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IT Disaster Recovery Planning for Small Towns

Dave Davies, Director of Information Technology

Y2K, 9-11, and Katrina have moved information technology disaster planning to center stage at conferences and seminars for large government agencies and private firms in recent years. A potential avian flu pandemic is inspiring similar lectures and simulations now, again principally for large organizations. What relevance might this have for the daily operations of typical New England small town governments? Everyone acknowledges that town halls can burn down, be destroyed by tornadoes, or be victim to other disasters. The likelihood of anything like this happening, however, probably seems too remote to warrant the attention — never mind time and money — of local officials. A bizarre string of town hall break-ins across Franklin, Hampshire, and Berkshire counties over one August weekend begs the question if that type of thinking needs to change. This rash of break-ins suggests it is not necessarily the improbable natural disaster that you need plan for. It could be an inconceivable criminal rampage, as in this case, or something else you least expect. Small towns can take easy, reasonable, and affordable steps now to maintain continuity of government in the event of natural or man-made calamity that will probably never occur, except for the one time it does ...

As related in newspapers like the [Greenfield Recorder](#), the burglars went into at least a dozen town halls without alarms, broke through walls, and tore rooms apart trying to access safes and

vaults. While the thieves seized smaller electronics like laptops, these towns dodged a proverbial bullet in that their PC's and servers were neither stolen nor vandalized. The latter could easily have occurred if the burglars had expressed frustration at not getting into a vault or not finding enough cash in drawers by pilfering larger electronic items. In fact, town administrators stated that damaged or stolen computers were their greatest fear when first informed of the break-ins. If the integrity and availability of the towns' critical financial data survived only because of the whims of people who break into town halls and churches after midnight, it is fair to say that only dumb luck prevented the kind of data destruction normally associated with floods, fires, and explosions.

The question must be asked — If, when town officials least expect it, all of the computers holding financial and other vital town data are permanently unavailable, what happens next? On a very common sense level, who does what, when? If responsible town officials focus on those initial questions, they will soon discover other vulnerabilities, some unique to the town, and quickly come to the conclusion that, "We should have a plan."

A Google search on "disaster recovery plan" generates 3,500,000 hits and an army of advertisers eager to advise and consult on your town's needs. Anyone who clicks on these links and explores the world of disaster recovery

and business continuity planning is already converted and can proceed to convincing others. This article is for the small towns who have not yet asked who-what-and-when and are not sure of the importance of doing so.

A plan need not be a fifty page, loose-leaf, tabbed document. It can start as a verbal understanding among the town's management team that, for example, the town could recover from a weekly backup of data and software from the town's two PCs. The re-entry of a week's worth of data is trying but doable; that those backup CD's are stored offsite in a safe deposit box at the bank; that Bob's home computer can be used to collect taxes with that backed-up data and software until the town can buy new PCs; that Jill will cut

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DLS Commentary

The Municipal Affairs Coordinating Cabinet listening tour got off to a great start in September with a stop in Northampton and has enjoyed

hearing from communities at our stops in Hyannis, Webster and Lowell. There is a full report on the first three meetings in this edition. Next month look for a report on the cabinet's November trip to Lowell. I would encourage you to attend our December session at Marlborough City Hall to make your voice heard and to get fresh insight into how some of the inner workings of state government can help you in your capacity as a local official.

The cabinet will meet in Marlborough City Hall on Friday, Dec. 7 from 1:00 to 3:00 p.m. As Lt. Gov. Tim Murray said at the announcement of this tour, "These visits will continue to strengthen the ties between local and state government, and help generate new ideas for how the Municipal Cabinet can be most helpful to communities."

These cabinet meetings give you the chance to meet and discuss issues with some of the top policy makers in the Administration in the areas of technology, purchasing, civil service, human resources, health insurance and capital asset management.

If you have ideas on how the state and local government relationship can work better, speak up. If you have a question, ask it. That's why we're on tour — and why Governor Patrick established the cabinet as a liaison group to local government.

Robert G. Nunes
Deputy Commissioner &
Director of Municipal Affairs

Best Practices

Consolidation of School and Municipal Operations in the Town of Barnstable

Mark A. Milne, Town of Barnstable Finance Director

William E. Cole, Town of Barnstable Human Resources Director

For years, budget deliberations pitted school and municipal officials against one another. School officials felt the town was hiding resources, while municipal officials believed the school department was not forthcoming with budget information. School spending deficits, failed overrides, and accusations of hidden money went back and forth between the two groups resulting in the deterioration of the community's trust. Annual budget deliberations were similar to a poker game where each side would bluff the other in order to gain a financial advantage. This political and financial brinkmanship always resulted in someone suffering the consequences. There was a growing realization that the community was the real loser as our trust and accountability had deteriorated to dismal levels. Each side needed to be able to reveal its cards without the fear of retribution. This was the impetus for the consolidation of municipal and school finance operations.

Early in the design for a consolidated financial operation it was decided that the human resources functions must also be combined. It was critical to the success of the initiative that the close working relationship that existed between the municipal finance and human resource operations be replicated in the new consolidated operation. A consolidated human resources function would be able to provide the necessary uniformity and consistency of information and advice to both finance and payroll.

With trust and accountability as the driving force the town council and school committee unanimously decided that

consolidation was a step in the right direction. There was a trust issue between the two elected bodies. The school committee had to trust that the town council wasn't trying to micro manage its budget. While, the town council had to trust that the school committee was genuinely interested in attempting to make the consolidation a reality and that it was not a ploy to answer school department critics or to make it fail. Cost savings were a secondary consideration, which allowed the operations to evaluate all existing positions and re-create new operations using the same amount of financial resources as currently allocated. Several existing jobs were eliminated and several new positions were created. The main focus of many of the new jobs was on auditing to improve accountability and less on data processing. One of the process changes made was to decentralize the data input of financial information throughout the school department. This had already been done in the municipal departments and had led to better accountability and more involved management at the division level.

This decentralization of financial and payroll information coincided well with the school committee's desire to implement a site-based management philosophy within the district. School personnel were trained in the MUNIS financial system. This provides the central finance operation more time to audit data, perform analytical review and analysis, and prepare and present financial information. On the human resources side, the consolidation cre-

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Legal

in Our Opinion

Regulatory Takings Revisited

James Crowley, Esq.

Two years ago the Supreme Judicial Court issued an important ruling on regulatory takings. In *Gove v. Zoning Board of Appeals of Chatham*, 444 Mass. 754 (2005), the court held that Chatham's zoning bylaw restriction on flood plain development was valid and the plaintiff was not entitled to damages (October 2005 City & Town). The court re-examined its regulatory taking analysis in *Giovanella v. Conservation Commission of Ashland*, 447 Mass. 720 (2006).

John Giovanella purchased less than an acre of land in Ashland in March 1999 for \$130,000. The land contained a house in the southern portion and wetland in the northwest corner. Three to six months after the purchase, Giovanella discovered that the former owner had divided the land into two lots with each lot containing about 17,000 square feet. The lots were separately assessed for real estate tax purposes and had different addresses. The house was on Lot 2 and the wetland was on Lot 1. Upon learning of the subdivision plan, Giovanella decided to build a house for himself on Lot 1. Shortly thereafter, in December 1999, the town adopted a wetlands protection bylaw. This bylaw prohibited all work or disturbance within 25 feet of any wetlands area unless the building permit applicant could prove to the Conservation Commission that the wetlands would be protected or enhanced.

When Giovanella attempted to get town approval to build a house, the Conservation Commission denied the request due to concerns about possible damage to the adjacent wetlands. Giovanella then appealed to the State Department of Environmental Protection (DEP). While this appeal was pending with the state agency, Gio-

vanella sold Lot 2 with the house on it for \$319,900. He kept Lot 1 in the hopes of building a house on it.

After the DEP rejected Giovanella's appeal and his available state remedies had been exhausted, he filed suit in Superior Court in September 2002 claiming that the town by refusing him a building permit had made a regulatory taking of his property for which he should be compensated under the Fifth Amendment of the U.S. Constitution. The Fifth Amendment is made applicable to the states through the Fourteenth Amendment. The Superior Court, however, rejected his claim and the Supreme Judicial Court granted direct appellate review.

The Supreme Judicial Court in order to determine the economic impact of the Ashland wetlands protection bylaw first had to define the unit of property on which the impact was to be measured. The court recognized that defining the so-called "relevant parcel" was so critical that it has been described in prior judicial decisions as the "denominator problem." The court observed that if it defined the "relevant parcel" as only that part of the land rendered valueless by the wetlands protection bylaw, then the owner would automatically prevail on his claim of a compensatory taking. In *Giovanella*, the Supreme Judicial Court ruled there was a rebuttable presumption that contiguous commonly-owned property constituted a "relevant parcel" in regulatory taking disputes. In the court's view, this presumption could be overcome by such evidence as the owner's treatment of the lots as distinct economic units. In the case at hand, Giovanella purchased Lots 1 and 2 at the same time, for a lump sum, in one transaction. According to

the court, the recording of the subdivision plan and the separate assessment of the lots under Chapter 59 Section 11 were not meaningful factors in defining "relevant parcel." The court wrote that "Separate addresses or tax treatment as separate lots carries little weight." Having defined the "relevant parcel" as both lots, the court then addressed the issue of damages.

The court had to measure the economic impact of the wetlands protection bylaw under two United States Supreme Court tests: the categorical taking test under *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992) and the multi-factor weighing test under *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104 (1978). The Supreme Judicial Court dismissed plaintiff's claim of a categorical taking since the "relevant parcel" was not rendered economically valueless by the Ashland wetlands protection bylaw as evidenced by the sale of Lot 2 for \$319,900. In evaluating the economic impact of the bylaw under *Penn Central*, the court held that the bylaw did not interfere with the plaintiff's reasonable investment-backed expectations since the plaintiff did not invest any money that relied on the separate development of Lot 1. Admittedly, the plaintiff lost 29 percent of his total value. The court reached this figure by comparing the assessed value of Lot 1 at \$132,800 as a developable parcel to its actual value of zero since the town blocked any construction on the site. Adding the assessed value of Lot 1 at \$132,800 and the \$319,900 sale price of Lot 2, the court arrived at the figure of \$452,700. The court then compared \$452,700 to the \$319,900 sale price

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Legal

in Our Opinion

Court Finds No Cap on Affordable Housing

James Crowley, Esq.

The Supreme Judicial Court recently ruled that a Zoning Board of Appeals (ZBA) could consider “regional need” in bypassing local zoning laws to grant a comprehensive permit for affordable housing under M.G.L. Ch. 40B even after the town had met the state’s minimum affordable housing obligation. The case is *Boothroyd v. Zoning Board of Appeals of Amherst*, 449 Mass. 333 (2007).

HAP, Inc., a nonprofit corporation, applied in May 2001 to the Amherst ZBA for a comprehensive permit to build 26 affordable apartments on a 4.1-acre parcel. The proposed development would be located in a neighborhood containing about 275 single-family houses. Construction of the proposed buildings would violate various provisions of the Amherst zoning bylaws. The ZBA held public hearings and subsequently voted in February 2002 to grant the comprehensive permit notwithstanding that the town had met its minimum affordable housing obligation. In support of its decision the ZBA cited the town’s 1 percent apartment vacancy rate and the long waiting list for apartments at the Amherst Housing Authority. In the ZBA’s view, the need for affordable housing prevailed over neighborhood concerns about traffic or density.

Certain residents of Amherst immediately challenged the ZBA’s grant of the comprehensive permit by filing a lawsuit in Land Court. Plaintiffs argued that the ZBA had exceeded its authority because the town had already met the 10 percent level of affordable housing, and the town’s bylaw provisions

could not be superseded by M.G.L. Ch. 40B, which is the Affordable Housing Act. The Land Court judge, however, upheld the ZBA decision on the ground that M.G.L. Ch. 40B §23 sets forth a standard — whether the zoning bylaw is “consistent with local needs” — which permits the ZBA to bypass local bylaws even though the community has met the state’s affordable housing threshold. The plaintiffs appealed the decision and the case was ultimately heard by the Supreme Judicial Court.

The court held that the ZBA must weigh the regional need for affordable housing against other competing considerations.

In their argument before the Supreme Judicial Court, the plaintiffs relied on the language in M.G.L. Ch. 40B §20, which establishes a “regional need test” for affordable housing. It was the plaintiffs’ reading of the definition of “consistent with local needs” contained in §20 that once a municipality has satisfied its minimum affordable housing quota, then the local zoning bylaws must apply and they could not be superseded by M.G.L. Ch. 40B unless the applicant was eligible to receive a variance or a special permit. The court, however, rejected the plaintiffs’ argument on the grounds that this was a strained interpretation of the statute. According to the court, nothing in the statute expressly precludes the ZBA from granting a comprehensive permit even where the municipality has met its state affordable housing quota. In situations such as that presented here, where the community has satisfied the minimum affordable housing quota, the court held that the ZBA must weigh the regional need for affordable housing

against other competing considerations. The court also observed that M.G.L. Ch. 40B §20 required the ZBA to conduct a “comprehensive hearing.” In the court’s view, the hearing requirement would be meaningless if the ZBA were to be precluded from issuing a comprehensive permit in a situation where the community has already met the statutory minimum affordable housing requirement.

Consequently, the Supreme Judicial Court upheld the Land Court decision and ruled that the Amherst ZBA could grant the comprehensive permit for affordable housing even where the town had satisfied the state’s minimum threshold requirement. ■

Regulatory Takings [continued from page three](#)

with no value for Lot 1. The court calculated that the plaintiff lost 29 percent of his value or, alternatively, realized 71 percent of the value. In the court’s view, this decrease was not significant enough to rise to the level of a taking. The plaintiff sold Lot 2 for a substantial profit and the Conservation Commission’s decision not to permit construction of the house, therefore, did not leave the property economically valueless. Hence, the plaintiff was not entitled to damages on his theory of a regulatory taking.

When the Supreme Judicial Court affirmed the Superior Court ruling denying his claim, this prompted Giovanella to petition the U.S. Supreme Court to review this decision. This spring, the court declined to hear the case. ■

Tax Billing Cycles and Deadlines

Marilyn Browne, Chief, Bureau of Local Assessment and Donna Demirai, Senior Analyst

Whether the community is large or small imposing a deadline seems to positively influence timely tax billing. The Bureau of Local Assessment (BLA) was of the opinion that assessing offices in small communities may have more difficulty getting the job done than those in large communities. Faced with our concerns BLA undertook a study to see if our impressions were factual rather than anecdotal. We elected to compare the extreme ends of the size spectrum because the largest communities have professional staff while the small ones often do not have that advantage. One way to measure how well they are doing is to look at how long it takes communities to meet the requirements of triennial re-certification of property values. The results surprised us somewhat and we would like to share with you one factor that seems to contribute towards communities, large and small, getting the job done on time.

Initially we reviewed the number of days it took communities to achieve final certification. We decided to evaluate this over a three-year period so that all 351

municipalities were included. We analyzed a full triennial certification cycle from FY05 through FY07. Communities were then divided into four groups depending on the number of parcels in the communities. Small communities were determined to be those with less than 2,000 parcels and large ones would have more than 10,000 parcels (see Figure 1). Also grouped in this analysis were communities with parcel counts from 2,000 to 5,000 and 5,000 to 10,000. Next we took a snapshot in time from August 1 to the end of December, and compared the smallest communities with the largest. We found that it took the small communities an average of 10 working days more to get their property values certified (it also took about that much longer to get their new growth certified and their tax rates set) than the large communities. Those numbers, on first glance, seemed to negate our concern that small communities were having difficulties meeting deadlines.

