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City and Town

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FY04 State Budget Outlook

by Cam Huff, Senior Research Associate, Massachusetts Taxpayers Foundation

Municipal finances have entered a new—and much more difficult—phase following almost a decade of sustained improvement in local financial conditions. While overall performance remains relatively strong, unused taxing capacity under Proposition 2½ is shrinking, and efforts to override local tax limits are rising. More seriously, the unprecedented \$2.5 billion drop in tax revenues in fiscal 2002 has plunged the state into a fiscal crisis that threatens local finances as well. Although local aid grew in 2002, assistance to cities and towns is essentially flat in 2003, a far cry from the phenomenal pace of annual growth that characterized most of the 1990s and, for the first time in a decade, a large number of communities must now contend with potential aid reductions.

Unfortunately, the squeeze on local budgets is almost certain to get worse. Despite having raised taxes by \$1.2 billion and making major spending cuts, the Commonwealth faces a structural deficit of \$1.5 to \$2 billion in fiscal 2004, having already exhausted most of its reserves in dealing with the huge revenue declines.

Four critical factors explain the looming gap in the state's finances for 2004:

1. The Commonwealth will need to replace almost \$1 billion of one-time resources that are supporting ongoing spending in 2003, including the use of \$850 million from the state's rainy day reserves. The fiscal 2003 budget already taps \$550 million from the stabilization reserves, and the Foundation believes that the modest remaining balance of

\$300 million will be needed to help offset already-announced revenue shortfalls as well as probable deficiencies.

2. Only modest tax revenue growth is likely in 2004. Even assuming an economic recovery beginning in the first quarter of the new year, baseline tax growth is not expected to exceed 4.5 percent in 2004, less than half the annual pace of growth before 2002. This rate of increase would generate just \$500 million of additional revenues in 2004, far short of what will be needed to replace the one-time resources supporting the spending base in 2003, much less address additional state costs in the coming year. At the same time, there is no reason to believe that the huge amount of capital gains revenues lost in 2002 will be restored in 2004 or for years to come.

However, a 4.5 rate of tax growth for 2004 has come to look increasingly optimistic given the recent economic news, with fading consumer confidence, continued lack of business investment, and persistent uncertainty in the stock market. Taken together, these trends have raised the likelihood of further erosion in the state's economy, with any recovery delayed by several quarters and even slower growth in 2004 tax revenues.

3. Health care costs will continue to surge in 2004, adding at least \$700 million to state expenditures. Given current trends, the Foundation expects that Medicaid and employee health costs will increase 10 percent or more in the coming year. These figures reflect underlying growth of 12 percent, partially

offset by the full-year impact of Medicaid savings implemented during 2003.

4. Unavoidable growth in other costs such as debt service and inflationary increases in other accounts will add at least \$600 million to state spending in 2004.

In combination, these factors produce a deficit so large that it cannot be closed without major additional spending cuts. Lawmakers will be extremely reluctant to authorize new tax revenues on the heels of the increases adopted in 2002, especially given the anti-tax sentiment expressed in the narrow defeat of Question 1, which proposed to abolish the state income tax. While fiscal crises create opportunities to tackle important spending reforms, such as improving court management and eliminating pension abuses, these initiatives would not come close to solving the 2004 problem. Although more sweeping restructuring of state government and its delivery of services might yield significant benefits,

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From the Deputy Commissioner

The Division of Local Services (DLS) and the Department of Revenue's Department of Employee Training and Development are working

in conjunction to produce a video-taped version of *Course 101*, the basic course for assessors. The video series will help increase the reach and impact of the course by providing another DLS resource to help assessors acquire the knowledge and skills necessary to perform their job. Attendance at this course and successful completion of the examination are also requirements of 830 Code of Massachusetts Regulation (CMR) 58.3.1.

The Division anticipates that production of *Course 101* on video will yield many benefits — to assessors as well as DLS staff. For example, this video can be used

- by those who cannot attend the course because of a physical disability;
- as a refresher course for graduates;
- for in-house training for current and new DLS employees; or
- as a review for participants who do not pass the examination.

