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City and Town

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The Power of Chapter 40R

Last June, state lawmakers passed, and Governor Romney signed, a law that represents real progress in the effort to increase affordable housing development across the Commonwealth.

The newly enacted Chapter 40R — the so-called Smart Growth Zoning Law — gives municipalities financial incentives to adopt the zoning tools they need to increase density and encourage housing development, while preserving open space and providing access to multiple transportation choices. One of the greatest potential benefits of this legislation is that it can be used to create affordable senior housing in downtowns in order for seniors to “downsize” without leaving the community and stay independent longer.

Specifically, the 40R law allows for the creation of “Smart Growth Zoning Districts” — areas that meet minimum density and affordability requirements for housing development and are usually either near a mass transit station or in an area of “concentrated development,” like a town center or existing commercial district. Under the legislation, projects within these Smart Growth Zones will be approved using a streamlined process.

The legislation also creates the Smart Growth Housing Trust Fund with a \$2 million infusion from the General Fund, to be followed by an additional \$25 million in proceeds from the sale of surplus state land. Monies from the Fund will provide important incentives to cities

and towns to create housing development within Smart Growth Zoning Districts (SGZD).

For example, within 10 days of confirmation of approval of an SGZD by the state Department of Housing and Community Development, communities receive an “incentive payment” of between \$10,000 and \$600,000, depending on the number of projected housing units within the district. An additional one-time “density bonus payment” of \$3,000 per unit is paid upon issuance of a building permit for the actual unit (which must be returned to the Trust Fund if actual construction hasn't begun inside the SGZD within three years.)

In addition to direct financial incentives, the law also gives priority to communities with SGZDs for the award of other discretionary funds by DHCD, the Executive Offices of Environmental Affairs and Transportation and the Secretary for Administration and Finance.

While individual provisions may seem technical, together they make possible a wide range of benefits for communities. By increasing density and housing development in downtowns near transit, many seniors may decide to leave their larger and more isolated suburban homes and move to the town center. Most seniors are reluctant to leave their friends and their community, but many would take advantage of a more affordable and convenient housing option if one exists nearby.

by Kerry Healey, Lt. Governor of the Commonwealth of Massachusetts

The denser, more affordable housing option provided by an SGZD in a city or town center means that much of what seniors need is within walking distance, which provides health benefits and reduces isolation. Combine these characteristics with a less onerous property tax burden and additional mobility thanks to easy access to mass transit, and the result is a more independent senior population that can remain in their own homes for a longer period of time.

Keeping seniors healthy and independent longer is an outcome everyone in the Commonwealth should be invested in. Rising health care costs are, in part, driven by the increasing number of seniors living in long-term care. Many of our seniors in institutions could have stayed longer in their communities with

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From the Deputy Commissioner

Almost two years ago, the Division of Local Services implemented the e-mail distribution system for Cherry

Sheets, Informational Guideline Releases, Bulletins and *City & Town*.

Since then, we have encouraged local officials to subscribe to these lists, and as a result, each list contains thousands of subscribers. Feedback has been positive and the consensus is that e-mail is a speedy and efficient means of notifying local officials of what they need to know.

Beginning this year, the Division will disseminate certain notifications by e-mail, such as free cash letters, regional school district excess and deficiency (E & D) fund letters and tax rate certification letters. While hard copy mailings will accompany the e-mails, the Division intends to fully convert to e-mail notification for these notices in FY06.

State-owned land, telephone, pipeline and farmland valuation letters will be sent out by e-mail later this year. Final equalized valuation (EQV) notices will be e-mailed in 2005.

In cooperation with city and town clerks, the Division has embarked on an effort to create an Internet application that will allow city and town clerks to verify and update the names and e-mail addresses of officials in their community. Hopefully, this cooperative effort will help solve the needs of many different state and local agencies that want to communicate electronically with thousands of city and town officials.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

Is There a Cap on M.G.L. Chapter 121A Payments?

by James Crowley

As many are aware, M.G.L. Ch. 121A provides a statutory mechanism whereby private developers can receive local tax incentives to undertake urban development projects. In the 1970s, Anderson Street Associates and Marcus Garvey Apartments were selected to build low- and moderate-income housing developments in the City of Boston, and signed M.G.L. Ch. 121A contracts with the city. M.G.L. Ch. 121A Sec. 10 exempts developers from local real estate and personal property taxes. Under their 40-year agreements with the city, the developers agreed to pay the urban redevelopment excise tax as described in M.G.L. Ch. 121A Sec. 10, and an additional amount under M.G.L. Ch. 121A Sec. 6A based on varying percentages of each project's gross rental collections.

The developers were happy with the agreements until 1996. In that year their payments under M.G.L. Ch. 121A Secs. 6 and 10 exceeded what would be required under the ordinary tax provisions of M.G.L. Ch. 59. When the developers failed to obtain abatements, they filed suit in Superior Court in April 1999 alleging that the M.G.L. Ch. 121A contracts were unenforceable on common law principles, public policy and constitutional grounds. The defendants, the City of Boston and the Boston Redevelopment Authority, moved for summary judgment, which the lower court judge granted. The developers appealed to the Supreme Judicial Court, which rendered a decision this past November. The case is *Anderson Street Associates v. City of Boston*, 442 Mass. 812 (2004).

The issue before the Supreme Judicial Court was whether M.G.L. Ch. 121A contained a cap on in lieu of tax payments to prevent them from exceeding what would otherwise be required under M.G.L. Ch. 59. In a unanimous decision, the court ruled that there was no express or implied cap on the M.G.L. Ch. 121A payments. Looking at the entire statutory scheme, the court held that tax breaks may have been contemplated under M.G.L. Ch. 121A, but there was no guarantee, according to the court, that the M.G.L. Ch. 121A payments would always be less than or equal to an ordinary real estate tax levied under M.G.L. Ch. 59. Elsewhere, the Legislature had enacted such express guarantees. For example, the court noted that M.G.L. Ch. 121C Sec. 9 provided that the excise for economic development corporations may not exceed "the amount that would be levied on the current tax rate." The court also observed that M.G.L. Ch. 121A Sec. 15 included a cap on excess payments to be paid by the developer. In the court's view, absent express or implied statutory language, there was no guarantee that the tax breaks envisioned under M.G.L. 121A would continue through the entire contract term.

On policy grounds, plaintiffs urged the court to invalidate these M.G.L. Ch. 121A contracts. It appeared to the court that the M.G.L. Ch. 121A contracts at issue here were unambiguous and had to be enforced, notwithstanding the unfavorable terms of the contracts from the developers' viewpoint. When the plaintiffs entered into these agreements, the tax limiting measure known as Proposition 2½ had not yet been approved by the voters in November 1980. Nevertheless, the court reasoned that the plaintiffs voluntarily entered

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Focus

on Municipal Finance

FY06 Revenue Forecast

On December 6, 2004, the House and Senate Ways and Means Committees and Executive Office for Administration and Finance held the annual “consensus revenue estimate” hearing, during which it took testimony from regional economists and state tax revenue forecasting experts in order to formulate the FY06 consensus tax revenue estimate. (The presentations of those who testified can be viewed on the Executive Office for Administration and Finance’s website, at www.mass.gov/eoaf/revenue_hearing_materials.html.)

