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# CITY & TOWN

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## Open Space Acquisition Programs

*written by Jean McCarthy*

Land is finite and the public's willingness to preserve open space in Massachusetts is becoming apparent. Several innovative funding mechanisms for the purchase of open space have been created in recent years. The seven towns on Martha's Vineyard, comprising Dukes County, and the Town of Nantucket all have a two percent surcharge on real estate transfers which goes into a Land Bank fund to be used to purchase open space. The 15 towns in Barnstable County have recently established a Cape Cod Open Space Land Acquisition Program "for the purpose of acquiring land and interests in land for the protection of public drinking water supplies, open space, and conservation land, the creation of walking and bicycling trails, and the creation of recreational areas." This open space acquisition fund will be financed by a three percent surcharge on the real estate tax bills for 20 years.<sup>1</sup> Reportedly, there are plans to file a Community Preservation Act, modeled after the Cape Cod Land Bank, in the current legislative session to enable other Massachusetts communities to acquire open space.

The state has allocated \$15 million in the Cape Cod Land and Aquifer Protection Fund to match half of each town's land bank collections. Cape towns need only to collect and certify the amount of money to qualify for the matching grant. They do not have to actually spend the money before receiving the state funds. If every town collects 100 percent of what they anticipate, the state could give out over \$4 million in the first year.

The Cape Cod Land Bank gets underway at the beginning of fiscal year 2000, which begins on July 1, 1999. Cape voters approved the measure last November. The three percent surcharge will be shown on a separate line on the real estate tax bill. The surcharge is subject to the same collection remedies as the property tax itself. Taxpayers in communities with quarterly tax billing may see the first surcharge on the August 1999 bills. Those in communities with semi-annual tax billing may see the surcharge on their November 1999 tax bills.

Each of the Cape communities must establish an open space committee to acquire open space in accordance with the provisions of the act. The board of selectmen, or the town council in Barnstable, will appoint the members of the committee. A local nonprofit land trust or conservation organization may be designated as the town committee. The purpose of the committee is to recommend acquisition of specified land areas. The committee will be guided by local and regional open space plans, master plans and local comprehensive plans, if any.

For the Cape Cod Land Bank, any property purchased with land bank funds must be retained in natural, scenic or open condition. A permanent deed restriction will limit the use of the property to the purpose for which it was acquired. Towns may make improvements to promote recreation that are not inconsistent with the purpose of the law.

Communities may spend up to three percent of the land bank money for maintenance and improvement of open space acquired under this program. Any land acquired under this act will be owned and managed by the town. However, the board of selectmen or town council may delegate management to a nonprofit organization, or if the land is purchased for future wellhead development, to a water district or fire district.

Every Cape town will establish a separate account, known as the Land Bank Fund. All monies collected from the additional excise and any funds received from the Commonwealth or any other source for this purpose, or bond proceeds in anticipation of revenue from such collection, shall be deposited into this account. The towns of Barnstable and Orleans have already begun negotiations for land which will be purchased by borrowing in anticipation of the revenues they will receive under the new open space land acquisition program. ■

<sup>1</sup> Chapter 293 of the Acts of 1998.

## Inside This Issue

### Legal

Bargaining Group Insurance Benefits 2

### Focus

Elderly Exemptions . . . . . 3

### DLS Update

FY 1999 Sewer Rate Relief . . . . . 7

School Audit Reports Available . . . . . 7

DLS Has a New Address . . . . . 8

Opportunities for Training . . . . . 8

**Data Bank Highlight** . . . . . 8

# LEGAL

## in Our Opinion

### Bargaining Group Insurance Benefits

Although Chapter 32B regulates group insurance, several appellate court cases make it clear that employee group insurance rates and benefits are subject to collective bargaining. The law stipulates that a municipality must contribute a minimum of 50 percent for group health insurance premiums, but the actual contribution may be higher because the rate is subject to collective bargaining. All groups or classes of employees within the community must receive the same percentage contribution for indemnity plan coverage.<sup>1</sup> If a community accepts Ch. 32B §7A, the municipal chief executive may agree on percentage premium contributions with the various non-school municipal unions, subject to a sufficient appropriation to cover any cost increase.<sup>2</sup>

The rate of municipal contributions to health maintenance organizations (HMOs) must be a minimum of 50 percent and a maximum of 90 percent, unless there was a collective bargaining agreement in effect on January 4, 1990 requiring a higher percentage contribution. In that case the agreement would govern until its expiration.<sup>3</sup> Otherwise, the rate for such premiums is subject to collective bargaining. There appears to be no requirement of uniformity in percentage premium rates for all employees enrolled in HMOs.

At least three cases dealing with group health insurance rates have illustrated situations in which a public employer has been considered bound to its agreement beyond the term specified in the contract or in the statutes. In *Local 589 ATU v. MBTA*<sup>4</sup> the Supreme Judicial Court (SJC) rejected an argument that the "perpetual" aspect of a collective bargaining agreement which expires only upon a subsequent agree-

ment of the parties would violate public policy. The public policy argument had been suggested in a federal decision in an earlier case with the same union. In holding that the agreement had not expired, the SJC further ruled that a statute changing the relative obligation of the parties for premium contributions could not be effective until a new agreement was reached.

Subsequently, in *N.A.G.E. v. Commonwealth*<sup>5</sup> the parties and the SJC assumed the validity of contracts which had continued past the three-year statutory limit. In that case, however, the collective bargaining agreements providing lower employee percentage contributions were subject to a pre-existing statute, which specifically provided that contributions changes could be made.<sup>6</sup> It should be noted that no such provision for municipal rates exists in Chapter 32B.

In *Everett v. Firefighters Local 1656*<sup>7</sup> the Labor Relations Commission specifically ruled that a collective bargaining agreement continued to bind the parties beyond the three years stated in the agreement. That agreement provided that the contract would continue after its stated term unless expressly terminated by one of the parties. The commission ruled that the contract continued in effect because neither party had terminated it. As a result, the city was bound to continue to pay 100 percent of the firefighters' HMO premiums. Presumably most, if not all, such holdover collective bargaining agreements have been renegotiated by this time and the grandfathering provision should not prohibit compliance with the maximum 90 percent contribution rate for HMOs set forth in G.L. Ch. 32B §16.

