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CITY & TOWN

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State-Owned Land to Be Revalued

written by Marilyn H. Browne

Over the next fiscal year, the Department of Revenue's Bureau of Local Assessment (BLA) will be estimating the fair market value of approximately 3,100 state-owned properties.¹ Totalling more than 380,000 acres, these parcels are located in 255 cities and towns across the Commonwealth. The valuations will be used as the basis for state reimbursement to municipalities for tax revenues lost because land used for public purposes is exempt from local property taxation. Cities and towns receive their payments for most of these properties through the Cherry Sheets. For watershed land owned by the MDC, there is a direct reimbursement program. The valuation date will be as of January 1, 2000, and the BLA will notify communities of its determination of values no later than June 10, 2000.

Once every five years BLA values state-owned land (SOL). The valuation does not include any improvements to the properties, such as buildings. Eligibility for reimbursement is dependent upon three factors: taxable status prior to state acquisition, land use, and the particular state agency owning or "holding" the land. Properties entitled to reimbursement on a use basis include wild life sanctuaries, fish hatcheries and game preserves. Also, communities receive payments if the land is held by certain public institutions such as those of the Departments of Mental Health, Mental Retardation, Public Health, and Environmental Management. In all cases, the property must have been on the tax rolls prior to the state's obtaining title to the land.

The BLA issued a Request for Responses for professional appraisal services (RFR) to assist its staff with

this major valuation project. The RFR requires site inspections of reimbursable parcels acquired by the state after 1985. Additionally, BLA plans to begin a reinspection program of selected parcels acquired prior to 1985. Appraisers bidding for the contracts for the inspection and reinspection projects will bid on a regional basis. The Department's intent is to award a single contract for each of the remaining four regions in central and western Massachusetts (Worcester, Franklin, Hampden, Hampshire and Berkshire Counties). Site visits will begin in FY2000. As one would expect, these projected plans are subject to state budget appropriation.

SOL values are based on the market value of each parcel. Occasionally, BLA receives questions from local officials wanting to know why their land value per acre is not the same as that of a neighboring municipality, particularly if they share a site such as a state park. If comparable properties are selling for similar prices in both communities, then it is fair to expect that the values will be similar. However, as is often the case, neighboring communities' land values differ, sometimes significantly, for reasons such as one community's proximity to transportation, quality of education, and amenities reflected in sales prices and SOL values. BLA will pay particular attention to sites that overlap municipalities.

Before vendors begin working in communities, BLA will send a notification letter to boards of assessors. During the entire process, particularly the site inspection and data collection process, vendors and/or BLA staff will be in close contact with local officials. Municipal

assistance is critical to a timely and successful program. Once proposed values are determined, BLA will notify cities and towns.

After notification there will be time for assessors to discuss the values, present documentation to support changes in proposed valuations, and/or formally appeal the values.

The SOL program was reintroduced as a separate reimbursement on the Cherry Sheets in 1993. The FY1993 appropriation of \$6.5 million has been increasing in recent years. Last year, FY1999, the program was funded at \$12 million, which was 56.2 percent of full funding, just over the halfway mark. House 1 is proposing \$15 million for FY2000. BLA preliminary numbers show that appropriation to be the equivalent of approximately 69 percent of full funding. In an outside section of the 1998 state budget, the legislature indicated that it intends to increase this appropriation to achieve full funding by FY2002. ■

1. M.G.L. Ch. 58 §§ 13-17B; Ch.59, § 5G.

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LEGAL

in Our Opinion

Q: *Are Chapter 121A corporations exempt from local taxes?*

A: Yes. Urban redevelopment corporations are exempt from local real estate and personal property taxes, betterments and special assessments for a period of 15 years.¹ This 15-year period may be extended to an aggregate of 40 years. A Chapter 121A corporation, however, is required to pay a calendar year excise which is equal to (1) five percent of its gross income from all sources in the prior calendar year and (2) \$10 per thousand upon the fair cash valuation of its real and personal property. Once the exemption period for the project has concluded, the subject parcel will return to the tax rolls.

Q: *What would be the effect on a community's levy limit if a parcel were no longer subject to a Chapter 121A excise?*

A: The community would assess an ordinary real estate tax. Proposition 2½ limits the total taxes assessed by a city or town. The law does provide for tax base growth which includes the "increase in the assessed valuation of any parcel of real ... property over the assessed valuation of such property, during the prior year *which shall become subject to taxation for the first time*"² (emphasis added). Returning any parcel previously exempt under Chapter 121A to the tax rolls, in our view, would increase the city or town's levy limit.