All the presenters agreed that the recession that began in 2001 was deeper in the Commonwealth than in the rest of the country, and that the recent economic recovery has been weaker as well. However, all agreed that the economic recovery has finally gained traction in Massachusetts, and that the economy will expand moderately over the next two years. Three of the presenters provided tax revenue estimates for FY05 and FY06.

The Commissioner of Revenue reviewed tax revenue collection results for FY04 and for FY05 through November, and provided revenue forecasts for the remainder of FY05 and for FY06. *Chart 1* below shows “baseline” tax collection growth from FY81 through FY05.

The baseline growth calculation factors out the impact of tax law and administrative or processing changes that affect tax collections (such as tax increases or cuts, and increasing use of electronic funds transfer in remitting tax payments, which accelerates collections), and is a better measure of the underlying strength of the economy and the tax base than is actual revenue growth, which does not factor out the impact of such changes. After increasing strongly in the latter half of the 1990s, Massachusetts’s baseline tax revenue collections declined precipitously in FY02, shrinking by more than 10 percent. This decline was due primarily to the steep economic recession

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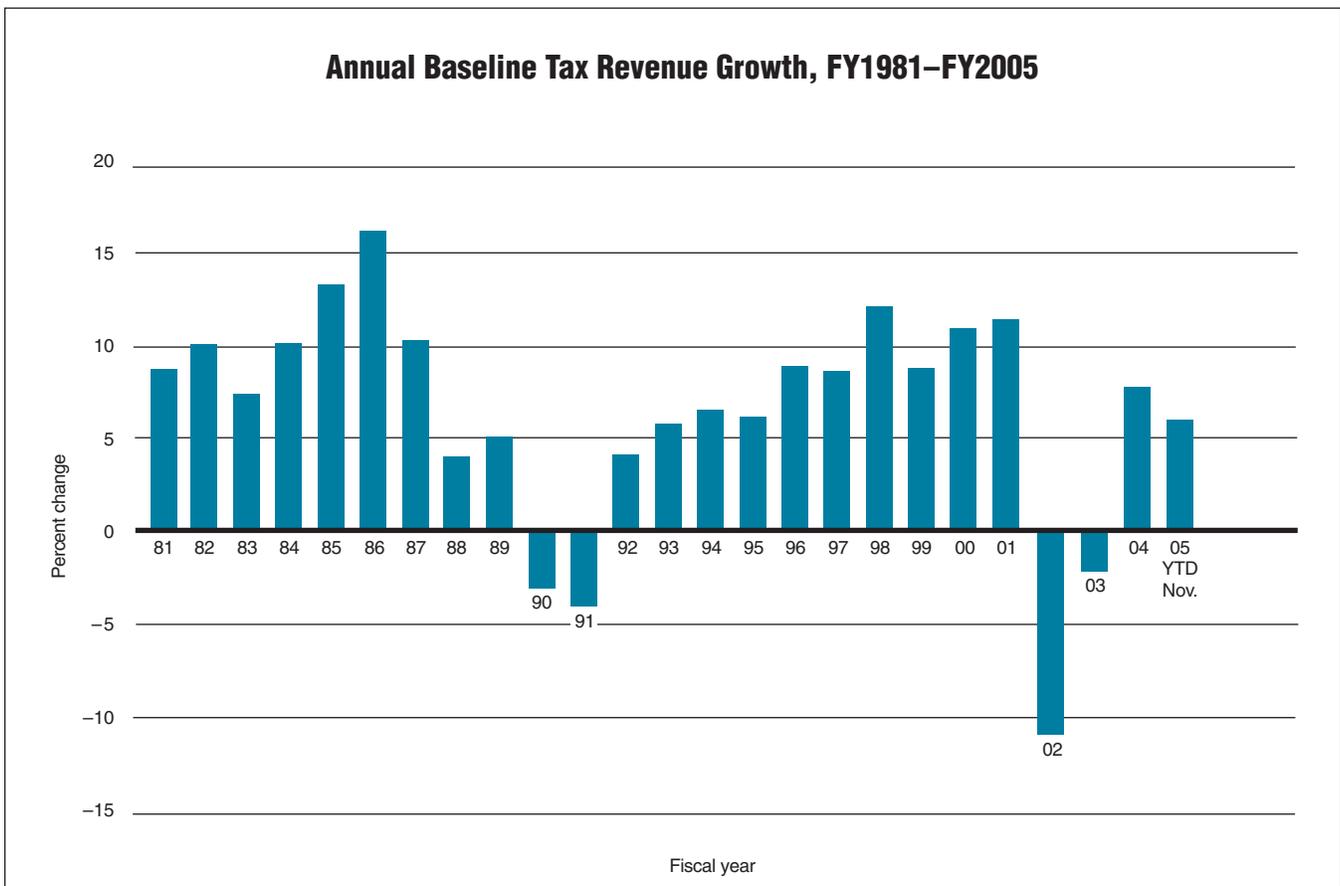


Chart 1

FY06 Revenue Forecast

continued from page three

	Actual growth	Baseline growth
Total taxes	5.3%	5.1%
Total income	7.1	5.6
Income withholding	4.1	4.1
Income estimated payments	21.1	7.6
Sales	3.7	4.4
Corporate and business	-5.9	2.7
All other	7.1	5.3

Table 1

and its attendant decline in employment, capital gains, and bonus income. The decline continued in FY03, albeit at a slower rate than in FY02. Baseline tax revenue collections recovered in FY04, growing by 7.2 percent, primarily due to strength in corporate/business and income tax collections, the latter growing due to strong capital gains and bonus income in the second half of the fiscal year. However, income tax withholding

and sales tax, which account for over 70 percent of the Commonwealth's taxes, were still relatively weak in FY04.

As *Charts 2* through *5* and *Table 1* show, over the first five months of FY05, tax revenue growth continued, though at a slightly lower rate than for all of FY04, as withholding and sales tax experienced modest growth. On the other hand, in FY05 corporate/busi-

ness tax revenue growth has slowed substantially from its FY04 pace, primarily due to large tax refunds paid out in October and November.