Another line of cases has dealt with bargaining over benefit issues. Group insurance benefits are conditions of

employment for municipal employees and are now mandatory subjects of collective bargaining. For example, in *Teamsters v. Chatham*<sup>8</sup> the court held that the town could have more than one indemnity carrier, including one proposed and sponsored by a police union. In *Correction Officers v. Labor Relations Commission*,<sup>9</sup> the court held that the Commonwealth was not bound to bargain over the level of health insurance benefits since the Group Insurance Commission, an independent state agency, controlled the decision making. However, the court specifically noted that the decision did not apply to municipal bargaining obligations since the benefit decisions and bargaining were left to the municipal chief executive.

Although bargaining over benefits is problematic given the procedural requirements of Chapter 32B, the labor relations commission has ruled that bargaining over benefits is required. In *Ludlow v. Fire Fighter Local 1840*<sup>10</sup> the commission determined that the selection of group health coverage is subject to bargaining. In 1993 the legislature enacted Chapter 32B §19 to permit municipalities to provide health insurance by means of a collaborative bargaining process with representative employee and retiree members, which will supersede any Chapter 150E collective bargaining agreement to the contrary.

Any questions about these or other collective bargaining finance issues should be directed to Gary Blau at (617) 626-2315. ■

written by Gary Blau

<sup>1</sup> G.L. Ch. 32B §§7 & 7A and *Watertown Firefighters, Local 1347, IAFF, AFL-CIO v. Town of Watertown*, 376 Mass. 706 (1978).

<sup>2</sup> G.L. Ch 150E§6 and *Anderson v. Board of Selectmen of Wrentham*, 406 Mass. 508, 511, 513n 10 (1990).

continued on page seven ➡

# FOCUS

## on Municipal Finance

### Elderly Exemptions

Elderly persons age 70 years or greater who meet certain annual income, assets and residency requirements may receive property tax relief through certain exemptions. An exemption is a release from the obligation to pay all or a portion of a tax. The most important exemption for the elderly, Chapter 59, Section 5, Clause 41, provides an exemption of \$500 for qualified elderly taxpayers. Another exemption, Clause 17,<sup>1</sup> affords a smaller exemption amount for those over 70 years of age and certain others.

First enacted in 1963, Clause 41 applies in all communities unless the community adopts the optional Clauses 41B or 41C through vote of the town meeting or city council. Because property values and income levels have risen since the original statute was adopted, these clauses liberalize the qualification requirements. Enacted in 1982 and 1986 respectively, Clauses 41B and 41C provide the same exemption amount (\$500), but expand eligibility criteria (*Table 1*).

When first enacted, the exemption amount granted to each qualifying individual was \$4,000 of property value. In 1966, the exemption amount was amended to \$4,000 of property value or a \$350 reduction in real estate taxes, whichever was greater. In 1977, the exemption amount was amended again to the current amounts of the greater of \$4,000 of value or a \$500 decrease in the tax. Prior to changes initiated by court decisions and new laws in the early 1980s, homes were assessed well below market value and the tax rates were generally very high. If a community's tax rate was \$200 per thousand, the exemption amount would be \$800 ( $\$200 \times \$4,000/\$1,000$ ). Today, all communities must assess all property uniformly at full and fair cash value and

the residential tax rate may not exceed \$25 per thousand under Proposition 2 1/2. Hence, the "\$4,000 of value" portion of the exemption has little significance ( $\$25 \times \$4,000/\$1,000 = \$100$ ) now.

### Elderly exemption findings

As reported in the June 1993 issue of *City & Town*, in FY1992, 38 communities operated under Clause 41, 68 under Clause 41B and 239 under Clause 41C. In FY1998, 23 communities operated under Clause 41, 39 under Clause 41B and 289 under Clause 41C (*Table 2*). In FY1992, 33,201 exemptions granted statewide abated \$17,596,696 tax dollars at the local level. The state reim-

bursed \$14,798,500 of that amount. In FY1998, 27,027 exemptions granted statewide abated \$14,485,994 tax dollars at the local level and the state reimbursed \$12,380,250. The number of exemptions granted declined by 18.6 percent between FY1992 and FY1998 (*Figure 1*).

A community that operates under the more generous eligibility requirements of Clauses 41B and 41C offers benefits to increased numbers of elderly taxpayers. The cost to the community may increase because state reimbursement is based on the number of exemptions the community granted when last under Clause 41. In FY1992,

*continued on page six ➡*

Table 1

Criteria* by clause			
Clause	Annual income & whole estate (asset) terms	Single	Married
41	Gross receipts minus social security allowance must be less than	\$6,000	\$7,000
	Whole estate, less the value of the home except any portion which produces income, cannot exceed	\$17,000	\$20,000
	OR, if the home value is included whole estate cannot exceed	\$40,000	\$45,000
41B	Gross receipts minus social security allowance must be less than	\$10,000	\$12,000
	Whole estate less the value of the home, except any portion which produces income, cannot exceed	\$20,000	\$23,000
41C	Gross receipts minus social security allowance must be less than	\$13,000	\$15,000
	Whole estate less the value of the home, except for the value of any portion which exceeds three dwelling units and produces income, cannot exceed	\$28,000	\$30,000

\* Under Clause 41, an individual must own and occupy the subject property on July 1 of the tax year. Under Clauses 41B and 41C, in addition to so owning and occupying the subject property, an individual must have been continuously domiciled in Massachusetts for the 10 years preceding the application and have owned and occupied the property or other property in Massachusetts for 5 years.

Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.
Abington	144	100,800	41c	48,288	96	Chicopee	447	223,500	41b	224,394	447	Hancock	15	7,124	41	7,500	15	Hawthorn	15	7,124	41	7,500	15
Acton	32	16,000	41c	13,064	26	Chilmark	-	41	-	-	-	Hanson	26	13,000	41c	13,052	26	Haverhill	37	13,000	41c	13,052	26
Acushnet	98	49,000	41c	34,196	68	Clarksburg	41	20,889	41c	17,582	35	Harvard	54	26,750	41c	27,108	54	Hawley	3	1,500	41b	1,506	3
Adams	98	48,704	41c	22,196	44	Clinton	97	48,500	41c	17,681	97	Cohasset	12	6,000	41b	6,024	12	Heath	10	5,000	41c	5,020	10
Agawam	116	58,000	41c	58,232	116	Cohasset	12	6,000	41b	6,024	12	Colrain	18	9,000	41c	9,036	18	Hingham	51	25,500	41c	25,602	51
Afford	-	-	-	-	-	Colrain	18	9,000	41c	9,036	18	Concord	23	11,500	41c	11,546	23	Hinsdale	13	6,500	41c	6,526	13
Amesbury	87	68,996	41c	43,674	87	Concord	23	11,500	41c	11,546	23	Conway	10	5,000	41c	5,020	10	Holbrook	81	40,500	41c	40,566	81
Amherst	37	32,133	41c	17,574	35	Conway	10	5,000	41c	5,020	10	Cummington	1	500	41c	502	1	Holland	17	8,500	41b	8,534	17
Andover	65	50,057	41c	22,630	45	Cummington	1	500	41c	502	1	Dalton	37	18,500	41c	18,074	36	Holliston	19	11,400	41c	11,438	19
Arlington	149	81,675	41c	74,798	149	Dalton	37	18,500	41c	18,074	36	Danvers	76	38,000	41c	38,152	76	Holyoke	87	43,495	41c	43,674	87
Ashburnham	19	14,500	41c	14,558	29	Danvers	76	38,000	41c	38,152	76	Dartmouth	287	137,491	41c	133,074	285	Hopedale	42	20,750	41c	21,084	42
Ashby	16	8,000	41c	8,032	16	Dartmouth	287	137,491	41c	133,074	285	Deerfield	108	54,000	41c	47,216	94	Hopkinton	47	23,500	41c	18,594	47
Ashfield	4	2,000	41c	2,008	4	Deedham	108	54,000	41c	47,216	94	Dennis	81	40,449	41c	40,162	60	Hubbardston	12	6,000	41b	6,024	12
Ashland	30	15,000	41c	15,060	30	Deerfield	108	54,000	41c	47,216	94	Dighton	56	27,750	41c	28,112	56	Hull	97	48,500	41c	48,694	97
Athol	73	35,409	41b	36,646	73	Dennis	81	40,449	41c	40,162	60	Douglas	26	13,000	41c	12,552	25	Huntington	13	6,000	41c	6,526	13
Attleboro	182	91,364	41c	91,364	182	Dighton	56	27,750	41c	28,112	56	Dover	1	500	41c	502	1	Ipswich	17	8,000	41c	8,032	17
Auburn	148	74,000	41c	69,796	139	Douglas	26	13,000	41c	12,552	25	Dracut	364	182,000	41c	182,728	364	Kingston	61	30,500	41c	30,622	61
Ayer	39	19,500	41c	19,578	39	Dover	1	500	41c	502	1	Dunstable	19	9,500	41c	9,538	19	Lakerville	58	29,000	41c	29,116	58
Ayer	24	12,000	41c	12,048	24	Dracut	364	182,000	41c	182,728	364	E. Brookfield	18	8,709	41c	9,036	18	Lancaster	31	15,500	41c	15,562	31
Barnstable	245	12																					

Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Clause Adopted	State Reimb.	Basis of Reimb.
Abington	144	100,800	41c	48,288	96	Chicopee	447	223,500	41b	224,394	447	Hancock	15	7,124	41	7,500	15	Hawthorn	15	7,124	41	7,500	15
Acton	32	16,000	41c	13,064	26	Chilmark	-	41	-	-	-	Hanson	26	13,000	41c	13,052	26	Haverhill	37	18,500	41c	18,574	37
Acushnet	98	49,000	41c	34,196	68	Clarksburg	41	20,889	41c	17,582	35	Harvard	54	26,750	41c	27,108	54	Hawley	3	1,500	41b	1,506	3
Adams	98	48,704	41c	22,196	44	Clinton	97	48,500	41c	17,681	97	Cohasset	12	6,000	41b	6,024	12	Heath	10	5,000	41c	5,020	10
Agawam	116	58,000	41c	58,232	116	Cohasset	12	6,000	41b	6,024	12	Colrain	18	9,000	41c	9,036	18	Hingham	51	25,500	41c	25,602	51
Afford	-	-	-	-	-	Colrain	18	9,000	41c	9,036	18	Concord	23	11,500	41c	11,546	23	Hinsdale	13	6,526	41c	6,526	13
Amesbury	87	68,996	41c	43,674	87	Concord	23	11,500	41c	11,546	23	Conway	10	5,000	41c	5,020	10	Holbrook	81	40,500	41c	40,566	81
Amherst	37	32,133	41c	17,574	35	Conway	10	5,000	41c	5,020	10	Cummington	1	500	41c	502	1	Holland	17	8,500	41b	8,534	17
Andover	65	50,057	41c	22,630	45	Cummington	1	500	41c	502	1	Dalton	37	18,500	41c	18,074	36	Holliston	19	11,400	41c	11,438	19
Arlington	149	81,675	41c	74,798	149	Dalton	37	18,500	41c	18,074	36	Danvers	76	38,000	41c	38,152	76	Holyoke	87	43,495	41c	43,674	87
Ashburnham	29	14,500	41c	14,558	29	Danvers	76	38,000	41c	38,152	76	Dartmouth	287	137,491	41c	133,074	285	Hopedale	42	21,084	41c	21,084	42
Ashby	16	8,000	41c	8,032	16	Dartmouth	287	137,491	41c	133,074	285	Deerfield	108	54,000	41c	47,216	94	Hopkinton	47	23,500	41c	18,594	47
Ashfield	4	2,000	41c	2,008	4	Deedham	108	54,000	41c	47,216	94	Dennis	81	40,449	41c	40,162	60	Hubbardston	12	6,000	41b	6,024	12
Ashland	30	15,000	41c	15,060	30	Deerfield	108	54,000	41c	47,216	94	Dighton	56	27,750	41c	28,112	56	Hull	97	48,500	41c	48,694	97
Athol	73	35,409	41b	36,646	73	Dennis	81	40,449	41c	40,162	60	Douglas	26	13,000	41c	12,552	25	Huntington	13	6,000	41c	6,526	13
Attleboro	182	91,364	41c	91,364	182	Dighton	56	27,750	41c	28,112	56	Dover	364	182,000	41c	182,728	364	Ipswich	17	8,500	41b	8,534	17
Auburn	148	74,000	41c	69,796	139	Douglas	26	13,000	41c	12,552	25	Dracut	155	77,463	41c	65,810	131	Kingston	61	30,500	41c	30,622	61
Ayer	39	19,500	41c	19,578	39	Duxbury	19	9,500	41c	9,538	19	Dunstable	19	9,500	41c	9,538	19	Lakerville	58	29,000	41c	29,116	58
Ayer	24	12,000	41c	12,048	24	E. Brookfield	18	8,709	41c	9,036	18	E. Bridgewater	106	53,000	41c	35,712	71	Lancaster	31	15,500	41c	15,562	31
Barnstable	245	122,500	41c	108,990	217	E. Brookfield	18	8,709	41c	9,036	18	E. Longmeadow	70	35,000	41c	35,140	70	Lanesborough	16	8,032	41c	8,032	16
Barre	31	15,500	41c	15,562	31	E. Longmeadow	70	35,000	41c	35,140	70	Eastham	30	15,000	41c	9,060	18	Lawrence	294	146,933	41c	147,588	294
Becket	32	14,976	41b	7,564	15	Eastham	30	15,000	41c	9,060	18	Eastthampton	152	75,000	41c	76,304	152	Lee	101	50,500	41c	48,702	97
Bedford	17	8,500	41c	8,534	17	Berkley	67	33,250	41c	10,558	21	Easton	53	26,500	41c	26,606	53	Leicester	51	25,250	41c	25,602	51
Bellchertown	29	14,500	41c	14,558	29	Berlin	12	6,000	41c	6,024	12	Edgartown	9	4,500	41c	4,518	9	Lenox	31	15,500	41c	15,562	31
Bellingham	72	36,000	41c	30,144	60	Bernardston	16	7,967	41c	8,032	16	Egmont	1	500	41	500	1	Leominster	188	94,000	41c	63,376	126
Belmont	67	33,250	41c	26,634	53	Beverly	90	45,000	41c	45,180	90	Fairhaven	179	89,500	41c	89,558	179	Lewiston	9	4,500	41c	4,018	8
Berkley	29	16,810	41c	10,558	21	Billerica	102	51,000	41c	28,704	57	Fall River	529	264,500	41c	228,558	455	Lexington	64	32,000	41c	29,628	59
Berlin	12	6,000	41c	6,024	12	Blackstone	55	27,000	41c	28,704	57	Falmouth	153	76,500	41c	63,306	126	Leyden	6	3,000	41b	3,012	6