Q: *What should the collector do if personal property taxes are uncollectible?*

A: If the collector is satisfied that any outstanding personal property taxes cannot be collected due to death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay, the collector notifies the assessors in writing and under oath, stating why the taxes cannot be collected.³ The assessors must make due inquiry and act within 30 days after receipt of the collector's notice. The board of as-

sessors may abate the tax in whole or in part. They certify the amount abated to the collector, thereby discharging the collector from any further duty to collect the tax so abated.

Q: *Can a town's elected officials and its non-union employees receive retroactive pay increases?*

A: Yes, if certain conditions are satisfied. The salary and compensation of all elected officials must be fixed annually by vote of the annual town meeting.⁴ By law, a special town meeting can revise the salary of an elected official by two-thirds vote, but such revision must take place prior to the setting of the tax rate for that fiscal year. Any increase in salary for an elected official can be retroactive for only one year, i.e., to the start of the fiscal year in which the vote is taken. Town meeting must also fund any increase in salary to effectuate it.

With regard to non-union, non-school employees, town meeting by majority vote can appropriate an increase in salary, retroactive to the beginning of the fiscal year, prior to the fiscal year in which such vote is taken.⁵ A majority vote of the school committee, however, is required to increase salaries of school department employees for the same time frame. There must be sufficient unencumbered funds in the school department's operating budget. Otherwise, a supplementary appropriation by town meeting is required to cover the increase.

Q: *Is a town meeting vote required to place a debt exclusion question on the ballot?*

A: No. Although a two-thirds vote of town meeting is required to authorize any borrowing, there must be a two-thirds vote by the local appropriating authority to place the question of exceeding the limits imposed by Proposition 2½ for the purpose of raising funds

for debt service costs on the ballot. In a town the "local appropriating authority" is the board of selectmen.⁶ The debt exclusion referendum question must then be approved by the majority of the voters.

Q: *A town meeting had adopted M.G.L. Ch.44 § 53D which establishes a park and recreation self-supporting revolving fund. The town made a contract with a local concession firm to provide food to participants in activities at the town playground. Under the terms of the annual contract, the vendor would pay \$1,200 in six installments. The first payment was due May 1 and the last payment was due on October 1. How should the accountant enter these receipts in the books and records of the town?*

A: M.G.L. Ch. 44 § 53D is a local option statute which, if adopted, authorizes a city or town to establish "a revolving fund which shall be kept separate and apart from all other monies by the treasurer and in which shall be deposited the receipts received in connection with the conduct of self-supporting recreation and park services of said city or town." The Property Tax Bureau has previously interpreted the statute to mean that proceeds from concessions and the rental of recreational facilities could become part of the revolving fund revenue if generated in connection with self-supporting activities sponsored by the recreation department. In our view, these vendor payments could be broadly construed as revenue derived from and associated with the summer park programs sponsored by the park and recreation department. Accordingly, these rent payments from the concession operator should be deposited in the park and recreation revolving fund and not be considered local estimated receipts.

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FOCUS

on Municipal Finance

Overlay Reserve

Assessors must annually establish an account, commonly known as the overlay, to cover the anticipated abatements and exemptions for property taxes levied in that year.¹ To establish the appropriate amount, they must evaluate prior years' overlay reserve accounts and any potential liabilities, such as cases pending at the Appellate Tax Board. The overlay reserve is not established through the normal appropriation process, but rather the amount needed is raised on the tax rate recapitulation sheet. Assessors must try to assure that the reserve is set at a level sufficient to provide for abatements and exemptions in that fiscal year. When the amount of overlay raised in a given year is insufficient to cover abatements for that year, a deficit occurs. This deficit must be provided for in the next fiscal year on the tax rate recapitulation sheet.

Generally, assessors know approximately how much money they will need to cover exemptions in each year; however, the amount they will need for abatements can vary. The amount of money reserved for certain exemptions has been declining because fewer people qualify. For example, the article on elderly exemptions in the March 1999 issue of *City & Town* pointed out that the income restrictions for elderly exemptions have not been adjusted since 1986, and the number of exemptions granted declined by 18.6 percent between FY1992 and FY1998.²

The Bureau of Local Assessment reviews the proposed real and personal property values estimated by local assessors once every three years. Historically, there have been more applications for abatements during these recertification years and assessors have safeguarded against these increases by allocating larger than usual amounts to their overlays. *City & Town* last ana-

lyzed overlay reserves in its July 1991 issue. At that time, 73 percent of communities established higher than average overlay reserve accounts in recertification years. Since then, however, more and more assessors have been adjusting values annually to reflect the real estate market and avoid the large spikes in values that can happen when revaluation only occurs triennially. Also, assessing practices have improved over recent years, resulting in fewer abatements. From FY 1997 through FY1999 only 142 communities (41 percent) established higher than usual overlay reserve accounts in their recertification years.

