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# City and Town

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## 2005 State-Owned Land Valuation

by Marilyn H. Browne

The Commissioner of Revenue determines the fair cash value of certain state-owned lands (SOL) pursuant to M.G.L. Ch. 58 Secs. 13–17 and Ch. 59 Sec. 5G. Cities and towns are reimbursed for loss of local tax revenue on the Cherry Sheet's Payment-in-Lieu-of-Tax, or by MWRA through the Department of Conservation and Recreation's Division of Water Supply Protection (formerly MDC Watershed Land).

### Background and Valuation Modification

Beginning after the 2005 SOL valuation, the program will be conducted once every four years (previously it was once every five years) thereby making SOL values more reflective of the real estate market. This, and other changes affecting SOL are the result of Chapter 262 of the Acts of 2004 that was approved on August 9, 2004. This legislative change and the modifications in valuation methodology are the culmination of work done by the Bureau of Local Assessment (BLA) in conjunction with the Massachusetts Association of Assessing Officers. The former methodology was time consuming, cost prohibitive and in need of updating to make the valuation transparent to local assessors. Previously the BLA collected land sales information, zoning data, ac-

cepted street lists and valued the properties without input from the local assessors. It was clear after the 2000 SOL valuation that many local assessors did not know what land in their communities was reimbursable. We believe that was due to the fact that assessors change frequently, non-taxable properties are not typically where assessors invest their time and scarce resources and because BLA, not assessors, valued the reimbursable SOL land.

After a great deal of deliberation over several years BLA developed a proposed new valuation approach. The approach would make use of existing state-owned land data and existing valuation programs such as recently certified local land values, biennial equalized valuation (EQV) percentages and interim year adjustment reports. This plan would also eliminate the need for expensive consultants.

To facilitate the new valuation methodology, three-digit property classification use codes were developed and published in December 2002 to allow for easy electronic identification by assessors. On April 23, 2003, BLA posted the M.G.L. Ch. 58 Secs. 13–17 state-owned land database to the Internet and notified communities by e-mail and tradi-

tional mail of its availability. This data was put forth for assessors to reconcile their data with ours to eliminate uncertainties about what land is eligible for reimbursement in advance of the 2005 SOL valuation. In a letter dated February 27, 2004, communities were informed that the Water Supply Protection Land data (Ch. 59 Sec. 5G), was posted to the Internet and they were expected to have it reconciled by June 30, 2004. The 2005 certification communities were expected to have all SOL work, regardless of the reimbursement program, completed by the time they received preliminary certification. Reconciliation was also needed because only land that was taxable before it was acquired by the state is eligible for reimbursement. This often makes SOL parcels look like jigsaw puzzles with missing pieces when the non-reimbursable portions are removed and assessors frequently did not have records of these ineligible sections. At the time this article was written 95 percent of

[continued on page eight](#)

### Inside This Issue

<b>From the Deputy Commissioner</b> . . . . .	2
<b>Legal</b>	
Sewer Assessment Bylaw Upheld . . . . .	2
<b>Focus</b>	
Employee Health Insurance in Massachusetts: Condition Serious . . . . .	3
Course 101 DVDs . . . . .	5
Library Funding Update . . . . .	5
<b>DLS Update</b>	
Foley Appointed to Appellate Tax Board . . . . .	6
New Officials Finance Forum . . . . .	6
Governor Unveils New Transportation Plan . . . . .	6
What is a Gubernatorial State of Emergency? . . . . .	7
<b>DLS Profile</b> . . . . .	9

### M.G.L. Ch. 58 Secs. 13–17, State-Owned Land Timetable — 2005

January 1, 2005		Valuation date
June 1, 2005	BLA	Mails proposed SOL values
June 10, 2005	BLA	Hearings held
July 20, 2005	BLA	Issues revisions of values
August 10, 2005	Assessors	Appeals of SOL values to ATB
January 20, 2006	ATB	Acts conclusively on appeals

Table 1



### From the Deputy Commissioner

On March 3, 2005, Lieutenant Governor Kerry Healey chaired a seminar on "Understanding the Tax Foreclosure

Process" at the State House. Panelists included officials from the public and private sector.

A tax taking is a mechanism whereby a community perfects a lien to assure payment of outstanding taxes. The tax title process actually begins when property tax bills issued by the collector become delinquent. An official from the Massachusetts Association of Assessing Officers discussed exemptions and tax deferrals, which enable elderly taxpayers to reduce or postpone payment of their local tax obligations and avoid delinquencies. Two officials from the Massachusetts Collectors & Treasurers Association explained that a valid lien is essential for a proper tax taking. A parcel must be properly described on the tax bill and the assessors' maps are essential to proper assessment.