Bernardston	16	7,967	41c	8,032	16	Blandford	7	3,500	41c	2,514	5	Fitchburg	127	63,500	41b	63,754	127	Lincoln	6	3,000	41c	1,512	3
Beverly	90	45,000	41c	45,180	90	Bolton	5	2,500	41c	2,510	5	Florida	21	9,559	41b	3,542	7	Littleton	19	11,149	41c	9,538	19
Billerica	102	51,000	41c	28,704	57	Boston	1,295	920,721	41c	650,090	1,295	Foxborough	66	32,250	41c	21,132	42	Longmeadow	16	8,000	41c	8,032	16
Blackstone	55	27,000	41c	28,704	57	Bourne	68	34,000	41c	21,136	42	Framingham	94	47,000	41c	47,188	94	Lowell	476	236,750	41c	237,452	473
Blandford	7	3,500	41c	2,514	5	Boxborough	1	500	41c	502	1	Franklin	70	34,750	41c	14,640	29	Ludlow	80	40,000	41c	40,160	80
Bolton	5	2,500	41c	2,510	5	Boxford	3	1,250	41c	1,506	3	Freetown	50	25,000	41c	24,600	49	Lunenburg	60	29,667	41c	30,120	60
Boston	1,295	920,721	41c	650,090	1,295	Boylston	19	9,500	41c	9,538	19	Gardner	117	58,201	41c	56,734	117	Lynn	460	230,000	41c	230,920	460
Bourne	68	34,000	41c	21,136	42	Braintree	243	121,500	41c	93,986	187	Gay Head	17	2,500	41	2,500	5	Lynnfield	24	12,000	41c	10,548	21
Boxborough	1	500	41c	502	1	Brewster	35	17,500	41c	17,070	34	Georgetown	17	8,500	41c	8,534	17	Malden	193	96,500	41c	96,886	193
Boxford	3	1,250	41c	1,506	3	Bridgewater	91	45,500	41c	30,182	60	Gill	12	5,895	41c	6,024	12	Manchester	6	3,000	41c	3,012	6
Boylston	19	9,500	41c	9,538	19	Brimfield	10	5,000	41c	5,020	10	Gloucester	290	145,000	41c	95,580	190	Mansfield	105	78,750	41c	48,210	96
Braintree	243	121,500	41c	93,986	187	Brockton	337	168,500	41c	169,174	337	Goshen	5	2,325	41	2,510	5	Marblehead	40	20,000	41c	20,080	40
Brewster	35	17,500	41c	17,070	34	Brookfield	7	3,500	41b	3,514	7	Grafton	65	32,500	41c	25,630	51	Marion	39	19,166	41	19,500	39
Bridgewater	91	45,500	41c	30,182	60	Brookline	12	8,979	41c	6,024	12	Granby	24	11,602	41c	12,048	24	Marlborough	102	50,986	41c	50,704	101
Brimfield	10	5,000	41c	5,020	10	Buckland	8	4,000	41b	4,016	8	Granville	8	3,750	41c	4,016	8	Marshfield	95	47,500	41c	47,690	95
Brockton	337	168,500	41c	169,174	337	Burlington	78	39,000	41c	39,156	78	Grt. Barrington	146	19,250	41c	19,578	39	Mashpee	42	21,000	41c	21,000	42
Brookfield	7	3,500	41b	3,514	7	Cambridge	95	70,695	41c	47,690	95	Greenfield	25	12,500	41c	12,550	25	Maynard	45	10,500	41c	10,542	45
Brookline	12	8,979	41c	6,024	12	Canton	124	62,000	41c	62,248	124	Groton	25	12,500	41c	12,550	25	Medfield	11	5,500	41c	5,522	11
Buckland	8	4,000	41b	4,016	8	Carlisle	9	9,000	41c	4,518	9	Groveland	18	9,000	41c	9,036	18	Medford	337	167,050	41c	165,674	210
Burlington	78	39,000	41c	39,156	78	Carver	73	36,500	41c	19,646	39	Hadley	14	7,000	41b	7,000	14	Medway	31	15,500	41c	15,562	31
Cambridge	95	70,695	41c	47,690	95	Charlmont	7	3,500	41b	3,514	7	Hallfax	33	16,500	41c	12,566	25	Melrose	87	43,500	41c	43,674	87
Canton	124	62,000	41c	62,248	124	Charlton	46	22,943	41c	20,592	41	Hamilton	21	10,500	41c	10,542	21	Mendon	15	7,500	41c	7,530	15
Carlisle	9	9,000	41c	4,518	9	Chatham	13	6,500	41c	3,526	7	Hampden	6	3,000	41b	3,012	6	Merrimac	19	9,500	41c	3,038	6
Carver	73	36,500	41c	19,646	39	Chelmsford	104	52,000	41c	40,708	81	Chelsea	98	49,000	41c	40,696	41						
Charlmont	7	3,500	41b	3,514	7	Chelsea	98	49,000	41c	40,696	41	Cheshire	32	14,982	41c	4,564	9						
Charlton	46	22,943	41c	20,592	41	Cheshire	32	14,982	41c	4,564	9	Chester	11	5,500	41b	5,522	11						
Chatham	13	6,500	41c	3,526	7	Chester	11	5,500	41b	5,522	11	Chesterfield	5	2,500	41b	1,510	3						
Chelmsford	104	52,000	41c	40,708	81	Chesterfield	5	2,500	41b	1,510	3												
Chelsea	98	49,000	41c	40,696	41																		
Cheshire	32	14,982	41c	4,564	9																		
Chester	11	5,500	41b	5,522	11																		
Chesterfield	5	2,500	41b	1,510	3																		