The overlay reserve account is carried forward from year to year until the assessors determine that the reserve for that particular fiscal year is no longer necessary. Assessors must retain sufficient money in the overlay reserve to cover any abatements which may be granted by the Appellate Tax Board (ATB). If there are cases pending at the ATB, assessors must make their best estimate of the amount needed to cover potential settlements. The overlay cannot be reduced by transfer below the sum of (1) uncollected taxes outstanding against the collector's warrant, and

(2) collected taxes that may have to be refunded because of abatements granted. If uncollected real estate taxes are secured by a tax title, the community has an almost guaranteed method of collecting the taxes. The amounts of such taxes are no longer outstanding against the collector's warrant and do not have to be reserved.

Once the assessors determine that there is no likelihood of additional abatements, they can declare the unused balance for that year as surplus. The balance is then transferred into an overlay surplus account. At the end of each fiscal year, unused overlay surplus is "closed" to surplus revenue; in other words, it becomes a part of free cash. Both free cash and overlay surplus can be appropriated for any lawful municipal purpose.

Within 10 days of a written request by the chief executive officer of a city or town, the assessors *must* provide a certification of the excess amount of overlay available for transfer. A "chief executive officer" can mean the board of selectmen in a town, or the mayor or city manager in a city. Although the community's chief executive officer can

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Table 1

State Totals			
	Overlay reserve	Tax levy	Overlay as percent of levy
FY89	\$143,651,488	\$4,122,104,932	3.48
FY90	\$139,071,345	\$4,464,634,291	3.11
FY91	\$139,472,348	\$4,775,254,916	2.92
FY92	\$143,439,128	\$5,017,705,745	2.86
FY93	\$155,240,515	\$5,249,675,623	2.96
FY94	\$157,921,506	\$5,464,414,052	2.89
FY95	\$159,210,658	\$5,701,066,408	2.79
FY96	\$163,242,225	\$5,920,694,306	2.76
FY97	\$159,943,482	\$6,160,184,909	2.60
FY98	\$168,585,924	\$6,455,892,738	2.61
FY99	\$168,231,716	\$6,753,085,969	2.49