Two attorneys from the Land Court explained the process of tax title foreclosures. The Land Court recorder outlined new procedures and new technology to expedite tax foreclosure cases. The procedure essentially balances the 14th Amendment Due Process rights of the taxpayer with the community's interest in obtaining tax revenue. In the event of a foreclosure, the parcel becomes a "tax possession" property and can be disposed of by the community.

We wish to thank all those who participated in this informative and successful meeting.

**Gerard D. Perry**  
Deputy Commissioner

# Legal

## in Our Opinion

### Sewer Assessment Bylaw Upheld

by James Crowley

The Town of Acton approved a major sewer project and its method of apportioning the costs became the subject of a lawsuit. A large property owner, W.R. Grace & Co. (Grace), received a \$2.2 million estimated sewer assessment in 2001 since final construction costs had not yet been determined. In accordance with special legislation (Ch. 340 of the Acts of 2000) Grace chose to apportion costs by making quarterly payments over a 30-year period, rather than the conventional 20-year time frame. Grace also brought suit in Superior Court to challenge the validity of the Acton sewer bylaw as well as the town's calculation of the assessment. The lower court judge dismissed the claims and an appeal was made to the Appeals Court. The Appeals Court upheld the actions taken by the town. This recent decision is *W.R. Grace & Co. v. Town of Acton*, 62 Mass. App. Ct. 462 (2004).

Under M.G.L. Ch. 83 Sec. 15 municipalities can opt to apportion sewer construction costs by a "fixed uniform rate" or a "uniform unit method." M.G.L. Ch. 83 Sec. 15 defines the uniform rate as being based upon frontage or area or according to both frontage and area. Alternatively, communities can divide the project costs among the total number of existing and potential sewer units to be served. M.G.L. Ch. 83 Sec. 15 provides in pertinent part that "Each sewer unit shall be equal to a single family residence. Potential sewer units shall be calculated on the basis of zoning then in effect. Existing and potential multifamily, commercial, industrial and semipublic uses shall be converted into sewer units on the basis of residential equivalents." The Town of Acton

adopted a sewer assessment bylaw in 1998 that was further amended in 1999. As set forth in M.G.L. Ch. 40 Sec. 32, the Attorney General reviewed and approved the bylaw and the amendment. The Acton bylaw authorized the uniform unit method of assessment. In another action, the town also adopted M.G.L. Ch. 83 Sec. 15B, which permits estimated sewer assessments provided they do not exceed one-half of the municipality's liability under the sewer construction contract. In fact, Acton's estimated assessments were less than one-half of the total construction cost.

In this case, the taxpayer contended that Acton's uniform unit method bylaw exceeded the town's authority under the Home Rule Amendment (Art. 89 Sec. 6 of the Amendments to the Mass. Constitution). Secondly, Grace argued that its assessment was improperly calculated. The Appeals Court, however, held that the bylaw was valid, and any claim of over assessment was premature. According to the Appeals Court, the Legislature did not intend to preempt local action since M.G.L. Ch. 83 Sec. 15 explicitly authorized municipalities to apportion costs through ordinances and bylaws. Acton's bylaw established how residential equivalent assessment units would be determined for multi-family residential and commercial properties. Under Acton's formula, a three bedroom single family residence was projected to use 300 gallons per day, which would be measured as one sewer unit. With regard to commercial property, residential equivalency was based on the size of the structure and the lot. The Acton bylaw set 75 gallons per day per 1,000 square feet as the flow rate for commercial property. Under its formula, Acton would attribute one sewer unit for every 4,000 square feet of floor space. In the Appeals Court's

[continued on page nine](#)

# Focus

## on Municipal Finance

### Employee Health Insurance in Massachusetts: Condition Serious

by Jarrett Connor,  
Worcester Regional Research Bureau

The following article is based on data in the Worcester Regional Research Bureau report entitled *Condition Serious, Prognosis Uncertain: The Impact of Municipal Employee Health Insurance in Massachusetts*, which is available at [www.wrrrb.org](http://www.wrrrb.org). This report includes data on national and regional trends for states, localities and private employers, and the results from a survey of the health benefits in 28 cities and towns in Massachusetts.

Municipalities in Massachusetts — particularly larger cities — have struggled in recent years to maintain stable financial footing. While fluctuating levels of state and federal support have played

a role, the escalating cost of health insurance for employees is the fastest growing cost center in most municipalities. The *Boston Globe* reported on the strain across the state in 2004, citing double-digit percentage increases in a number of cities and towns. The Worcester Regional Research Bureau survey of 28 cities and towns in Massachusetts reveals that most Massachusetts cities are out of step with national and regional averages for health care expenditures.<sup>1</sup> For example, since 1991, in the City of Worcester, health insurance costs have climbed from 8.5 percent of the city's budget to 15 percent, making it the largest single budget item after the city's public schools.

