employment and Training (DET) identification number of the employer, instructions on how to file for unemployment benefits, the address and telephone number of the nearest regional DET office and the telephone number of the DET teleclaim information line. Failure to post the information will result in a written warning for the first violation, a $100 civil fine for the second, $250 for the third and $500 for fourth or subsequent violation. The employer is also required to provide the same information in writing to any employee separated from employment as soon as practicable, but no later than 30 days. Delivery must be made in person or by mailing to the employee's last known address.[1]

Employees are granted leave for certain family obligations.[2] Certain employers, including municipalities, must provide up to 24 hours of family obligation leave for eligible employees during any 12-month period. This leave is in addition to the 12 weeks already allowed under the Federal Family and Medical Leave Act. Employees are eligible for leave if their employer had 50 or more employees. The employee must have been employed for at least 12 months and worked at least 1,250 hours for the employer during the prior 12-month period. The leave may be taken to participate in school activities directly related to the educational advancement of the employee's child; to accompany the employee's child to routine medical or dental appointments; or to accompany an elderly relative to routine medical or dental appointments or appointments for other professional services related to the elder's care. Employees must provide seven days notice unless the leave is not foreseeable, in which case notice is required as soon as practicable. Violations of the act may be enforced by criminal prosecutions by the Attorney General with a fine of $500 and civil actions by aggrieved employees, including triple damages, litigation costs and attorney's fees.

1. Chapter 101 of the Acts of 1998 amended an earlier version and is retroactive to November 13, 1997, the date the earlier version was enacted.
2. Chapter 109 of the Acts of 1998 which add G.L. Chapter 149 §52D.

Planned Distributions of Hampden County Funds

Financial statements for the Hampden County Government, which was abolished as of July 1, 1998, have been completed and filed with the Secretary of Administration and Finance. According to Director of Accounts Jim Johnson, two categories of funds will result in distributions to municipalities. Eight cities and towns will share in the residual balance in the county dog fund. Chester, Granville, Holland, Holyoke, Palmer, Southwick, Wales and Westfield will share $73,686. Appropriation of these funds is restricted to libraries or schools.[1]

Six cities and towns have assumed operation of the Hampden Regional Animal Control Center. Chicopee, Granby, Hampden, Holyoke, Southampton and Springfield will receive the $31,434 balance from the comparable county operation. Mayors or selectmen of these cities and towns have received notice of the distributions. ■

1. M.G.L. Ch. 140, § 172.

Questions & Answers

➡ *continued from page two*

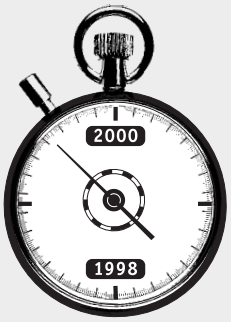
Q: *A finance committee member noted that a particular vendor received substantial payment for supplies furnished to the town. The member was also aware that the law authorizes the board of selectmen and accountant to disapprove payment if fraudulent, unlawful or excessive.*[7] *Would the term "excessive" give discretion to selectmen and the accountant to disapprove payment if the purchase is deemed imprudent?*

A: No. These statutes merely permit the selectmen or accountant to disapprove the payment of a bill if it is in excess of the unencumbered balance in the department's budget or if the bill exceeds the contract price for goods or services. ■

written by James Crowley

1. M.G.L. Ch. 121A § 10 and M.G.L. Ch.59 § 5 Cl. 47.
2. M.G.L. Ch. 59 § 21C(f).
3. M.G.L. Ch. 59 § 71.
4. M.G.L. Ch. 41 § 108.
5. M.G.L. Ch. 44 § 68.
6. M.G.L. Ch. 59 § 21C (a).
7. M.G.L. Ch. 41 §§ 52 & 56.

Countdown to Y2K



Municipal Fiscal Calendar

August 1
Taxpayer: *Deadline for Paying 1st Quarterly Tax Payment M.G.L. Ch. 59, Sec. 57C: Deadline for Payment Without Interest*

Taxpayer: *Annual Boat Excise Return Due*

Accountant: *Notification of Total Receipts of Preceding Year*

August 15
Assessors: *Deadline to Vote to Seek Approval for Authorization to Issue Preliminary Tax Bills*

Treasurer: *4th Quarter Reconciliation of Cash for the Previous Fiscal Year (due 45 days after end of quarter)*

August 31
Taxpayer: *Last Filing Day for Classified Forest Land, M.G.L. Ch. 61*

Assessors: *Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for semi-annual bills)*

September 15
Treasurer/Collector: *Compensating Balance Report*

Account/Superintendent/School Committee: *Jointly Submit End of Year Report to the DOE*

September 30
State Treasurer: *Notification of Quarterly Local Aid Payments on or Before September 30*

Opportunities for Training

Course 101, *Assessment Administration: Law, Procedures, Valuation* will be given at the University of Massachusetts in Amherst, August 9–13, 1999, from 8:30 a.m. to 4:00 p.m.

A Classification Training Workshop will be given on Wednesday, August 11, 1999, at the Campus Center, University of Massachusetts, Amherst at 10:00 a.m.

Contact Barbara LaVertue, training coordinator, at (617) 626-2340 for more information. Registration for this course is through the Massachusetts Association of Assessing Officers. ■

Reminder

Please check to ensure that all correspondence sent to the Division of Local Services is using our new address:

Division of Local Services
PO Box 9490
Boston, MA 02205-9490

Local officials who have not changed to the new address risk delays and possible loss of correspondence.

Also, this address is for the Division of Local Services only. Tax returns or other forms belonging to the Department of Revenue should be sent directly to them.

Treasurers and accountants have been sending meals tax and sales tax returns to the DLS. The correct PO Box for meals tax is 7040 and for sales tax is 7039. The zip code for those boxes is 02204. ■

City & Town

City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials. DLS offers numerous publications on municipal law and finance, available by calling (617) 626-2300, or through the DLS website at **www.state.ma.us/dls** or by writing to PO Box 9490, Boston, MA 02205-9490.

Marilyn H. Browne, Managing Editor

Jean M. McCarthy, Editor

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