On a closer look, we made a discovery that was disquieting; semi-annual billing communities were taking an average of 34 more working days to achieve certification. Clearly quarterly billing communities were doing better than the semi-annual tax billing communities.

Quarterly tax billing communities must mail their preliminary tax bills by July 1 and their actual tax bills by December

31 in order to have each of those two bills payable in two installments. Communities that adopt this payment system generally do so to reduce or eliminate the cost of short-term borrowing, to give taxpayers more certainty about payment due dates and to spread out the payments thereby making them smaller and more convenient for taxpayers. If a municipality fails to meet the billing deadline, then the two installment

payment option is not available and the bill becomes due in a single payment. For example, if the December 31 tax bill deadline is missed in a city or town then the last two quarterly payments are not due until May 1 and the taxpayers do not accrue any interest charges until after the May deadline. Semi-annual tax billing communities have no such sanctions if they miss their targeted, non-mandated, billing dates of October 1 and April 1.

Statewide there are 208 (59 percent) quarterly billing communities. Fifty-five of the smallest communities bill semi-annually (69 percent) while the remaining 25 (31 percent) bill quarterly. On the other hand, only 15 (21 percent) of the largest communities bill semi-annually while the remaining 58 (79 percent) with more than 10,000 parcels bill quarterly.

Figure 1 shows that semi-annual tax billing communities are generally not

Quarterly billing communities were doing better than the semi-annual tax-billing communities.

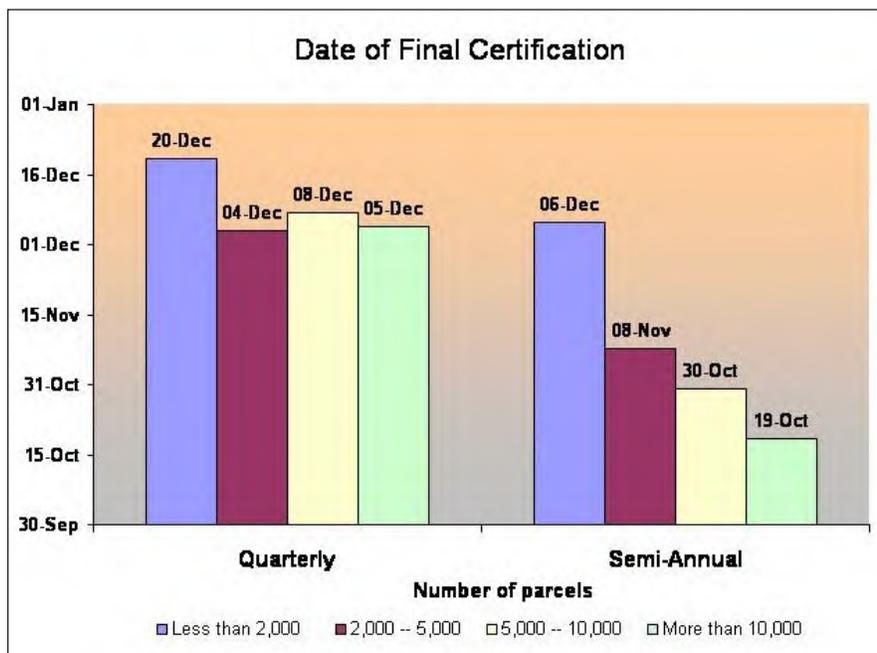


Figure 1

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Focus

on Municipal Finance

Fiscal 2007 Average Single-Family Tax Bills and Assessed Values

Scot Keefe, Financial Management Analyst

This Focus article reviews fiscal year 2007 single-family tax bills and property values for communities in the Commonwealth. Using the largest residential property category, the single-family home, the analysis provides estimates of an average tax bill and assessed value for each community, ranks communities statewide and allows the reader to compare communities.

Average single-family tax bills are calculated by first summing the assessed values of all of the single-family parcels of each community. The combined sum is then multiplied by the community's residential tax rate. Lastly, the product is then divided by the reported number of single-family parcels in the community to generate the community's average single-family tax bill. The cities and towns that have adopted a residential exemption (13 in FY06; 12 in FY07) are not included in the analysis because they do not submit adequate detailed data to DLS to determine the average tax bill.

Statewide Analysis

Statewide average single-family tax bills have increased every year during the last 10 years in actual dollars. Table 1 shows a comparison of average tax rates, average values, and average tax bills (current and constant dollars) over the last 10 years. Two constant-dollar calculations are presented: the first uses the Boston Consumer Price Index (CPI) for all Urban Consumers to convert 1999 to 2007 values to 1998 dollar values; the second uses the State and Local Government Implicit Price Deflator. The average tax bill also rose in each of the last 10 years when adjusted for inflation by the CPI, but declined in each of the last three years when adjusted by the government price deflator.

The average tax bill increased by \$161, or 4.2 percent, in 2007 to \$3,962, the smallest percentage increase since 1999. The percentage increase over the last 10 years ranged from a low of 3.8 percent in 1999 to 6.7 percent in 2002: a cumulative increase of 60.9 percent. Part of the increase in 2007 can be at-

tributed to Chapter 3 of the Acts of 2004.¹ Chapter 3 allowed qualifying communities to temporarily increase the maximum shift in their commercial/industrial/personal property (CIP) tax rate above the previous 175 percent, but for fiscal 2007 it also required the maximum shift to be 183 percent compared to 190 percent in fiscal 2006. In 2007, 27 of the 29 communities that took advantage of that act had to reduce the shift in their levy to the commercial/industrial/personal sector and back to the residential sector, further adding to the average single-family tax bill in those communities.

Previous Focus articles have examined the trend in average single-family tax bills adjusted for inflation by the Consumer Price Index-Boston (CPI). This adjustment for the average price change in the typical Boston consumer's market basket is useful for demonstrating how the average price paid by the taxpayer has changed relative to the other items he purchases. By this measure, the adjusted average

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FY1998–FY2007 State Total Average Single Family Tax Bill

Fiscal year	Avg. assessed	Pct. change	Actual dollars	Pct. change	Adjusted by CPI	Pct. change	By gov't. price deflator	Pct. change	Tax rate
1998	165,050	—	2,463	—	2,463	—	2,463	—	14.92
1999	173,576	5.2	2,557	3.8	2,504	1.7	2,503	1.6	14.73
2000	185,009	6.6	2,679	4.8	2,534	1.2	2,520	0.7	14.48
2001	206,789	11.8	2,826	5.5	2,555	0.8	2,560	1.6	13.67
2002	236,229	14.2	3,015	6.7	2,645	3.5	2,670	4.3	12.76
2003	266,350	12.8	3,206	6.3	2,719	2.8	2,746	2.8	12.04
2004	307,361	15.4	3,412	6.4	2,796	2.8	2,824	2.8	11.10
2005	352,820	14.8	3,588	5.2	2,874	2.8	2,805	-0.7	10.17
2006	385,502	9.3	3,801	5.9	2,929	1.9	2,794	-0.4	9.86
2007	406,673	5.5	3,962	4.2	2,987	2.0	2,770	-0.9	9.74
Change	241,623		1,499		524		307		-5.18
Pct. change	146.4		60.9		21.3		12.5		-34.7

Table 1

FY2006 and FY2007 Average Single-Family Tax Bills and Assessed Values

Municipality	FY06 avg. value	FY07 avg. value	Pct. change value	FY06 tax bill	FY07 tax bill	Pct. change tax bill	FY07 hi-lo rank*	FY07 tax rate	Municipality	FY06 avg. value	FY07 avg. value	Pct. change value	FY06 tax bill	FY07 tax bill	Pct. change tax bill	FY07 hi-lo rank*	FY07 tax rate
Abington	359,948	362,350	0.7	3,686	3,913	6.2	119	10.8	Chesterfield	203,600	226,893	11.4	2,897	2,995	3.4	219	13.2
Acton	529,771	542,140	2.3	7,724	7,926	2.6	13	14.62	Chicopee	161,511	177,921	10.2	2,114	2,270	7.4	306	12.76
Acushnet	286,631	317,284	10.7	2,763	2,916	5.5	233	9.19	Chilmark	1,666,111	1,738,110	4.3	3,082	3,250	5.5	180	1.87
Adams	133,712	133,618	-0.1	1,851	2,032	9.8	316	15.21	Clarksburg	136,007	166,141	22.2	1,442	1,533	6.3	331	9.23
Agawam	202,496	218,981	8.1	2,414	2,588	7.2	269	11.82	Clinton	256,100	257,984	0.7	2,722	2,830	4	242	10.97
Afford	512,074	526,386	2.8	2,535	2,632	3.8	260	5	Colinasset	776,932	825,126	6.2	8,422	8,664	2.9	10	10.5
Amesbury	353,914	366,423	3.5	4,810	4,822	0.2	67	13.16	Concord	147,175	177,534	20.6	2,462	2,530	2.8	276	14.25
Amherst	330,590	330,926	0.1	4,979	5,189	4.2	54	15.68	Conway	906,265	922,372	1.8	9,271	9,740	5.1	6	10.56
Andover	561,362	591,798	5.4	6,400	6,658	4	31	11.25	Deerfield	272,813	294,058	7.8	3,683	3,882	5.4	122	13.2
Aquinnah	991,549	991,101	0	3,659	3,994	9.2	112	4.03	Cummington	195,651	213,029	8.9	2,277	2,292	0.7	305	10.76
Arlington	444,515	486,431	9.4	5,041	5,326	5.7	52	10.95	Dalton	179,925	212,119	18.6	2,943	3,006	2.1	216	14.17
Ashburnham	235,126	246,341	4.8	3,000	3,202	6.7	186	13	Danvers	392,196	432,878	10.4	3,883	4,034	3.9	109	9.32
Ashtab	264,209	264,563	0.1	2,811	3,095	10.1	199	11.7	Dartmouth	408,190	416,488	2	2,783	2,832	2.5	240	6.8
Ashtield	233,690	236,988	1.4	2,636	2,751	4.4	250	11.61	Deerfield	402,359	446,685	11	4,486	4,882	8.8	65	10.93
Ashland	400,227	411,091	2.7	5,067	5,180	2.2	55	12.6	Dennis	253,428	273,303	9.8	2,927	3,070	4.9	204	11.03
Athol	168,600	189,539	12.4	1,614	1,914	18.6	322	10.1	Dighton	424,102	450,923	6.3	1,807	1,894	4.8	323	4.2
Attleboro	298,744	308,738	3.3	2,910	2,985	2.6	223	9.67	Dighton	324,035	350,098	8	3,133	3,273	4.5	175	9.35
Auburn	248,239	268,318	8.1	2,602	2,793	7.3	246	10.41	Douglas	291,396	317,409	8.9	3,258	3,263	0.2	177	10.28
Avon	312,376	328,407	5.1	2,949	3,159	7.1	191	9.62	Dover	1,099,287	1,125,323	2.4	10,004	10,353	3.5	4	9.2
Ayer	291,905	296,635	1.6	2,741	2,830	3.2	241	9.54	Dracut	318,728	318,811	0	2,990	2,927	3.4	200	9.7
Barnstable*	220,065	231,366	5.1	2,280	2,383	4.5	293	10.3	Dudley	246,104	262,930	6.8	1,949	2,027	4	317	7.71
Barre	199,745	219,257	9.8	1,828	1,820	-0.4	327	8.3	Dunstable	409,069	446,859	9.2	4,958	5,058	2	59	11.32
Becket	510,962	528,677	3.5	5,861	5,969	1.8	38	11.29	Duxbury	639,256	649,099	1.5	6,290	6,582	4.6	33	10.14
Bedford	239,384	260,275	8.7	3,363	3,443	2.4	159	13.23	E. Bridgewater	325,188	367,873	10.1	3,515	3,715	5.7	138	10.38
Belchertown	284,296	320,955	12.9	2,783	2,953	6.1	228	9.2	E. Brookfield	260,749	264,534	1.5	2,456	2,241	-8.8	307	8.47
Bellingham	767,679	803,440	4.7	7,992	8,283	3.6	11	10.31	E. Longmeadow	231,735	256,080	10.5	3,968	4,154	5	99	16.22
Berkley	348,329	349,998	0.5	3,696	3,780	2.3	30	10.8	Eastham	488,786	512,384	4.8	2,292	2,362	3.1	298	4.61
Berkley	283,662	313,039	10.4	3,052	3,409	11.7	163	10.89	Easthampton	215,355	231,640	7.7	2,502	2,576	3	270	11.14
Berlin	408,609	443,902	8.6	4,813	4,865	1.1	66	10.66	Easton	406,037	442,269	8.9	4,336	4,785	10.4	68	10.82
Bernardston	193,629	220,798	14	2,653	3,049	14.9	207	13.81	Edgartown	1,056,628	1,102,245	4.3	3,202	3,141	-1.9	195	2.85
Beverly	449,269	454,936	1.3	4,439	4,613	3.9	76	10.14	Egremont	390,556	419,083	7.3	2,644	2,640	-0.2	259	6.3
Billerica	486,736	514,933	5.8	2,716	2,817	3.7	243	5.47	Erving	163,755	177,653	8.5	1,107	1,203	8.7	335	6.77
Blackstone	283,662	313,039	10.4	3,052	3,409	11.7	163	10.89	Essex	482,672	517,322	7.2	4,899	5,198	6.1	53	10.05
Blandford	201,774	208,312	3.2	2,018	2,171	7.6	309	10.42	Everett*	270,994	291,239	7.5	2,200	2,307	4.9	304	7.92
Bolton	509,673	516,061	1.2	6,911	7,256	5	22	14.06	Fairhaven	246,163	267,099	8.5	1,681	1,918	14.1	321	7.18
Boston*	453,258	474,404	4.7	2,946	3,046	3.4	209	6.42	Fall River	504,454	548,225	8.7	2,739	2,878	5.1	236	5.25
Bourne	551,921	554,010	0.4	7,307	7,684	5.2	15	13.87	Falmouth	203,041	216,604	7.7	2,449	2,523	3	279	11.54
Boxborough	674,656	674,891	0	6,861	7,059	2.9	24	10.46	Fitchburg	128,958	142,060	10.2	989	1,014	2.5	337	7.14
Boxford	385,257	418,554	8.6	4,504	4,717	4.7	72	11.27	Florida	409,838	433,042	5.7	4,230	4,296	1.6	92	9.92
Boylston	399,244	400,772	0.4	3,054	3,262	6.8	178	8.14	Foxborough	379,676	385,176	1.4	4,306	4,564	6	77	11.85
Braintree	486,736	514,933	5.8	2,716	2,817	3.7	243	5.47	Framingham	414,807	437,052	5.4	3,742	3,872	3.5	124	8.86
Brewster	389,672	392,919	0.8	3,550	3,772	6.3	132	9.6	Franklin	311,665	346,358	11.1	2,951	3,049	3.3	208	8.31
Bridgewater	228,367	245,512	7.5	2,860	2,927	2.3	232	11.92	Freetown	200,097	218,843	8.4	2,463	2,524	2.5	277	11.64
Brimfield	275,757	291,162	5.6	2,631	2,734	3.9	251	9.39	Gardner	159,205	175,805	10.4	2,424	2,380	-1.8	295	13.54
Brookfield	218,543	247,392	13.2	2,950	3,013	2.1	215	12.18	Georgetown	419,087	440,474	5.1	3,847	3,986	3.6	113	9.05
Brookline*	182,123	212,227	16.5	2,601	2,761	6.2	248	13.01	Gill	159,325	175,805	10.4	2,424	2,380	-1.8	295	13.54
Buckland	406,991	421,178	3.5	3,663	3,875	5.8	123	9.2	Gloucester	503,200	524,446	4.2	4,368	4,515	3.4	83	8.61
Burlington	476,376	507,748	6.6	4,445	4,509	1.4	84	8.88	Goshen	192,437	195,572	1.6	2,588	2,511	-3	280	12.84
Cambridge*	738,114	822,143	11.4	9,588	9,833	2.6	5	11.96	Grafton	355,492	403,979	13.6	3,583	3,854	7.6	127	9.54
Carver	316,252	338,813	7.1	3,586	3,734	4.1	135	11.02	Granby	227,405	248,923	9.5	2,836	3,037	7.1	210	12.2
Charlmont	162,186	191,334	18	2,830	3,105	9.7	197	16.23	Granville	228,350	232,840	2	2,740	2,470	-9.9	283	10.61
Charlton	273,387	309,183	13.1	2,512	2,665	6.1	257	8.62	Grafton	286,345	346,358	21.9	3,854	3,948	2.4	117	11.4
Chatham	806,189	893,429	10.8	3,007	3,118	3.7	196	3.49	Groton	168,690	188,528	11.9	3,037	3,190	5	187	17.1
Chatham	357,329	396,327	10.9	4,688	4,966	5.9	61	12.53	Groton	413,486	431,384	4.3	5,859	5,940	1.4	39	13.77
Chelsea*	169,038	203,303	20.3	1,538	1,659	7.9	330	8.16	Groveland	386,714	396,239	2.5	3,709	3,871	4.4	125	9.77
Cheshire	141,346	157,671	11.5	2,459	2,624	6.7	261	16.64	Hadley	270,485	285,871	5.7	2,510	2,607	3.9	264	9.12
Chester	141,346	157,671	11.5	2,459	2,624	6.7	261	16.64	Hampden	320,433	351,568	9.7	3,862	4,141	7.5	100	11.78
									Hampden	539,548	544,434	0.9	6,437	6,849	6.4	28	12.58
									Hampden	260,645	261,775	0.4	3,696	3,853	4.2	128	14.72