The FY05 tax revenue forecasts presented by DOR were based on actual revenue performance through November and economic forecasts for the remainder of the fiscal year. In generating revenue forecasts from its tax forecasting model, DOR uses the projections for employment, wages, personal income and corporate profits from three well-respected economic forecasters — Economy.com, the New England Economic Partnership, and Global Insight. It then adjusts the estimates generated from its model for one-time events and tax law changes that affect tax revenue collections over the forecast period. The Massachusetts Taxpayer Founda-

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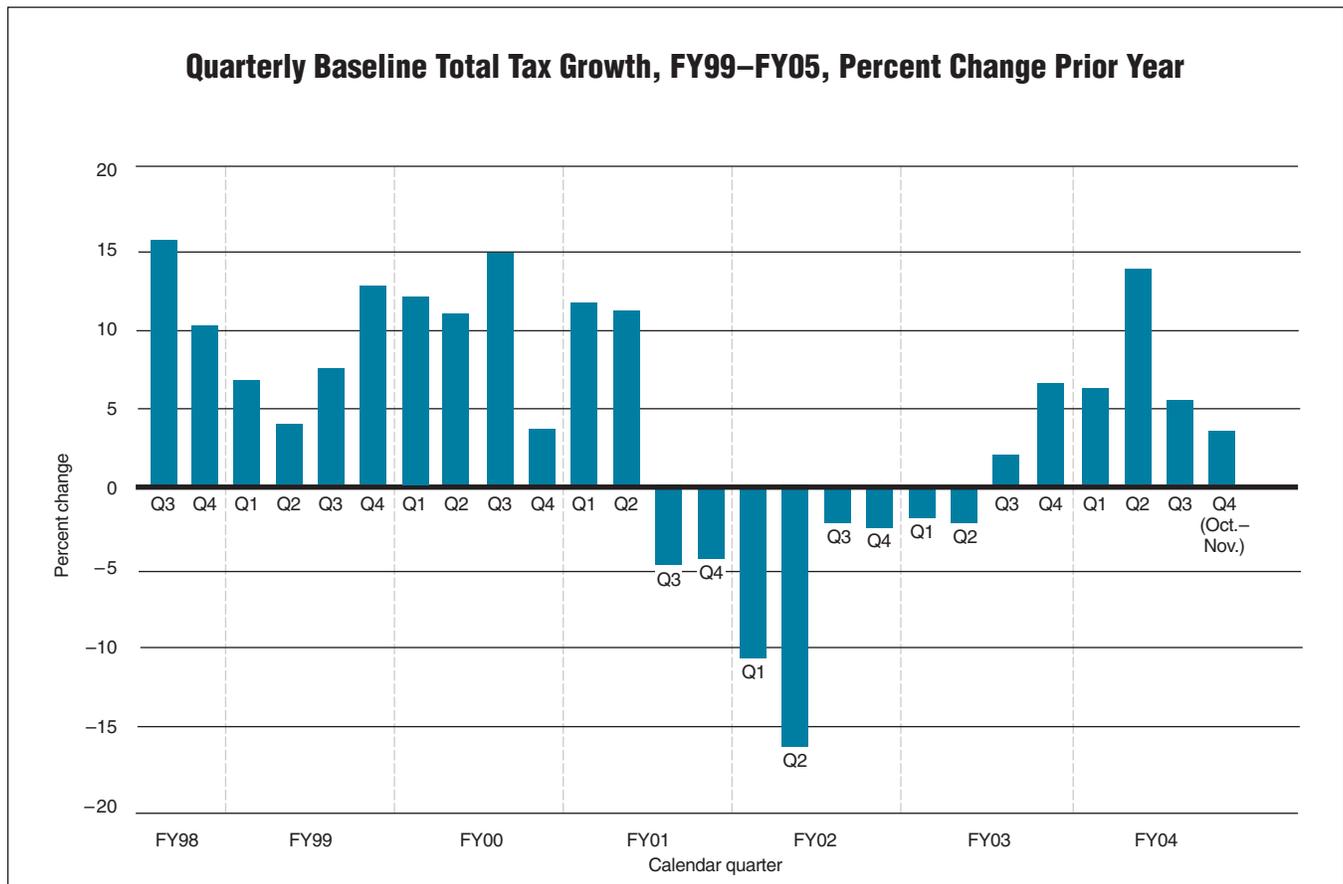