Each of the nine topics of the course will contain a separate VHS video and supplemental materials, such as a section handbook and exercises. The Division is looking forward to making *Course 101* more accessible, and hopes to complete this project by the spring of 2003.

**Joseph J. Chessey, Jr.
Deputy Commissioner**

Legal

in Our Opinion

Right of First Refusal for Chapter 61A Land

by James Crowley

A municipality's right of first refusal was the subject in *Plante v. Town of Grafton*, Mass. App. (2002). Under M.G.L. Ch. 61A Sec. 14, an owner of classified agricultural/horticultural land may not sell the land for residential, industrial or commercial use, or convert the land to such uses, while classified unless the owner gives the city or town, where the land is located, a notice of intent to sell or convert to a residential, industrial or commercial use. By statute, the city or town for 120 days subsequent to such notice, has a right of first refusal to meet a good faith offer to buy the land or, if there is an intended conversion without a sale, an option to purchase the land at full and fair value as determined by an independent appraisal.

Edmond H. Plante (buyer) entered into a purchase and sale agreement in 1998 for two large parcels, which were separately owned and classified under Chapter 61A. One parcel was owned by Robert Hennessey, and the other held in trust by Keith Downer for the benefit of Robert Hennessey. There were different prices and financing terms for each parcel. A provision in the agreement required the buyer to complete the purchase of both parcels. Another term in the agreement stipulated that the sellers were to obtain from the Town of Grafton a release of its right of first refusal. In accordance with Chapter 61A, the sellers notified the town that the buyer would use the land for the construction of single-family homes. They also informed town officials that Plante was required under the purchase and sale agreement to buy both parcels. The Town of Grafton decided at a special town meeting to exercise its option for one of the parcels but not for Parcel 2, which contained 50 acres.

Upon learning this news, Plante demanded that the sellers bring a lawsuit to compel the town to exercise its right of first refusal for both parcels on an all or nothing basis. The purchase and sale agreement did require the sellers to use reasonable efforts to remove any defects in title. The sellers, however, refused to sue the town. They returned the two purchase deposits to Plante who declined to accept them. Plante did not purchase Parcel 2. Instead, he sued the town. In his complaint, Plante alleged that the Town of Grafton did not properly exercise its right of first refusal under Chapter 61A. The Superior Court judge rejected his claim and the decision was appealed to the Appeals Court.

At issue was whether owners of Chapter 61A land could compel a municipality to purchase *all* parcels being taken out of classification and converted to another use, if the municipality chose to exercise its statutory right of first refusal. The Appeals Court noted that the two properties were separately assessed and under different ownership. Chapter 61A applications had been filed for each tract of land, and two statements of lien were recorded at the Registry of Deeds. For the benefit of the sellers, there was a provision in the purchase and sale agreement requiring the buyer to purchase Parcel 1 and Parcel 2. In the court's view, the parties were attempting to defeat the rights of the town by joining its option rights as to a particular parcel with other unrelated property. In the court's view, the facts in this case disclosed a bundling of different owners and parcels for the purpose of defeating the rights of the town. By this means, the sellers sought to force the town to relinquish entirely its right of first refusal or spend additional money for land it did not want. According to the Appeals Court, the sellers could not thwart a municipality's right of first re-

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Focus

on Municipal Finance

Senior Property Tax Relief

by Kathleen Colleary

This Focus article reviews new options available for providing property tax relief to senior citizens. The primary vehicle for assisting these taxpayers is the locally administered senior exemption. Under Clause 41, and local option Clauses 41B and 41C, of M.G.L. Ch. 59 Sec. 5, seniors 70 or older who own and occupy their domicile and meet certain income and asset limits qualify for a \$500 exemption from their annual property tax bills. The primary difference among the three clauses is the amount of those limits. The new options discussed in this article are only

for communities using Clause 41C, which has the most generous means test and is currently used by 293 cities and towns.

