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# CITY & TOWN

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## Audit Committees

written by Ellis Fitzpatrick

Boards of directors of many private sector companies elect to have audit committees. The "Report of the National Commission on Fraudulent Financial Reporting" (known as the Treadway Report) stated, "the board of directors of all public companies should be required by SEC rule to establish audit committees comprised solely of independent directors." The purpose of an audit committee is to work with the independent auditors to ensure that the company has accurately reported its financial information and has effective controls to safeguard the company's assets.

The Division of Local Services encourages the creation of audit committees in the public sector. An audit committee can improve the use of the audit report and overall financial management of the community. The role of the audit committee in the public sector is similar to the role in the private sector, with one major difference. Private sector performance frequently measures the "bottom line" or how much money is earned. Therefore, the audit committee's work emphasizes the review of the financial statements and controls on the financial information. In the public sector, there are other measures of performance such as quality of service, and effective use of financial resources. Therefore, an audit committee has to look beyond the "bottom line" and review other aspects of the audit report. For example, the report may show that managers are performing within the authorized budget or disclose that tax bills are not mailed on a timely basis.

There are many similarities in the composition and work of audit committees in the public and private sectors. The

audit committee should be composed of individuals apart from management, so that those choosing the auditor will not themselves be audited. In a town this could be the finance committee or, in a city, the city council. The audit committee should be the major player in the procurement of the audit. The committee should monitor the progress of the audit. The committee should have direct contact with the audit firm, meeting with the firm prior to the commencement of the audit to discuss any issues it might want addressed in the audit. The audit report should be sent

### *Effective controls safeguard assets.*

directly to the audit committee, with copies to the chief officials of the city or town, to ensure an objective review of the report. Once the audit committee receives the report it should meet to discuss the findings. A response from the community's management team should be solicited when the report identifies problems. If management agrees with the findings, a corrective action plan should be developed that identifies actions to be taken, who is responsible, and when the action will be completed. The audit committee should then monitor the implementation of the corrective action plan. If management disagrees with the auditor's comments, it should provide a thorough explanation for the audit committee to review and evaluate. Should the audit committee disagree with the management's explanation, it should confer with the city council/finance committee and the chief executive officials.

Before a community establishes an audit committee, it should develop a written statement of purpose. The statement should define the committee's responsibilities and identify its members. Local officials may want to seek out citizens with special expertise to serve on the committee, such as in the fields of accounting, finance and management. Membership continuity is important so it is suggested that member's terms overlap. The audit committee meetings should occur before, during and after the audit to express expectations or concerns, check on progress and review the final auditor's report.

An audit committee can assist a community to use its audit report as an efficient, effective management tool. While audits appear to be costly, they are a necessary investment in the fiscal health of the municipality. Effective use of the audit report recommendations spearheaded by the audit committee can lead to tighter financial controls, improved financial practices, increased voter confidence and upgrade a community's bond rating. ■

## Inside This Issue

<b>Legal</b> .....	2
<b>Focus</b>	
FY96 Municipal Spending .....	3
<b>DLS Update</b>	
Elected to Appointed .....	7
Utility Restructuring .....	7
Purchasing Course .....	7
<b>Municipal Fiscal Calendar</b> .....	8
<b>Data Bank Highlight</b> .....	8

# LEGAL

## in Our Opinion

**Q:** *A husband and wife owned property as tenants by the entirety. Can one spouse by deed sever the tenancy?*

**A:** As a general rule, both spouses must join in a deed to convey the entire estate; a husband or wife cannot independently sever a tenancy by the entirety. M.G.L. Ch.209 Sec.3 provides, however, that "transfers of real and personal property between husband and wife shall be valid to the same extent as if they were sole." In interpreting this statute prior to its amendment in 1975, the Supreme Judicial Court held that one spouse can terminate a tenancy by the entirety by conveying his or her interest in it directly to the other spouse. *Gordon v. Gordon*, 8 Mass. App. 860. A tenancy by the entirety can, therefore, be severed by a deed of both parties to a stranger, or by a deed of one spouse to the other.