Overlay Reserve

Municipality	Overlay Recent Yr.	Overlay % of levy 97	Overlay % of levy 98	Overlay % of levy 99	Avg. 97-99	Municipality	Overlay Recent Yr.	Overlay % of levy 97	Overlay % of levy 98	Overlay % of levy 99	Avg. 97-99	Municipality	Overlay Recent Yr.	Overlay % of levy 97	Overlay % of levy 98	Overlay % of levy 99	Avg. 97-99
Abington	98	312	278	192	261	Chesterfield	98	127	161	114	134	Hancock	98	236	210	188	211
Acton	98	169	202	135	169	Chicopee	99	451	271	442	388	Hanover	99	116	101	097	211
Acushnet	98	296	318	301	305	Chilmark	97	190	168	211	190	Hanson	98	182	174	196	171
Adams	97	342	338	334	338	Clarksburg	98	430	601	403	478	Hardwick	97	378	265	196	301
Agawam	97	277	295	251	274	Clinton	97	288	231	214	244	Harvard	99	098	112	104	105
Afford	99	159	277	502	313	Cohasset	99	156	173	147	159	Harwich	98	279	205	202	229
Amesbury	99	305	635	330	443	Colrain	98	240	253	259	251	Hatfield	98	295	258	169	241
Amherst	97	133	129	145	136	Concord	99	103	106	099	103	Haverhill	99	224	195	171	197
Andover	97	156	169	158	161	Conway	99	076	072	095	081	Hawley	97	227	150	148	175
Aquinnah	99	146	129	126	134	Cummington	99	115	118	112	115	Heath	99	121	134	181	145
Arlington	98	167	209	186	187	Dalton	98	151	180	165	165	Hingham	99	102	113	138	118
Ashburnham	97	191	103	107	134	Danvers	98	159	200	148	169	Hinsdale	97	347	244	230	274
Ashby	97	177	195	191	188	Dartmouth	99	183	178	159	173	Holbrook	98	354	485	355	398
Ashfield	98	142	134	128	135	Dedham	98	339	333	366	346	Holden	98	129	125	187	147
Ashland	97	192	180	136	169	Deerfield	99	224	203	192	206	Holland	98	166	161	149	159
Athol	98	356	413	319	363	Dennis	99	167	165	150	161	Holliston	98	104	212	111	142
Attleboro	99	149	147	099	132	Dighton	98	186	196	156	179	Holyoke	98	284	244	349	292
Auburn	98	395	415	392	401	Douglas	99	256	182	282	240	Hopedale	97	265	138	220	208
Avon	99	242	293	328	288	Dover	99	173	138	181	164	Hopkinton	98	174	217	158	183
Ayer	99	234	217	180	210	Dracut	97	240	219	211	223	Hubbardston	98	144	168	167	160
Barnstable	98	142	224	167	178	Dudley	99	263	257	351	290	Hudson	98	199	203	207	203
Barre	98	305	359	281	315	Dunstable	99	139	129	119	129	Hull	98	401	333	119	284
Becket	98	316	170	190	225	Duxbury	97	119	158	172	150	Huntington	98	144	134	138	139
Bedford	99	279	223	302	268	E. Bridgewater	98	355	493	430	426	Ipswich	98	180	180	165	175
Belchertown	97	263	357	195	272	E. Brookfield	99	260	253	434	316	Kingston	98	141	162	132	145
Bellingham	98	208	249	421	293	E. Longmeadow	99	174	123	138	145	Lakeville	99	175	163	188	175
Belmont	98	225	209	199	211	Eastham	98	108	105	103	105	Lancaster	99	231	162	165	186
Berkley	98	156	165	139	153	Easthampton	98	263	305	242	270	Lanesborough	99	152	171	309	211
Berlin	98	565	694	750	670	Easton	98	161	177	145	161	Lawrence	97	326	332	336	331
Bernardston	98	193	212	178	194	Edgartown	99	041	032	068	047	Lee	99	310	285	244	280
Beverly	99	129	136	126	130	Egremont	99	144	157	179	160	Leicester	99	168	162	166	165
Billerica	97	144	155	185	161	Erving	97	154	115	101	123	Lenox	99	294	244	236	258
Blackstone	98	162	197	171	177	Essex	98	189	348	118	218	Leominster	97	301	295	300	299
Blackstone	98	353	242	318	304	Everett	97	334	245	229	269	Leverett	97	143	110	091	115
Bolton	97	096	094	085	092	Fairhaven	99	292	278	290	287	Lexington	99	059	102	091	084
Boston	98	508	521	521	517	Fall River	98	269	250	346	288	Leyden	99	129	127	146	134
Bourne	97	181	269	169	206	Falmouth	99	093	110	137	113	Lincoln	98	089	084	078	084
Boxborough	97	327	260	263	283	Fitchburg	98	213	217	205	212	Littleton	98	187	151	228	189
Boxford	97	132	093	069	098	Florida	98	482	735	255	491	Longmeadow	97	081	077	078	079
Boyston	99	173	191	213	192	Foxborough	98	243	248	207	233	Lowell	99	476	489	479	481
Braintree	97	289	247	235	257	Frammingham	97	253	234	200	229	Ludlow	99	201	230	183	205
Brewster	98	240	208	185	211	Franklin	99	101	135	384	207	Lunenburg	97	135	111	101	116
Bridgewater	97	227	124	109	153	Freetown	98	243	217	208	223	Lynn	99	386	376	329	364
Brimfield	99	325	337	222	295	Gardner	99	177	168	183	176	Lynnfield	99	150	138	162	150
Brockton	99	228	220	213	220	Georgetown	98	081	084	067	077	Malden	98	293	275	315	294
Brookfield	98	160	159	173	164	Gill	99	200	285	233	239	Manchester	98	117	184	147	149
Brookline	97	250	227	254	244	Gloucester	99	197	167	174	179	Marblehead	99	214	222	207	214
Buckland	98	107	115	116	113	Goshen	97	150	147	134	144	Marblehead	98	096	129	125	117
Burlington	97	203	150	202	185	Gosnold	99	131	132	159	141	Marion	97	209	213	192	205
Cambridge	99	287	275	267	276	Grafton	98	147	206	178	177	Marlborough	97	237	215	247	233
Canton	98	423	604	363	463	Granby	98	253	293	228	258	Marshfield	99	158	166	164	163
Carlisle	98	132	158	100	130	Granville	98	091	109	104	101	Mashpee	99	180	189	176	182
Canter	97	253	245	236	245	Grt. Barrington	98	189	177	107	158	Mattapoisett	97	212	215	215	214
Charlmont	99	132	129	135	132	Greenfield	99	142	135	131	136	Maynard	98	189	216	156	187
Chatham	99	198	127	164	163	Groton	98	077	071	081	076	Medfield	98	053	086	041	053
Chatham	98	225	193	172	197	Groveland	98	112	093	093	099	Medford	98	198	236	193	209
Chelmsford	98	130	187	178	165	Hadley	99	185	139	159	161	Medway	97	202	185	246	211
Chelsea	98	225	241	249	238	Halifax	98	478	471	500	483	Melrose	99	203	241	229	224
Cheshire	98	188	177	222	196	Hamilton	97	154	139	133	142	Mendon	99	176	157	174	169
Chester	97	384	235	229	283	Hampden	97	158	154	144	152	Merrimac	98	076	112	098	095