Fewer seniors, even those living on Social Security and other modest income, are qualifying for the exemption in recent years because the means tests have not been updated. In addition, the benefit of the exemption has eroded significantly. In 1982, the \$500 exemption provided to seniors was about 48 percent of the \$1,033 average residential tax bill giving eligible seniors a significant tax break. The average bill has risen to just over \$2,577 in FY02 and the exemption now reduces the average bill by less than 20 percent.

Recent legislative efforts to address the increasing property tax burden on seniors include a state income tax credit, the "senior circuit breaker," which became effective beginning in tax year 2001 for low- and moderate-income seniors with property tax, water and sewer bills exceeding 10 percent of their income. Over 25,000 seniors statewide claimed the credit in 2001. In addition, local option Clause 41D allows communities to increase their income and asset limits annually by a cost-of-living adjustment (COLA) established by the Department of Revenue based on changes in the consumer price index. This option was first available for FY02.

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Clause 41C Senior Exemption Options

Allowable adjustments under second sentence of M.G.L. Ch. 59 sec. 5(41C) added by St. 2002, Ch. 184 §51

Eligible age	Applicant		Each co-owner not applicant's spouse
	Current law	Allowable adjustment	
70	70	65	
Income limits Deductions: (1) Minimum Social Security/retirement allowance set by DOR each year and (2) business expenses or losses (i.e., only net profits/rental income included). Married limit is combined income of both spouses.	Current law \$13,000 single \$15,000 married	Allowable adjustment Up to \$20,000 single Up to \$30,000 married	Current law — no adjustment allowed Each co-owner \$13,000 single \$15,000 married
Asset limits Married limit is combined assets of both spouses.	Current law \$28,000 single \$30,000 married	Allowable adjustment Up to \$40,000 single Up to \$55,000 married	Current law — no adjustment allowed Each co-owner \$28,000 single \$30,000 married
Asset deductions (1) Home up to number of units noted, (2) registered vehicles, (3) cemetery plots, (4) household furniture/effects at domicile and (5) wearing apparel.	Current law Up to three-family	Allowable adjustment Up to four-family	Current law — no adjustment allowed Each co-owner Up to three-family
Exemption amount Amount prorated by percent of applicant's ownership interest if co-owns with anyone but spouse.	Current law \$500	Allowable adjustment Up to \$1000	

Table 1

Senior Property Tax Relief

continued from page three

Legislation passed this year now allows communities to increase the amount, or modify the age, income and asset requirements, of the Clause 41C exemption within specified parameters in order to meet the needs of their seniors. Chapter 184 Section 51 of the Acts of 2002. This legislation follows successful efforts by a few communities to obtain special acts making similar changes to their exemptions.

There are five adjustments communities may now make in the Clause 41C exemption. Each adjustment is separate and independent from the other so a community may adopt one, all or any combination at the same or different times. An adjustment is made by vote of town meeting in a town or city council with the approval of the mayor in a city. The vote should specify the year the adjustment will first apply and must take place before the actual tax bills are mailed for the year since that begins the exemption application period. Adjustments may be made for any fiscal year beginning in FY03 and will apply in future years unless changed by the legislative body.

Adjustment Types

The five adjustment options are summarized in *Table 1*. They are:

1. *Amount*. The \$500 exemption currently granted to qualifying seniors may be increased by any percentage up to 100 percent, *i.e.*, to any amount up to \$1,000.
2. *Age*. The eligibility age may be reduced from the current age of 70 to 65.
3. *Income Limits*. The current gross receipts limits of \$13,000 for a single taxpayer and \$15,000 for a married taxpayer may be increased to any amount up to \$20,000 if the taxpayer is single and \$30,000 if married.
4. *Asset Limits*. The current whole estate limits of \$28,000 for a single taxpayer and \$30,000 for a married taxpayer may be increased to any amount up to \$40,000 if the taxpayer is single and \$55,000 if married.
5. *Asset Exclusion*. The value of the taxpayer's home that is excluded from the whole estate limit when it is a multi-family property may be increased from

the current limit of no more than two units in addition to the unit occupied by the senior, or a three-family house, to no more than three additional units, or a four-family house.