**Q:** *Can a municipality grant abatements or discounts to water and sewer users who are similarly situated?*

**A:** In many letters the Department has advised communities that such a discount is not permissible in the absence of express legislative authorization. We relied on Supreme Judicial Court decisions where the Court dealt with the validity of water and sewer rates. In discussing principles governing water and sewer rates, the Court wrote that "The assessment in order to be equitable must be proportional to the benefit and not in excess of it." *Carson v. Brockton*, 175 Mass. 242, at 244. The Court, however, has stated that water and sewer rates need not be based exclusively on the volume of usage. Rates may take into account special cost factors incurred in supplying water to a certain class of users. *Souther v. Gloucester*, 187 Mass. 552; *Byors & Sons, Inc. v. Water Commissioners of Northborough*, 358 Mass. 354.

Regarding the imposition of different charges among customers, the Court wrote:

The modern tendency undoubtedly is to regard discrimination by such corporations as inconsistent with the duty owed to, and the corresponding legal right in, the public. [Citations] But even at common law it is generally recognized that discrimination of rates is permissible, within reasonable limits, *except as between consumers who receive the same service under similar conditions*. This is especially true in cases of water, gas and like companies, where a different rate may be made per unit of service to large users, or to persons making different uses of the service.... (Emphasis added.) *Brand v. Water Commissioners of Billerica*, 242 Mass. 223.

**Q:** *Can a community dedicate revenue from the local option room occupancy tax to any special fund?*

**A:** No. As a general rule, all municipal receipts are added to estimated receipts in the community's general fund as set forth in M.G.L. Ch.44 Sec.53. If the city or town adopts a local option room occupancy excise, M.G.L. Ch.64G Sec.3A provides that the local excise may not exceed four percent of the total amount of rent for each occupancy. By that statute, all revenues derived become part of the community's unrestricted revenue. Without special legislation, local room occupancy excise revenues cannot be restricted for any special purpose. Accordingly, in the case at hand, the city or town can keep track of all hotel-motel excise revenue and then appropriate an equal amount from free cash or the tax levy for any lawful purpose.

**Note:** See Chapter 152 of the Acts of 1997 (the Convention Center Financing Bill) for special provisions pertaining to Boston, Cambridge, Springfield and Worcester.

**Q:** *Town meeting in a separate article appropriated a specific sum of money to be used only for the salaries of athletic coaches. Can town meeting place restrictions on how the school committee spends these funds?*

**A:** No. Pursuant to M.G.L. Ch.71 Sec.34, "a city or town shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation." In this instance, the article for coaching salaries would be considered a lawful appropriation "for the support of the public schools." Under the terms of M.G.L. Ch.71 Sec.34, the town meeting cannot direct how the school committee expends the funds. Yet, this statute further provides that a city or town appropriating authority can make "nonbinding recommendations" to the school committee.

In our view, the town meeting vote for salaries should be held a valid appropriation which merely contains advisory language.

**Q:** *Could a town fire department without an appropriation enter into a contract with a collection agency in connection with ambulance receivables?*

**A:** Yes. Pursuant to M.G.L. Ch.44 Sec.70, by vote of town meeting and with the approval of the selectmen, a department head could be authorized to enter into contracts with a collection agency to collect revenues generated by ambulance services. As a general matter, the collection agency could retain a percentage of the amounts collected. M.G.L. Ch.44 Sec.70 specifically provides, however, that a collection agreement could not apply to any Medicaid reimbursements (M.G.L. Ch.118E). If it appears that the Medicaid restriction under this statute would apply to many of the ambulance accounts receivable, it may be advisable to fund the collection agency contract with an appropriation. The collection agency would still be compensated based upon its successful collection efforts but only up to the amount of the appropriation. ■

compiled by James Crowley

# FOCUS

## on Municipal Finance

### FY96 Municipal Spending

Where do our local tax dollars go? Taxpayers are not the only ones to ask that question. Municipal officials look at spending trends in previous years to assist in budgeting for the next fiscal year. This article reviews FY96 operating expenditures for all 351 communities in Massachusetts. The information is from Schedule A which is a comprehensive summary of revenues, expenditures and fund balances submitted to the Division of Local Services each year by every city and town. Since Schedule A is submitted after the close of the fiscal year, FY96 is the latest year for which complete data are available.

Operating expenditures are accounted for in the General Fund. The General Fund includes revenues from local taxes, state aid and unrestricted local receipts exclusive of offsets. These revenues support basic municipal functions such as schools, public

safety, and public works. The remaining funds, not included in this article, – Special Revenue, Capital Projects, Enterprise and Trust Funds – are devoted to particular purposes.