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Methuen	97	1.53	3.57	1.55	2.22	Princeton	97	1.43	1.09	1.11	1.21	Tyngsborough	98	2.05	1.85	1.70	1.87
Middleborough	98	2.45	3.07	2.06	2.53	Provincetown	97	2.99	2.05	1.86	2.30	Tyringham	99	1.95	1.07	2.63	1.88
Middlefield	99	1.61	0.95	1.08	1.21	Quincy	99	3.36	3.78	3.33	3.49	Upton	99	1.98	1.62	1.62	1.81
Middletown	99	3.11	2.76	2.85	2.91	Randolph	99	2.35	2.29	2.48	2.37	Uxbridge	98	2.40	2.29	2.17	2.28
Milford	98	2.43	2.58	1.81	2.27	Raynham	98	2.34	2.28	3.07	2.56	Wakefield	99	2.13	1.93	2.47	2.18
Millbury	97	4.12	3.91	3.55	3.86	Reading	99	1.58	1.46	1.41	1.48	Wales	99	1.25	1.26	2.35	1.62
Mills	99	1.19	1.69	1.15	1.34	Rehoboth	98	2.19	2.07	1.69	1.98	Walpole	99	1.48	1.25	1.38	1.37
Millville	99	4.48	3.28	1.78	3.18	Revere	98	2.44	2.16	2.21	2.27	Waltham	98	3.20	2.88	3.15	3.08
Milton	97	1.71	1.61	1.43	1.58	Richmond	99	0.64	0.71	1.02	0.79	Ware	97	2.97	2.80	2.47	2.75
Monroe	97	1.45	1.33	1.38	1.39	Rochester	99	1.56	1.53	2.41	1.83	Wareham	97	2.67	2.04	1.69	2.13
Monson	99	1.77	1.33	1.54	1.55	Rockland	97	2.03	1.86	1.64	1.84	Warren	99	1.74	1.65	2.10	1.83
Montague	98	3.61	3.59	3.27	3.49	Rockport	98	1.95	1.93	1.77	1.88	Warwick	98	2.38	3.00	1.52	2.30
Montpelier	97	2.84	2.44	2.12	2.47	Rowe	97	4.84	1.84	1.83	2.84	Washington	98	2.30	1.98	1.87	2.05
Montgomery	98	2.89	3.52	2.79	3.07	Rowley	99	1.90	1.60	2.35	1.95	Watertown	98	1.57	1.59	1.50	1.55
Mt. Washington	98	1.09	1.04	1.10	1.08	Royalston	99	5.84	4.54	3.57	4.65	Wayland	97	1.11	0.75	0.81	0.89
Nahant	99	1.80	1.49	1.50	1.60	Russell	98	3.96	4.77	4.88	4.54	Webster	97	4.53	3.45	2.41	3.46
Nantucket	98	3.25	2.40	2.73	2.79	Rutland	99	2.16	2.18	2.25	2.20	Wellesley	97	1.29	0.83	0.74	0.95
Natick	98	2.01	3.13	2.17	2.44	Salem	98	1.79	2.37	1.48	1.88	Wellesley	97	1.06	1.13	0.99	1.06
Needham	97	1.62	1.59	1.66	1.62	Salisbury	97	1.56	1.20	0.98	1.25	Wellfleet	98	1.20	1.45	1.61	1.42
New Ashford	97	0.80	1.23	1.93	1.32	Sandwich	98	1.73	3.05	2.50	2.43	Wendell	97	1.38	1.32	1.16	1.29
New Bedford	98	4.52	4.73	4.47	4.57	Sandwich	99	1.47	1.43	3.37	2.09	W. Boylston	99	1.54	1.77	1.38	1.56
New Brantree	98	1.28	3.57	1.60	2.15	Saugus	99	1.79	1.73	1.99	1.84	W. Bridgewater	97	2.44	2.50	2.23	2.39
New Marlborough	98	1.25	1.49	1.97	1.57	Savoy	98	3.22	3.25	3.17	3.21	W. Brookfield	99	3.17	3.04	4.47	3.56
New Salem	97	2.01	1.43	1.35	1.60	Seaside	97	1.63	1.56	1.26	1.48	W. Newbury	98	0.85	1.37	0.81	1.01
Newbury	98	0.90	1.77	0.94	1.20	Seaton	97	2.21	1.68	1.29	1.73	W. Springfield	99	2.81	2.37	2.28	2.49
Newburyport	99	1.57	1.50	2.39	1.82	Sharon	98	2.06	1.92	1.92	2.09	W. Stockbridge	98	1.58	2.38	1.91	1.96
Newton	99	1.79	1.79	1.40	1.66	Shelburne	98	1.04	1.32	1.29	1.22	W. Tisbury	99	1.02	1.02	1.50	1.18
Norfolk	98	0.85	0.80	0.74	0.80	Shelburne	99	1.61	0.92	1.17	1.23	Westborough	97	2.75	2.52	2.48	2.58
N. Adams	98	2.55	2.42	2.76	2.58	Sherborn	97	0.66	0.42	0.41	0.50	Westfield	98	2.44	1.99	1.65	2.03