Adjustments in the income limits, asset limits or asset exclusion apply only to the senior seeking the exemption. Each co-owner who is not the senior's spouse must still meet the current means tests for the senior to qualify.

Adjustments and Other Local Options

As noted earlier, communities may accept local option Clause 41D, which increases the Clause 41C income and asset limits annually by a cost-of-living adjustment (COLA). If a community that votes to increase its Clause 41C income or asset limits has also accepted Clause 41D, the COLA will apply to the higher limits. For example, a community votes to increase the gross receipts limits for FY03 to the new maximum limits of \$20,000 and \$30,000 for single and married taxpayers respectively. If Clause 41D is also in effect for FY03, the

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Use of Optional Additional Exemption

Assumes community increases Clause 41C exemption to \$1,000, and continues 100% optional additional exemption, for FY03

Taxpayers who received Clause 41C and full Optional Exemption in FY02

	FY 2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009
Tax	\$3000	\$3200	\$3400	\$3600	\$3800	\$4000	\$4200	\$4400
Clause 41C exemption	(500)	(1000)	(1000)	(1000)	(1000)	(1000)	(1000)	(1000)
Net tax after exemption	2500	2200	2400	2600	2800	3000	3200	3400
Optional additional voted (100%)	500	1000	1000	1000	1000	1000	1000	1000
Optional additional allowed	(500)	(200)	(400)	(600)	(800)	(1000)	(1000)	(1000)
Amount due	2000	2000	2000	2000	2000	2000	2200	2400

Taxpayers who first receive Clause 41C in FY03

	FY 2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009
Tax	\$3000	\$3200	\$3400	\$3600	\$3800	\$4000	\$4200	\$4400
Clause 41C exemption	(0)	(1000)	(1000)	(1000)	(1000)	(1000)	(1000)	(1000)
Net tax after exemption	3000	2200	2400	2600	2800	3000	3200	3400
Optional additional voted (100%)	500	1000	1000	1000	1000	1000	1000	1000
Optional additional allowed	(0)	(0)	(200)	(400)	(600)	(800)	(1000)	(1000)
Amount due	3000	2200	2200	2200	2200	2200	2200	2400

Table 2

Budget Outlook

continued from page one

any savings would almost certainly take years to realize. And while the state still has approximately \$500 million of prior tobacco settlement payments set aside in a trust for future health care needs, using those funds to “balance” the 2004 budget would only delay the day of reckoning to 2005 while leaving a \$1 to \$1.5 billion gap still to be filled in 2004. In view of the limited options available to balance the 2004 budget, significant spending cuts now appear almost inevitable. As one of the largest areas of state expenditure, local aid is likely to bear at least some of the impact of the coming reductions. ■

Editor’s note: This article represents the opinions and conclusions of the author and not necessarily those of the Department of Revenue.

61A Land

continued from page two

fusal by inserting all or nothing terms in a contract.

In conclusion, the Appeals Court held that a municipality could choose which parcels it wants to purchase under a right of first refusal, notwithstanding that there is all or nothing language in a sales agreement. ■

Senior Property Tax Relief

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FY03 COLA of 4.3 percent would be applied to \$20,000 and \$30,000, which would result in FY03 income limits of \$20,860 if single and \$31,290 if married. Those amounts would then become the base to which the FY04 COLA would be applied.

Communities may also grant an optional additional exemption under Chapter 73, Section 4, of the Acts of 1986 for all taxpayers receiving personal exemptions, including seniors under Clause 41C. This exemption is voted annually by the legislative body and may be up to 100 percent of the personal exemption. If a community that votes to increase its Clause 41C exemption amount also votes to grant an optional exemption for a particular year, the optional exemption would be based on the higher exemption amount. For example, if the community votes to increase the exemption to the new maximum amount of \$1,000, any optional additional exemption percentage would be applied to \$1,000, rather than \$500. Taxpayers receiving the optional exemption must pay at least the amount owed for the previous year, so the ben-

efit of any resulting increase in the optional exemption will generally be phased in over a number of years. See *Table 2*.