Chart 2

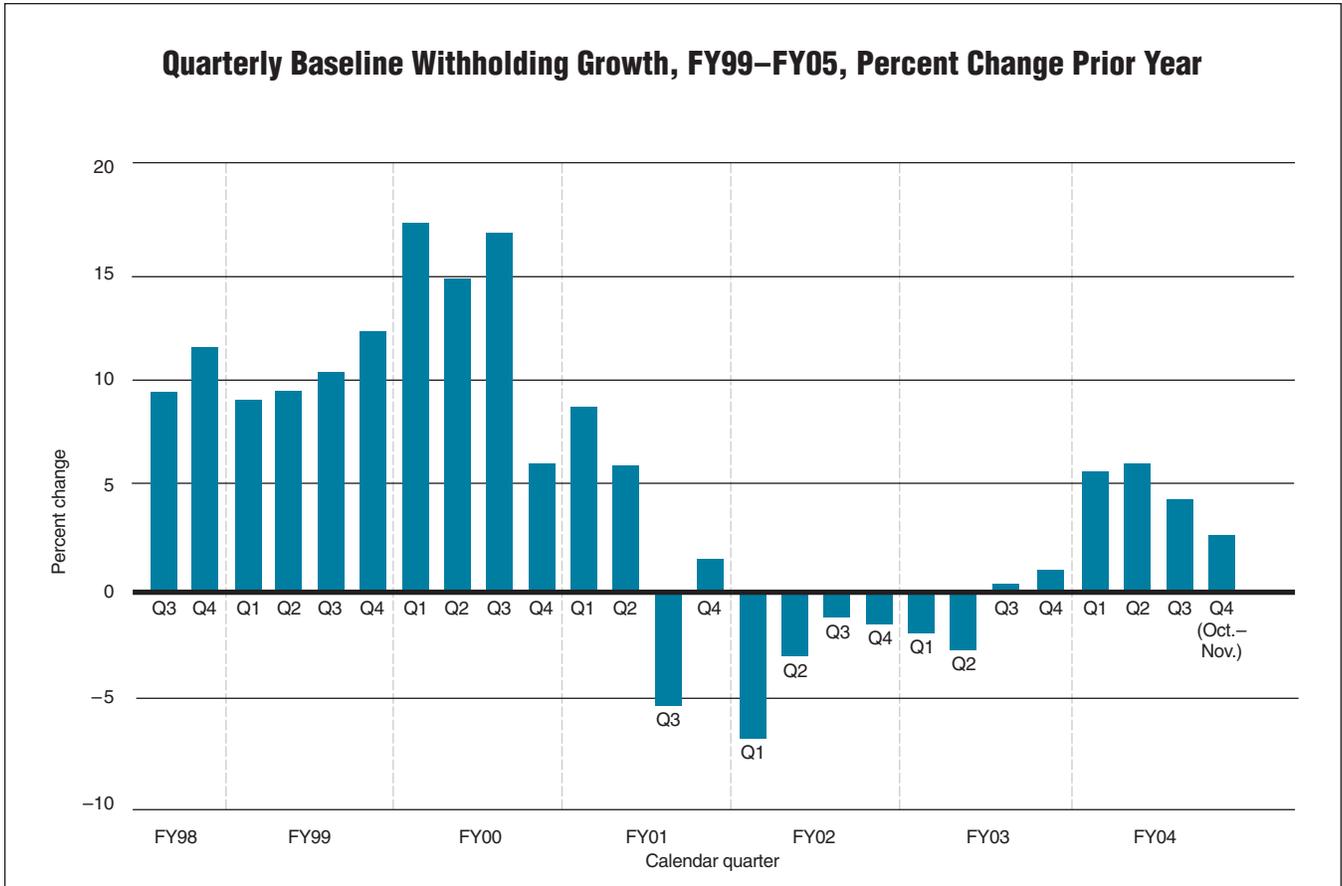


Chart 3

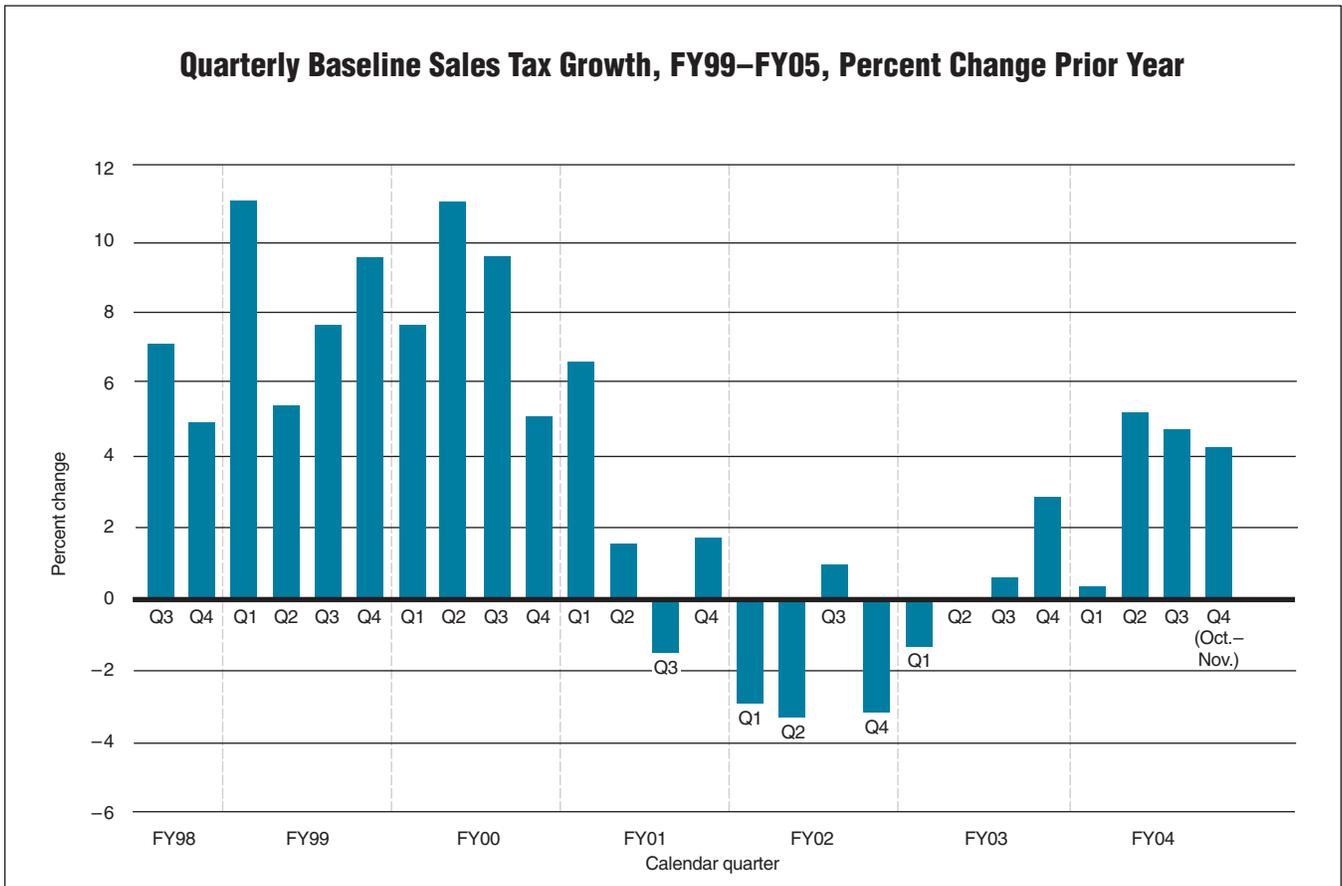


Chart 4

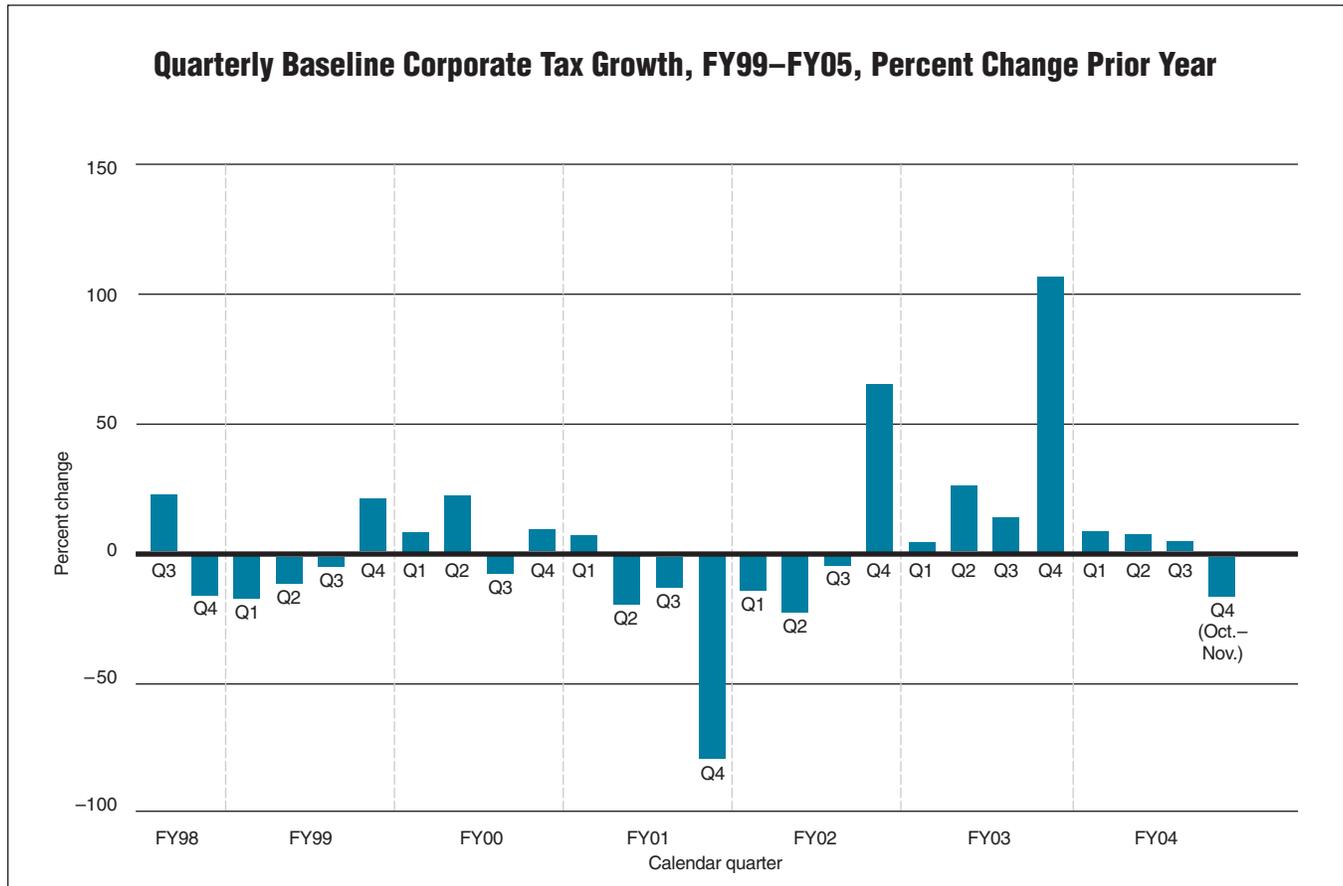


Chart 5

tion and the Beacon Hill Institute, who also provided revenue forecasts at the hearing, use similar methodologies.

Based on the assumptions of the three economic forecast vendors, the FY05 tax revenue forecast presented by DOR ranges from \$16.512 billion to \$16.593 billion (before subtracting sales tax revenues dedicated to the MBTA and School Modernization and Reconstruction Trust Fund), which represents growth of \$560 million to \$640 million (3.5 percent to 4.0 percent) over FY04 collections. In baseline terms (adjusting for tax law and administrative changes), FY05 revenue growth would be 3.3 per-

cent to 3.8 percent over FY04 collections. These FY05 revenue estimates were \$281 million to \$362 million higher than the FY05 estimate released by the Executive Office for Administration and Finance on October 15, 2004.

Based on the assumptions of the three economic forecast vendors, the FY06 tax revenue forecast presented by DOR ranges from \$17.341 billion to \$17.464 billion (before subtracting sales tax revenues that are dedicated to the MBTA and School Modernization and Reconstruction Trust Fund), which represents growth of \$829 million to \$871 million (5.0 percent to 5.2 percent) over

FY04 collections. In baseline terms (adjusting for tax law and administrative changes), FY05 revenue growth would be 5.0 percent to 5.2 percent over the FY05 projections.

The Massachusetts Taxpayer Foundation (MTF) and Beacon Hill Institute revenue forecasts were in line with the revenue forecasts presented by DOR. MTF forecasts that FY05 tax revenue collections will total \$16.665 billion, and that FY06 tax revenue collections will total \$17.368 billion. The Beacon Hill Institute forecasts that FY05 revenue will total \$16.813 billion and FY06 tax collections will total \$17.555 billion. ■

FY04 Residential Sales Statistical Summary

by David Wood

Every fiscal year, the Bureau of Local Assessment (BLA) reviews and certifies the real and personal property values for all communities undergoing certification that year, which is approximately one-third of Massachusetts' 351 cities and towns. The purpose of the review is to verify that municipal assessors are assessing properties at full and fair cash valuation for local taxation purposes. Because of the differing certification years, the bureau does not have an annual statewide sales database to analyze. However, we are able to publish the statistical summary results from the one-third, or 138 of the communities that completed the review process in FY04, the most recent certification year. These Statistical Sales Summary Sheets are available on the Division of Local Services (DLS) website at www.mass.gov/dls. Statistical Sales Summary Sheets are also available for communities that were certified in FY02 and FY03.

All sales analyzed are "arms-length." That means sales that have both a motivated buyer and seller who are well informed about market conditions and

Property class	Number of sales	Percent change	Min. pct. change	Max. pct. change