#### Causes for the Cost Increases

Increases in the cost of insurance are driven by rapid increases in the cost of health care. Advanced technology, expensive prescription drugs and increased longevity all contribute to the escalating cost of health care. However, many of these costs are related to

the structure of health insurance arrangements, which insulate consumers from the real cost of their health care decisions. Low co-payments lead to higher premiums, and most municipalities in the Commonwealth have high contribution rates, so that cities and towns bear a large percentage of those high premiums.

Changes in the structure of employee health insurance, particularly plan design elements such as office visit and prescription drug co-payments, can alter the way health care is consumed, and bring premiums down for both employers and employees. Private employers have been making these adjustments during the last decade, but such changes are slow in coming to municipal governments in Massachusetts. Nationally, in 2000, fewer than 20 percent of employers reported office visit co-payments of \$15 or \$20. In 2004, over 60 percent of those employers required higher co-payments for office visits (see *Figure 1*).<sup>2</sup> One health plan reports that less than 1.5 percent of its private-employer members offered a \$5 office visit co-payment, while 75 percent of municipal members did. Similarly, only 3 percent of nationally surveyed employers reported a \$5 office visit co-payment. Only three cities with a population over 50,000 required co-payments of \$15 or higher, suggesting that plan design is an area in need of reform in many municipalities.

#### Contribution Rates

Contribution rates are higher in large cities including Worcester than in smaller cities and towns, or in private industry. Again, the City of Worcester provides an example of the problem in many of the larger cities in Massachusetts. Worcester offers a 90 percent contribution rate, the highest contribution rate allowed by law for the HMO plans, and 87 percent for the more ex-

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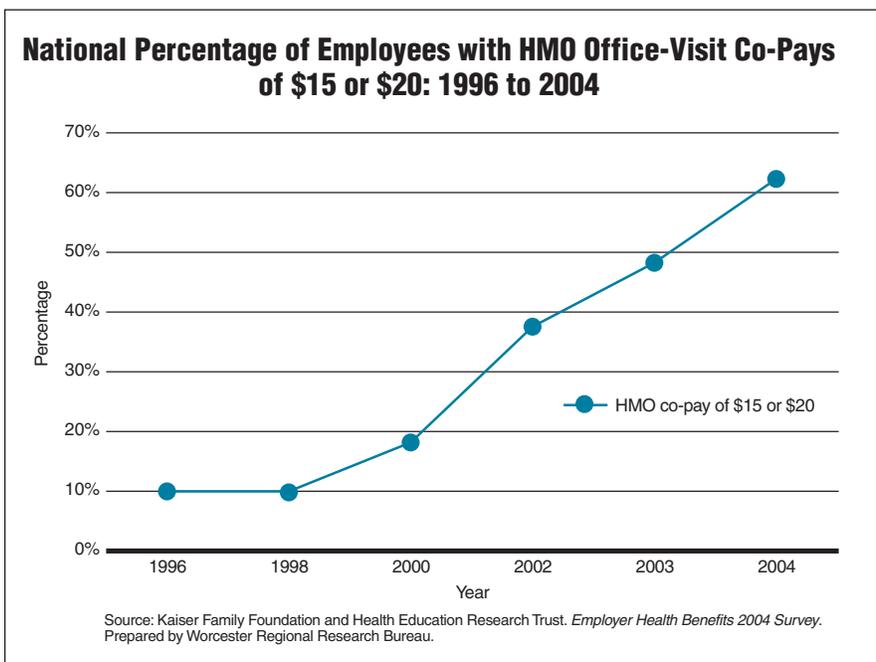
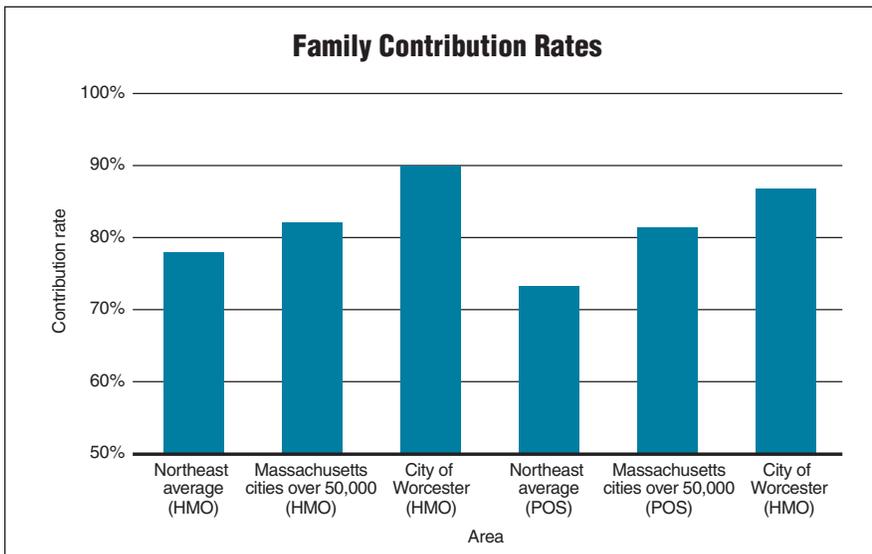
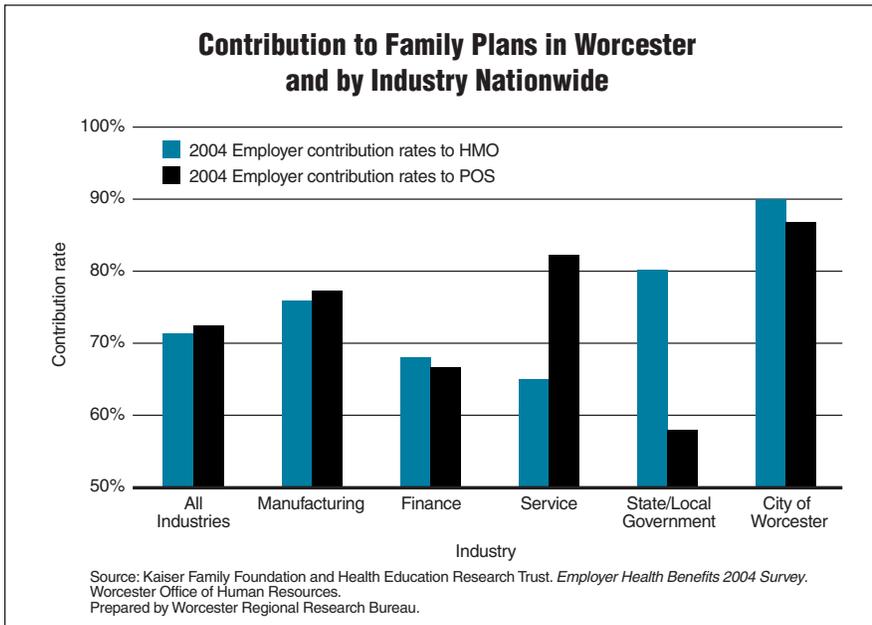