State Reimbursement

Subject to annual appropriation by the Legislature, communities are reimbursed at the rate of \$500 for each Clause 41C exemption granted, but no more than the number granted the last year they used Clause 41. Communities will continue to be reimbursed at the \$500 rate even if they increase their exemption amount. However, they will be reimbursed for any additional exemptions granted where an adjustment results in more seniors qualifying, so long as the number of exemptions granted are below the cap and adequate funds are appropriated.

For example, a community has a reimbursement cap of 100 exemptions, but only granted 50 in FY02. It adjusts the income and asset limits for FY03. If 75 seniors now qualify, it would be fully reimbursed for those exemptions. If 110 qualify, however, it would only be reimbursed for 100 exemptions. ■

Community Preservation Act Amendments

The Division of Local Services issued Informational Guideline Release (IGR) No. 02-208 in September 2002. This IGR amends IGR No. 00-209 (December 2000), which explained the municipal finance provisions of the Community Preservation Act (CPA), M.G.L. Ch. 44B. The amendments reflect a recent change in the CPA regarding the purposes for which community preservation fund monies may be used. For example, communities may now use community preservation fund monies to rehabilitate or restore *historic* resources they owned *before* the adoption of the act or acquired with other municipal funds. IGR No. 02-208 provides additional information on this and other CPA changes.

The Division has now issued the following guidelines addressing the municipal finance provisions of the CPA. All of the materials are available on our website at www.dls.state.ma.us/PUBL/lgrindex.htm.

- December 2000 — **IGR 00-209** *Community Preservation Fund*
- September 2001 — **IGR 01-207** *Community Preservation Fund* (amends IGR 00-209)
- September 2002 — **IGR 02-208** *Community Preservation Fund* (amends IGR 00-209)

A version of IGR 00-209 with all amendments made by IGRs 01-207 and 02-208 is also available on our website.

DLS Update

FY04 Cherry Sheets Changes

Beginning in FY04, Cherry Sheet assessments will include tuition assessments for School Choice, Charter Schools and the Essex County Agricultural and Technical School. Placing these assessments on the Cherry Sheet will provide uniformity in the budgetary treatment of these assessments and ensure their recognition in the tax rate setting process. In past years, there has been little consistency in the way these assessments have been handled across the state. Some communities have raised them as "other amounts to be raised" when setting the tax rate, others voted appropriations to cover them and a few didn't provide for them at all and simply netted them against Chapter 70 receipts. Incorporating these tuition assessments with other state and county charges on the Cherry Sheet will eliminate the need for town meeting or city council to vote appropriations to cover these amounts. Therefore, as you begin budget planning for FY04, please remember not to appropriate funds for these tuition assessments.

Also, the Division of Local Services (DLS) will be eliminating the Prior Year Underestimates and Overestimates appearing in columns 2 and 3 of the Cherry Sheet assessments. DLS believes that these line items have become so immaterial that they do not warrant being tracked by municipalities or the state for two years. Local Accounting officers are instructed to handle differences between the estimated charges and assessments in the same manner that variances in Cherry Sheet receipts (Form Cs-1ER) are handled in the year-end closing process. This will eliminate the need to reserve these amounts on the balance sheet and make future Cherry Sheet assessments a one-column document. The Registry

of Motor Vehicles Non-Renewal Surcharge, which has historically been a Prior Year Underestimate, will be moved to Column 1, Estimates to be Raised, and the estimate will be based on the most current information we have when Cherry Sheets are prepared.

Finally, please be advised that the FY04 Cherry Sheets will be distributed solely in an electronic format on the DLS website: www.dls.state.ma.us.