### General Fund Spending

Table 1 shows statewide municipal spending by type of expenditure for FY90, FY93, FY95 and FY96 and the percent change from FY95 to FY96. In FY96 the total amount of General Fund spending was \$10 billion. This represents a 6 percent increase over FY95 and a 20.1 percent increase since FY90. During the recession of the early 1990's spending remained fairly constant, increasing 1.8 percent between FY90 and FY91, decreasing 1.0 percent between FY91 and FY92, and increasing 1.3 percent between FY92 and FY93. The decrease between FY91 and FY92 coincided with state aid cuts in FY92. There was an overall increase of only 2.1 percent between FY90 and FY93. As the economy rebounded and state aid increased, mu-

nicipal spending started to grow at a the rate of 6.0 percent between FY93 and FY94, and 4.8 percent between FY94 and FY95.

Table 1 further breaks down spending by functional category. In FY96, statewide total municipal spending on education was \$4.6 billion or 45.9 percent of total spending. In most cases, the total reported here does not include employee benefits, property insurance and other indirect costs that are included in net school spending under education reform. If these other costs were included, the percentage spent on education would be higher. Using the current numbers, education spending increased by 7.3 percent from FY95 to FY96, and 32.9 percent from FY90. These rates, which reflect increased funding under the Education Reform Act, are far above the inflation rate of 2.9 percent (FY95-FY96) and 15.7 percent (FY90-FY96) based on the State and Local Government Implicit

*continued on page six ➡*

### Total General Fund Expenditure by Function

*State Totals, Massachusetts Cities and Towns: Selected Fiscal Years*

Expenditures	FY90	FY93	FY95	FY96	FY96 Percent of Total	Change FY95 to FY96	
General Government	456,861,081	425,250,309	456,238,354	492,939,002	5.0%	36,700,648	8.0%
Police	620,844,165	634,355,748	712,861,026	751,273,186	7.5%	38,412,160	5.4%
Fire	516,595,783	512,845,770	562,154,754	583,565,653	5.9%	21,410,899	3.8%
Other Public Safety	142,709,003	129,797,324	142,091,278	143,392,654	1.4%	1,301,376	0.9%
Education	3,440,838,075	3,570,770,134	4,262,415,710	4,573,251,030	45.9%	310,835,320	7.3%
Highways	333,862,310	334,173,330	316,406,981	411,169,322	4.1%	94,762,341	29.9%
Other Public Works	426,988,871	382,508,171	395,180,294	389,903,429	3.9%	-5,276,865	-1.3%
Health and Welfare	348,983,201	283,136,216	312,041,861	325,433,032	3.3%	13,391,171	4.3%
Culture and Recreation	197,075,557	184,109,775	205,558,424	219,335,054	2.2%	13,776,630	6.7%
Debt Service	522,773,113	533,781,890	550,563,716	571,959,558	5.7%	21,395,842	3.9%
Fixed Costs	986,412,830	1,115,928,359	1,117,739,274	1,127,644,628	11.3%	9,905,354	0.9%
Intergovernmental	229,356,549	300,215,014	312,124,966	313,267,390	3.1%	1,142,424	0.4%
Other	63,874,234	51,317,410	48,766,238	50,067,908	0.5%	1,301,670	2.7%
<b>TOTAL</b>	<b>8,287,174,772</b>	<b>8,458,189,436</b>	<b>9,394,142,876</b>	<b>9,953,201,846</b>	<b>100.0%</b>	<b>559,058,972</b>	<b>6.0%</b>

*"Capital outlay and construction are excluded, as are expenditures outside the general fund, from special revenue, capital projects, trust, and enterprise funds."*

Table 1

[illegible]