Figure 1

Health Insurance

continued from page three



Figures 2 and 3

pensive Point of Service (POS) plans. Nationally, employers average less than 75 percent contribution rate for HMO and POS plans.<sup>2</sup> State and local governments nationally average a contribution rate of under 60 percent for POS plans. The Massachusetts cities with populations over 50,000 surveyed by the Research Bureau averaged an 82 percent contribution rate for HMO plans, indicating that larger cities do not have contribution rates in line with the national averages (see *Figures 2 and 3*).

**Retiree Benefits and Medicare**

An additional burden borne by all cities and towns in Massachusetts and by few private employers is the cost of retiree health benefits. Municipalities have the option, through Chapter 32B, Sec. 18 of Massachusetts General Laws, to require eligible retirees to enroll in Medicare (doing so obligates the municipality to pay Medicare penalties for late enrollment if the retiree is over 65 and not enrolled in Medicare). Half of the cities and towns surveyed by the Re-

search Bureau do not require employees to enroll in Medicare when they become eligible. As a result, many eligible employees remain on more expensive conventional plans. Most private employers do not offer retiree health benefits at all.

**Change Contribution Rates**

Changes to contribution rates can have a significant impact on municipal finances. In Worcester, for instance, a change to a 75 percent contribution rate for all plans would result in \$8 million in savings to the city. If the city contributed 75 percent of the lowest cost provider and an equal dollar amount for more expensive plans, the city would save over \$15 million — enough to hire 250 additional employees, or return \$250 to the average homeowner and \$1,300 to the average business owner.

**Plan Design**

Massachusetts' cities and towns should aim to align their co-payment structures with private industry and national averages. Plan designs that allow consumers to see the cost of their health care decisions make it more likely that they will make more prudent health care decisions, reducing the unnecessary use of medical resources and alleviating some of the upward pressure on prices and premiums. As total premiums come down, cities and towns as well as employees will benefit.

**Retiree Plans**

Cities and towns should examine the contribution rates for retirees who remain on conventional plans. Cities may change those rates and create an incentive for retirees to select Medicare plans voluntarily (hence avoiding the penalties associated with requiring enrollment in Medicare via M.G.L. Chapter 32B, Sec. 18).

**Obstacles to Reform**

The obstacles to reform in municipalities are well known: changes to employee health benefits must be achieved through collective bargaining. In some

continued on page five

**Health Insurance**

cases, cities must negotiate with all unions combined for health benefits through an Insurance Advisory Commission. Unions often oppose changes to existing health benefits.