Single-family homes	23,668	31.47	0.97	92.22
Condominiums	10,271	27.20	-2.98	88.03
Two-family homes	3,543	35.20	-18.28	102.38
Three-family homes	1,840	41.68	-24.61	85.65
Apartments	1,004	32.18	-9.88	74.67

Table 1

are acting in their best interest. Most of these sales have been on the market for a reasonable period of time. These sales are also free of factors outside of the market that might have an effect on the sales price, such as personal property being included in the selling price. Property sales used in the residential study for FY04 are primarily from calendar year 2002 with an assessment date of January 1, 2003.

The bureau also calculates the percent change of the FY04 assessments, as compared to the previous year's assessment for all sold properties not substantially affected by new construction. A spreadsheet showing the resulting percent changes for each FY04 community is also available on the DLS website. We then determine the percent changes by residential class category statewide. *Table 1* shows the statewide percent change by residential property class type.

BLA also summarizes the data by county. *Table 2* gives the countywide breakdown and is arrayed from west to east. Blank areas in the county chart reflect an insufficient number of sales to be statistically significant. As has been the case over the past few years, sales in year 2002 show a greater rate of change in the east than in the west, however the central region rose at a higher level than in the past.

In the years between certification assessors should adjust property values annually to maintain the full and fair cash valuation standards. These modifications are called interim year adjustments. It should be noted that 72 communities of the 138 (51.1 percent) had performed interim year adjustments of values since their last certification in FY01. Thirty-one communities (22.5 percent) performed interim year adjustments in one of the two years since last

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Region	County	Total sales	Single-family homes	Condos	Two-family homes	Three-family homes	Apartments	Overall change
West	Berkshire	922	22.76	14.13	16.35	11.86	15.63	20.65
	Franklin	289	17.57	12.05	7.53	5.79	12.12	18.77
Central	Hampden	1,581	21.90	27.90	18.70	17.01	23.74	21.91
	Hampshire	1,123	30.47	33.95	27.62	30.78	25.02	30.47
Northeast	Worcester	5,378	27.19	29.06	34.92	42.09	32.66	28.98
	Middlesex	9,179	26.55	24.93	41.22	42.09	17.08	27.72
	Essex	3,409	23.08	21.05	31.57	39.10	30.89	23.56
Southeast	Suffolk	6,363	25.17	22.58	29.47	40.92	28.66	25.43
	Norfolk	2,231	32.91	39.52	43.96	41.15	42.49	34.35
	Bristol	5,267	34.20	41.80	34.81	47.70	43.23	37.39
	Plymouth	1,443	35.44	25.41	45.70	40.92	42.55	34.00
	Barnstable	3,159	61.33	52.83	75.61		54.89	60.08
	Nantucket	294	21.00	8.82	15.49	15.29	11.39	18.61

Table 2

Legal continued from page two

into these contracts with the benefit of legal counsel and were not unsophisticated on the subject of taxation. The court therefore declined to invalidate the contracts and wrote that it was the responsibility of the Legislature to address any onerous results of Proposition 2½ in conjunction with M.G.L. Ch. 121A agreements.