N. Andover	98	1.38	1.33	1.02	1.24	Shirley	98	3.71	3.53	3.34	3.53	Westford	99	1.03	1.63	1.53	1.40
N. Attleboro	99	2.41	2.33	2.26	2.33	Shrewsbury	98	0.94	1.10	0.93	0.99	Westhampton	98	1.16	1.38	1.16	1.23
N. Brookfield	98	2.68	2.83	2.93	2.81	Shutesbury	99	1.56	1.48	1.67	1.57	Westminster	98	4.78	3.08	3.48	3.78
N. Reading	99	1.70	1.62	1.64	1.65	Somersett	98	2.96	3.24	2.55	2.92	Weston	99	1.02	0.93	1.43	1.13
Northampton	98	1.88	1.87	1.80	1.85	Somerville	98	3.89	4.20	2.69	3.59	Westport	97	2.75	2.90	1.79	2.48
Northborough	98	1.17	1.88	1.07	1.37	S. Hadley	98	2.36	2.27	2.08	2.24	Westwood	97	1.61	1.30	1.30	1.40
Northbridge	99	2.19	2.08	2.04	2.10	Southampton	99	1.67	1.61	1.69	1.66	Weymouth	99	2.28	1.98	1.94	2.07
Northfield	98	1.17	1.16	1.07	1.13	Southborough	98	2.72	2.00	1.42	2.05	Whately	99	1.04	0.94	0.90	0.96
Norton	97	2.47	2.38	1.95	2.27	Southbridge	98	2.14	1.87	1.86	1.96	Whitman	99	1.35	1.32	1.41	1.36
Norwell	97	2.63	2.01	2.87	2.50	Southwick	98	2.41	3.39	1.40	2.40	Willbraham	98	0.98	1.02	0.93	0.98
Norwood	97	2.04	2.01	2.14	2.06	Spencer	98	2.26	3.37	2.55	2.73	Williamsburg	98	1.62	1.59	1.47	1.56
Oak Bluffs	99	1.23	1.72	1.60	1.52	Springfield	99	6.19	5.43	4.43	5.35	Williamstown	97	1.53	1.38	1.21	1.37
Oakham	99	1.43	1.46	1.72	1.54	Sterling	98	0.97	0.90	0.72	0.86	Wilmington	98	2.37	2.25	2.20	2.27
Orange	99	3.20	3.02	2.90	3.04	Stockbridge	99	2.45	2.64	3.17	2.75	Winchendon	97	2.01	1.96	1.91	1.96
Orleans	99	2.15	1.80	1.84	1.93	Stoneham	97	3.06	3.34	2.92	3.11	Winchester	99	0.79	0.79	1.12	0.90
Otis	98	1.92	1.71	1.63	1.75	Stoughton	99	3.29	3.30	1.71	2.77	Windsor	97	1.33	1.23	0.89	1.15
Oxford	99	4.06	3.16	3.33	3.52	Stow	98	0.71	0.71	0.88	0.77	Winthrop	97	2.04	2.00	1.99	2.01
Palmer	99	1.75	1.83	2.04	1.87	Sturbridge	99	1.91	1.31	1.33	1.52	Woburn	99	3.15	3.35	3.17	3.17
Paxton	98	0.84	1.12	0.84	0.93	Sudbury	98	0.80	0.93	1.62	1.12	Worcester	99	2.71	2.58	2.50	2.60
Peabody	98	2.56	2.34	2.26	2.39	Sunderland	99	2.08	1.93	1.88	1.96	Worthington	99	1.87	1.62	1.55	1.68
Pelham	99	1.33	1.28	1.03	1.21	Sutton	97	1.84	1.43	1.69	1.65	Wrentham	98	1.77	2.26	1.03	1.69
Pembroke	99	2.05	2.00	2.08	2.04	Swampscott	99	1.50	1.71	2.20	1.80	Yarmouth	98	2.41	2.93	2.69	2.68
Pepperell	99	1.93	5.33	1.80	3.02	Swansea	99	2.65	3.05	3.13	2.94	State totals		2.12	2.12	2.00	2.08
Peru	99	2.28	2.34	2.37	2.33	Taunton	98	1.52	2.13	2.03	1.89						
Petersham	98	1.59	1.60	1.48	1.56	Templeton	98	5.18	4.05	3.90	4.38						
Phillipston	98	0.77	0.80	0.73	0.77	Tewksbury	98	2.26	2.05	2.08	2.13						
Pittsfield	99	2.14	1.81	1.77	1.91	Tisbury	99	1.67	1.91	1.82	1.80						
Plainfield	97	1.89	1.59	1.60	1.69	Tolland	97	4.48	3.96	2.30	3.58						
Plainville	97	2.56	2.43	3.50	2.83	Topsfield	98	1.18	1.23	0.97	1.13						
Plymouth	99	1.58	1.35	1.55	1.49	Townsend	97	1.12	1.05	1.04	1.07						
Plympton	99	1.28	0.95	1.57	1.27	Truro	99	0.72	0.55	1.23	0.83						

