



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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AUDITOR

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May 25, 2011

The Honorable Thomas G. Ambrosino, Mayor
City of Revere
Office of the Mayor
281 Broadway
Revere, Massachusetts 02151

RE: Suffolk County Holidays, M. G. L. c. 4, § 7, cl. 18

Dear Mayor Ambrosino:

This letter is in response to your request regarding the Local Mandate Law, M. G. L. c. 29, § 27C, and an amendment to the law providing for the observance of two holidays in Suffolk County: Evacuation Day on March 17, and Bunker Hill Day on June 17. Effective July 1, 2010, all state, municipal, and other public offices in Suffolk County must “be open for business and appropriately staffed” on these dates, even though the law maintains the status of these two dates as legal holidays. (See St. 2010, c. 131, § 5, amending M. G. L. c. 4, § 7, cl. 18.) You explain that the City of Revere’s collective bargaining agreement requires time and one-half compensation for employees who work on legal holidays, as well as a compensatory day off from work, and report that the additional cost to have at least one employee working in each department on Evacuation Day 2011 was approximately \$9,000. You ask whether this amendment is subject to the Local Mandate Law, and request a determination of the three-year financial impact on the City of Revere. My Division of Local Mandates (DLM) has concluded that this change in law is an unfunded state mandate subject to M. G. L. c. 29, § 27C. This conclusion and the estimated fiscal impact are explained below.

M. G. L. c. 29, § 27C:

In relevant part, the Local Mandate Law provides that any post-1980 law that imposes “any direct service or cost obligation upon any city or town” must either be fully funded by the Commonwealth, or subject to local acceptance. Pursuant to M. G. L. c. 29, § 27C (e), any community aggrieved by an unfunded state mandate may petition the superior court for an order exempting the community from complying with the mandate until the Commonwealth provides funding to assume the cost. DLM’s determination of the compliance cost shall be prima facie evidence of the amount of state funding necessary to sustain the mandate.

Effect of the Suffolk County Holiday Amendment:

Because the effective date of the amendment was July 1, 2010, this is clearly a law that took effect after 1980. Additionally, the amendment imposes a direct service and cost obligation upon the City of Revere. As you note in your letter, if not for passage of St. 2010, c. 131, § 5, City offices would be closed on the two holidays, excepting the police and fire departments. Whereas the amendment requires all public offices in Suffolk County to be open on these dates, the City must incur additional costs to staff the library, water, elder affairs, veterans' affairs, purchasing, legal, clerk's, treasurer's, assessor's, and collector's departments, among others. Based upon recent experience with the Evacuation Day holiday on March 17, the City of Revere paid thirty-four individuals to work in accordance with collective bargaining provisions that work on holidays is compensated at one and one-half times the regular rate of pay. You provided Evacuation Day payroll data to document that the City incurred \$8,928.64 to staff offices (excluding police and fire departments) that would have been closed if not for the amendment.

Cost Determination:

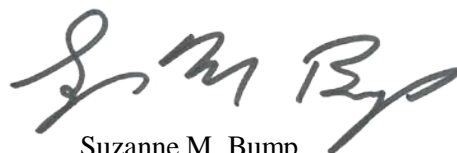
In your letter, you asked that DLM determine the three-year financial effect of the Suffolk County Holiday amendment upon the City of Revere. There are a number of factors to consider in this determination. First, we note that the upcoming June 17 Suffolk County holiday falls on a Friday, and that the City office hours are customarily from 8:15 to 12:15 on Fridays. Although DLM is not in a position to advise as to whether the terms of the amendment requiring that public offices must "be open for business and appropriately staffed" would require a departure from this custom, DLM will determine costs for the customary four-hour Friday schedule for 2011, and will amend the determination if needed. Note also, in calendar year 2012, the March 17 holiday will be celebrated on a Saturday, with no need to staff public offices. In 2013, both Suffolk County holidays will be celebrated on Mondays. Finally, you explain that municipal employees may possibly agree to a deferment of the scheduled fiscal 2012 cost of living adjustment. With no way to confirm this at this time, this determination will be based upon an assumed cost of living adjustment of 1% across the board for fiscal years 2012 and 2013. In light of these factors, the estimated three-year determination of the cost to the City of Revere of complying with the Suffolk County holiday amendment is approximately \$40,746; the annual increments are as follows:

Calendar year 2011 (fiscal year 2011): \$13,512
Calendar year 2012 (fiscal year 2012): \$ 9,018
Calendar year 2013 (fiscal year 2013): \$18,216

Conclusion:

It is the opinion of my Division of Local Mandates that M. G. L. c. 4, § 7, cl. 18, as amended by St. 2010, c. 131, § 5 is an unfunded state mandate subject to the provisions of M. G. L. c. 29, § 27C. The estimated total financial effect upon the City of Revere for the three fiscal years spanning 2011 to 2013 is \$40,746. As noted above, this opinion does not relieve the City of Revere of the duty to comply. The Local Mandate Law provides that a community aggrieved by state mandated costs may seek an exemption from compliance in superior court. I thank you for bringing this matter to my attention. Please call me directly with further questions or comments you may have.

Sincerely,



Suzanne M. Bump
Auditor of the Commonwealth