Municipality	Number Abated	Tax Abated	Cause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Cause Adopted	State Reimb.	Basis of Reimb.	Municipality	Number Abated	Tax Abated	Cause Adopted	State Reimb.	Basis of Reimb.
Methuen	236	147,815	41c	148,592	236	Princeton	8	4,000	41c	4,016	8	Tyngsborough	30	15,000	41c	15,060	30
Middleborough	189	94,500	41c	75,878	151	Provincetown	46	22,691	41c	23,092	46	Upton	4	1,816	41c	508	1
Middlefield	2	1,000	41	1,000	2	Quincy	487	241,000	41c	244,474	487	Ware	20	10,000	41	10,000	20
Middleton	14	7,000	41c	7,028	14	Randolph	234	117,000	41c	90,468	180	Uxbridge	79	39,250	41c	26,158	52
Milford	133	66,000	41c	66,766	133	Raynham	46	23,000	41c	23,092	46	Wakefield	141	70,250	41c	70,782	141
Milbury	115	57,250	41c	47,230	94	Reading	81	40,250	41c	40,662	81	Wales	13	6,250	41b	6,526	13
Millis	20	10,000	41c	10,040	20	Rehoboth	70	35,000	41c	29,640	59	Walpole	58	29,000	41c	29,116	58
Milville	24	12,000	41c	9,548	19	Revere	460	227,575	41c	230,920	460	Waltham	79	39,500	41b	39,658	79
Milton	95	47,500	41c	47,690	95	Richmond	4	2,000	41c	1,008	2	Ware	85	42,487	41c	30,170	60
Monroe		-	41b	-	-	Rochester	25	12,419	41c	12,550	25	Wareham	177	88,223	41c	84,854	169
Monson	40	18,667	41c	20,080	40	Rockland	73	36,646	41c	36,646	73	Warren	50	25,000	41c	15,600	31
Montague	23	11,500	41c	11,546	23	Rockport	22	10,600	41c	10,544	21	Wareham	6	3,000	41b	3,012	6
Montevideo	2	1,000	41c	1,004	2	Rowe		-	41	-	-	Washington	2	1,000	41	1,000	2
Montgomery	2	1,000	41b	1,004	2	Rowley	15	7,500	41c	6,030	12	Watertown	112	75,600	41c	45,724	91
Mt. Washington		-	41	-	-	Royalston	22	10,718	41c	9,044	18	Wayland	36	36,000	41c	10,572	21
Nahant	29	14,500	41c	14,558	29	Russell	10	5,000	41c	2,020	4	Webster	213	106,926	41c	106,926	213
Nantucket	6	3,000	41	3,000	6	Rutland	22	10,792	41c	9,044	18	Wellesley	26	13,052	41c	13,052	26
Natick	102	51,000	41c	51,204	102	Salem	139	114,823	41c	69,778	139	Wellfleet	17	8,500	41c	5,034	10
Needham	44	25,641	41c	22,088	44	Salisbury	30	15,000	41c	15,060	30	Wendell	4	2,008	41c	2,008	4
New Ashford		-	41	-	-	Sandisfield	6	2,821	41c	3,012	6	Wenham	12	6,000	41c	4,024	8
New Bedford	951	472,695	41c	477,402	951	Sandwich	34	17,000	41c	17,068	34	W. Boylston	58	28,417	41c	19,616	39
New Braintree	1	500	41c	502	1	Saugus	110	55,000	41c	55,220	110	W. Bridgewater	57	28,500	41c	25,614	51
New Marlboro	18	8,819	41b	7,536	15	Savoy	21	10,430	41	10,500	21	W. Brookfield	30	14,986	41b	5,560	11
New Salem	1	500	41	500	1	Scituate	54	26,675	41c	27,108	54	W. Newbury	8	4,000	41c	4,016	8
Newbury	25	12,500	41c	12,550	25	Seekonk	73	36,250	41c	36,646	73	W. Springfield	189	94,240	41c	94,878	189
Newburyport	142	71,000	41c	71,284	142	Sharon	29	23,128	41c	7,558	15	W. Stockbridge	5	2,500	41b	2,510	5
Newton	134	66,500	41c	67,268	134	Shelfield	13	6,500	41c	6,526	13	W. Tisbury	1	500	41c	502	1
Norfolk	10	5,000	41c	5,020	10	Shelburne	6	3,000	41b	3,012	6	Westborough	31	15,500	41c	15,562	31
N. Adams	165	81,775	41c	82,830	165	Sherborn	5	2,500	41c	2,010	4	Westfield	199	98,750	41c	99,898	199
N. Andover	63	31,000	41c	31,626	63	Shirley	32	27,657	41c	16,064	32	Westford	54	34,699	41c	27,108	54
N. Attleboro	58	29,000	41c	23,116	46	Shrewsbury	113	56,476	41c	22,726	45	Westhampton	8	4,000	41c	4,016	8
N. Brookfield	26	13,000	41c	8,552	17	Shutesbury	5	3,766	41c	2,510	5	Westminster	22	11,000	41b	11,044	22
N. Reading	31	15,500	41c	15,562	31	Somerset	324	196,245	41c	88,648	176	Weston	9	4,500	41c	4,518	9
Northampton	228	114,456	41c	114,456	228	Somerville	198	96,250	41c	93,396	198	Westport	143	71,420	41c	71,786	143
Northborough	73	36,500	41c	12,646	25	S. Hadley	85	42,459	41c	39,170	78	Westwood	20	10,000	41c	10,040	20
Northbridge	55	27,459	41c	18,610	37	Southampton	28	14,000	41c	14,056	28	Weymouth	195	97,500	41c	85,890	171
Northfield	16	7,750	41c	8,032	16	Southborough	23	11,500	41c	11,546	23	Whately	8	4,000	41c	4,016	8
Norton	45	22,500	41c	22,590	45	Southbridge	6	3,000	41	3,000	6	Whitman	85	42,500	41c	33,170	66
Norwell	30	15,000	41c	15,060	30	Southwick	76	38,000	41c	30,652	61	Wilbraham	43	21,500	41c	21,586	43
Norwood	81	40,500	41b	40,862	81	Spencer	85	42,459	41c	39,170	78	Williamsburg	25	12,500	41c	12,550	25
Oak Bluffs	36	18,000	41c	18,072	36	Springfield	414	207,000	41b	207,828	414	Williamstown	7	3,500	41	3,500	7
Oakham	7	3,500	41c	2,514	5	Sterling	3	1,500	41	1,500	3	Wilmington	154	77,000	41c	77,308	154
Orange	56	26,839	41b	28,112	56	Stockbridge	6	3,000	41c	3,012	6	Winchendon	62	31,000	41c	18,624	37
Oriens	28	14,000	41c	7,056	14	Stoneham	226	113,000	41c	113,452	226	Winchester	35	17,500	41c	17,570	35
Otis	18	8,871	41c	5,036	10	Stoughton	98	48,250	41c	49,196	98	Windsor	2	1,000	41	1,000	2
Oxford	131	65,500	41c	39,262	78	Stow	7	3,500	41c	3,514	7	Winthrop	8	4,000	41	4,000	8
Palmer	15	7,500	41c	43,762	87	Sturbridge	23	11,500	41b	11,046	22	Woburn	306	153,000	41c	145,612	290
Paxton	15	7,500	41c	7,530	15	Sudbury	22	11,000	41c	11,044	22	Worcester	916	901,717	41c	459,832	916
Peabody	154	77,000	41c	77,308	154	Sunderland	6	3,000	41c	3,012	6	Worthington	3	1,500	41c	1,506	3
Pelham	10	5,000	41c	3,520	7	Sutton	29	14,500	41b	14,558	29	Wrentham	21	10,500	41c	10,542	21
Pembroke	70	35,000	41c	30,640	61	Swampscott	42	21,000	41c	21,084	42	Yarmouth	176	88,000	41c	88,352	176
Pepperell	28	14,000	41c	14,056	28	Swansea	154	76,679	41b	77,308	154	<b>Total</b>	<b>27,027</b>	<b>14,485,994</b>		<b>12,380,250</b>	<b>24,653</b>
Peru	3	1,500	41c	1,006	2	Taunton	217	108,500	41b	108,934	217	Clause 41	152	75,220	23	76,000	152
Petersham	8	4,000	41b	3,516	7	Templeton	127	63,120	41c	47,754	95	Clause 41b	2,138	1,060,530	39	1,043,776	2,079
Phillipston	8	3,750	41b	4,016	8	Tewksbury	144	72,000	41c	46,288	92	Clause 41c	24,737	13,350,244	289	11,260,474	22,422
Pittsfield	142	67,763	41b	71,284	142	Tisbury	20	9,926	41c	10,040	20	Notes:	27,027	14,485,994	351	12,380,250	24,653
Plainfield	3	1,500	41b	1,506	3	Tolland	8	-	41	-	8	Clause 41b and 41c are local options which expand eligibility criteria of clause 41.					
Plainville	129	9,000	41c	9,036	18	Topsfield	38	4,000	41c	3,016	27	If a community adopts a local option, the reimbursement is capped. The reimbursement cap is the number of exemptions the community reported the last time it granted exemptions under clause 41. Therefore, if the community reports a number higher than the cap, the reimbursement is \$500 x reimb. Cap plus a \$2 processing fee for every exemption granted. For example, a community reports 100 41c exemptions, but has a cap of 80. The state reimbursement would be \$500 x 80 + \$2 x 100 or \$40,000 + \$200 or \$40,200. Clauses 41, 41b and 41c granted in any year are reimbursed in the following fiscal year.					
Plymouth	18	64,758	41c	64,758	129	Townsend	9	4,500	41c	3,518	7						
Plympton	10	5,000	41c	5,020	10	Turo	9		41c								