Municipality	F106 avg. value	F107 avg. value	Pct. change	F106 tax bill	F107 tax bill	Pct. change	F106 hi-lo	F107 hi-lo	F107 rank*	F107 rate	F106 avg. value	F107 avg. value	Pct. change	F106 tax bill	F107 tax bill	Pct. change	F106 hi-lo	F107 hi-lo	F107 rank*	F107 rate
Middleborough	321,926	347,432	7.9	3,165	3,224	1.9	183	9,28	183	9.28	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Middlefield	161,698	187,054	15.7	2,590	2,725	5.2	252	14,57	252	14.57	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Middleton	502,106	527,956	5.1	4,906	5,179	5.6	56	9,81	56	9.81	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Milford	314,875	344,952	9.4	3,574	3,756	5.1	133	10,19	133	10.19	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Milbury	262,796	287,884	9.5	2,999	3,006	0.2	217	10,44	217	10.44	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Mills	363,463	380,804	4.8	3,199	4,733	13.2	70	12,43	70	12.43	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Milwille	272,745	312,234	14.5	3,186	3,459	8.6	174	10,52	174	10.52	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Milton	538,912	544,895	1.1	5,470	5,907	8	41	10,84	41	10.84	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Monroe	87,315	88,273	1.1	1,005	1,086	8.1	336	12,3	336	12.3	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Monson	200,174	222,099	11	2,438	2,590	6.2	267	11,66	267	11.66	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Montague	164,094	190,505	16.1	2,388	2,524	5.7	278	13,25	278	13.25	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Monterey	448,282	451,372	0.7	2,371	2,437	2.8	287	13,25	287	13.25	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Montgomery	238,160	249,836	4.9	2,608	2,903	11.3	234	11,62	234	11.62	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Mt. Washington	318,037	355,155	11.7	1,660	1,822	9.8	326	5,13	326	5.13	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Nahant	582,084	617,949	6.2	4,232	4,394	3.8	91	7,11	91	7.11	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Nantucket*	233,385	272,655	16.8	3,025	3,258	7.7	179	11,95	179	11.95	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Natick	455,038	493,410	8.4	4,559	4,727	3.7	71	9,38	71	9.38	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Needham	672,408	682,019	1.4	5,917	6,377	7.8	34	9,35	34	9.35	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
New Ashford	180,629	186,858	3.4	1,431	1,443	0.8	333	7,72	333	7.72	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
New Bedford	215,860	247,510	14.7	2,346	2,552	8.8	273	10,31	273	10.31	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
New Braintree	233,385	272,655	16.8	3,025	3,258	7.7	179	11,95	179	11.95	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Newburyport	787,736	818,978	4	7,375	7,641	3.6	16	9,33	16	9.33	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Newton	445,224	477,594	7.3	5,556	5,803	4.4	4	12,15	4	12.15	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Norfolk	121,335	130,592	7.6	1,404	1,453	3.5	332	11,13	332	11.13	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
N. Adams	493,703	536,831	8.7	5,500	5,610	2	46	10,45	46	10.45	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
N. Andover	493,703	536,831	8.7	5,500	5,610	2	46	10,45	46	10.45	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
N. Attleborough	349,628	390,708	11.7	3,150	3,290	4.4	173	8,42	173	8.42	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
N. Brookfield	271,856	247,293	13.5	2,213	2,310	4.4	303	9,34	303	9.34	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
N. Reading	480,629	512,389	6.6	5,119	5,544	8.3	49	10,82	49	10.82	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Northampton	271,890	303,049	11.5	3,189	3,300	3.5	172	10,89	172	10.89	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Northborough	413,877	432,226	4.4	5,078	5,355	5.5	51	12,39	51	12.39	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Northbridge	317,123	322,221	1.6	2,794	2,752	0.7	249	8,54	249	8.54	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Northfield	184,619	194,031	5.1	2,376	2,503	5.3	281	12,9	281	12.9	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Norton	349,027	352,070	0.9	3,312	3,422	3.3	161	9,72	161	9.72	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Norwell	580,948	622,473	7.1	6,350	6,654	4.8	32	10,69	32	10.69	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Norwood	406,974	408,571	0.4	2,987	3,081	3.1	202	7,54	202	7.54	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Oak Bluffs	602,128	643,984	7	3,462	3,600	4	147	5,59	147	5.59	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Oakham	241,777	276,714	14.5	2,132	2,324	9	302	8,4	302	8.4	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Orange	149,633	151,030	0.9	2,099	2,136	1.8	314	14,14	314	14.14	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Orleans	782,056	775,199	-0.9	3,253	3,310	1.8	171	4,27	171	4.27	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Otis	279,504	283,117	1.3	1,821	1,710	5.5	329	6,04	329	6.04	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Oxford	231,766	254,131	9.6	2,665	2,694	1.1	256	10,6	256	10.6	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Palmer	183,505	197,498	7.6	2,560	2,595	1.4	266	13,14	266	13.14	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Paxton	311,490	347,213	11.5	3,866	3,965	2.6	116	11,42	116	11.42	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Peabody	376,730	389,654	3.4	2,863	3,024	5.6	211	7,76	211	7.76	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Pelham	253,718	282,025	11.2	2,527	2,578	1.5	57	18,36	57	18.36	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Pembroke	371,581	392,770	5.7	3,809	4,089	7.4	103	10,41	103	10.41	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Pepperell	309,904	337,831	9	3,260	3,412	4.7	162	10,1	162	10.1	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Peru	104,279	147,183	4.9	2,279	2,490	0.4	282	16,92	282	16.92	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Petersham	237,618	279,110	17.5	2,452	2,850	16.2	238	10,21	238	10.21	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Phillipston	213,317	231,788	8.7	1,824	1,949	6.9	320	8,41	320	8.41	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Pittsfield	149,842	167,121	11.5	2,345	2,381	1.5	294	14,25	294	14.25	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Plainfield	195,456	199,794	2.2	2,267	2,433	7.3	288	12,18	288	12.18	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Plainville	369,677	384,104	3.9	3,904	4,118	5.5	101	10,72	101	10.72	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Plymouth	344,917	358,285	3.9	3,408	3,479	2.1	154	9,71	154	9.71	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Plympton	381,380	384,867	0.9	4,382	4,645	6	74	12,07	74	12.07	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Princeton	806,286	857,574	6.5	4,072	4,264	4.7	90	11,78	90	11.78	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Princeton	806,286	857,574	6.5	4,072	4,264	4.7	90	11,78	90	11.78	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Quincy	356,548	362,087	1.6	3,683	3,780	2.6	131	10,44	131	10.44	357,514	375,441	4.5	4,283	4,399	2.7	90	11,78	90	11.78
Randolph	302,177	331,883	10.8	2,976	3,088	3.8	201	9,22	201	9.22	357,514	375,441	4.5							

Average Single-Family Tax Bills and Assessed Values

continued from page six

single-family tax bill increased by \$58 to \$2,987 in 1998 dollars, a 2.0 percent increase from fiscal 2006 to fiscal 2007. Since 1998, average bills have increased \$524 or 21.3 percent. Property taxes on the average single-family homeowner have risen faster than the inflation in consumer prices.

If one wants to consider taxes as the revenues that support municipal spending, it might be more appropriate to adjust for inflation by using the State and Local Government Implicit Price Deflator instead of the CPI. This deflator measures the change in prices for the market basket of goods purchased by a “typical” state and local government and typically leads to a higher measure of inflation because governments typically spend more on wages and benefits than consumers. Adjusting by this measure of inflation tells a much different story—Average single-family tax bills decreased by \$24, or 0.9 percent, to \$2,770 from fiscal 2006 to fiscal 2007 when expressed in 1998 dollars using the government deflator. This is the third year in a row that the adjusted tax bill has decreased, and while small, it means that the average tax bill is not keeping up with the average cost of services.

Over the last 10 years, the increase is only 12.5 percent, compared to the 60.9 percent (current dollar) and 21.3 percent (CPI-adjusted) increases of the two previous paragraphs.

There has been a dramatic rise in the statewide average assessed values over the last decade. The 2007 average assessed value of \$406,673 was more than double the 1998 value, an average annual increase of 10.5 percent. Most of this increase took place between 2001 and 2005 when annual increases were in the double-digits. The growth in values has slowed recently as the real estate market has cooled off: the average single-family property value realized an increase of 5.5 percent in 2007, from \$385,502 to \$406,673, the smallest percentage increase since 1999.

As one would expect, the average tax rate has decreased over the period studied as the increase in assessed values exceeded the increase in the tax levy allowed by Proposition 2½. From 2006 to 2007, the average tax bill increased by 4.2 percent while assessed values increased by 5.5 percent. As a result, the tax rate decreased from \$9.86 in fiscal 2006 to \$9.74 in fiscal 2007. Over the 10-year

period, the tax rate has declined from \$14.92 per \$1,000, or 34.7 percent.

Municipal Analysis

Table 2 details the average assessed value, and tax bill of single-family homes for fiscal years 2006 and 2007, the 2007 tax rate, ranks the 339 communities from high to low for the 2007 average tax bill and shows the percentage change in assessed value and tax bills.

The data shows that communities with higher assessed values also tend to have high average tax bills. For fiscal 2007, the five communities with the highest average tax bills are Weston (\$13,379), Sherborn (\$11,733), Lincoln (\$10,790), Dover (\$10,353) and Carlisle (\$9,833). Based on the average assessed values for these same communities, they ranked as follows: Weston (2), Sherborn (19), Lincoln (5), Dover (3) and Carlisle (15). At the lower end of the spectrum, the five communities with the lowest average tax bills were Rowe (\$780), Hancock (\$785), Florida (\$1,014), Monroe (\$1,086) and Erving (\$1,203). The relationship between tax bill and assessed values, while strong, is not as closely correlated at the lower end of the rankings. This is largely due to the existence of power plants that pay the majority of the taxes in all of these communities but Hancock. These towns, with respect to their assessed values, rank as follows: Rowe (313), Hancock (271), Florida (336), Monroe (339) and Erving (322).

With a fiscal 2007 average single-family assessed value of \$1.74 million, Chilmark was the highest in the state, yet its \$3,250 average tax bill ranked 180th, 18 percent below the state-wide average. This exemplifies the situation regarding Cape and Island communities, which tend to have higher assessed values but lower tax bills due to the large number of seasonal properties whose owners have a lower demand for municipal services. Eight of

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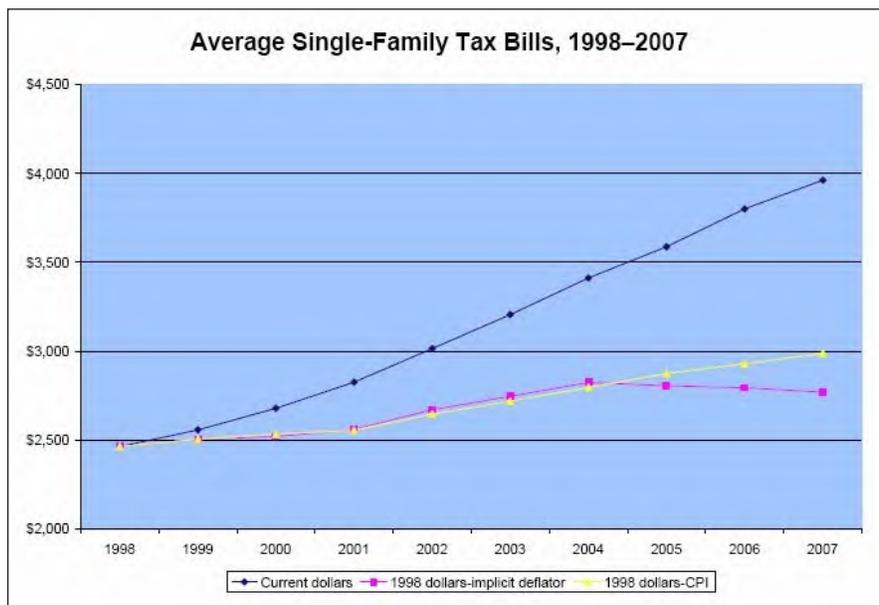


Figure 2

Average Single-Family Tax Bills and Assessed Values

continued from page nine

the top 20 communities when ranked by average assessed value were Cape or Island communities, however only two, West Tisbury (75th) and Provincetown (95th), ranked in the top 100 single-family tax bills. Indeed, all of the Cape and Islands communities but Sandwich (104) and Yarmouth (121) ranked in the top 100 in average assessed value.

On average, statewide single-family tax bills increased \$161 or 4.2 percent between fiscal 2006 and fiscal 2007. There were 167 communities (49.3 percent) with an equal or greater percentage increase than the state average. The largest percentage increase belonged to the community of Gosnold, a \$353 or 23.1 percent increase to \$1,881 (324th). In dollar terms, the largest increase (\$874) belonged to the community with the largest tax bill, Weston (\$13,739). At the other end of the spectrum, the western community of Granville, one of only 24 towns that had lower tax bills in fiscal 2007 than in fiscal 2006, cut its average single-family bill by \$270 or 9.9 percent.

As mentioned above, the statewide average single-family tax bill increased by \$58 or 2.0 percent from fiscal 2006 to fiscal 2007 in 1998 constant dollars when adjusted by the CPI. The increases among the 338 communities presented here ranged from 20.5 percent to -11.5 percent. 270 communities had positive increases, meaning the cost of government services went up for taxpayers in those communities. When adjusted by the government price deflator, the statewide average bill went down by \$24 or 0.8 percent in 1998 dollars. The 2006-2007 percent changes ranged from +17.1 percent to -14.3 percent, and 218 communities had decreases. This means that the average single-family tax bill failed to keep up with the cost of providing services in those communities.