The difficulty of advocating changes through union negotiations prompted the Metropolitan Coalition of Mayors (Boston, Cambridge, Chelsea, Everett, Malden, Melrose, Medford, Quincy, Revere and Somerville) to request a state mandate that cities may not contribute more than 75 percent of health insurance premiums as a part of their "Core Elements of Municipal Relief." In its report of February 28, 2005, the Research Bureau recommended that Worcester city leaders lobby for state legislation to address the issue of employee health benefits for municipalities if negotiations cannot produce the needed reforms. Legislation was the method of reform used to change the structure of health

*continued from page four*

benefits for state employees who are now required to contribute 25 percent of the premiums and \$15 co-payments for office visits.<sup>3</sup> The strategy employed by the state may be needed in order to keep cities like Worcester solvent. ■

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

1. Brenda Buote, "Cities, Towns Join to Lower Health Premiums." *Boston Globe*, November 7, 2004, *Globe North*, Page 1. "Health Insurance Saps Local Budgets" *Boston Globe*, February 22, 2004, *Globe North*, Page 1.
2. National data on health insurance contribution rates are from the Kaiser Family Foundation *Employer Sponsored Health Benefits: 2004 Survey* and the International City Management Association's "Health Plans for Local Government Employees 2002."
3. The Commonwealth adopted different contribution rates for employees hired before and after June 30, 2003, and also offers an 85 percent contribution rate for employees making under \$35,000 per year.

**Library Funding Update**

The Federal Institute of Museum and Library Services announced grants totaling over \$160 million to state library agencies earlier this year. The grants are awarded under the Library Services and Technology Act and are made to each state's library agency to administer the funds according to a population-based formula. Massachusetts will receive \$3,423,733. In the Commonwealth, the Massachusetts Board of Library Commissioners (MBLC) is charged with administering these grants.

Some of the libraries in Massachusetts that will benefit from these grants include the Watertown Free Public Library, the Central Massachusetts Regional Library System in Shrewsbury, and the Snell Library at Northeastern University.

In his budget recommendations for the upcoming fiscal year, Governor Romney proposed an increase in funding for library service across the Commonwealth. The FY06 House 1 budget proposal includes an increase of almost \$95,000 in the administrative account of the MBLC and a \$150,000 increase in the Library Technology and Resource Sharing account.

According to Robert C. Maier, Director of the MBLC, "Funds in the MBLC administrative account will, in part, permit us to fill the head of Library Development/Deputy Director position that has been vacant since October 2002. The \$150,000 increase in the Library Technology and Resource Sharing account will be distributed to the nine automated library networks where it will reduce costs for member libraries and ease their local budgets." ■

**Course 101 DVDs**

The Division of Local Services has completed a videotaped version of Course 101, the basic course for assessors, which is now available in DVD format.

Although not intended to replace the traditional Course 101 classes, the Course 101 DVDs may be used for:

- Assessors and others who cannot attend a regular classroom offering of the course due to disability, illness

and/or other personal circumstances other than travel distance.

- Course 101 participants who do not pass the examination and would like to review the DVD version as a refresher.
- Internal training for assessor and their staff.

For information on how to obtain copies of the DVD version of Course 101, please contact Joan Groucke at 617-626-2353 or [grouckej@dor.state.ma.us](mailto:grouckej@dor.state.ma.us). ■

# DLS Update

## Foley Appointed to Appellate Tax Board



On March 2, members of the Governor's Council unanimously voted to approve Governor Romney's nomination of Anne Foley to the state Appellate Tax Board. Governor Romney has also designated Ms. Foley as the chairperson of this five-member board, which adjudicates cases on appeal from state and local taxing authorities.

For the past 12 years, Ms. Foley has served as tax counsel in the Department of Revenue (DOR), practicing in both the Litigation Bureau and the Rulings and Regulations Bureau. Prior to coming to DOR, she was an associate in the tax department of Ropes & Gray for four years and with Cleary, Gottlieb, Steen and Hamilton, a New York City law firm, for another two. She also taught law at the New England School of Law. Ms. Foley is a *magna cum laude* graduate of Boston College Law School where she edited the *Boston College Law Review*. She also holds a master's degree in educational administration from the University of Chicago. In 1999, she received the Commonwealth of Massachusetts Pride in Performance Award.

Regarding Ms. Foley's appointment, Commissioner of Revenue Alan LeBovide said, "In addition to her vast technical knowledge, Anne will be a strong, balanced and judicious leader for the Appellate Tax Board." Ms. Foley and her husband, Jonathan, have five sons (including two sets of twins) and reside in Lexington.

## New Officials Finance Forum

The Division of Local Services (DLS) is presenting a seminar for recently elected officials on Friday, June 3, 2005, at the Best Western Yankee Drummer Inn (formerly the Ramada Inn) in Auburn. Selectmen, mayors, city/town council members, accountants, auditors, assessors, collectors, treasurers, clerks, finance directors, city/town managers and finance committee members and their staffs are invited to participate. New officials will gain a basic understanding of Proposition 2½, budgeting, setting the tax rate, free cash and reserve and debt policies.