Table 2

## Elderly Exemptions

→ continued from page three

156 communities granted more Clause 41B or 41C exemptions than the number granted when they were last under Clause 41, while 144 communities granted fewer exemptions. In comparison in FY1998, 117 communities granted more exemptions, while 211 granted the same number or fewer than they granted when they were last under Clause 41.

The decline in the number of elderly exemptions granted probably results from the fact that the eligibility criteria have not been updated since 1986. To counteract the effects of inflation in property value and income, many communities have adopted the more liberal Clause 41B and Clause 41C. Other communities have adopted the Optional Additional Real Estate Exemption,<sup>2</sup> a local option which allows a city or town to increase the amount of the exemption for those who qualify (e.g., elderly, veterans, blind, etc.), but does not change the underlying eligibility criteria. The increase must be uniform for all exemptions and cannot reduce the applicant's tax bill to less than he or she paid the preceding year, nor can it reduce the tax bill to less than 10 percent of what it would have been.<sup>3</sup>

Elderly exemptions have been a matter of public discussion recently. The State Auditor's Office released a report, *A Review of Property Tax Exemptions for the Elderly*, in December 1998. The report concluded that the elderly eligibility criteria and the exemption amount have failed to keep pace with inflation. The Auditor's Office further reported that in 1982 the \$500 exemption represented nearly half of the average single family tax bill while it amounts to about one-fifth of the average tax bill in 1998.

According to many assessors contacted, the failure of exemptions to keep pace with inflation has been a concern at the local level for a number of years.

When homes were undervalued and tax rates were high, a home worth much more could be valued as little as \$4,000, resulting in little or no tax liability for a qualified elderly resident. With the enforcement of full and fair cash values, however, high property assessments have increased the tax burden on elderly taxpayers. In FY98 the average single family tax bill statewide was \$2,463. For the elderly, the property tax due less the \$500 reduction results in a large balance and that amount is growing every year.

Because of the escalating real estate tax burden coupled with the fact that stringent criteria eliminates so many elderly from qualifying under the existing exemptions, communities are pursuing additional options for elderly taxpayers. Several communities have instituted community work programs which enable elderly taxpayers to work for the city or town for compensation used to reduce the participant's property tax bill. Other communities aggressively in-

form elderly taxpayers about the Clause 41A tax deferral option,<sup>4</sup> but with limited success because many elderly taxpayers are reluctant to place the required lien on their property.

With communities exploring innovative approaches and the impetus of the State Auditor's report, elderly property tax exemptions are likely to be a focus of much public debate in the coming months. ■

written by Melinda Ordway

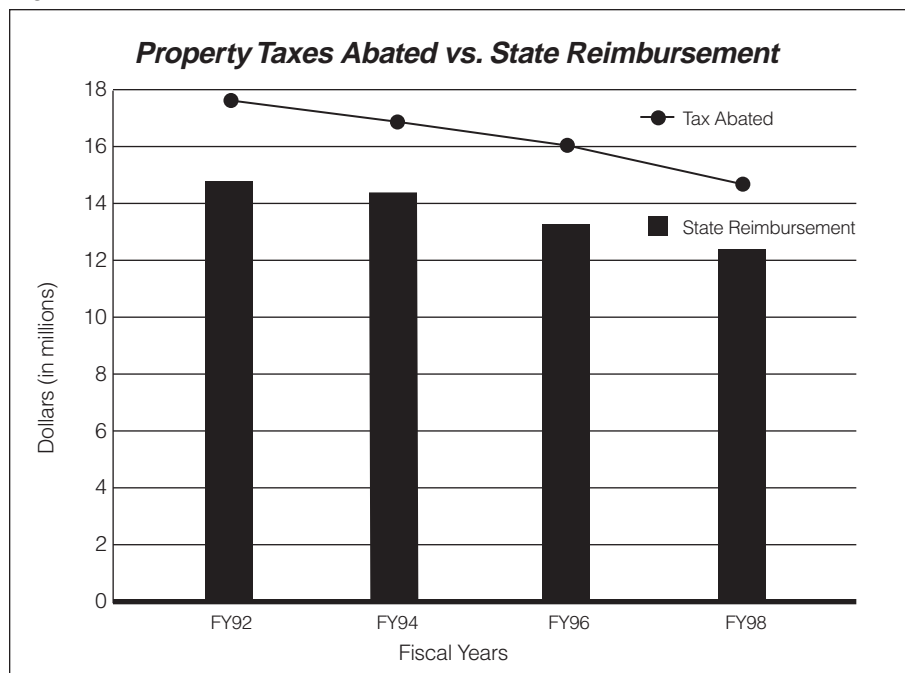
<sup>1</sup> Clause 17-17D exemptions provide a reduction in real estate taxes of \$175 to persons 70 years of age or older who satisfy certain residency and whole estate or asset requirements. There is no income requirement for these exemptions.

<sup>2</sup> Chapter 73 §4 of the Acts of 1986, as amended by Chapter 126 of the Acts of 1988.

<sup>3</sup> Except where a Clause 18 (hardship) exemption, a clause 42 or 43 exemption, or a paraplegic abatement is involved.

<sup>4</sup> Clause 41A permits an elderly taxpayer to delay payment of property taxes which ultimately must be paid to the community upon the death of the taxpayer or sale of the property. By this statute, which is in effect in every city and town in the Commonwealth, an elderly taxpayer can use resources which otherwise would go to pay real estate taxes to defray living expenses.