Municipality	Fy96 Total Expenditures	Fy96 Total Expenditures	Percent Change Fy95-96	Total Expenditures	General	Police	Fire	Education	Public Works	Municipality	Fy95 Total Expenditures	Fy96 Total Expenditures	Percent Change Fy95-96	Total Expenditures	General	Police	Fire	Education	Public Works
Methuen	51,349,078	53,919,597	5.0%	1,324	54	85	108	688	111	Princeton	4,467,016	4,824,712	8.0%	1,462	83	84	24	742	193
Middleborough	25,568,128	27,421,928	7.3%	1,448	85	65	65	858	61	Provincetown	12,992,603	13,823,673	6.4%	3,777	570	283	46	962	326
Middlefield	510,373	565,004	14.3%	1,324	138	9	11	874	317	Quincy	33,396,088	37,443,672	12.1%	1,726	355	156	137	529	173
Middleton	7,998,291	8,092,493	1.3%	1,482	101	109	115	737	116	Randolph	39,879,678	42,308,945	6.1%	1,386	47	92	74	716	102
Milford	34,966,275	37,448,617	7.1%	1,487	68	98	74	834	108	Raymham	10,629,744	10,858,688	2.2%	1,045	65	147	85	545	72
Milbury	14,012,501	15,021,177	7.1%	1,488	58	75	11	802	123	Reading	33,942,491	36,898,303	8.8%	1,572	69	104	90	800	134
Mills	10,599,704	11,052,600	4.3%	1,403	71	89	17	651	98	Rehoboth	8,488,494	9,221,602	8.6%	994	68	109	18	594	82
Millville	1,937,750	2,046,653	5.6%	852	121	73	46	444	95	Revere	65,626,083	71,448,440	8.9%	1,706	141	122	119	602	128
Milton	41,194,776	38,054,179	-7.6%	1,475	53	138	103	694	105	Richmond	2,384,357	2,557,610	7.3%	1,562	91	15	992	183	188
Monroe	292,315	305,299	4.4%	2,702	190	0	12	1,102	978	Rochester	6,363,009	6,862,215	7.8%	1,581	74	60	15	1,054	68
Monson	11,020,986	11,807,504	7.1%	1,488	58	75	11	802	123	Rockland	21,976,755	23,634,338	7.6%	1,508	50	98	86	889	73
Monterey	7,495,317	7,868,784	5.0%	940	77	95	0	426	139	Rockport	13,717,694	14,534,450	6.0%	1,927	183	111	22	666	270
Monterey Park	1,557,134	1,547,698	-0.6%	1,937	200	49	28	901	481	Roxbury	1,561,036	1,669,234	6.9%	4,428	339	37	93	2,297	809
Montgomery	764,233	731,262	-4.3%	947	79	3	8	577	175	Rowley	6,099,761	6,260,252	2.6%	1,218	73	95	30	699	71
Mr Washington	277,846	315,564	13.6%	2,391	515	11	0	560	875	Royalston	706,944	766,217	8.4%	639	51	17	27	138	273
Nahant	5,792,798	6,154,011	6.2%	1,627	122	138	97	542	198	Russell	1,385,060	1,406,563	1.6%	881	96	3	15	535	117
Nantucket	28,161,164	29,452,897	4.6%	1,487	311	262	171	1,184	220	Rutland	4,555,815	4,735,837	4.2%	1,408	71	113	91	639	114
Natick	55,140,095	55,140,095	0.0%	1,767	92	102	119	740	191	Salem	57,605,442	62,311,060	8.3%	1,658	90	139	136	670	107
Needham	55,274,272	51,530,458	-6.8%	1,857	90	107	135	854	143	Salisbury	7,892,366	8,394,887	6.5%	1,195	79	167	59	639	105
New Ashford	236,760	275,579	16.4%	1,514	93	0	25	1,056	222	Sandisfield	1,126,181	1,213,293	7.7%	1,833	177	23	66	905	511
New Bedford	143,377,959	155,080,906	8.2%	1,592	66	128	109	823	122	Sandwich	27,976,315	28,982,042	3.6%	1,655	73	88	84	821	109
New Braintree	730,337	776,202	6.3%	830	87	18	13	491	143	Saugus	35,239,071	36,735,837	4.3%	1,445	148	25	17	639	114
New Marlborough	1,950,752	2,119,537	8.7%	1,686	120	18	19	1,025	292	Savoy	832,479	840,818	0.9%	1,240	74	2	7	844	179
New Salem	1,038,467	1,066,598	2.7%	1,301	136	19	29	695	107	Scituate	25,005,009	26,684,757	6.7%	1,680	67	98	140	790	222
Newbury	9,020,986	8,602,500	-4.6%	1,453	83	106	37	659	103	Seekonk	17,836,143	18,928,443	5.6%	1,421	76	130	54	862	95
Newburyport	24,713,234	24,324,520	-1.6%	1,477	74	104	112	742	122	Sharon	28,088,818	29,246,734	4.1%	1,770	101	96	66	889	170
Newton	132,927,556	138,917,152	4.5%	1,732	100	116	114	855	204	Sheffield	4,133,426	4,270,427	3.3%	1,445	148	25	17	1,026	111
Norfolk	12,400,599	13,564,592	9.5%	1,318	73	99	30	682	101	Shelburne	1,811,576	1,970,110	8.8%	974	93	45	0	545	160
Norfolk	22,756,609	24,681,300	8.5%	1,553	61	79	68	751	180	Shelton	9,349,753	9,805,934	4.9%	2,412	121	173	30	1,356	224