Table 2

Overlay Reserve

→ continued from page three

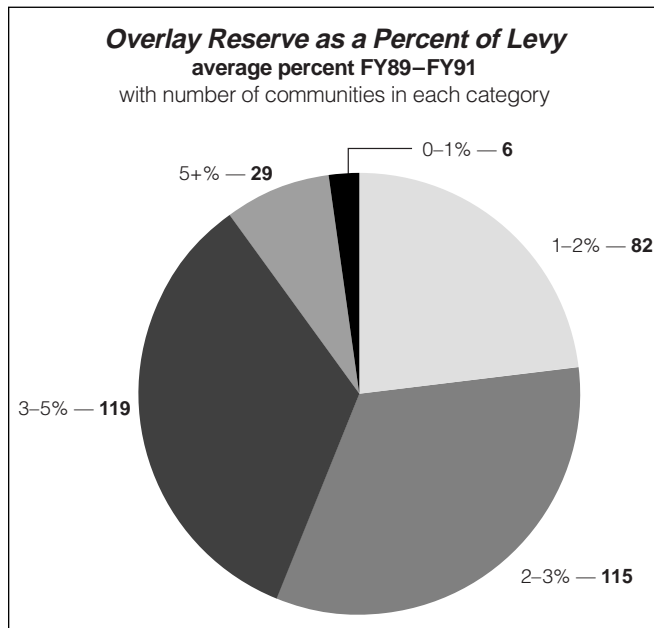


Figure 1

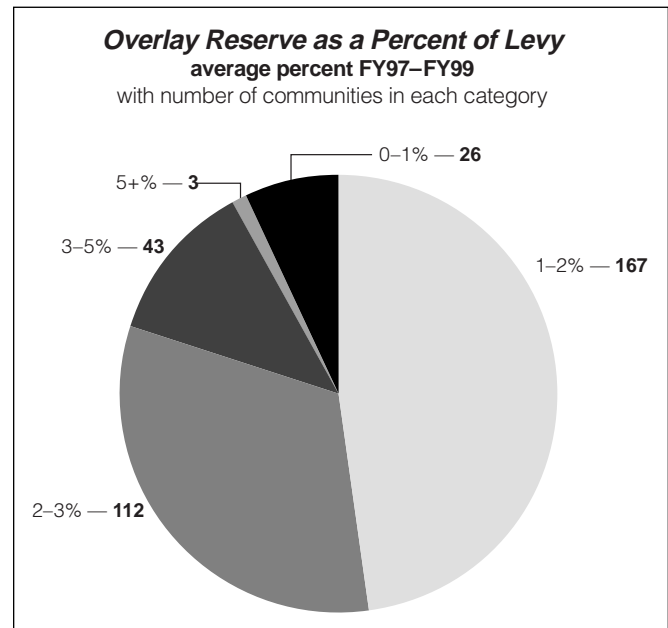


Figure 2

require the assessors to determine the amount available for transfer, the assessors make the determination of how much of a given year's overlay account can or will be transferred to the surplus account, and when and if the transfer should take place.