From fiscal year 1988 until fiscal year 2003, communities that used different tax rates for residential and commer-

cial properties, known as split rates, were restricted from taxing commercial taxpayers more than 175 percent of the taxes they would have paid under a single tax rate. Additionally, residential taxpayers could be taxed no less than 50 percent of their tax burden under a single tax rate system. Chapter 3 of the Acts of 2004 allowed for a temporary adjustment to this formula. Communities that adopted this provision for fiscal 2004 were allowed to shift the commercial tax burden up to 200 percent and reduce the minimum burden for residential properties to 45 percent. This provision was rolled back over the ensuing four years by reducing the maximum commercial percentage and increasing the minimum residential percentage each year. These communities will now be returned to the preexisting 175/50 commercial/residential split. Of the 108 communities with split tax rates, 29 of the eligible communities have taken advantage of Chapter 3 to raise the maximum commercial percentage, and, in 2007, 17 of those were employing the maximum percentage allowed, 183 percent. Those communities will have to decrease the maximum to 175 percent in 2008. This will likely add to the increase in the average single-family tax bill in those cities and towns.

The data indicates that after factoring in the Government Implicit Price Deflator, revenue from single-family property tax has increased less than is commonly perceived, has not kept up with inflation in the past three fiscal years and thus has failed to keep up with the cost of providing services to a majority of the commonwealth's cities and towns. This data helps to explain the financial stress seen in local governments across the state. ■

1. Chapter 3 of the Acts of 2004 allowed qualifying communities to increase the maximum shift in their CIP tax rate from 175 percent to 200 percent for fiscal 2004, to 197 percent in fiscal 2005, to 190 percent in fiscal 2006, to 183 percent in fiscal 2007. It was repealed by Chapter 169 of the Acts of 2007, effective for fiscal year 2008.

Barnstable Consolidation

continued from page two

ated an economy of scale in the areas of recruitment and selection, benefits administration, employee/labor relations, and salary administration. Applicants for both municipal and school positions would now only have to interact with one centralized department. The centralization of benefits administration allowed for a greater amount of auditing and review that identified several opportunities for efficiency improvements and cost savings.

The focus of the consolidated operations was not to make decisions regarding the allocation of financial and personnel resources between town departments or even between school sites. It was considered important that the consolidated operations be exempted from this decision so as not to create the perception that it worked towards gaining additional resources for any one particular operation. The decision to allocate resources would remain with the elected bodies and chief executive officers.

The cooperation and commitment to making this endeavor successful should not be underestimated. It takes time and patience to work out the many fine details and a willingness to show your cards without suffering any consequences. It is promoting an awareness that we all belong to one community, working towards one common mission: providing the best possible services to the citizens of the town and protecting our unique character and quality of life. ■

Editor's note: If you have a Best Practice story you'd like to submit, please write to cityandtwn@dor.state.ma.us.

IT Disaster Recovery Planning

continued from page one

the backup CDs every Friday and take them to the bank; that the restoration plan will be tested on Bob's computer once a year; that the town can afford to be "down" for up to two weeks; and that the plan will be reviewed annually, which is a good idea this year because Bob has made an offer on a condo in Florida. While it will rarely if ever be that simple, even this level of complexity is vastly superior to no plan at all.

Anyone who has experienced a town hall disaster learns quickly from the experience, incorporating that knowledge into plans for future readiness. As one example, the town administrator in Leverett responded to the break-in immediately, only to find that she could not access her contact lists, passwords, and other essential information because they were locked in her desk, now behind the ribbon in a police-only crime scene. She improvised to solve the problems of the moment, but will keep duplicate essential information offsite in the future.

As a practical matter, DLS field staff knows from town hall visits that financial data backups are usually or often left to the discretion of those persons responsible for the various town departments involved. The majorities of communities in Massachusetts have no IT staff and depend on non-technical officials to enforce whatever backup and system protection policies the town follows. Backup policies in small to medium sized towns typically range from rigidly enforced through well intentioned to totally non-existent. At minimum, focusing on a simple disaster recovery plan will put a spotlight on important information that is not reliably backed up. There are many ways to solve such problems, most involving team planning and strategy, communication and backups of valuable and imperative information.

The good thing about a simple all-purpose disaster recovery plan is that it is exactly that. If a meteor hits the town hall, it works. If, less dramatically, the



Vandalism at Leverett Town Hall in western Massachusetts. Courtesy of Marjorie McGinnis, town administrator.

town's hard disks are wiped clean by a new virus that came in over the Internet because someone forgot to renew a subscription, it also works. Late night vandals? It works. Because some kind of plan is important to all communities, regardless of size, the Division of Local

Services invites one or two small town selectboards and/or town administrators to have DLS technical staff serve as referees in a disaster recovery exercise. The idea being, in a few months after agreeing to the exercise, DLS

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Lt. Governor Murray Leads MACC on Listening Tour Across the Commonwealth

Robert Bliss, DOR Director of Communications and S.J. Port, DLS Director of Policy & Communication

Lieutenant Governor Tim Murray, Director of Municipal Affairs Robert G. Nunes, and the Municipal Affairs Coordinating Cabinet (MACC) held a listening tour this fall, making five stops across the commonwealth. The listening tour took the Lt. Governor and Municipal Cabinet to Northampton, Hyannis, Webster and Lowell from September through November. The cabinet's final 2007 stop will be held in Marlborough on Dec. 7. The regional meetings focused on technology, civil service, health insurance, purchasing, capital asset management and human resources — but allowed an open arena in which citizens could dialogue directly with the Lt. Governor and agency heads.

First stop: Northampton

Northampton — Friday, September 28, 2007. A wide variety of local governance issues, flavored by the distinct concerns of smaller communities, were aired in Northampton at the first of five stops on the Municipal Affairs Coordinating Cabinet (MACC) listening tour led by Lt. Gov. Tim Murray.

About 40 local officials, including mayors from Easthampton, Chicopee and Greenfield, and several state representatives, gathered on September 28 in the Council Chambers of Puchalski Municipal Building behind Northampton City Hall to ask questions, raise concerns and hear a report on regional government from the Franklin Regional Council of Governments (FRCOG).

The general sense of the busy two-hour session was captured in news reports printed in the Springfield Republican and the Daily Hampshire Gazette, both of which ended their stories with Great Barrington Town Administrator Laura Sartori's comment that "It's been a long time" since she was so excited by a "State House administration."

After a greeting from Mayor Mary Clare Higgins, the session opened with statements from leaders of the cabi-

net's six agencies: Paul Dietl, chief human resources officer (HRD); Chris Bowman, Civil Service Chairman (CS); Bethann Pepoli, deputy commissioner of Information Technology (ITD); Peter Norstrand, deputy commissioner of Capital Asset Management and Maintenance (DCAM); Ellen Bickelman, state purchasing agent from Operation Services (OS); and Robert Johnson, Group Insurance Commission (GIC) deputy director.

Linda Dunlavy, executive director of FRCOG, which represents 26 rural towns with about 100 residents for each of its 725 square miles, outlined the task of running a regional government with an operating budget of \$3.5 million and a staff of 45 that provides local services in purchasing, bidding and contracting, public health, accounting, inspectional services, regional planning, and in two cases, even nursing. Dunlavy presented specific suggestions for each department head.

Directly addressing Robert Nunes, deputy commissioner of DOR's Division of Local Services and director of municipal affairs for the administration, she said towns receive great assistance from DLS management reviews, which are provided at no cost to communities. Market this service and reduce the waiting list for this service, she advised.

Dunlavy highlighted the lack of broadband access in 32 towns, many of them in Franklin County, and suggested to Pepoli the installation of "short-term broadband" for town halls currently using dial-up internet service. Regarding Civil Service reform, Dunlavy suggested that Civil Service testing should include a measurement of leadership skills.

Following Dunlavy's presentation the cabinet and Lt. Governor asked their own questions of Dunlavy before opening the meeting up to a free exchange of ideas from the general audience.

The scoring system used to issue grants is skewed against small towns that may not provide services such as sewers or affordable housing, noted Gloria Fisher, the town administrator for Heath. Ashfield Town Administrator Andrea Llamas agreed, saying that the complexity of the application form for the Commonwealth Capital grant program and its rankings for services and planning are beyond the scope of most small towns.

"I'm just not doing it this year," she said.

Llamas urged the inclusion of technical assistance money into the program to allow communities such as Heath the opportunity to compete for capital funds. Both administrators also urged the state to consider different or tiered applications for different sized communities, saying that small towns in Franklin shouldn't complete the same form as cities such as Springfield.

Bernard Kubiak, Deerfield town administrator, observed that while he sees more partnership between the state and local communities, that feeling is strained when a small town receives a directive from a state agency that clearly does not understand how small local governments are staffed and organized. The issue is not always more money, but it frequently boils down to simplified procedures, he said.

Echoing that theme, John Lochhead a Conway selectman, told the story of a Catch-22 regarding the state open meeting law. With his town's three-person Board of Selectmen, an e-mail or phone call between two members may be construed as constituting an unadvertised public meeting. Somewhat whimsically, Lochhead suggested he'd put his e-mails online or else "tap my phone."

A question from Amherst Town Manager Laurence Shaffer about state efforts to encourage economic develop-

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Lt. Governor Murray Leads MACC on Listening Tour Across the Commonwealth**continued from page twelve**

Director of Municipal Affairs Robert Nunes, Lt. Governor Tim Murray and Barnstable Town Manager John Klimm (from l to r) lead the Municipal Affairs Coordinating Cabinet meeting in Hyannis.

ment in Western Massachusetts elicited a detailed response from Murray that covered the Governor's Development Cabinet, \$76 million awarded in recent MORE Grants, a \$1.5 billion capital bond bill and a new five-year Capital Plan, a new position of permitting ombudsman, legislation in the works for life science and biotech development, and the plan for three casinos. The administration's quick submission of the \$25 million plan for broadband in underserved rural areas should serve as an example of it recognizing needs and providing answers, Murray said.

For instance, when Llamas supported the call for more broadband service, saying, "Forget big plants — we'd just like to work in our homes"; Murray replied, "That's why we worked on this so fast."

At the meeting's conclusion, Dietl said he felt energized by the passion local officials had shown in making their case for improved management and better systems and processes.

An afternoon in Hyannis

Hyannis — Friday, October 5, 2007. On an unusually warm October afternoon in Hyannis, Lt. Governor Tim Murray, Director of Municipal Affairs Robert Nunes and the Municipal Affairs Coordinating Cabinet heard from coastal communities facing a different set of geographic and population issues. Ultimately, however, both meetings focused on the need communities have for each other, in addition to partnerships with the state.

Acting as a liaison for Secretary of Administration & Finance Leslie Kirwan and sitting in for Chief Human Resources Officer Paul Dietl and his team, Assistant Secretary of Administration Mary Ann Bradley joined MACC members Robert Johnson, deputy director of GIC; Christopher Bowman; Ellen Phillips, deputy state purchasing agent in OS; Anne Margoulis, ITD chief; and Peter Norstrand, DCAM deputy commissioner.

Following opening remarks from the Lt. Governor and MACC members, Barnstable Town Manager John Klimm welcomed the cabinet to the town.

Lara Thomas, Administrator for Southeastern Regional Governance (SERG), presented first, detailing the role SERG plays for communities. A non-profit established in 1997, with 18 municipal members in Southeastern Massachusetts, Thomas emphasized the importance of shared services, cooperative procurements, and monthly meetings uniting all 18 SERG communities.

"As things change at the state level I bring them to the towns," said Thomas. "It doesn't always trickle down. Often I ask state agencies to talk about new regulations before a group of towns, instead of just having one town learn or not having anyone come at all."

Lt. Governor Murray asked Thomas if communities paid a flat fee for SERG or if the fee was based on population. Thomas replied, "It is a flat fee ... four thousand per community; for which, beyond the work that SERG does for each community, I create a yearly report for each community's leadership detailing what the community has saved as part of SERG. Every year, the report proves SERG is worth more than our four thousand dollar fee."

Thomas reiterated the sentiments heard at the Northampton cabinet meeting the week before, saying that she believes the small communities benefit the most from these kind of shared services and relationship building organizations.

Phillips noted that statewide contracts also apply to "groups like Ms. Thomas", not just cities and towns," and offered to help SERG if they needed anything.

Opening the meeting up for general comment and discussion, the cabinet began to hear an array of points. Mike Gagne, executive administrator for the town of Dartmouth, pleaded for the state to consider the costs of catastrophic injury to public safety officials. According to Gagne, Dartmouth has incurred almost \$2 million over two

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Lt. Governor Murray Leads MACC on Listening Tour Across the Commonwealth**continued from page thirteen**

years due to a single officer's tragic medical costs. Gagne said he believes Milton to be in a similar position, and emphasized the "huge effect" this has on a town's operating budget.

Robert Whritenour, town administrator for Falmouth, spoke to the issue of regionalism on Cape Cod and the islands. He thanked the Lt. Governor for his help with local issues, but said that regional entities like the Cape Cod Community Health Group, struggled to be recognized by the state, "since the state only sees municipalities not regional groups."

Senator James O'Leary and Representative Matthew Patrick each commented on Cape specific issues, such as dredging concerns, and thanked the administration for both its cooperation and renewed focus on municipalities.

Morning stop in Webster

Webster — Friday, October 19, 2007. Lt. Governor Tim Murray, Director of Municipal Affairs Robert Nunes and the Municipal Affairs Coordinating Cabinet (MACC) pulled into Webster, along the southern edge of Worcester County, on a drizzly morning, for its third listening tour stop. Attendees to the meeting focused on construction reform, economic development, and the cost of special education.

Hosted by Webster Town Manager Raymond Houle, Webster residents joined the Lt. Governor, cabinet and Representative Paul Kujawski in the town hall auditorium.

Representing the cabinet were Martin Lydon, director of administration for GIC; Chief Human Resources Officer Paul Dietl; General Counsel for Civil Service Commission Lisa Boodman; Ellen Bickelman, state purchasing agent in OS; Bethann Pepoli, deputy chief information officer; and Peter Norstrand, DCAM deputy commissioner.

Lt. Governor Murray kicked off the meeting saying that, "Local government is where the rubber hits the road." Houle, who said he was honored to host the meeting, joked that "Like most municipal officials, there's a tire track across my middle — proof to back up what the Lt. Governor means when he says local government is where the rubber hits the road!"

Representative Kujawski further emphasized Murray and Nunes' role in the administration's "sensitivity" toward municipal issues, pointing towards their previous roles in local government as councilors and mayors of Worcester and Taunton respectively.

Economic development took center stage when several audience members in a row showed support for the Governor's biotechnology initiative but asked that the administration not "forget trades and workforce development."

City of Worcester CFO Bob Allard asked GIC if Blue Cross Blue Shield would offer GIC programs in the future, saying that it is a popular program with unions that was absent from the GIC programs in this first year.

One small business owner spoke to the affects of the housing market decline on construction and tradesman. He was concerned that the environmental permitting process further hurt these workers by slowing work and discouraging development. The speaker supported the administration's casino proposal because it would, "support jobs for local tradesmen."

According to Allard, Worcester spent \$747,000 on regional busing last year. Allard encouraged the cabinet to examine the cost of transportation associated with education. This concern was repeated by several others in attendance as the meeting drew on.

Both the Fire Marshall and Police Chief of Uxbridge, recently devastated by a mill fire that affected over 100 businesses and the school's special education programs, addressed the cabinet to thank the administration, Undersecretary of Public Safety Kurt Schwartz and the Lt. Governor's office for their assistance following the fire. Fire Marshall Peter Ostroskey also thanked the communities who sent, through their mutual aid agreements, additional needed services during the mill fire. "Mutual aid worked flawlessly," Ostroskey said.