Land Classification Guides on Web

The guides to classification and taxation of forest land (M.G.L. Ch. 61), agricultural/horticultural land (M.G.L. Ch. 61A) and recreational land (M.G.L. Ch. 61B) are now available on the Division of Local Services' website (www.dls.state.ma.us). Click on "Publications and Forms" and then scroll down to the section on "Brochures."

These land classification programs offer significant local tax benefits to property owners. In exchange for these benefits, the community in which the land is located is given the right to recover some of the tax benefits should the land be sold or no longer used for the purposes provided for in these laws.

CPA Funds Distributed

Alan LeBovidge, Commissioner of Revenue, has announced that 34 communities will receive nearly \$18 million in matching funds under the Community Preservation Act (CPA). These matching funds reflect surcharges on property taxes during FY02.

The state matching funds this year have been calculated at 100 percent of the amounts committed by assessors, based on the surcharge rate adopted. While the CPA provided for a multi-tier

formula for computation of the matching funds, the fund balance as of June 30, 2002 was sufficient to award 100 percent of the commitment in the first tier, which is the maximum allowed under this statute.

Table 3 shows the amount received by the CPA communities on October 15, 2002. ■

Community Preservation Act Matching Funds	
Community	Amount
Amherst	\$125,258
Aquinnah	34,323
Ayer	218,342
Bedford	769,218
Boxford	351,294
Cambridge	5,032,128
Carlisle	214,533
Chelmsford	149,004
Chilmark	101,853
Cohasset	215,525
Dracut	449,547
Duxbury	845,267
Easton	420,468
Georgetown	164,241
Hampden	22,955
Harvard	105,154
Hingham	430,979
Holliston	218,494
Hopkinton	378,973
Marshfield	545,152
Medway	297,557
Nantucket	761,975
Newton	1,585,478
Norfolk	250,063
North Andover	802,719
Peabody	381,502
Rowley	199,992
Southampton	57,597
Stow	241,692
Sturbridge	167,720
Tyngsboro	225,019
Wayland	339,570
Westford	815,485
Weston	935,343
Total	17,854,420

Table 3

DLS Profile: CAMA Support Staff

Kathy Krawczyk and **Kirsten Shirer** work for the Information Technology Section of the Division of Local Services (DLS) in the Springfield regional office. They provide training, support, and consulting services to communities using the Computer Assisted Mass Appraisal and Tax Administration System (CAMA).



Kirsten Shirer and Kathy Krawczyk

Kathy has worked for the Division for about 11 years. Prior to coming to DLS, she worked in the assessors' office in Westfield where she acquired experience with the CAMA system. Kathy provides CAMA support to communities west of Worcester. She also has a "mini lab" in the Springfield office, where she uses laptops for training.

Karen Avalle, principal assessor in Great Barrington, said that the town has volunteered to have Kathy hold mini labs in their town hall so that staff from area towns can receive "hands-on-training." Karen also notes that Kathy "is a wonderful teacher" and is "willing to go step-by-step."

Kirsten is a 14-year veteran of the Division. In addition to providing CAMA support, she works in communities installing CAMA and Oracle software and Microsoft Access programs for the Department of Revenue-sponsored Community Software Consortium. Kirsten has also utilized her background as an English major at the University of Connecticut to write CAMA user manuals.

Jennifer Kolenda, assessor, Town of Hardwick, said that Kirsten "is always there for us. She has bailed me out I can't tell you how many times. The Department of Revenue is so lucky to have someone like her." ■

New DLS Address

Effective immediately, the Division of Local Services' new mailing address is as follows:

Division of Local Services
PO Box 55490
Boston, MA 02205-5490

Although the new mailing address is currently available for use, the Division's previous mailing address (PO Box 9490, Boston, MA 02205-9490) will remain in effect until March 31, 2003.

For Federal Express, UPS, DHL, GOD, or any other vendor, use complete street address and zip code as follows:

Division of Local Services
51 Sleeper Street
Boston, MA 02210

Telephone and fax numbers will remain the same. ■

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.

Joan E. Grouke, Editor

To obtain information or publications, contact the Division of Local Services via:

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