The plaintiffs also argued that on common law principles the agreements should be invalidated. However, the court rejected this claim since the Legislature never expressly guaranteed tax benefits throughout the 40-year term of these agreements.

Thirdly, the plaintiffs made a constitutional argument. They contended that the M.G.L. Ch. 121A payment in lieu of tax was unconstitutional since it imposed unreasonable, disproportionate and unequal taxation on them. Yet, the court noted that the M.G.L. Ch. 121A payment was not a tax. It was a payment in lieu of tax that was contractually agreed upon by the parties. The court also rejected the plaintiffs' equal protection claim. It appeared that the City of Boston had renegotiated several M.G.L. Ch. 121A agreements but had refused to renegotiate with the plaintiffs. The court agreed with the city that city officials could modify agreements if it were in the public interest, on a case-by-case basis. The plaintiffs failed to show that the city had been arbitrary or unreasonable in its treatment of the plaintiffs compared to other developers. The court therefore rejected the equal protection claim.

In conclusion, the Supreme Judicial Court held that there was no statutory cap on M.G.L. Ch. 121A excise and M.G.L. Ch. 121A Sec. 6A in lieu of tax payments in situations where developers may have entered into disadvantageous agreements. ■

FY04 Residential Sales continued from page seven

Median Percent Change — Effect of Interim Year Adjustments					
Interim-year adjustments	Single-family homes	Condos	Two-family homes	Three-family homes	Apts.
Both years	21.70	21.23	29.76	41.07	29.82
One year	28.39	24.03	28.82	26.95	26.38
Neither year	44.74	51.87	48.71	49.38	38.19

Table 3

certified, and 41 (29.7 percent) communities adjusted values in both years. For the first time, a minority, 66 communities (47.8 percent), did not adjust values in the two intervening years. *Table 3* indicates the effect interim year adjustments have on the percentage change statewide. It is important to note that there is not much difference between those that adjusted for one year and those that adjusted for two years. The probable reason is that 26 of 31 (83.8 percent) adjusted values in the second year.

Chapter 40R

the proper supports. We as an administration are working hard to make sure that those senior support services are in place.

But seniors are by no means the only beneficiaries of this legislation. Municipalities, businesses, the environment and young workers benefit as well. And if seniors, drawn by more affordable housing, easier mobility and increased density, move to city and town centers, the supply of suburban homes on larger lots will increase for younger families to whom this option is often very attractive.

Increased density also protects green space by helping to stem the tide of suburban sprawl and promotes economic development by increasing the number of consumers in our city and town centers. More commercial activity and affordable housing also draws our young people back to the cities and towns where they grew up, and keeps them available for hire by Massachusetts companies.

In FY05, the Division of Local Services required assessors to perform the analyses for interim year adjustments, and to submit the Interim Year Adjustment Form (LA15) to the bureau.

As you can see in *Table 3*, communities that made no adjustments to values saw a much more dramatic increase than the communities that did make adjustments during interim years. ■

continued from page one

Finally, a recent study from MassINC, a respected Massachusetts think tank, found that Massachusetts has the ninth longest average commuting time in the nation. By providing increased access to mass transit and bringing more of our workforce within walking distance of their jobs and of commercial centers, the reforms included in Chapter 40R can reduce traffic and congestion.

The new 40R legislation provides a deceptively simple first step toward addressing some of our society's most vexing problems: traffic congestion, loss of green space, high healthcare costs, hollowed out city centers, young workers leaving Massachusetts and seniors struggling to pay property taxes. Much work still needs to be done to stimulate housing development in the Commonwealth, but Chapter 40R gives communities the zoning tools they need to begin to unleash the benefits of smart growth. ■

Verified Market Real Estate Sales Online Mapping

by David L. Davies

The Division of Local Services (DLS) routinely accumulates data in the course of its regulatory activities that can be valuable to cities and towns as well as to taxpayers and businesses. While various public and private organizations record and publish real estate sales information, only local assessors and Bureau of Local Assessment (BLA) analysts examine communities' sales to determine which can be considered "arms length," or true market sales.

Assessors and BLA staff need to exactly locate a sale within its geographic context in order to understand its relevance to other sales and overall trends. A sale's proximity to a highway, shore-front, intersection, or refuse transfer station can make all the difference in understanding its sale price. Should its value be representative of similar types of property in the area or is it an anomaly? So-called geographic information systems (GIS) help answer such questions, among many others, but GIS requires highly trained staff and relatively expensive computer setups. While many larger communities have made the investment in GIS to assist in municipal tasks such as property assessment, utility maintenance, growth management, crime prevention, and school bus routing, home-grown GIS will remain an unaffordable luxury for the majority of small to medium-sized Massachusetts towns. Internet-based, centrally hosted and maintained GIS may be a feasible alternative for smaller towns, and a new DLS application is a simple demonstration of such capabilities.

DLS and MassGIS (part of the Executive Office of Environmental Affairs) decided that by combining forces and utilizing Internet technologies they could move DLS and local assessors into spatial analysis of real property sales, pinpointing sales submitted to DLS onto MassGIS's digital base maps. Even the



Figure 1

smallest community, regardless of technical training, would be able to analyze sales using GIS tools, both within its borders and in the surrounding region. Larger communities, even those with sophisticated GIS systems, would be able to analyze seldom-sold properties, like gas stations, theaters, or marinas, on a regional or statewide basis. For DLS, the web-based program (available at <http://maps.massgis.state.ma.us:8080/LA3/pages/main.jsp>) replaces the map cases and street directories at the Boston office and ties in all staff to a common extensive database of sales that is always as close as an office desktop or a wireless laptop. The program establishes a foundation upon which to build further analytical capabilities that can also be shared with anyone and everyone via the Internet.

In its current form, the program allows Internet users to select a community, property type (according to standard state use codes), sale price range, and sale date range. The results are shown on the community's map as purple dots and are listed in a table at the bottom of the screen. Users can cut and paste the table data into a spreadsheet for further analysis. On the map display, the user can zoom in or out repeatedly or change the center of the screen to



Figure 2

bring in other areas. By clicking on "Info on a Dot," the user can obtain further information on the specific sale, as shown in Figure 2.

New users of the system typically look for current year sales, not understanding that sales submitted to DLS for revaluation certification or equalized assessed valuation (EQV) are always one

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Online Mapping

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or two years prior to the current year. But DLS recognizes that for many purposes, the more current the sales, the better. Three developments will encourage submission and availability of more recent sales:

1. DLS has completed an in-house LA-3 analysis program to replace labor-intensive spreadsheet work by limited, highly skilled staff. All LA-3 data will be consolidated in one up-to-date database.
2. If DLS can make sales submission over the Internet easy and quick, local assessors may routinely submit sales in the interest of the common good, i.e. the bigger and more current the database, the more all assessors benefit for their own purposes. In the past, assessors cooperated to such ends without state encouragement, but the technology available then did not make the resulting programs quick or easy to use.
3. Private businesses that market sales data may be interested in gaining ready access to "arms length sale" determinations by collaborating on joint efforts with DLS, MassGIS, and other state agencies.