Ostroskey went on to say that the structural issues in local budgetary processes combined with uncontrolled rising costs, specifically of healthcare and special education; make it impossible to expand services to meet the rising demands. "They are structural needs, but we are ready for economic development — and we need it to solve these issues." ■

Disaster Recovery**continued from page eleven**

staff would arrive unannounced at town hall and declare town hall computers unavailable. Town officials would then walk through, either in full or as a tabletop exercise, all that has to be done to recover and continue processing of financial and other important data. DLS would then report the results of the exercise through City & Town, with lessons learned for other small towns. If interested in having DLS visit for this exercise, please contact Dave Davies at 617-626-2383 or via e-mail at davies@dor.state.ma.us. Obviously, any city or town can conduct such an exercise without DLS involvement. It's worth the trouble. ■

Health Care Reform and Your Taxes

Ellen Cummings, DOR Publishing and Media Services Office

The new law and DOR's role

In April 2006, Massachusetts enacted a first-of-its-kind health care reform law. The primary goal of the new legislation was to significantly reduce the number of uninsured individuals in the state by making quality, affordable health care available to all Commonwealth residents. In this new environment of expanded access to health insurance, people who remain uninsured would be unnecessarily and unfairly passing their healthcare costs to everyone else. Thus, to achieve near-universal health care coverage, the new law includes an "individual mandate," which requires Massachusetts residents age 18 and older to have health insurance if they can afford it.

As part of the new legislation, the [Commonwealth Health Insurance Connector Authority](#) was established to provide overall administration of the health care reform law; however, the Massachusetts Department of Revenue has been charged with administering the individual mandate through the state income tax returns. In this capacity, DOR has developed [Schedule HC](#), Health Care Information, which taxpayers must file with their Form 1 or 1-NR/PY showing either proof of health insurance coverage or that no affordable health insurance was available to them.

Taxpayer responsibilities & penalties

As provided by the law, taxpayers will have to prove that they had health insurance coverage in effect as of December 31, 2007, when they file their 2007 state income tax returns. Most taxpayers with private health insurance, either purchased on their own or obtained through an employer, will receive a [Form MA 1099-HC](#), Massachusetts Health Care Coverage, from their health insurance carrier. This form will contain the information that taxpayers will need to complete Schedule HC. Taxpayers should not submit Form MA

1099-HC with their tax return, but retain it for their records. DOR will verify an individual's coverage, by matching the information reported on the taxpayer's Schedule HC with information provided by insurance carriers on Form MA 1099-HC.

Taxpayers should be aware that penalties will be imposed if they do not comply with the law. Those who cannot show that they have health insurance even though health insurance was deemed affordable will lose the tax benefit of their personal exemption on their 2007 Massachusetts income tax return (or one-half of the exemption amount if they file jointly).

No penalty will be imposed on individuals without health insurance if it is determined that there are no insurance products available at a premium at or below an amount determined to be affordable to them. A sliding "affordability scale," based on federal gross income and family size will be set annually by the Connector Board. An insurance product is considered "affordable" for an individual if their premium contribution is less than a determined percentage of their income. Taxpayers can use the Connector's online "[Affordability Tool](#)" or the affordability table and worksheets available with the Schedule HC to determine if they are subject to the requirements of the individual mandate.

For tax year 2008, individuals must indicate on their returns whether they had health insurance coverage in force for each of the 12 months of the taxable year for which the return is filed. The non-compliance penalty will increase significantly in 2008 to a fine equal to one-half the monthly premium for each month uninsured in the tax year (a gap of 63 days is permitted).

And beginning in 2009, the level of benefits must meet "minimum creditable coverage" — the minimum level

of health insurance coverage that residents must have in order to satisfy the requirements of the individual mandate.

Exemptions

There are two exemptions to the requirement to have health insurance. A religious exemption is available to those who have a sincere religious belief that is the basis of their refusal to obtain and maintain health insurance coverage. However, taxpayers who claim the religious exemption and receive medical care in the taxable year, for example an emergency room visit, will lose their personal tax exemption. Taxpayers who can afford insurance based on the "affordability scale" may obtain a certificate of exemption from the Health Connector indicating that no health insurance offered through the Connector was deemed affordable for that individual because of a hardship. The certificate must be obtained prior to the tax filing season.

Appeals

Taxpayers who lose their personal exemption may submit an appeal claiming a hardship prevented the purchase of affordable health insurance coverage in tax year 2007. The Health Connector reviews and issues determinations on these appeals.

The appeals process involves three steps. First, the taxpayer must complete Schedule HC-A, Health Care Appeals, and include it with his or her income tax return. Second, the taxpayer will receive a follow-up letter and form, which must be completed, stating the grounds, and providing significant documentation to substantiate the claim for hardship, within 30 calendar days of receipt of the form. Failure to submit the form and provide documentation in the required time frame will result in a dismissal, and the taxpayer will be issued a bill based on the loss

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Health Care Reform and Your Taxes

of the personal exemption plus interest from the due date of the income tax return, without regard to extensions. Third, the Connector will review the claim and documentation. The taxpayer may be required to attend a hearing to review his or her case. The Connector will notify the taxpayer directly as to the outcome of the requested appeal. A denial by the Connector may be appealed only to the Superior Court. If the Connector denies the taxpayer's appeal, he or she will be issued a bill based on the loss of the personal exemption plus interest from the due date of the income tax return, without regard to extensions.

Employee HIRD Form

A taxpayer may be required to complete a Health Insurance Responsibility Disclosure (HIRD) Form if he or she is employed full-time by a Massachusetts employer with 11 or more employees

and if he or she declined to enroll in an employer-sponsored health plan that is offered. The form must also be completed if the employee did not choose to participate in the employer's Section 125 plan. When completing an employee HIRD Form, the employee must indicate whether he or she has an alternative source of coverage.

The HIRD Form is given by the employer to the employee. It is signed by the employee, and retained by the employer for a period of three years. This form also will include the cost of the premium to the employee had they purchased health insurance from their employer. Taxpayers who are not otherwise insured, for example through a spouse, should keep a copy of this form with other tax records, as it will be needed to determine if affordable health insurance was available to them through their employer.

Tax Billing Cycles and Deadlines

meeting their recommended October 1 tax billing deadline and that 38 percent of the semi-annual communities are still completing the certification process in December when the quarterly billing communities are finishing their work, albeit a little late, but nonetheless most are making their statutory deadline for getting bills out by the December 31. The lateness of the semi-annual billing communities also adversely affects the quarterly billing communities because 87 percent of all certification communities are not finished with the process until December. This means their late tax rate setting is impinging on the resources that should be devoted to setting tax rates of quarterly billing communities.

On closer examination we found that the 25 quarterly billing small communities only took 11 working days (as compared to the 34 days for semi-annual towns) more to achieve property value

certification and only a few days longer than 11 to get their new growth certified and their tax rates set compared to communities with over 10,000 parcels. It seems that having a deadline for sending out tax bills spurs communities, even the smallest, to get the job done sooner. Communities have the option to choose the type of billing cycle they want, and while quarterly billing has more potential positive cash flow benefits, it is also a little more labor intensive. As we said earlier, the choice of a billing cycle is only one of the many contributing factors that affect communities' timely tax bills. We are not advocating that all communities bill quarterly, but perhaps thought should be given to establishing a statutory deadline for semi-annual communities, similar to that imposed on the quarterly billing communities as an incentive to issue bills punctually. ■

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Business responsibilities

The law also places certain responsibilities on businesses to ensure that health insurance is accessible to as many individuals as possible. For more information about these requirements, including an Employer Handbook and a list of Frequently Asked Questions, please visit the [Health Connector's](#) website. Employers may also e-mail questions to the Health Connector's Public Information Unit at Connector@state.ma.us.

More information

More information about the health care reform law and how to obtain affordable health insurance is available on the [Health Connector's](#) website. The [Department of Revenue](#) also has tax-related health care information on its website. ■

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DLS Alerts Notice

Beginning with the October/November issue of City and Town, the Division of Local Services will be using a new list server service to distribute e-mail notifications to its subscribers. The major impact will be on new subscribers who will be required to respond to an e-mail sent by the service. This is to ensure that all subscribers have intended on signing up for e-mail notifications from the Division of Local Services. The new list server service will be used to notify subscribers about important news updates from Local Services, City & Town, Information Guideline Releases (IGRs), Bulletins, and Cherry Sheet Estimate releases and updates. If you have any questions regarding the new service, please do not hesitate to contact either Arnold Kanter or Lisa Juskiewicz at 617-626-2300. ■

What's New in Municipal Law

Special Section

Municipal Law Seminar Highlights

Section courtesy of Bureau of Municipal Law

Over 360 local officials attended the 22nd annual Municipal Law Seminars that were held in West Springfield on September 28 and in Randolph on October 12. Making morning presentations on legislation and agency decisions as well as court and Appellate Tax Board decisions were Municipal Finance Law Bureau attorneys Kathleen Colleary, chief; Gary Blau; James Crowley; Christopher Hinchey; Mary Mitchell and Daniel Murphy. In the afternoon the attorneys led three interactive workshops on classified lands, community preservation fund and collections. For those of you who were not able to attend to hear "What's New in Municipal Law," City & Town has selected several significant presentations for publication in this issue. We will also tease you with snippets of other presentation not available in this special edition but available to you by way of electronic links so that you can obtain additional information about the subject and get a picture of the broad scope of the seminar. All of the [booklets](#) provided to participants are available electronically at DOR's website, including those from the afternoon workshops. We hope you find this special edition helpful and we look forward to seeing many of you at the 23rd annual Municipal Law Seminar next fall. ■



Attorneys Daniel Murphy, Gary Blau and Kathleen Colleary (l to r) were among the presenters at the Municipal Law seminars.



A feature at this year's Municipal Law seminars was an area for forecasting demonstrations by DLS Databank analyst Jared Curtis (at right).

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Workshop A

Chapter 394 — Classified Forest, Farm and Recreational Lands

Effective March 22, 2007

Makes several changes to the laws that provide special property tax treatment for qualifying forest, farm and recreational land. G.L. c. 61, Classification and Taxation of Forest Lands and Forest Products; G.L. c. 61A, Classification and Taxation of Agricultural and Horticultural Lands; G.L. c. 61B, Classification and Taxation of Recreational Land. Classified land used for qualifying forest, farm and recreational uses is valued for local property tax purposes based on its current use, rather than its full and fair cash value (at its highest and best use). In addition to reduced property taxes, classified land is entitled to certain special benefits regarding the assessment of betterments. Owners of classified land who sell it for, or convert it to, other uses are subject to penalty taxes, which provide for a recapture by a municipality of tax benefits of certain prior years. In addition, any sale or conversion of classified land for development by the landowner triggers a right of first refusal in the municipality to match a

bona fide offer if being sold, or pay fair market value based on an impartial appraisal if being converted.

First, the act adds local option sections to each of the three chapters that if accepted, will include land classified under that chapter in the definition of Class two, open space under G.L. c. 59, §2A, which defines the four classes of real property (residential, open space, commercial and industrial). G.L. c. 61, §2A; G.L. c. 61A, §4A; G.L. c. 61B, §2A. Currently, classified lands are included in the definition of Class three, commercial property. These changes will allow communities that shift the property tax burden by using different tax rates for residential and business properties to opt to place classified land in the Class two, open space category. As a result, the classified land would not only have the tax benefit of reduced valuations, but would also further benefit from having that reduced value taxed at the lower residential and open space tax rate. As Class two, open space, classified properties may also receive an “open space discount”

if a discount is used in the community. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4.

Second, the act changes the annual taxation of Chapter 61 forest land parcels. As with agricultural and horticultural land classified under Chapter 61A, assessors will now assess the property at its current use value after giving consideration to the ranges of use value recommended by the Farmland Valuation Advisory Commission (G.L. c. 61A, §11), which must now establish such ranges for forest as well as farm uses. The Commissioner of the Department of Conservation and Recreation, which includes the State Forester, has been added as a member of the commission. Currently, classified forest land is assessed at 5% of fair cash value and landowners are subject to an 8% products tax when timber is cut from the land. The products tax is repealed.

Third, the act eliminates the “withdrawal” penalty tax assessed under G.L. c. 61, §7 and replaces it with conveyance and roll-back penalty tax provisions similar to those under Chapters 61A and 61B. Currently, a landowner who does not renew the 10-year forest classification plan is assessed a withdrawal tax even if the owner continues to maintain the land as forest or seeks to have the property classified under Chapter 61A or 61B instead. Both Chapters 61A and 61B have a “conveyance” and “roll-back” tax, which serve as alternative penalties and are assessed upon a change in use or sale for another use. The applicable tax depends on a number of factors including how long the person has owned the property and how long it has been classified. The act standardizes the penalty tax provisions for all three chapters so that each has a conveyance tax and a five year recapture



Local officials attend a What's New in Municipal Law seminar.

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Attorneys Daniel Murphy, Gary Blau and Kathleen Colleary lead workshops at the What's New in Municipal Law seminar.

period for the roll-back tax. Previously, the roll-back recapture period for Chapter 61B was 10 years. The computation of interest on any roll-back tax assessed is standardized and simplified, with a simple interest rate of 5% per year adopted for each chapter instead of the current inconsistent provisions among the three chapters.

Landowners may now make a penalty tax free transfer of classified land to another chapter if the land also qualifies for classification under that statute. Acquisitions of classified parcels for a natural resource purpose by the city or town, the commonwealth or a nonprofit conservation organization are exempted from penalty taxes, but if the non-profit conservation organization turns the land over for development within 5 years of the acquisition, the tax will then become due. Forest land classified under Chapter 61 before the filing date immediately after the effec-

tive date of the act is not subject to the new conveyance tax provisions until the land has been transferred to another owner.

Fourth, the act clarifies the assessment of betterments on classified land and makes the betterment provisions uniform in all three chapters. Classified parcels are subject to betterment assessments only to the extent that the betterment supports the forestry, farm or recreational use of the land. Additionally, the assessment is suspended while the land is so used, and only becomes due upon a later change in use.

Fifth, the act makes significant changes in the "first refusal option" that applies when a landowner decides to sell classified land for, or convert the land to, a residential, commercial or industrial use and makes the option provision uniform in all three chapters. It extends the operation of the first refusal option for one

full tax year after a property is removed from classification. Currently, it only applies while the property is classified. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. It also spells out in greater detail than in current law the notices required, the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion.