Figure 1



# DLS UPDATE

## Sewer Rate Relief

A total of \$52 million in fiscal year 1999 sewer rate relief has been awarded to 120 communities, a 6.6 percent increase from last year. The bulk of the sewer relief money, \$43.5 million, will be distributed to 52 communities within the Massachusetts Water Resources Authority (MWRA). Six communities belonging to the South Essex Sewerage District will receive a total of \$1.95 million. The remaining \$6.84 million will be shared by 86 cities, towns and commissions. Braintree, Brookline, Charlemon, Cohasset, Fall River, Gloucester, Monson, Sturbridge and West Springfield are receiving funds for the first time.

The Commonwealth Sewer Rate Relief Fund, established in 1993, mitigates the increases for communities in the MWRA water and sewer districts due to the costs of the court-ordered clean up of Boston Harbor. It also offsets some of the debt service for water and sewer construction projects for other communities. Although construction of the new wastewater treatment facility on Deer Island in Boston Harbor is approximately 94 percent complete, the MWRA faces significant future projects to address combined sewer overflows. Also, a new 18-mile water supply tunnel must be constructed to provide a necessary back-up for the Hultman Aqueduct, in operation since the 1940s. Among the numerous smaller projects around the state, the Town of Otis will receive funds to offset the cost of constructing a sewer system for the village center.

Long term debt issued on or after January 1, 1990, for a term greater than five years for planning, design or construction of a water pollution control project is eligible for sewer rate relief. However,

projects which received state construction grant assistance and projects which are financed with subsidized loans from the Massachusetts Water Pollution Abatement Trust are not eligible unless the amount financed exceeded \$50 million on June 30, 1995.

DLS administers the program in consultation with the Department of Environmental Protection. The Commissioner of Revenue sent letters to the individual communities in early February announcing the amount of aid each would receive. Communities receiving the sewer rate relief monies must provide a detailed certification that aid from the Fund has been or will be applied to the reduction of sewer rates. ■

## School Audit Reports Available

Are you interested in reading one of the audit reports completed under the direction of the Education Management Accountability Board (EMAB)? Complete copies of the reports are available at the DLS website by clicking on *Information from the Bureau of Education Audit*. The audits monitor how selected districts have progressed under the Education Reform Act of 1993. They include but are not limited to the following areas: school finances, staffing, test scores, time and learning standards, and school improvement and technology plans. The names of the members of the EMAB are also listed.

DLS's Bureau of Education Audit has completed reports on Braintree, Brockton, Lexington, Lowell, Malden, Triton Regional and Worcester. After each new school system is completed and the EMAB votes to accept the report, a

copy of the report will be posted on our website. Auditors are currently working in Gardner, New Bedford, Salem and North Reading. To view the information contained in the reports you must have the *Adobe Acrobat Reader* software which can be downloaded free of charge by clicking the icon for Adobe Acrobat. ■

## Bargaining Group Insurance Benefits ➔ continued from page two

<sup>3</sup> G.L. Ch. 32B §16 & §218 of Ch. 653 of the Acts of 1989.

<sup>4</sup> *Local 589, Amalgamated Transit Union v. Massachusetts Bay Transportation Authority*, 414 Mass. 323, 327-28 (1993).

<sup>5</sup> *National Association of Government Employees v. Commonwealth*, 419 Mass. 448, 450-51 (1995).

<sup>6</sup> G.L. Ch. 32A§8.

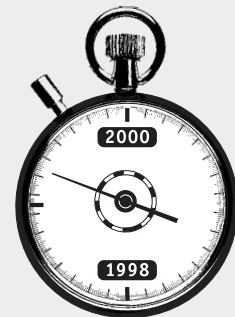
<sup>7</sup> *City of Everett and Everett Firefighters, Local 1656, IAFF*, 22 MLC 1303 (12/6/95).

<sup>8</sup> *Teamsters, Chauffeurs, Warehousemen & Helpers Union, Local No. 59 v. Chatham*, 404 Mass. 365 (1989).

<sup>9</sup> *Massachusetts Correction Officers Federated Union v. Labor Relations Commission*, 417 Mass. 7, 9 n.3 (1994).

<sup>10</sup> *Town of Ludlow and Ludlow Fire Fighters Association, Local 1840, IAFF*, 17 MLC 1191, 1196-98 8/3/90).

## Countdown to Y2K



## Opportunities For Training

Course 101, *Assessment Administration and Procedures* for assessors and assistant assessors will be held at the Peabody Institute Library Reading Room in Danvers on Monday evenings beginning March 15, 1999.

A *Classification Training Workshop* will be given on Monday, April 12, 1999, in the Peabody Institute Library Reading Room in Danvers.

The *Appraisal Training Course: Electric Generation, Transmission and Distribution* will be given on four consecutive days, June 14-17, 1999 on the fifth floor of 294 Washington Street in Boston.

A one day *Telecommunications Appraisal Course* will be held on Tuesday, May 4, in Gardner; Thursday, May 6, in Lee; and Wednesday, May 19, in Abington.

Contact Barbara LaVertue, training coordinator, at (617) 626-2340 for more information. ■

## DLS Has A New Address

The Department of Revenue, including the Division of Local Services, has moved to its new headquarters at 51 Sleeper Street in Boston 02210. Our delivery address is 5th floor at that address.

Although all telephone numbers will remain the same, DLS has a **new mailing address:**

Division of Local Services  
P.O. Box 9490  
Boston, MA 02205-9490

Please make the change immediately. Although DLS will retain its old post office box during a transition period, mail will reach us much more quickly at this new address. Your cooperation is appreciated. ■

## Data Bank Highlight

The Municipal Data Bank collects, analyzes and distributes financial, demographic and economic data on Massachusetts cities and towns. The Data Bank develops and maintains systems to collect and distribute the information, assists users in interpretation, participates in research projects. The data is available through the DLS website. It also can be requested by phone, fax or e-mail. **The e-mail address is nyberg@shore.net.** Reports can be printed out as hard copy and mailed or faxed, or sent by e-mail. If you have any questions call us at one of the numbers listed below.

To obtain Municipal Data Bank information contact Medi Ba, Dora Brown, Debbie DePerri or Stan Nyberg at (617) 626-2300. For technical assistance contact Burt Lewis at (617) 626-2358. The World Wide Web address is listed 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 9490, Boston, MA 02205-9490.

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