DLS's foray into Internet-based GIS is part of a step-by-step long-range plan to increase workflow efficiency, build internal GIS use for regulatory review of municipal data, collaborate with state and local data partners, and make all resulting data available in its most useful form. Next steps involve adding parcel boundaries to maps (instead of just purple dots) when these are available from participating local GIS systems, exploiting XML web services to make DLS data available for other users' applications, and allowing authenticated local assessors to directly submit data over the Internet with immediate feedback on whether their data pass DLS requirements. The timing of these steps will depend on budget resources and competing priorities, but, as opportunities arise, DLS will build these database and GIS capabilities. ■

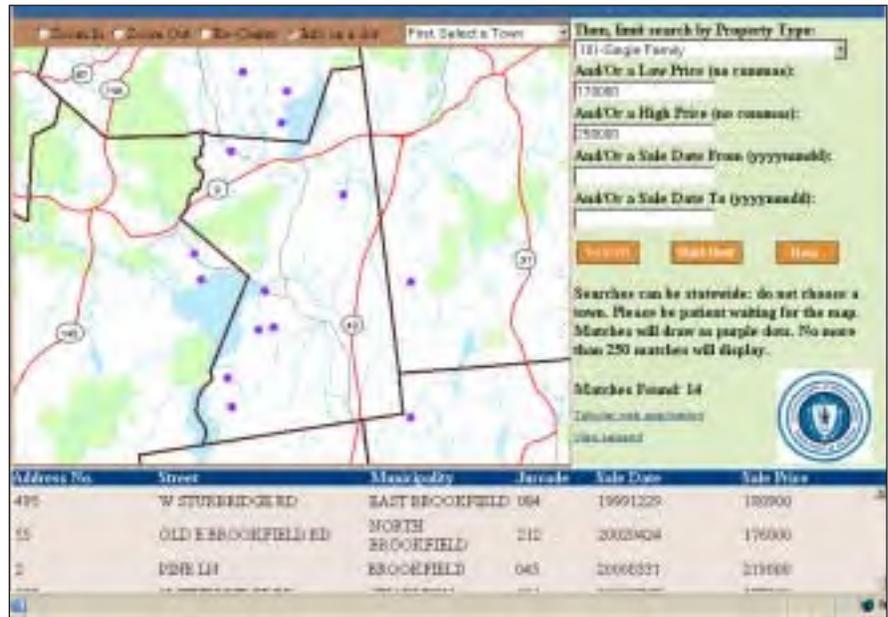


Figure 3

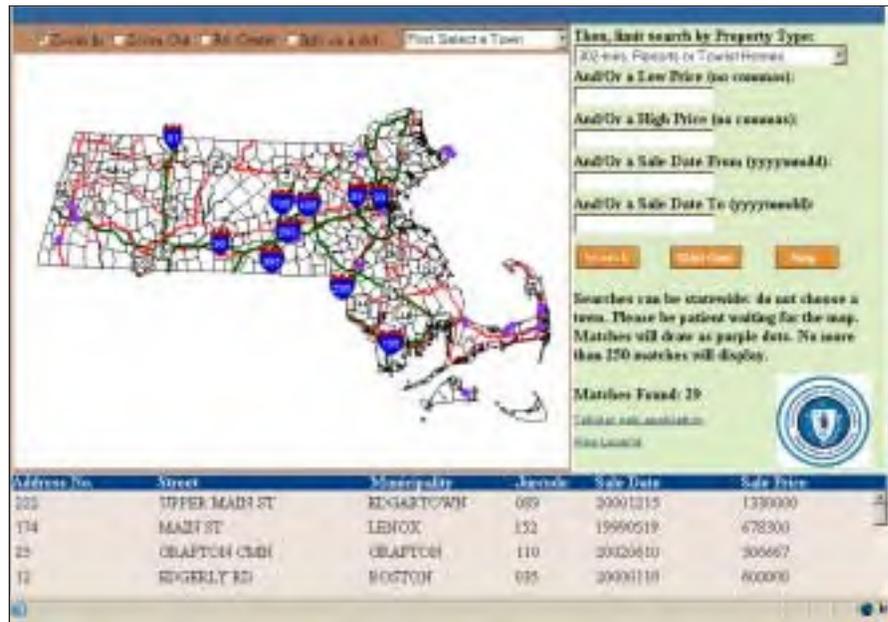


Figure 4

Massachusetts School Building Authority

by Tracy Holt

On July 28, 2004, legislation was signed (M.G.L. Chapters 208 and 210 of the Acts of 2004) creating the Massachusetts School Building Authority (MSBA). The Authority is immediately charged with paying out existing contract assistance commitments from the state to build schools totaling \$5.5 billion over the next 20 years, and implementing the financing solution for the wait list of 425 projects.

This reform will add certainty and fiscal discipline to a school building program that had been pushed to the brink of financial collapse. In 2003, the state Department of Education froze the addition of projects to the school building assistance wait list and declared a moratorium on reimbursements for any new school buildings. During FY04, the state budget reduced the school building assistance reimbursements by 1 percent each year, leading many municipal leaders to believe that their projects would never receive funding. The Legislature's funding for school building assistance reimbursements had nearly tripled in the past decade while the number of projects waiting for their first reimbursement from the state soared from 50 schools in 1993 to over 425 schools in 2003.

For over a year, the governor and the Treasurer's office worked diligently with the Legislature to craft and pass a re-

sponsible reform plan for the school building assistance program. This reform pledges up to 20 percent of the state's sales taxes as a dedicated revenue stream to pay down the existing \$8 billion in debt to municipalities for the existing wait list projects, while creating a new authority — the MSBA — charged with managing the cost of the program in the future.

The new MSBA is charged with:

- disbursing amounts due to cities, towns and regional school districts pursuant to grants approved by the Board to finance or refinance costs of approved school projects;
- collecting and maintaining data on all the public school facilities in the commonwealth, including information on size, usage, enrollment, available facility space and maintenance;
- conducting a needs survey to ascertain the capital construction, reconstruction, maintenance and other capital needs for schools in the commonwealth;
- developing a long term capital plan in accordance with needs and projected funding;
- establishing and maintaining reserves and investing funds; and
- developing an audit process for the new projects to be funded by the MSBA.

The creation of the MSBA ensures that all obligations to projects currently receiving reimbursement or on the wait list will be met in full. All promises made by

the state will be kept — ensuring that hundreds of new schools are built across the state. In fact, all projects on the wait list will be funded in just two-and-a-half years, rather than the former wait period of over 10 years.

The MSBA consists of a seven-member board which is comprised of the State Treasurer (Timothy P. Cahill), the Commissioner of Education (David Driscoll), the Secretary for Administration and Finance (Timothy Murphy, designee), and four additional members appointed by the State Treasurer. The four additional members are as follows: Richard Bertman, founding principal of CBT Architects; Mary Grassa O'Neill, Executive Director of the Principal's Center at the Graduate School of Education at Harvard; Terry Kwan, who has worked on public school building projects in Massachusetts for over 30 years, both professionally and as an elected official; and Lisa Turnbaugh, a construction management leader with the DSMJM Harris Group.