This seminar encourages a team approach to fiscal management. After a presentation by DLS staff, participants will have the opportunity to work with other local officials to calculate a levy limit and to complete a tax recapitulation sheet.

Participants will return to their communities with knowledge and understanding that should enable them to be effective and efficient members of their local financial management teams. They will know whom to contact at DLS for technical assistance if needed. Attendees will receive written materials that will be an excellent resource. DLS will award certificates to those who complete the seminar. A registration bulletin containing further information is available online at [www.mass.gov/dls/publ/bull/2005/2005\\_06B.pdf](http://www.mass.gov/dls/publ/bull/2005/2005_06B.pdf).

## Governor Unveils New Transportation Plan

Governor Mitt Romney recently unveiled a comprehensive, multi-modal statewide transportation blueprint that will invest nearly \$31 billion over the next two decades in the state's roads, bridges and transit network.

The plan directs at least 75 percent of all new capital spending toward maintaining and improving the Commonwealth's existing transportation network. The majority of funds will be dedicated to bridge repair, highway reconstruction and intersection and interchange modernization.

In order to improve commute times, Romney said the plan recommends \$12 billion in reconstructing, decongesting and expanding roadways across the Commonwealth, including all major choke points. In addition to tackling hundreds of high-accident intersections and roads, the blueprint calls for the widening of Route 3 on the South Shore, making Route 2 a major east-west artery and wiring Interstate 91 in the Pioneer Valley to provide a fiber-optic "backbone" to convey traffic and other high-tech communications in the region.

The governor's plan also includes a number of transit expansions over the next 20 years, such as extending the commuter rail to Fall River and New Bedford and the Blue Line to Lynn, increasing rail service between Worcester and Boston, and building the Urban Ring, a rapid transit bus service that connects points around Boston.

The long-range plan, including project-specific information by region, can be viewed at [www.mass.gov/eot](http://www.mass.gov/eot). According to Transportation Secretary Daniel A. Grabauskas, the Romney administration will gather feedback on the plan from around the state over the next several months and make necessary adjustments. ■

# What is a Gubernatorial State of Emergency?

by Peter Judge, Public Information Officer, Massachusetts Emergency Management Agency

The Governor of the Commonwealth of Massachusetts is authorized under state law to declare a gubernatorial state of emergency upon the occurrence of a natural or man-made disaster. The law gives the governor broad authority to implement emergency measures to ensure the safety and health of the residents of the Commonwealth, take appropriate steps to mobilize state assets, and conduct other emergency business for the protection of the Commonwealth. A gubernatorial state of emergency (SOE) is initiated when it becomes necessary for the governor to assume command (direction and control) for the efficient utilization of the total resources of the Commonwealth, in order to mitigate the effects on people and property of a large-scale threat, emergency or disaster.

There is a misconception that various restrictions or bans automatically are triggered when there is a gubernatorial state of emergency in place. This is not so. The declaration of an SOE does not in itself affect the operation of private enterprise. Travel is not automatically banned and businesses are not automatically closed. For example, during the January 22–23, 2005, snowstorm there were no travel restrictions.

An SOE may be accompanied by a request by the governor to stay off the roads, to release employees early, or to stagger arrival at work, in order to promote public safety. These actions, however, are usually in the form of a request, not an order. In extreme circumstances, the governor, as part of his SOE, may order roads be closed to all but emergency traffic, such as occurred during and immediately following the blizzard of '78.

The governor is authorized to exercise certain powers when an SOE is de-

clared, including the taking and using of property for the protection of the Commonwealth. Actions such as ordering evacuations, restricting access, implementing curfews, driving bans or restrictions, etc., can be stated in the declaration to protect health and welfare if warranted.

The SOE may cover a specific municipality (a tornado), multiple communities or counties (a coastal storm), or the entire Commonwealth (a major blizzard). The governor is also authorized to issue executive orders to meet the needs of a threat, emergency or disaster. These orders have the force of law and supersede existing law if there is any conflict between a law and the executive order.

The governor looks to the Massachusetts Emergency Management Agency (MEMA) director for recommendations concerning all matters related to carrying out the operational aspects of the Commonwealth's Emergency Management Program. The governor may, on a recommendation by the director, authorize assistance from various appropriate state agencies, and request federal agency support allowable under existing federal statutory authority, to tender assistance. MEMA drafts the appropriate documentation for a gubernatorial SOE and requests for presidential assistance when needed.