N Andover	34,720,765	37,320,565	7.5%	1,581	57	93	99	762	178	Shirley	6,241,044	6,683,219	7.1%	902	60	71	16	520	57
N Andover	30,888,614	32,690,170	5.8%	1,287	50	88	83	683	45	Shrewsbury	32,970,963	33,781,003	2.5%	1,276	58	70	57	707	108
N Andover	3,864,252	5,959,663	11.1%	1,237	50	45	10	826	71	Shutesbury	2,304,393	2,831,490	22.9%	1,670	89	25	17	919	178
N Andover	19,620,294	20,483,142	4.3%	1,618	105	115	112	828	166	Somerset	23,891,166	24,280,055	1.6%	1,369	54	87	68	860	110
N Andover	39,690,924	40,983,142	3.3%	1,618	105	115	112	828	166	Somerville	107,720,480	110,562,780	2.6%	1,486	130	106	102	447	96
Northborough	18,130,585	19,624,307	8.2%	1,561	78	92	44	884	157	South Hadley	17,853,515	18,907,119	5.9%	1,118	55	78	0	653	54
Northbridge	13,774,521	15,242,889	10.7%	1,124	46	73	26	674	103	Southampton	5,129,633	5,978,452	16.5%	1,249	70	61	19	738	84
Northfield	3,145,733	3,191,058	1.4%	1,108	69	39	16	539	197	Southborough	11,176,541	12,187,246	9.0%	1,680	133	102	76	931	132
Norton	17,979,852	19,747,148	9.8%	1,276	61	65	73	739	72	Southbridge	21,959,632	22,274,755	1.4%	1,274	38	72	60	793	81
Norwell	16,131,712	17,523,775	8.6%	1,834	118	116	69	1,073	109	Southwick	6,832,551	7,364,756	7.8%	939	102	113	14	442	90
Norwell	72,657,968	70,776,938	-2.6%	2,451	79	131	101	706	1,135	Spencer	6,827,188	7,318,847	7.2%	612	34	48	11	283	95
Oak Bluffs	8,705,959	10,292,940	18.2%	3,395	436	264	36	1,248	243	Springfield	278,022,962	288,043,770	3.6%	1,903	71	156	114	861	102
Oakham	1,156,299	1,287,491	11.3%	790	54	38	21	505	79	Sterling	11,687,864	12,187,246	4.3%	1,120	56	93	20	680	138
Orange	9,444,380	10,029,686	6.2%	1,341	50	65	41	805	161	Stockbridge	3,198,319	3,363,101	5.2%	1,431	158	131	20	655	254
Orleans	13,829,079	13,829,652	0.4%	2,265	202	219	154	736	172	Stonham	29,289,750	30,184,038	3.1%	1,368	61	115	93	659	108
Otis	2,055,246	2,174,271	5.8%	2,032	219	23	39	1,099	492	Stoughton	35,459,534	36,789,088	3.7%	1,344	50	97	93	746	87
Oxford	14,764,136	16,039,799	8.6%	1,239	89	86	10	784	140	Stow	7,938,029	8,430,114	6.2%	1,488	94	125	45	948	98
Palmer	17,681,636	18,612,169	5.3%	1,557	58	66	0	759	140	Sturbridge	10,459,279	11,097,323	6.1%	1,409	84	89	44	891	99
Paxton	6,427,762	6,746,919	5.0%	1,647	60	112	18	605	709	Sudbury	30,415,722	33,125,008	8.9%	2,222	82	102	108	1,339	121
Peabody	67,636,803	78,614,654	16.2%	1,635	65	110	94	663	301	Sunderland	3,627,965	3,828,812	5.5%	1,091	62	49	16	578	123
Pelham	1,644,950	1,762,911	7.2%	1,236	91	48	20	841	129	Sutton	9,745,050	10,327,665	6.0%	1,422	71	87	9	833	83
Pembroke	18,748,892	20,068,018	7.1%	1,272	52	94	12	780	99	Swampscott	24,647,143	26,099,884	5.9%	1,915	73	141	138	784	255
Pepperell	8,324,370	9,144,958	9.5%	874	75	70	82	487	77	Wareham	16,927,565	17,624,791	4.1%	1,136	52	93	18	711	102
Peru	774,297	868,585	12.2%	1,152	96	14	13	698	211	Wareham	67,799,590	74,040,115	9.2%	1,430	59	106	112	659	140
Petersham	1,299,557	1,427,629	9.9%	1,237	73	47	16	874	126	Watertown	3,889,313	3,890,326	0.0%	560	45	52	9	220	64
Phillipsburg	973,962	994,923	2.2%	622	72	28	25	294	93	Watertown	40,102,940	43,677,879	8.9%	1,542	60	110	96	753	204
Pittsfield	71,274,845	72,122,284	1.2%	1,550	82	96	96	671	205	Tisbury	9,386,194	10,234,824	9.0%	3,148	238	235	21	1,361	288
Plainfield	798,868	796,694	-0.3%	1,315	161	4	10	595	338	Tolland	451,198	475,518	5.6%	2,393	266	64	66	434	1,108
Plainville	8,688,860	8,688,860	0.0%	1,210	83	112	54	663	82	Topsfield	7,893,174	8,470,625	7.3%	1,427	95	115	41	791	131
Plymouth	72,858,705	77,742,434	6.7%	1,622	59	125	115	955	126	Townsend	7,891,668	8,378,027	6.2%	941	44	72	17	585	80
Plymouth	3,264,020	3,509,208	7.5%	1,357	70	159	26	801	131	Turo	5,220,229	5,512,121	5.6%	3,231	318	431	58	1,003	284
State Totals	9,394,142,876	9,955,201,848	6.0%	1,639	81	124	96	753	132										