Finally, the act expands the definition of recreational land for Chapter 61B to include land in a pasture condition, a managed forest condition under a certified forest management plan, and land used for commercial horseback riding and equine boarding. Forest land under Chapter 61 may now include accessory land as determined by the state forester. ■

Municipal Law

COMPARISON	CHAPTER 61 - FOREST LAND	CHAPTER 61 A AGRICULTURAL/HORTICULTURAL	CHAPTER 61B - RECREATIONAL LAND
QUALIFICATIONS	10 contiguous acres – Same ownership 10 year management plan certified by state forester Recertified every 10 years Timely application c.394, no more fee to state. c.394, state forester has sole responsibility for determining land use, may include "accessory" land.	5 acres same ownership, "actively devoted" to A/H. 2 prior years A/H use. Gross sales in the regular course of business, starts at \$500 for initial 5 acres, \$5 per extra acre, and .50 for forest land. Additional, contiguous and non-productive land may qualify but only up to 100% of productive land. Forest land, certified by state forester, will qualify. Annual Application by October 1 to Board of Assessors on Form CL-1 Revaluation year filing extension provided. Application deemed allowed if no action in 3 months	5 acres, same ownership, and: Condition - natural, wild, open or landscaped or Use-devoted to a recreational use as listed in the statute and available to the general public or to the members of a non-profit organization. c. 394, adds "commercial horseback riding, and equine boarding." c. 394 adds "managed forest" land, with a state forester's certification. Annual Application by October 1 to Board of Assessors on Form CL-1. Revaluation year filing extension provided. Application disallowed if no action in 3 months.
APPLICATION PROCEDURE	(prior to) JULY 1- application to state forester c.394, prior to OCTOBER 1 (no longer September 1) certificate & plan submitted to assessors. JAN 1- listed as classified JULY 1- taxation under Ch 61 commences	RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership. Collect all recording fees. Copies of lien to landowner and state forester.	RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership. c.394, Collect all recording fees. landowner may appeal a determination to: Board of Assessors-within 60 days of notice (not changed by c. 394), then to Appellate Tax Board-within 30 days of notice of decision or 3 months of application, whichever is later
RECORDING REQUIREMENTS	Collect recording fees Copies of lien to landowner and state forester.	Collect all recording fees. Landowner may appeal a determination to: c. 394, Board of Assessors-within 30 days, (previously 60 days) of notice, then to Appellate Tax Board-within 30 days of notice of decision or 3 months of application, whichever is later	RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership. c.394, Collect all recording fees. landowner may appeal a determination to: Board of Assessors-within 60 days of notice (not changed by c. 394), then to Appellate Tax Board-within 30 days of notice of decision or 3 months of application, whichever is later
APPEAL OF DETERMINATION	(on or before) DECEMBER 1- to state forester MARCH 1- forester's decision will issue APRIL 15- appeal to 3 person regional panel MAY 15- panel hearing Appeal to ATB or Superior Court within 45 days of notice of decision.	SPECIALIZED VALUATION Assessed at its A/H "USE" VALUE. Values published annually by F.V.A.C., used as a guide. Commercial rate applied to A/H Use value. Buildings, residences and land accessory to their use are taxed at regular, full value. Change in ownership alone will not affect classification. c. 394, "OPEN SPACE" local option. If city or town accepts c.61A, §4A, classified farmland will be classified as "open space" and taxed at residential tax rate.	SPECIALIZED VALUATION Assessed at its RECREATIONAL "USE" VALUE However, assessed "use" value may not exceed 25% of the full and fair cash value. Commercial rate applied to CH61B value. Buildings, residences and land accessory to their use are taxed at regular, full value. Change in ownership alone will not affect classification. c. 394, "OPEN SPACE" local option. If city or town accepts c.61B, §2A, classified recreational land will be classified as "open space" and taxed at residential tax rate.
TAXATION	SPECIALIZED VALUATION c. 394, new provisions begin for FY 2009. c. 394, Assessed at its FOREST "USE" VALUE. Values for forestland will now be published annually by the FVAC, and be used as a guide. (After FY 2008, no longer any stumpage tax.) Commercial rate (class 3) applied to Forest "USE" value. Buildings, residences and land accessory to their use are taxed at regular, full value. c. 394, "OPEN SPACE" local option. If city or town accepts c.61, §2A, classified forest land will be classified as "open space" and taxed at residential tax rate.	SPECIALIZED VALUATION Assessed at its A/H "USE" VALUE. Values published annually by F.V.A.C., used as a guide. Commercial rate applied to A/H Use value. Buildings, residences and land accessory to their use are taxed at regular, full value. Change in ownership alone will not affect classification. c. 394, "OPEN SPACE" local option. If city or town accepts c.61A, §4A, classified farmland will be classified as "open space" and taxed at residential tax rate.	SPECIALIZED VALUATION Assessed at its RECREATIONAL "USE" VALUE However, assessed "use" value may not exceed 25% of the full and fair cash value. Commercial rate applied to CH61B value. Buildings, residences and land accessory to their use are taxed at regular, full value. Change in ownership alone will not affect classification. c. 394, "OPEN SPACE" local option. If city or town accepts c.61B, §2A, classified recreational land will be classified as "open space" and taxed at residential tax rate.

Municipal Law

<p>PENALTY TAXES</p>	<p>c. 394, replaces the prior withdrawal penalty tax back or conveyance tax provisions. c. 394, Roll-back tax imposed upon a change to a non-qualifying use of the land. c. 394, A non-qualifying use means a use or condition that would not qualify under either 61, 61A or 61B. c. 394, Roll-back recovery period is FIVE (5) YEARS, (previously up to 10 years) c. 394, SIMPLE INTEREST at 5% over recovery period. c. 394, Conveyance tax, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of acquisition. Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership.) Only assessed if more than roll-back. c. 394, "grandfather" exemption from conveyance tax for an owner in program for/before FY 2008.</p>	<p>Alternative taxes-only the greater will be imposed Roll-back tax imposed upon a change to a non-qualifying use. c. 394, A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B. Roll-back recovery period is FIVE (5) YEARS. c. 394, SIMPLE INTEREST at 5% over recovery period. Roll-back tax for each year: TAX: Ch 59, full value taxes - Ch 61A, reduced A/H "use" taxes = the difference (with 5% interest) c. 394, "grandfather" exemption from INTEREST on roll-back tax for a parcel classified for FY 2007 and still owned by 7/1/2006 owner or certain specified close relatives. Conveyance tax, c. 394, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of acquisition. Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership.) Only assessed if more than roll-back.</p>	<p>Alternative taxes-only the greater will be imposed. Roll-back tax imposed upon a change to a non-qualifying use. c. 394, A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B. c. 394, Roll-back recovery period is FIVE (5) YEARS, (previously 10 years) c.394, SIMPLE INTEREST at 5% over recovery period. Roll-back tax for each year: TAX: Ch 59, full value taxes - Ch 61B, reduced rec. "use" taxes = the difference (with 5% interest) Conveyance tax, c. 394, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of first classification. Tax = price or value x conveyance tax rate. C.T. rate 10% within first 5 years, 5% within years 6-10. Only assessed if more than roll-back</p>
<p>APPEAL OF ASSESSMENT</p>	<p>c. 394, ABATEMENT-apply to Board of Assessors within 30 days (previously 60 days) of notice of tax APPEAL TO A.T.B. within the later of 30 days of notice of decision, or 3 months of application.</p>	<p>ABATEMENT-apply to Board of Assessors within 60 days of notice of tax. (not changed by c. 394) APPEAL TO A.T.B.-within the later of 30 days of the notice of decision, or 3 months of application.</p>	<p>ABATEMENT-apply to Board of Assessors within 60 days of notice of tax. (not changed by c. 394) APPEAL TO A.T.B.-within the later of 30 days of the notice of decision, or 3 months of application.</p>
<p>BETTERMENT AND SPECIAL ASSESSMENTS</p>	<p>c. 394, subject to assessment only to "pro-rata" extent improves forest use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during forest change in use of land. not applicable</p>	<p>c. 394, subject to assessment only to "pro-rata" extent improves A/H use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during A/H use. Suspended amount due and payable upon a change in use of land.</p>	<p>c. 394, subject to assessment only to "pro-rata" extent improves recreational use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during recreational use. Suspended amount due and payable upon a change in use of land.</p>
<p>CERTIFICATE OF TAXES DUE</p>	<p>not applicable</p>	<p>Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. \$6 charge. If recorded, fixes liability and payment terminates all liens.</p>	<p>Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. \$6 charge. If recorded, fixes liability and payment terminates all liens.</p>

MUNICIPALITY'S RIGHT OF FIRST REFUSAL: c. 394 makes significant changes to the "first refusal option" that applies when a landowner decides to sell classified land for a residential, commercial or industrial use, or convert it to such a use, and makes the option provision uniform in all three chapters. It also extends the operation of the first refusal for one full tax year after a property is removed from classification. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. It also spells out in greater detail than before the notices required, the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion. The revised assignment provision now authorizes a city or town to assign its option to a nonprofit conservation organization or to the Commonwealth or any of its political subdivisions under the terms or conditions that the mayor or board of selectmen may consider appropriate, provided that no less than 70% of the land is maintained in forest, agricultural or horticultural, or recreational use.

Workshop B

Community Preservation Fund

Revenues and Expenditures

(See Chart 3 for allowable spending purposes)

I. Special **revenue** fund.

A. **Annual recurring** fund revenues.

1. Local property tax surcharges.
2. State trust fund distributions.

B. **Non-recurring** revenues.

1. Public/private gifts or grants to the fund.
2. Proceeds from bonds and notes.
3. Proceeds of sale of property acquired with fund monies.
4. Damages and penalties from person injuring property acquired with fund monies.

II. Invested like trust funds and *interest earned remains with fund* (not allocated to special purpose reserves created within the fund by legislative body).

III. Appropriations for community preservation purposes require both recommendations of Community Preservation Committee and vote by legislative body.

A. Appropriations from any *fund financing source*, except borrowing, by majority vote unless otherwise required by law.

B. May spend for specified community preservation purposes:

1. Acquire, create and preserve open space.
2. Acquire, preserve, rehabilitate and restore historic resources.
3. Acquire, create and preserve land for recreational use.
4. Acquire, create, preserve and support community housing, including provide funds for the community's affordable housing trust fund.
5. Rehabilitate and restore open space, land for recreational use and community housing acquired or created with fund monies.

C. May appropriate for related purposes:

1. Debt service on loans authorized under G.L. c. 44B for community preservation projects. (Committee recommendation not required).
2. Eminent domain damages if land acquired in that manner.
3. Matching funds for federal/state grants for community preservation projects.
4. Incidental acquisition and borrowing expenses.

D. May spend up to 5% of annual fund revenues for administrative and operating expenses of Community Preservation Committee. (Committee recommendation *not* required).

1. For committee expenses only, *not* general indirect costs of assessors, collector, treasurer, accounting officer in implementing.

E. May *not* appropriation to supplant current spending on these purposes or maintain any real or personal property.

IV. *Supplemental appropriations* from levy, free cash, etc. for community preservation purposes are set up *as special purpose appropriations* — may *not* be appropriated directly to the fund (special *revenue* fund).

Appropriation Financing Sources

(See Chart 4 for financing sources and Bulletin 2003-04B for sample votes)

I. **Annual fund revenues.**

A. Annual fund revenues include estimated receipts from surcharge and state trust fund distribution (beginning in second year).

B. Each fiscal year, *at least 10%* of estimated annual fund revenues *must* be appropriated or reserved for later appropriation for each of the following *three* categories of community preservation purposes:

1. Open space (excluding recreational uses).
2. Historic resources.
3. Community housing.

C. May make appropriations or reservations from *estimated* annual fund revenues *until tax rate set*.

II. **Other fund financing sources.**

A. *Fund reserves.*

1. *Fund balance.*

- a. Year-end balance resulting from favorable revenues and expenditures.
- b. Available *upon* accounting officer's submission of report of prior year fund activities (Community Preservation Fund Report — Form CP-2) to DOR *until* June 30 close of current fiscal year.
- c. May be appropriated for any CPA purpose during the FY.

2. *Special purpose reserves.*

a. Three separate special purpose reserves created within the fund by legislative body's earmarking of annual fund revenues (or fund balance) for later appropriation for one of these purposes:

- i. Open space (excluding recreational use).
- ii. Historic resources.

Community Preservation Fund

continued from page twenty-two

- iii. Community housing.
- b. Appropriations from special purpose reserves restricted to those purposes.
- 3. *Annual budgeted reserve.*
 - a. Created by appropriation of annual fund revenues (or fund balance) for community preservation purposes during the FY.
 - b. May be appropriated for any CPA purpose during the FY.
 - c. Unappropriated balance at year-end closes to fund balance.
- 4. *Excess bond proceeds.*
 - a. Balance after completion/abandonment of community preservation project for which debt issued.
 - b. Appropriations from excess proceeds restricted to community preservation purpose for which borrowing authorized for same or longer term than original loan.
- III. All obligations, including future debt service, must be identified by accounting officer if surcharge revoked.
 - A. If uncommitted monies sufficient, surcharge ceases next FY.
 - B. If insufficient, surcharge continues until sufficient monies raised.

Borrowing(See [Bulletin 2003-04B](#) for model borrowing language)

- I. Community may authorize borrowing under the CPA, *G.L. c. 44B, §11*, to fund certain community preservation acquisitions and projects.
 - A. General obligation debt.
 - B. Amount borrowed limited to annual debt service *supportable by estimated surcharge revenues over borrowing term.*
 - C. Debt service payable from any fund monies available for purpose.
- II. Bonds and notes may be issued for those borrowings subject to *G.L. c. 44*, municipal borrowing statute, as to:
 - A. Purposes — debt limited to purposes in *G.L. c. 44, §§7 and 8.*
 - B. Term of debt for those purposes.
 - C. Formalities of issuance.
- III. May issue bond anticipation notes (BANs).
- IV. May use level debt service, equal principal or other repayment schedule. ■

Community Preservation Fund: Current Implementation Resources**IGRS**[IGR 00-209](#). with all amendments (IGR 00-209, as amended)IGR 00-209 *Community Preservation Fund (12/00)*[IGR 01-207](#). *Community Preservation Fund (Amends IGR 00-209) (9/01)*[IGR 02-208](#). *Community Preservation Fund (Amends IGR 00-209) (9/02)***Bulletins**[Bulletin 2000-16B](#). Implementation of Community Preservation Fund Finance Provisions (12/00)[Bulletin 2001-09B](#). FY2002 Implementation of Community Preservation Act (9/01) (Sample surcharge calculations with and without exemptions)[Bulletin 2002-12B](#). Community Preservation Act Amendment and Information (9/02) (1st year implementation issues and public record status of CPA exemption application information)[Bulletin 2003-04B](#). Community Preservation Act Implementation and Appropriation Votes (2/03) (Acceptance votes and sample appropriation motions)[Bulletin 2004-16B](#). Cape Cod Land Bank and Community Preservation Act (10/04) (Supersedes Bulletin 2004-13B on same subject)(Conversion of Cape Cod Land Bank to Modified CPA Program)**CPA Data**[Data Bank Reports](#). Section on CPA data on acceptances, surcharge reports, state trust fund distributions and balance.**CPA Income Limits****[Table of Estimated Decile Distributions of Family Income by Area \(Metropolitan Statistical Areas and Non-Metropolitan Counties\)](#)**

Issued in February or March of each year

Measures prior year income trends

March 2007 (U.S. Fiscal Year 2007) should be used for FY08 CPA exemptions

Massachusetts is found on pages 81 and 82 of document

[Community Preservation Coalition](#) web site has spreadsheet with household size formula applied by city and town ■

Chart 3 COMMUNITY PRESERVATION FUND AND ALLOWABLE SPENDING PURPOSES					
DEFINITION	OPEN SPACE	HISTORIC RESOURCES	RECREATIONAL LAND	COMMUNITY HOUSING	
	<i>Land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use</i>	<i>Building, structure, vessel, real property, document or artifact listed or eligible for listing on the state register of historic places or determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of the city or town</i>	<i>Land for active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field</i> <i>Does <u>not</u> include horse or dog racing or the use of land for a stadium, gymnasium or similar structure</i>	<i>Housing for low and moderate income individuals and families, including low or moderate income seniors</i> <i>Moderate income is less than 100%, and low income is less than 80%, of US HUD Area Wide Median Income</i>	
ACQUIRE	Yes	Yes	Yes	Yes	Yes
CREATE	Yes		Yes	Yes	Yes
PRESERVE <i>Means protect from injury, harm or destruction, not maintenance</i>	Yes	Yes	Yes	Yes	Yes
SUPPORT					
REHABILITATE/RESTORE <i>Means remodel, reconstruct or repair (extraordinary, not maintenance) to make property functional for intended use, including improvements to comply with federal, state or local building or access codes or with federal standards for rehabilitation of historic properties</i>	<i>Yes if acquired or created with CP funds</i>	Yes	<i>Yes if acquired or created with CP funds</i>	<i>Yes, includes funding for community's affordable housing trust</i> <i>Yes if acquired or created with CP funds</i>	