A gubernatorial SOE does not mean that the state will provide financial assistance to cities and towns affected by the disaster. There is no disaster fund available to the governor or the MEMA director. State financial assistance may be made available by a vote of the Legislature following the declaration of a gubernatorial SOE, because of the disaster. It is important to note that in many instances when a gubernatorial SOE is declared, there is no need for financial support to carry out emergency actions. Operational and financial recovery assistance may become available from the federal government following a disaster. It is predicated upon a Presidential Declaration of Emergency or Disas-

[continued on page nine](#)

## Gubernatorial States of Emergency

- 1941 WWII — Creation of MA Committee on Public Safety
- 1941 WWII — Blackout provisions
- 1941 WWII — Consolidation of MA Division of Employment Security with U.S. Employment Service
- 1953 Worcester tornado
- 1954 Hurricanes Carol/Edna
- 1955 Hurricanes Connie/Diane
- 1957 Drought/forest fires (undertaking artificial rain-making)
- 1962 MTA strike
- 1978 Blizzard of '78
- 1979 MBTA placed in receivership
- 1980 MBTA placed in receivership
- 1981 Natural gas shortage
- 1981 Lynn fire
- 1983 Chelsea Street Bridge
- 1984 Flooding
- 1984 Peabody explosion and fire
- 1994 Snowstorm
- 1995 Malden Mills fire
- 1999 Worcester warehouse fire
- 2001 Snowstorm
- 2001 9/11
- 2001 Snowstorm/flooding
- 2004 Flooding
- 2005 Snowstorm

## Major Federal Disaster Declarations

- 1953 Worcester tornado
- 1954 Hurricanes Carol/Edna
- 1955 Hurricanes Connie/Diane
- 1972 Toxic algae in the costal waters
- 1973 Chelsea fire
- 1978 Blizzard of '78
- 1981 Lynn fire
- 1985 Hurricane Gloria
- 1987 Severe flooding
- 1991 Costal storm
- 1991 Hurricane Bob
- 1992 Winter costal storm
- 1996 Costal flooding
- 1996 Blizzard of '96
- 1998 Flooding
- 2001 Flooding
- 2004 Flooding

## Federal Emergency Declarations

- 1996 Flooding
- 1999 Worcester warehouse fire
- 2001 Snowstorm
- 2003 Snowstorm
- 2004 Snowstorm
- 2005 Snowstorm

Table 1

2005 State-Owned Land Valuation

continued from page one

<b>State-Owned Land, M.G.L. Ch. 58 Sec. 13, Cherry Sheet Payments</b>	
FY81	\$15,730,538
FY82	14,742,061
FY83	14,720,436
FY84	14,700,000
FY85	14,700,000
FY86	18,210,204
FY87	15,535,694
FY88	0
FY89	0
FY90	0
FY91	0
FY92	0
FY93	6,500,000
FY94	6,500,000
FY95	6,500,000
FY96	6,900,000
FY97	7,900,000
FY98	10,000,000
FY99	12,000,000
FY00	15,000,000
FY01	18,000,000
FY02	15,000,000
FY03	10,000,000
FY04	8,000,000
FY05	12,500,000

**Table 2**

the 289 communities had completed the SOL reconciliation process.

Part of Chapter 262 of the Acts of 2004 synchronizes SOL and EQV Appellate Tax Board appeals and authorizes BLA to hold, for the first time, informal SOL hearings to make valuation adjustments if warranted. Through the active involvement of local assessors the revised valuation process and valuation hearings, BLA expects to reduce the number of Appellate Tax Board appeals and their associated litigation costs for municipalities and DOR. The modified process also allows the ATB more time to decide SOL issues. The new timetable is outlined in *Table 1*.

In January 2003 the Bureau updated its *Guidelines for Development of a Minimum Reassessment Program* to include a section on state-owned land. A review of the proper application of these guidelines is conducted by BLA in every community undergoing a triennial

review of their property values for certification purposes beginning in fiscal year 2004. In a letter dated September 17, 2003, the FY2005 certification communities were advised to complete their reconciliation as soon as possible and the FY2006 final third of communities were told in a letter dated February 25, 2004, to have their reconciliation's completed by June 30, 2004.

To assist assessors with the SOL reconciliation process, communities were provided a paper copy of reimbursable SOL as indicated in BLA's SOL database. Also provided were instructions to access the BLA website containing guidelines and information needed to reconcile a community's SOL. Assessors could also review BLA's historical records if they so chose. The guidelines explain the criteria to qualify SOL as reimbursable and the valuation methodologies employed to value all SOL, e.g., land segmentation categories such as prime lots, residual and unbuildable acreage; utilization of local zoning requirements and predominant land use; and use of BLA's excess lot and large acreage tables.

Assessors reviewed local historical information such as property record cards, deeds, orders of taking, assessing maps and the local commitment books relative to the BLA guidelines. Bureau appraisal advisors coordinated efforts with local assessors to facilitate a sometimes daunting and time consuming reconciliation process. Once completed and mutually agreed to by local assessors and the Bureau, the data collection phase of the valuation process ends and the data only needs to be maintained by adding new eligible SOL or deleting ineligible properties. This process should require minimal work. The signing of the reconciliation letter does not preclude assessors from appealing a SOL valuation to the ATB or requesting BLA to revise acreage or segmentation should new evidence come to light.