Table 2

### FY96 Municipal Spending → continued from page three

Price Deflator from the U.S. Department of Commerce. Education together with Police, Intergovernmental, Debt Service and Fixed Costs have shown increases every year except FY92 when a recession and a cut in state aid lowered overall municipal spending.

Highway expenditures increased the most from FY95 to FY96. In FY95 they were 3.3 percent of total spending, or \$316 million. In FY96 they were 4.1 percent of total spending, or \$411 million, a 30.0 percent increase in one year. Since snow and ice removal expenses are reported as highway expenditures, highway expenditures are heavily dependent on weather conditions. Snow and ice removal expenses were \$34 million in FY95, a year with a relatively light snowfall. They were \$112 million in FY96, a year with a record-breaking snowfall. This increase of \$78 million accounted for 82.9 percent of the total increase in highway expenditures between FY95 and FY96.

After Education the largest expenditure, Fixed Costs, accounted for 11.3 percent of total expenditures in FY96, or \$1.1 billion. Fixed costs are mainly employee benefits that communities must provide and over which they have

little control. *Table 3* breaks fixed costs into eight functional categories: retirement, health insurance, unemployment, Medicare, liability insurance, workers compensation, other employee benefits and life insurance. The amount devoted to retirement contributions and health insurance made up approximately 90.9 percent of total fixed cost spending or slightly over \$1 billion. These costs have increased 1.2 percent since FY95 and 17.3 percent since FY90. This is less than the 6.0 percent and 20.1 percent increases in overall municipal General Fund spending for the same periods. It is also less than inflation since FY95 (2.9 percent) and only a little above inflation since FY90 (15.7 percent).

After Fixed Costs, the largest expenditures were Police and Fire at 7.5 percent or \$751 million and 5.9 percent or \$583 million respectively, making up 13.4 percent of total spending at \$1.3 billion. Between FY95 and FY96 they increased 5.4 percent and 3.8 percent. Since FY90 police and fire spending have increased 21.0 percent and 12.9 percent.

*Table 2* compares FY96 to FY95 total spending in dollars and percent

change for the 351 communities. This table further presents expenditures by major functional categories in per capita dollars using 1995 population in the per capita calculation. Communities with independent fire districts which are separately taxed have no expenditures listed for fire. A few very small communities have no expenditures listed for police since they rely on the state police. Education expenditures for cities and towns in regional school districts reflect local contributions to the districts and do not include state aid which is distributed directly to the district.