Chart 4 COMMUNITY PRESERVATION FUND FINANCING SOURCES				
	ANNUAL FUND REVENUES	FUND BALANCE	BUDGETED RESERVES	BORROWING
Definition	Annual recurring revenues	Unspent funds generated by favorable operations during the previous FY that are available for appropriation	Funds designated by the legislative body for later appropriation, for any CPA purpose during the fiscal year and/or for one of the following specific CPA purposes: (1) open space (excluding recreational), (2) historic resources and (3) community housing	Debt repaid with future fund revenues
Source	<p>Surcharges assessed for FY</p> <p>State trust fund distribution received during FY (beginning in 2nd year of fund operation)</p>	<p>Appropriation turn-backs, including unappropriated balance from any annual budgeted reserve</p> <p>Actual receipts in excess of budgeted revenues</p> <p>Investment interest</p> <p>Miscellaneous non-recurring revenues, e.g., proceeds from sale of community preservation fund acquisitions, damages and fines related to the acquisitions, or public/private gifts/grants for the community preservation fund</p>	Appropriations from annual fund revenues or fund balance	Proceeds from notes, bonds or other debt obligations issued for a CPA purpose
Limitations	<p>Legislative body must appropriate or place in budgeted special purpose reserves at least 10% of each year's annual revenues for each of following CPA purposes: (1) open space (excluding recreational), (2) historic resources and (3) community housing</p> <p>Cannot spend from appropriations until FY begins (i.e., 7/1)</p>	May be appropriated by legislative body for any CPA purpose	<p>Appropriations to a particular reserve require legislative body vote that states the specific dollar amount and source being reserved</p> <p>Appropriations from the annual budgeted reserve may be made for any CPA purpose during the FY only and any unappropriated balance at year-end closes to fund balance</p> <p>Appropriations from a particular special purpose reserve limited to that CPA purpose</p>	<p>Legislative body must specifically authorize borrowing under CPA (G.L. c. 44B)</p> <p>Borrowing limited in amount to debt service payable from estimated surcharge revenues over term</p> <p>Borrowing limited to purposes and terms applicable to municipal borrowing generally under G.L. c. 44 §§7 and 8</p> <p>Appropriations from proceeds remaining after purpose completed or abandoned restricted to a CPA purpose for which borrowing may be authorized for same or longer term than original loan</p>
Availability	Until tax rate set for FY. Once rate set, only budgeted reserves, fund balance or borrowing may be used as financing source.	Any time after accounting officer reports prior FY fund activities and balance to DOR until 6:30 close of current FY	Annual budgeted reserve during FY (i.e. 7/1 to 6/30) Special purpose reserves any time (or after 7/1 for new reservations from annual revenues)	Anytime
Similarity	General fund annual tax levy (taxes, state aid, receipts) Enterprise fund annual revenues (user charges and fees)	Free cash Enterprise fund free cash (retained earnings)	Stabilization fund (i.e., general fund monies reserved for later appropriation for municipal purpose) Enterprise fund budgeted surplus	Other municipal debt

Workshop C

Frequently Asked Questions About Collection of Municipal Taxes and Charges

Q14. Is there a statute of limitations for property tax bills?

A14. No statute sets a time limit on the validity of the property tax itself. However, certain of the collection remedies available to enforce the tax have limitations. For example, as noted in A13. above, the automatic lien may expire five years after the assessment date for the taxes if, before then, a conveyance of the real property is made and recorded. In addition, a suit in contract under Ch. 60, § 35 must be commenced within six years in order to be effective. By contrast, collection by the revocation, denial or suspension of license or permits under Ch. 40, § 57, or by set-off under G.L. Ch. 60, § 93 has no time limitation. However, any set-off against the wages of an employee must be exercised in harmony with all other provisions of law, both state and federal, which relate to the garnishment of wages.

Q26. Can an abatement under Ch. 59, § 71 or Ch. 60A, § 7 be rescinded if a tax or excise which had been deemed uncollectible becomes collectible?

A26. Ch. 59, § 71 and Ch. 60A, § 7 authorize the abatement of a tax on personal property or a motor vehicle excise which is uncollectible "by reason of the death, absence, poverty, insolvency, bankruptcy, or other inability of the person assessed to pay." The chief purpose of these statutes is to afford a means for tax collectors to remove uncollectibles from their receivables. We believe that an abatement under either statute, or under Ch. 58, § 8, may be rescinded if a tax or excise which had been deemed "uncollectible" becomes collectible. The municipality may thereafter pursue all available collection remedies.

Q41. How should a community account for taxes after foreclosure of a tax title if the taxes had not been certified to the tax title before the foreclosure was completed?

A41. Tax title property that is foreclosed upon becomes tax possession property of the municipality. The municipality's lien for those charges is merged with its ownership interest. Taxes that remain on the collector's books after foreclosure because they were not certified to the tax title account before land court issued a foreclosure decree or the treasurer made a land of low value sale under Ch. 60, §79 should be certified to the tax possession account rather than abated, provided that the city or town stills holds the property as a tax possession, i.e., has not sold the property, or voted to dedicate it to a municipal use.

The collector should send a list of the amount of such taxes, charges and interest to be added to the tax possession account to the treasurer and to the accountant or auditor.

Q44. If a municipal lien certificate is issued showing no taxes due for a fiscal year, and the assessors later commit a revised or omitted assessment, does the recording of the municipal lien certificate eliminate the lien for the revised, or omitted or supplemental assessment?

A44. No. Some collectors add a statement to lien certificates issued before the regular commitment, noting that taxes for the current year are unascertainable or not yet ascertained, but while such language may be helpful to prospective lenders or purchasers, it is not necessary to preserve a lien for taxes committed later, either as part of the regular commitment or as an omitted, revised or supplemental assessment under Ch. 59, § 75, § 76, or § 2D respectively.

The idea that omission of taxes not yet committed from a lien certificate extinguishes the lien for those taxes is inconsistent with the statutory purpose of municipal lien certificates. That purpose is to convey information about taxes and charges "... which at the time constitute liens on the parcel of real estate ..." (Ch. 60, § 23, emphasis added), and to protect persons relying on the certificates against misstatements of the balance due of such taxes and charges. If a statement that taxes were unascertainable were necessary to preserve the lien for subsequently assessed taxes, every lien certificate issued before June 21st should contain a statement that the current fiscal year's taxes are unascertainable, because of the possibility of a revised assessment (Ch. 59, § 76); all lien certificates in communities that had not rejected Ch. 59, § 2D would have to contain a similar statement, because of the possibility of a supplemental assessment. Certificates issued between January 1st and July 1st should also, on that theory, contain a statement that the following fiscal year's taxes are unascertainable, because the lien for the following fiscal year's taxes will have already arisen (Ch.60, § 37).

Such statements would convey no information whatsoever about the particular parcel for which the certificate was requested; they would merely recapitulate the provisions of the General Laws. Their inclusion on lien certificates would therefore be pointless as a means of furthering the statutory purpose of informing taxpayers about the charges currently due that are secured by a lien on the particular parcel for which the lien certificate is issued. Indeed, such statements would be worse than pointless; they would be a source of confusion. ■

2006 Legislation

Chapter 341 — Constable Fees

Effective November 1, 2006

Amends G.L. c. 41, §95A, which requires constables to turn over each month to the municipal treasurer 25% of all civil process fees collected the previous month.

The amendments clarify that the turnover is to be made to the treasurer of the municipality in which the constable is elected or appointed.

In addition, the turnover will now be made on a quarterly basis with payment due January 15, April 15, July 15 and October 15. If the amount to be paid on a scheduled date is less than \$500, the constable does not have to make the turnover until October 15, or other quarterly due date when the receipts equal or exceed \$500, whichever is earlier.

Chapter 354 — Tax Title Payments

Effective February 7, 2007

Amends G.L. c. 60, §62, which deals with the redemption of real property in tax title for delinquent municipal taxes and other charges, in order to give treasurers greater flexibility in working out reasonable payment plans with delinquent taxpayers.

Under current law, a taxpayer making a partial payment must pay at least 25% of the full amount needed to redeem the tax title. The amendment would eliminate any minimum partial payment.

In addition, a treasurer accepting a partial payment will be able to extend by two years the period within which foreclosure proceedings cannot be initiated. Under G.L. c. 60, §65, that period is generally six months after the tax taking. Currently, any extension is limited to one year.

Chapter 393 — Community Preservation Surcharge Exemptions

Effective March 22, 2007

Adds a local acceptance provision, paragraph (i), to Section 3 of G.L. c. 44B, the Community Preservation Act (CPA).

If G.L. c. 44B, §3(i) is accepted, units leased to members of housing cooperatives and occupied as their domiciles will be considered owned by the members solely for the purpose of allowing them to benefit from CPA surcharge exemptions adopted by the community if they otherwise qualify for the exemption. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4.

Ordinarily, occupants of a cooperative housing development are not eligible for any property tax or CPA surcharge exemptions because units in a cooperative are not individually owned and taxed like condominium units. G.L. c. 183A, §14. The property is owned by the cooperative housing corporation, not the occupants, and is assessed to the corporation as a single unit. This legislation gives communities the same option to treat cooperative members' units as owned by the members for purposes of CPA exemptions that they have for personal and residential exemptions from property taxes. G.L. c. 59, §5, Clause 55 and §5C. The portion of the property considered owned by a member would be the same proportion the member's share of stock in the cooperative bears to the total outstanding stock of the corporation. If accepted, any surcharge exemption the member qualifies for on his or her "property" will be credited to that portion of the surcharge assessed to the cooperative that the member would otherwise owe. ■

2007 Legislation

Chapter 67 — Fiscal Year 2008 State Budget

Effective July 1, 2007

§61. Education Reform Waivers. Annual provision that permits cities, towns and regional school districts to apply for various adjustments in their

fiscal year 2008 minimum required contributions to schools under the Education Reform Act.

Municipalities may seek adjustments if (1) non-recurring revenues were used to support fiscal year 2007 operating budgets and those revenues are not available in fiscal year 2008, (2) they have extraordinary non-school related expenses in fiscal year 2008, or (3) their fiscal year 2008 municipal revenue growth factor is at least 1.5 times the statewide average and is deemed to be excessive.

Regional school districts that used non-recurring revenues in fiscal year 2007 that are unavailable for fiscal year 2008 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Requests for waivers must be made by October 1, 2007.

See IGR 07-302, Fiscal Year 2008 Waivers to Education Reform Spending Requirements and Minimum Required Local Contributions, issued July 2007.

Chapter 67 — Municipal Group Insurance Coverage

Effective July 25, 2007

Amends provisions of G.L. c. 32, 32A and 32 B to create a local option for local governmental employers to obtain health insurance coverage for employees, retirees and their dependents by joining the state Group Insurance Commission (GIC) pool. The option addresses only health insurance benefits, not life, dental, or vision insurance.

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2007 Legislation

Eligible local governmental employers are cities, towns, districts, counties, regional councils of government (RCGs) and regional planning agencies (RPAs), educational collaboratives and charter schools.

To join the GIC, a city, town, district or county must accept G.L. c. 32B, §19 and enter into a written agreement with a public employee committee made up of a retiree and a representative from each of its labor unions. The retiree has 10% voting rights and each union has weighted voting rights based on the proportion of its members. A weighted vote of 70% of the committee is required to join. If the employer is non-unionized, the decision to join is made by the city, town or district chief executive officer, educational collaborative or charter school board of trustees, RCG or RPA governing body.

Once adopted locally through coalition bargaining, employers must accept the health insurance options and plan design set by the GIC, but the percentage of health insurance costs paid by employees or retirees will still be determined at the local level. The premium contribution ratio for each type of plan (Medicare, PPO, HMO, Indemnity) must be included in the written agreement with the public employee committee. The premium contribution rate for non-union charter schools and educational collaboratives, RCGs and RPAs is the same rate set by the Legislature for state employees.

Employers must notify the GIC by October 1 of any year in order to have GIC health benefits effective July 1 of the following year. Employers that choose to purchase health insurance through the GIC must do so in three or six year periods. The written agreement with the public employee committee can establish the terms and conditions for withdrawal such as whether the decision will be made jointly by the employer and committee.

Employers will pay all costs associated with purchasing health insurance

through the GIC, including payment to the state of an administrative fee, which cannot exceed 1% of premiums.

The GIC is expanded to include municipal representatives representing management and labor. Two new members are added immediately, with two more to be added after more than 45,000 municipal subscribers have enrolled.

Additional Information

[GIC Website](#)

[Metropolitan Area Planning Council Website](#)

Chapter 68 — Underperforming Local Pension Systems

Effective July 25, 2007

Amends provisions of G.L. c. 32, §22 and adds G.L. c. 32, §22(c½) to require that underperforming local pension systems transfer ownership and control of assets to the state Pension Reserves Investment Management (PRIM) Board for investment.

Effective October 1, 2007, pension systems considered underperforming must transfer their assets to the PRIM Board. An underperforming system is defined as a system having a funding ratio of less than 65% and an average rate of return during that previous 10 years that is at least two percentage points less than the return of the Pension Reserves Investment Trust (PRIT) Fund over that same period.

Underperforming systems may also voluntarily transfer ownership and control of their assets to the PRIM Board before October 1, 2007. The decision to transfer is made by the retirement board of the system, with the approval of a majority of the local governing body. Local governing body is defined as in a county, the county commissioners, in a city, the city council and mayor or manager, in a town, the board of selectmen, in a regional retirement system, the regional retirement board advisory committee, and in all other districts, the district governing board.

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By July 1 of each year, the Public Employees Retirement Administration Commission (PERAC) will review the investment performance and funding ratio of all systems using data as of January 1. If the review establishes that the system is underperforming, PERAC will notify the system to transfer the ownership and control of its assets to the PRIM Board. The notice is to include a financial report on the system, a description of the rights and duties of the PRIM Board and a schedule for the asset transfer.

The PRIM Board will hold the assets in trust for the system. The retirement board is to continue to perform its other functions and must notify the PRIM Board of its funding requirements for the next fiscal year at least 90 days before the start of the year.

A retirement board notified to transfer its assets may seek an exemption by appealing to a four member review board. The members of the board are the Executive Director of the PRIM Board or his designee, the Secretary of Administration and Finance or her designee, a member selected by the State Treasurer from a list of three names submitted by the Massachusetts Association of Contributory Retirement Systems and a member of a municipal employee union appointed by the Governor. The appeal must be filed with the Secretary of Administration and Finance no later than 30 days after it receives the PERAC notice to transfer its assets. The review board may grant an exemption if the system's rate of return has exceeded the PRIT Fund rate of return for the previous two years, or the system's rate of return was affected by extenuating circumstances. The board may take into account the system's management costs, its risk return ratio and other factors it considers appropriate. Three of the four members must agree to grant the exemption.

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2007 Legislation

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Any exemption granted only takes effect if approved by a majority of the local governing body for the system within 30 days of the review board's decision. If the board denies the exemption, the system may appeal to the courts in the same manner as adjudicatory decisions of other state agencies, boards or commissions under G.L. c. 30A, §14.

Additional Information[PERAC Memo 2007-35](#)**Chapter 74 — Notice of Overdue Taxes and Charges**

Effective July 25, 2007 (Emergency Letter)

Amends provisions in G.L. c. 59, §§57 and 57C that require municipal real estate tax bills to include a statement that there are past due amounts whenever any tax or charge that constitutes a lien on the property is overdue more than 90 days.