Many state-owned properties were acquired a great many years ago and records were sketchy. BLA has worked with the Department of Conservation and Recreation's Water Supply Protection Division (the former Metropolitan District Commission's Watershed Division) to ensure that the agency's records are in accord with those of the municipalities' and BLA's. If acreage records differ slightly BLA usually errs on the side of the municipality. Generally we agree to acreage if two of the three parties involved in water supply land have similar data. Additionally, BLA is willing to consider acreage adjustments if a municipality has an up-to-date geographic information system (mapping) that is based on a recent fly-over. Each city or town must follow all of our guidelines so that all are treated uniformly statewide.

**History of State-Owned Land Reimbursements**

Fiscal year 1993 saw a separate line on the Cherry Sheets for state-owned land reimbursement for the first time since fiscal year 1987. In FY88 several state aid programs were consolidated into a Cherry Sheet line called Additional Assistance at their FY87 levels where they were expected to remain. However, beginning in FY91 sharp reductions in appropriations began to occur. It became apparent that some municipalities were not receiving SOL reimbursement. Currently, House 1 is proposing a ramping up of SOL payments over the next five years so that full funding would occur in 2010 according to the statutory formula in Ch. 58 Sec. 13. If SOL were fully funded for FY2005 the total reimbursement would have been \$24,446,803 rather than the \$12,500,000 actual reimbursement. *Table 2* shows reimbursements statewide beginning in fiscal year 1981 through fiscal year 2005 (it does not include payments for watershed land that are distributed by DCR). ■

## DLS Profile: Information Technology Staff

**Mike Quinlivan** is the newest staff member in the Division of Local Services' Information Technology (IT) Section. He brings to the Division a wealth of knowledge and experience in terms of treasury, collections and assessment software applications, as well as the functions and duties these municipal offices typically perform.



**Mike Quinlivan**

Mike began working in the Division's Worcester regional office in October 2004. He assists cities and towns in the central and western parts of the state with IT matters such as programming, networking, and working with various software applications. One project he is currently devoting a great deal of time to is assisting the Community Software Consortium with rewriting its software application for collections. According to Mike, these improvements will "help collectors with day-to-day activities as well as reporting functions."

Prior to coming to the Division, Mike worked as an application programmer for an appraisal software company in Massachusetts. In this capacity, he worked on assessment systems for other states as well as various cities and towns in Massachusetts. He once owned his own municipal software consulting business that specialized in treasury and collection applications.

Mike became interested in working for the Division "because DOR is well respected by local officials for its professionalism and knowledge. I thought I would try to see if I could become part of it."

Mike is originally from Worcester but now resides in Paxton. He has attended the University of Massachusetts at Amherst, as well as the Worcester Polytechnic Institute where he studied client server programming. At Central New England College, Mike completed courses in information technology.

In May 2004, Mike was elected to his first term as a selectman in Paxton. ■

### State of Emergency

*continued from page seven*

ter, as we saw following the January 22–23, 2005, blizzard, and requires the governor's activation of the Massachusetts Comprehensive Emergency Management (CEM) Plan, with written justification that the Commonwealth and its political subdivisions have inadequate resources to cope with the emergency or disaster.

The governor is given these broad emergency powers through a number of sources including the Massachusetts Constitution, which vests supreme executive power in the governor, and Chapter 639 of the Acts of 1950, which spells out the Commonwealth's preparation for and response to emergencies and disasters.

For more information, see [www.mass.gov/Eeops/docs/mema/mema\\_massachusetts\\_state\\_of\\_emergency\\_procedures.doc](http://www.mass.gov/Eeops/docs/mema/mema_massachusetts_state_of_emergency_procedures.doc). ■

### Bylaw Upheld

*continued from page two*

view, the Acton bylaw was valid since assessments under the flow rate formula were reasonable and proportional.

Regarding the calculation of the assessment, the Appeals Court ruled that the taxpayer's remedy was an abatement. However, the court held that the taxpayer could not pursue this claim at the present time since M.G.L. Ch. 83 Sec. 15B expressly stated that "the provisions of Chapter eighty relating to abatements shall not apply to estimated assessments under this section." Consequently, the taxpayer had to receive a notice of final assessment before filing an application for abatement.

Accordingly, the Appeals Court declared the Acton bylaw to be valid. This decision is of interest since this was a case of first impression. There was no prior court decision interpreting residential equivalent assessments. The Legislature left this statutory term undefined and allowed local communities to make the determination through bylaw and ordinance. Acton's bylaw was upheld since it was neither arbitrary nor capricious. ■

#### City & Town

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**Joan E. Grouke, Editor**

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