



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

DIVISION OF LOCAL MANDATES

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BOSTON, MASSACHUSETTS 02111

A. JOSEPH DENUCCI
AUDITOR

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November 7, 2002

Mr. Gerald M. Carpinella, Director
Department of Public Health
3 City Hall Square, Room 101
Lynn, MA 01901

RE: Training for Plumbing and Gas Fitting Inspectors

Dear Mr. Carpinella:

Auditor DeNucci asked me to respond to your request for an opinion as to whether the Local Mandate Law applies to Chapter 370 of the Acts of 2000. This law requires inspectors of plumbing and gas fitting to complete a minimum of twelve hours of continuing education per year. The Division of Local Mandates (DLM) was established by Proposition 2 ½ to determine the financial impact on cities and towns of proposed or existing state laws and regulations. Section 27C of Chapter 29 of the General Laws generally provides that post-1980 laws or regulations imposing service or cost obligations on cities, towns, regional school districts, or educational collaboratives shall be effective only if locally accepted or fully funded by the Commonwealth.

It is DLM's opinion that the Local Mandate Law is not applicable in this case because the continuing education requirement was adopted "notwithstanding any general or special law to the contrary." The Supreme Judicial Court has ruled that despite Proposition 2 ½'s origins in initiative petition, the Legislature is free to override or amend its provisions like any other law.

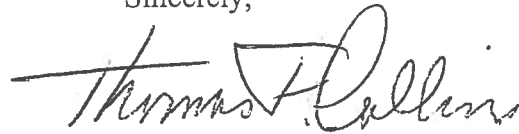
Another reason the Local Mandate Law is not applicable is that the mandate is not imposed on the municipal employer. Rather, the training mandate is imposed on inspectors. According to The Division of Professional Licensure, most municipal employers are likely to absorb the cost of continuing education for the more than 300 plumbing and gas fitting inspectors in Massachusetts. However, the Act itself does not require them to do so.

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The fee for eight hours of mandatory classroom training is \$150 annually. These training sessions are offered on weekdays and also on Saturday. Saturday sessions may reduce the impact of training on inspection schedules and eliminate the need for replacement inspectors. The remaining four hours of training can be completed at little or no cost by attending plumbing and gas fitting association meetings and trade shows.

In conclusion, we realize that this mandate will cost Lynn \$150 per inspector annually, plus any travel or other personnel costs. We are also aware that these costs add up over time. However, it is our opinion the Local Mandate Law does not apply in this instance.

Sincerely,

A handwritten signature in black ink, reading "Thomas F. Collins". The signature is fluid and cursive, with a large, stylized "C" at the end.

Thomas F. Collins, Director
Division of Local Mandates

Email: Thomas.Collins@SAO.state.ma.us

TFC:pd

cc: Attorney Michael Kass, Board of Plumbers and Gas Fitters