Executive Director Katherine P. Craven will lead the staff of the MSBA. Ms. Craven most recently served as Director of Policy for Massachusetts House of Representatives. In this capacity, she provided counsel to the Speaker and members of the House on major legislative initiatives, with particular focus on the Commonwealth's \$23 billion annual operating budget.

For more information, see the MSBA website at www.mass.gov/msba/. ■

DLS Update

Perry Welcomes New Staff Members to DLS

Deputy Commissioner Gerard D. Perry is pleased to announce that Mike Quinlivan, Jack Lyons, Deb Stuart and Kevin Baldini have recently joined the staff at the Division of Local Services (DLS).

Mike Quinlivan began working as an IT specialist in the Worcester regional office in October 2004. In this capacity, he assists communities in the central and western parts of the state with CAMA system support. Currently a member of the Paxton Board of Selectmen, Mike has experience working for an appraisal firm.

Jack Lyons, Deb Stuart and Kevin Baldini began working for DLS last fall in the Bureau of Local Assessment. Prior to coming to DLS, Jack worked for more than 20 years in the appraisal field and was a member of the Board of Assessors in Millis. He works in the Division's Boston office as a program coordinator dealing with state-owned land.

Deb Stuart and Kevin Baldini joined the DLS staff as certification advisors. Kevin has experience performing fee appraisals for an appraisal company. Similar to Mike and Jack, Deb and Kevin have experience in the municipal sector. They served on boards of assessors in Hanover and South Hadley respectively. While Deb works in Boston, Kevin works in the Division's Worcester office.

Deputy Commissioner Perry said that "the municipal and technical backgrounds of these new employees will not only benefit our municipal clientele, but our own staff as well."

New Excise and Abatement Guidelines

The Division of Local Services (DLS) has issued Bulletin No. 2004-22B, *Motor Vehicle and Boat Excise Abatements*. This Bulletin contains revised forms under M.G.L. Ch. 58 Sec. 3 for use in administering motor vehicle and boat excise abatements and exemptions.

As explained in Informational Guideline Release (IGR) 04-209, which was issued by the Division in December 2004, recent legislation has extended the deadline for taxpayers to apply for an excise abatement. In addition, assessors now have discretionary authority to act on late filed applications under certain circumstances. Consequently, the Commissioner of Revenue will not accept applications from assessors for authority to abate motor vehicle and boat excises under M.G.L. Ch. 58 sec. 58. Applications that are received after December 14, 2004, will be returned to the assessors for local action.

With this new legislation, assessors are now able to address all excise issues for particular taxpayers on their own. Municipal staff and others who might be contacted by taxpayers about excise bills should be informed that we have no authority to abate local excise bills and that they should refer all taxpayers to the assessors' office for assistance.

The Division also issued IGR 04-210, *Motor Vehicle Excise Bills* (December 2004) and IGR 04-211, *Boat Excise Bills* (December 2004). The bills have been revised to reflect the new abatement application deadline. The Division will be updating the *Motor Vehicle and Trailer Excise Manual* to reflect this new legislation and anticipate issuing a revised manual that will also cover the boat and farm excises next year. Bulletin 2004-22B contains revisions that may be inserted into your manuals in the meantime.

For more information, Bulletin 2004-22B and IGRs 04-209, 04-210 and 04-211 are available on the DLS website at www.mass.gov/dls.

UST Grant Opportunities

The Underground Storage Tank (UST) Petroleum Product Cleanup Fund Administrative Review Board is now accepting municipal grant applications for FY05. As a reminder, the specific eligibility requirements are as follows:

- The regulations are for removal and /or replacement of USTs only and not remediation.
- Only one grant application may be submitted per entity per year and must be limited to one location only.
- Grants are divided into four categories and may be subject to a rating system.
- The regulatory citation is 503 Code of Massachusetts Regulation (CMR) 3.00.
- The application must be signed by a chief administrative officer and the federal identification number must be included on the last page of the application. Please submit the application with appropriate documentation and proof of payment along with a brief description of the work performed.

Cities and towns that submitted a grant for consideration during FY04 that was not approved should resubmit a new FY05 application. Applicants seeking reimbursement for FY05 money must have all work completed and the application filed by June 1, 2005.

The regulations may be obtained at the State House Bookstore at 617-727-2834 or from the UST website at www.mass.gov/dor/ust/ust_home.htm. Please call Stuart Glass at 617-887-5978 for more information. ■

State House Profile: Chief of Staff to Lieutenant Governor Kerry Healey

Christopher J. Barrett serves as Lieutenant Governor Kerry Healey's Chief of Staff and Director of Municipal Affairs for the Romney–Healey administration. Not only is he charged with managing the staff of the Lieutenant Governor, he also works to ensure that the lines of communication between the Governor and Lieutenant Governor and the 351 cities and towns throughout the Commonwealth are "open and working."



Christopher J. Barrett

According to Chris, Lieutenant Governor Healey wants community leaders to be aware that they can "bring any matter of concern, no matter how big or small, to her attention." To this end, Lieutenant Governor Healey has been holding "Roundtable" discussions with local officials statewide. These Roundtable meetings are held almost weekly, sometimes twice per week, and include mayors, selectmen and other community leaders as well as representatives from state agencies such as the Division of Local Services and MassHighway. During these meetings, these officials have the opportunity to voice their concerns and ask questions of the state officials who participate.

"Above all," said Chris, "the Lieutenant Governor wants local officials to understand that her office is a vehicle they can utilize to help solve problems and deal with issues at the local level."

A lifelong resident of Lynnfield, Chris Barrett has gained experience as a local official while serving as a member of the Lynnfield Personnel Board. He received a bachelor's degree from Merrimack College where he majored in political science and secondary education. Before joining the Lieutenant Governor's staff, Chris worked in political campaigns (both gubernatorial and presidential) and the State Legislature.

With a broad background in government, Chris especially enjoys his role as the Lieutenant Governor Healey's liaison to all cities and towns. If you have a matter in your city or town that you would like to discuss with the Lieutenant Governor's office, feel free to contact Chris by e-mail at Christopher.J.Barrett@state.ma.us or by telephone at 617-725-4000. ■

New Minimum Age for Police Officer Appointments

A law was enacted in January 2005 that raises the minimum age to become a police officer from 19 to 21. According to this new legislation, which amends various sections of M.G.L. Ch. 31, persons must be 21 years of age on or before the final date for filing for the police officer examination application. This new law also applies to Massachusetts Bay Transit Authority police, state police, campus police at state colleges and the University of Massachusetts, and public safety officers in the Department of Fisheries and Wildlife.

The minimum age of 19 years for original appointment as a police officer applies to those who have completed the competitive examination prior to the enactment of this legislation. ■

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. Gourke, *Editor*

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