Statewide, communities spent \$1,639 per capita in municipal services, with \$753 per capita going to education. Nine out of the ten municipalities with the highest per capita expenditures are on Cape Cod or the Islands. These towns have a higher population in the summer than year-round. For part of the year services are provided to people not included in the year-round population figures used to calculate per capita costs. The one inland town included in the top ten is Rowe. Historically its tax base has been bolstered by having a nuclear power plant. The five highest were Gosnold (the Elizabeth Islands including Cuttyhunk) at \$5,772, followed by Gay Head at \$5,167, Nantucket at \$4,187, Rowe at \$4,428, and Chilmark at \$3,781.

All ten of the communities with the lowest per capita expenditures are members of fully regionalized school districts. Since state education aid is sent directly to regional school districts, none of this aid is reported in the municipal financial Schedule A summaries. The five communities with the lowest per capita expenditures were Dudley and Templeton at \$560, followed by Athol at \$593, Spencer at \$612, and Phillipston at \$622. ■

*Prepared by John Sanguinet and Stan Nyberg with assistance from Debbie DePerri*

### **Fixed Costs by Functional Category**

*Selected Fiscal Years*

Category	FY90	% of Total	FY93	% of Total	FY95	% of Total	FY96	% of Total
Retirement	479,671,244	48.6%	513,021,874	46.0%	517,204,526	46.3%	520,119,318	46.1%
Health Insurance	394,335,464	40.0%	481,340,374	43.1%	495,864,187	44.4%	505,499,904	44.8%
Workers Compensation	37,212,074	3.8%	41,783,756	3.7%	33,178,010	3.0%	31,219,612	2.8%
Medicare	12,704,593	1.3%	20,304,924	1.8%	24,816,503	2.2%	28,436,719	2.5%
Liability Insurance	43,847,476	4.4%	36,461,634	3.3%	29,948,938	2.7%	27,554,355	2.4%
Unemployment	11,200,612	1.1%	9,610,839	0.9%	5,900,630	0.5%	5,837,880	0.5%
Other Employee Benefits	3,947,339	0.4%	7,983,305	0.7%	7,084,274	0.6%	5,386,088	0.5%
Life Insurance	3,494,028	0.4%	5,421,653	0.5%	3,742,206	0.3%	3,590,752	0.3%
<b>Total Fixed Costs</b>	<b>986,412,830</b>	<b>100.0%</b>	<b>1,115,928,359</b>	<b>100.0%</b>	<b>1,117,739,274</b>	<b>100.0%</b>	<b>1,127,644,628</b>	<b>100.0%</b>

*Table 3*

# DLS UPDATE

## *Elected to Appointed*

Effective immediately, towns can convert officers or boards elected pursuant to M.G.L. Ch. 41, Sec. 1, with the exception of selectmen and school committee, to appointed officers without the need for special legislation. Chapter 149 of the Acts of 1997 can affect town clerks, treasurers, tax collectors, assessors, auditors, highway surveyors, road commissioners, sewer commissioners, tree wardens, constables, and board of health members.

The conversion process entails two steps. A majority of those present and voting at an annual or special town meeting must vote to make the desired change. A majority of those voting at the annual election must also vote to make the change. In the event that a town wishes to convert more than one officer or board from elected to appointed, both town meeting and the annual election must vote on each position separately.

The statute specifies the language that must appear on the annual election ballot. If the town votes the change at other than the annual meeting, the legislation stipulates the special town meeting must precede the annual election by at least 60 days. Once a position is converted to appointed, the incumbent continues to hold office and perform his or her duties until either the expiration of the elected term or the appointment of another person to the office, whichever is later. The appointing authority is the board of selectmen under M.G.L. Ch. 41, Sec 1A, unless another provision of law applies. (See Division of Local Services December 1997 *Bulletin*.) ■

## *Utility Restructuring*

Municipalities that host electric generating facilities are watching the effects of electric utility restructuring on their local property tax bases. As a result of

the passage of the 156-page Chapter 164 of the Acts of 1997, some utility plants, most likely older and nuclear facilities, will suffer devaluation.