The delinquency statement requirement was added as part of the 2003 Municipal Relief Act, St. 2003, c. 46, §§52 and 54, but implementation was delayed until fiscal year 2008. The changes clarify that the statement need only appear on the actual real estate bill, not any preliminary bill.

In addition, collectors do not have to include delinquent charges for fire, water, sewer or electric service if the community has multiple suppliers of that utility service, or the municipal or district supplier is located in another jurisdiction.

Chapter 82 — Identity Theft Prevention

Section 17 Effective February 3, 2008, Otherwise Effective October 31, 2007

Amends G.L. c. 93 and adds G.L. c. 93H and 93I to establish comprehensive identity theft prevention measures.

Under amendments to G.L. c. 93, consumers may secure credit freezes to prevent new accounts from being fraudulently created in their name.

Under new G.L. c. 93H, businesses and governments must promptly notify consumers when their personal information is lost or stolen. Personal information includes the customer's name in combination with a social security, driver's license or financial account number. It does not include any data found in public records. The attorney general may bring an action to remedy violations.

The new G.L. c. 93I sets standards for the disposal of records containing personal information by businesses and governments. Personal information for purposes of this chapter includes the customer's name in combination with a social security, driver's license or financial account number or a biometric indicator. Documents or other records containing personal information must be redacted, burned, pulverized or shredded. Electronic and other media must be destroyed or erased so that personal information cannot be read or reconstructed. Violators are subject to a civil fine of not more than \$100 per data subject affected up to a maximum \$50,000 for each instance of improper disposal. The attorney general may file a civil action in the superior or district court in the name of the commonwealth to recover penalties and may bring an action to remedy violations.

The Director of Consumer Affairs and Business Regulation and the Supervisor of Public Records are responsible for setting regulations for how businesses and government agencies must protect personal information to prevent data breaches.

Chapter 91 — Capital Expenditure Exclusions

Effective August 14, 2007

Amends G.L. c. 59, §21C(1½) to allow a city or town that is a member of a regional governmental entity, such as a regional school district, to present a Proposition 2½ capital expenditure exclusion referendum to its voters in

order to levy above its levy limit to fund its assessed share of the entity's capital spending not financed by debt.

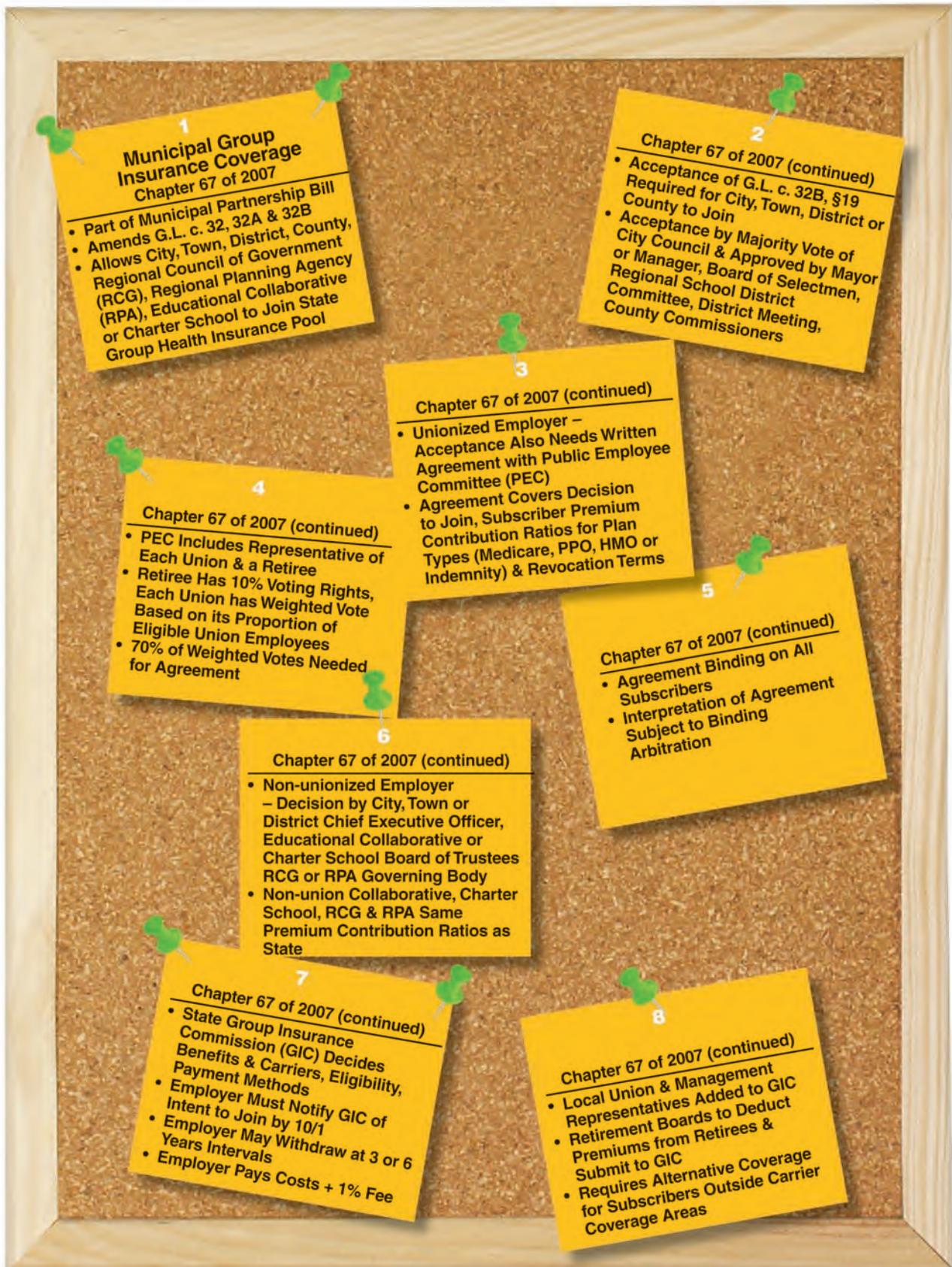
Under Proposition 2½, communities can seek voter approval to raise taxes for a temporary period to fund capital spending financed by debt (debt exclusion for the life of borrowing). They may also present a debt exclusion to voters in order to raise taxes to fund their proportionate shares of debt issued by regional entities of which they are members as reflected in their annual assessments. G.L. c. 59, §21C(k). In 1986, Proposition 2½ was amended to enable communities that funded smaller capital projects from sources other than debt to seek voter approval to raise taxes temporarily to cover that spending as well (one year capital expenditure exclusion). St. 1986, c. 562, §1. However, the capital expenditure exclusion provision did not include the language found in the debt exclusion that also allows that referendum to be used in situations where the capital spending is done by a regional entity rather than the city or town.

Beginning in fiscal year 2008, a community that is a member of a regional entity that decides not to finance capital spending by debt will now be able to ask voters to increase taxes for a particular fiscal year to cover the portion of its assessment for the year that is attributable to that spending.

Chapter 110 — Funeral and Burial Expenses for Fallen Firefighters and Police Officer

Effective August 15, 2007

Amends local option G.L. c. 41, §100G½, to increase to \$15,000 the amount of funeral and burial expenses to be paid by a city or town in cases where a firefighter or police officer is killed in the line of duty or dies from injuries received in the line of duty. Previously, maximum amount payable was \$5,000. ■



1
Municipal Group Insurance Coverage
 Chapter 67 of 2007

- Part of Municipal Partnership Bill
- Amends G.L. c. 32, 32A & 32B
- Allows City, Town, District, County, Regional Council of Government (RCG), Regional Planning Agency (RPA), Educational Collaborative or Charter School to Join State Group Health Insurance Pool

2
Chapter 67 of 2007 (continued)

- Acceptance of G.L. c. 32B, §19 Required for City, Town, District or County to Join
- Acceptance by Majority Vote of City Council & Approved by Mayor or Manager, Board of Selectmen, Regional School District Committee, District Meeting, County Commissioners

3
Chapter 67 of 2007 (continued)

- Unionized Employer – Acceptance Also Needs Written Agreement with Public Employee Committee (PEC)
- Agreement Covers Decision to Join, Subscriber Premium Contribution Ratios for Plan Types (Medicare, PPO, HMO or Indemnity) & Revocation Terms

4
Chapter 67 of 2007 (continued)

- PEC Includes Representative of Each Union & a Retiree
- Retiree Has 10% Voting Rights, Each Union has Weighted Vote Based on its Proportion of Eligible Union Employees
- 70% of Weighted Votes Needed for Agreement

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Chapter 67 of 2007 (continued)

- Agreement Binding on All Subscribers
- Interpretation of Agreement Subject to Binding Arbitration

6
Chapter 67 of 2007 (continued)

- Non-unionized Employer – Decision by City, Town or District Chief Executive Officer, Educational Collaborative or Charter School Board of Trustees RCG or RPA Governing Body
- Non-union Collaborative, Charter School, RCG & RPA Same Premium Contribution Ratios as State

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Chapter 67 of 2007 (continued)

- State Group Insurance Commission (GIC) Decides Benefits & Carriers, Eligibility, Payment Methods
- Employer Must Notify GIC of Intent to Join by 10/1
- Employer May Withdraw at 3 or 6 Years Intervals
- Employer Pays Costs + 1% Fee

8
Chapter 67 of 2007 (continued)

- Local Union & Management Representatives Added to GIC
- Retirement Boards to Deduct Premiums from Retirees & Submit to GIC
- Requires Alternative Coverage for Subscribers Outside Carrier Coverage Areas



9
Underperforming Local Pension Systems
 Chapter 68 of 2007

- Amends G.L. c. 32, §22 & Adds G.L. c. 32, §22(c½)
- Part of Municipal Partnership Bill
- Underperforming Local Pension Systems Must Transfer Ownership & Control of Assets to PRIM Board
- Mandatory Provisions Effective 10/1/2007

10
 Chapter 68 of 2007 (continued)

- Underperforming Defined As:
 - Funding ratio <65%
 - Average Rate of Return During Prior 10 Years of 2 percentage points or less than PRIT Fund Return During Same Period

11
 Chapter 68 of 2007 (continued)

- Annual Review of Retirement Board Investment Performance by PERAC by 7/1
- PRIM Board to Notify Local Board of Underperformance & Provide Schedule for Transfer of System Assets

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 Chapter 68 of 2007 (continued)

- PRIM Board Holds Assets in Trust
- Local Board Continues Other Functions & Notifies PRIM Board of Annual Funding Requirement
- May Seek Exemption from 4 Member Review Board
- Approval of 3 Members Required

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 Chapter 68 of 2007 (continued)

- Exemption May be Allowed if Rate of Return Exceeds PRIT Fund for Prior 2 Years or Impacted by Extenuating Circumstances
- Review Board May Consider Management Costs, Risk Return Ratio & Other Factors
- Decision Subject to Judicial Review

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 Chapter 68 of 2007 (continued)

- Exemption Effective Only if Approved by City Council & Manager or Mayor, Board of Selectmen, Regional Retirement Board Advisory Board of Governing Board
- Underperforming System May Voluntarily Transfer Ownership of Assets to PRIM Board Before 10/1/2007

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Capital Expenditure Exclusions
 Chapter 91 of 2007

- Amends G.L. c. 59, §21C(i½) of Regional Entity to Exclude Portion of Annual Assessment for Capital Spending Not Financed by Debt
- Separate Referendum for Each Year

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CFM Buckley/North, LLC v. Assess. of Greenfield, ATB (March 20, 2007)

- EFFECT OF ORGANIZATIONAL FORM ON CHARITABLE EXEMPTION
- NON-PROFIT NURSING HOMES OPERATING IN THE FORM OF LIMITED LIABILITY CORPORATIONS DID NOT QUALIFY FOR EXEMPTIONS BECAUSE STATUTE REQUIRES THE OWNERSHIP BY INCORPORATED ORGANIZATIONS OR TRUSTS [2A:1]

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Cioch v. Treasurer of Ludlow, 449 Mass. 690 (2007) [2:14]

- EXTENT OF AUTHORITY OF BOARD OF SELECTMEN TO ADOPT GROUP INSURANCE RULES & REGULATIONS
- PROHIBITING ELIGIBILITY FOR TOWN RETIREE
- NOT COVERED BY THE TOWN'S PLAN AT THE TIME OF RETIREMENT
- COLLECTIVE BARGAINING ISSUES NOT ADDRESSED

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Suffolk Construction Co., Inc. v. Division of Capital Asset Mgt., 449 Mass. 444 (2007) [2:72]

- ATTORNEY-CLIENT PRIVILEGE FOR GOVERNMENT ATTORNEYS UPHELD

DLS Profile

From DLS to ANF: Kirwan Focuses on State and Local Partnerships

S.J. Port, DLS Director of Policy & Communication

She had only met the Governor-elect for the first time a week before, but on December 7, 2006, it was announced that Leslie Kirwan would be the Patrick-Murray Administration's first cabinet appointment. Then treasurer-secretary for Massport, Kirwan would return to the State House to become the state's first female secretary of administration and finance.

News of Kirwan's appointment, although exciting, was no shock to those in the Division of Local Services who have known and respected Kirwan since she joined DLS newly married and fresh out of graduate school in 1984.

Governor-elect Deval Patrick's choice to appoint Kirwan suggested his interest in reinvigorating the state's relationship with municipalities.

In her new role, Kirwan took on broad oversight of the state's fiscal wellbeing as well as implementation of many of the new administration's initiatives — including attempts to encourage municipal fiscal sustainability with the Municipal Partnership Act, an act close to the secretary's roots.

Raised in Cambridge, Kirwan dreamed of being an architect. Her father, an architect himself, convinced her that the field was too difficult for women. Instead, after attending Radcliffe College of Harvard University, Kirwan took a job in the Cambridge Mayor's office. It was 1980 and Proposition 2½ had just passed. Kirwan found herself fascinated with municipal finance and management. After a year, she returned to Harvard for a master's degree in public policy from the John F. Kennedy School of Government. Upon graduation Professor Ira Jackson suggested Kirwan look at the Department of Revenue's Division of Local Services.

After nine interviews, Kirwan became then Deputy Commissioner Ed Collins' executive assistant; and Collins became Kirwan's mentor.

"He took me to every meeting, and allowed me to develop the policy unit," says Kirwan. "We wrote the first primer for Proposition 2½, and started the City & Town newsletter."

When Collins left in the fall of 1990, Kirwan became acting Deputy Commissioner of the Division of Local Services. Officially appointed in 1991, she stayed in the role until 1995.

"DLS is a nexus where state policy and law meets municipal reality; it was that nexus that I found exciting to work within," says Kirwan. Recalling her time in DLS fondly, she adds, "I love managing, and I especially loved managing that staff."

Looking for a way to rebuild the state's partnership with cities and towns, then Secretary of ANF Charlie Baker asked Kirwan to be his undersecretary and chief of staff. After two years, Kirwan leaned in a new direction taking her role as CFO for Massport.

"It was a chance for something new during a time of change; I was interested in it as an independent authority," says Kirwan. "I'm better in my role here at ANF because of that experience."

Kirwan sees Robert Nunes, appointed by Patrick as Deputy Commissioner and Director of Municipal Affairs as the "protector of DLS' role." Kirwan says she agreed with the Governor's push to add to the role; "We wanted to put communities back on the map within a framework of fairness and equitable treatment that would consider their financial capability when we decide policy — use policy to enhance not detract from fiscal responsibility."

Concerned about increasing failed overrides, succession planning — especially in small towns, and communities resisting regionalizing services, Kirwan will continue to encourage municipal partnership and fiscally sustainable practices from her newest position at the helm of state finance and administration. ■



Leslie Kirwan

City & Town

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