Communities hosting electric generating plants have two options. First, the legislation allows communities to enter into binding agreements with generating companies for payments-in-lieu-of taxes (PILOT) that are negotiated in good faith and establish values or payments that approximate full and fair cash value tax assessments. Second, legislation provides a safety net for communities that do not make binding agreements where plants devalue. In these cases the statute authorizes transition payments in addition to assessed taxes to ensure that the total revenues received by the city or town in FY1998, 1999 & 2000 from taxes and transition payments equals or approximates the taxes received in FY97. Also, from FY2001 through FY2009, communities will receive transition payments based on the difference between the annual fair market values of the plants and their values as of 1/1/96 (FY97). These transition payments are based upon a percentage (declining 10 percent annually) multiplied by the current year's commercial tax rate.

The statute also provides that payments under binding agreements or the transition payments shall be included in communities' levy ceiling and limit calculations as well as in determining the minimum residential factor and the classification of property. Additionally there are changes in the manufacturing corporation exemption providing for general taxation of electrical generating plants, but exempting 30 megawatt or less cogeneration facilities and facilities owned by corporations classified manufacturing on or before 1/1/96. All of these issues are currently being reviewed for implementation by the Division of Local Services

and *Informational Guideline Releases* (IGRs) will be issued in the near future. If you have questions, in particular about what constitutes a binding agreement prior to release of the IGRs, please contact Gary Blau at (617) 626-2315. ■

## *Purchasing Course*

The Massachusetts Office of the Inspector General has established a Massachusetts Certified Public Purchasing Official Program (MCPPO). Two three-day MCPPO seminars currently are being offered: a General Certification seminar and a Supplies and Services seminar.

The General Certification seminar presents an overview of public purchasing principles and laws; legal requirements for public contracts; antitrust laws, consumer protection, and fraud in procurement; practical considerations for contract drafting; and fair labor and ethics laws. This seminar is a prerequisite for other seminars in the program.

The Supplies and Services seminar focuses on procurements under Chapter 30B, the Uniform Procurement Act. Topics include an overview of the law; writing effective specifications; using quotes, invitations for bids and requests for proposals; common bidding problems; contract administration; multi-year contracts, leases and lease purchases; public-private partnerships; and contemporary issues in public purchasing. Participants receive a certificate upon successful completion of each seminar.

The seminars have been designed to meet national standards for recognition and to offer continuing education credits.

The next General Certification seminars have been scheduled for February 25-27, 1998. For additional information and a schedule of upcoming seminars, contact Anne Tierney at (617) 523-1205. ■

## Municipal Fiscal Calendar

### February 1

**Taxpayer:** *Deadline for Payment of 3rd Quarterly Tax Bill Without Interest*  
(if mailed before January 1)

### Quarterly Tax Bills—Application Deadline for Property Tax Abatement

According to M.G.L. Ch. 59, Sec.59, applications for abatements are due on Feb. 1 unless actual tax bills were mailed after December 31. In that case they are due May 1, or 30 days after mailing, whichever is later.

### February 15

**Treasurer:** *2nd Quarter Reconciliation of cash*  
(due 45 days after end of quarter)

### February 28

**Finance Committee:** Continue budget review and develop recommendations. This date will vary depending on dates of town meeting.

## Mark Your Calendars!

Course 101, *Assessment Administration and Procedures* for assessors and assistant assessors will be held at Holyoke Community College on Tuesday evenings beginning March 31, 1998.

"What's New in Municipal Law" for interested municipal officials will be held on May 15, 1998 in West Springfield and on May 22, 1998 in Framingham.

Contact Barbara LaVertue at (617) 626-2340 for more information.

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## Data Bank Highlight

This month's focus article discusses municipal spending. The Municipal Data Bank has several reports which review spending data. Examples of these reports include Expenditure Trends, a five-year summary analysis of spending by major function in a single community and Expenditures by Department, which details 121 Schedule A spending categories on over a seven year period.

To obtain Municipal Data Bank information contact:  
John Sanguinet at (617) 626-2355 for printed reports and data files; Burt Lewis at (617) 626-2358 for the On-Line Access System; or use the World Wide Web address below.

## City & Town



*City & Town* is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials. DLS offers numerous publications on municipal law and finance, available by calling (617) 626-2300, or through the DLS World Wide Web site at <http://www.state.ma.us/dls> or by writing to PO Box 9655, Boston, MA 02114-9655.

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