Findings

Table 1 shows overlay reserves as a percentage of the statewide tax levy from FY1989 through FY1999. Statewide, the total overlay reserve declined from FY1989 to FY1990 and then began a steady increase until FY1996. It declined in FY1997, increased in FY1998, and declined slightly in FY1999. The total was \$144 million in FY1989. In FY1999, the total was \$168 million, an increase of 17 percent. When analyzed as a percent of the tax levy, however, the percent has declined steadily from 3.48 percent in FY1989 to 2.49 percent in FY1999.

Table 2 lists the 351 cities and towns and shows their overlay reserves and overlays as a percent of the levy for

FY1997, FY1998 and FY1999, as well as their average overlays as a percent of the levy for the three-year period. It also shows their triennial recertification dates. The amount of money communities reserve as overlay varies considerably. Berlin had the highest percentage in the three years analyzed with 7.5 percent in FY1999. Edgartown had the lowest percentage, 0.32 percent in FY1998.

In *City & Town's* previous look at overlay reserve, we included a graph grouping communities by overlay reserve as a percent of the levy, using the average percent from FY1989 to FY1991 (Figure 1). At that time 29 communities (or 8 percent) had overlays greater than 5 percent of their levies; 119 communities (or 34 percent) had overlay reserves equal to from 3 to 5 percent of their levies; 115 communities (or 33 percent) had overlays of 2 to 3 percent of their levies; 82 communities (or 23 percent) had overlays of 1 to 2 percent; and only 6 communities (or 2 percent) had levies of from 0 to 1 per-

cent. As shown in Figure 2 there is a definite change in philosophy toward overlay reserve accounts. Looking at the average overlay reserve from FY1997 to FY1999, only 3 communities (or .009 percent) had overlays equal to more than 5 percent of their levies. In the category of communities with overlays of 3 to 5 percent of the levy, there were 43 cities and towns (12 percent). There were 112 communities (or 32 percent) with overlays of 2 to 3 percent; 167 communities (or 48 percent) with overlays of 1 to 2 percent; and 26 communities (or 7 percent) with overlays equal to less than 1 percent of their levies. The impact of good assessment practices, as well as the declining number of exemptions granted, on the need to retain large overlay reserves accounts is evident. ■

written by Jean McCarthy
data provided by Debbie DePerri

1. M.G.L. Ch. 59, § 25.
2. M.G.L. Ch. 59, § 5 (41C).

DLS UPDATE

Has Your Community Complied?

Municipalities must comply with certain rules and regulations. The following are two recent examples:

Every employer, including public employers, must *conspicuously post unemployment benefit information* at each site operated by the employer. The notice must state the name, mailing address, the Division of Employment and Training (DET) identification number of the employer, instructions on how to file for unemployment benefits, the address and telephone number of the nearest regional DET office and the telephone number of the DET teleclaim information line. Failure to post the information will result in a written warning for the first violation, a \$100 civil fine for the second, \$250 for the third and \$500 for fourth or subsequent violation. The employer is also required to provide the same information in writing to any employee separated from employment as soon as practicable, but no later than 30 days. Delivery must be made in person or by mailing to the employee's last known address.¹

*Employees are granted leave for certain family obligations.*² Certain employers, including municipalities, must provide up to 24 hours of family obligation leave for eligible employees during any 12-month period. This leave is in addition to the 12 weeks already allowed under the Federal Family and Medical Leave Act. Employees are eligible for leave if their employer had 50 or more employees. The employee must have been employed for at least 12 months and worked at least 1,250 hours for the employer during the prior 12-month period. The leave may be taken to participate in school activities directly related to the educational ad-

vancement of the employee's child; to accompany the employee's child to routine medical or dental appointments; or to accompany an elderly relative to routine medical or dental appointments or appointments for other professional services related to the elder's care. Employees must provide seven days notice unless the leave is not foreseeable, in which case notice is required as soon as practicable. Violations of the act may be enforced by criminal prosecutions by the Attorney General with a fine of \$500 and civil actions by aggrieved employees, including triple damages, litigation costs and attorney's fees.

1. Chapter 101 of the Acts of 1998 amended an earlier version and is retroactive to November 13, 1997, the date the earlier version was enacted.
2. Chapter 109 of the Acts of 1998 which add G.L. Chapter 149 §52D.

Planned Distributions of Hampden County Funds

Financial statements for the Hampden County Government, which was abolished as of July 1, 1998, have been completed and filed with the Secretary of Administration and Finance. According to Director of Accounts Jim Johnson, two categories of funds will result in distributions to municipalities. Eight cities and towns will share in the residual balance in the county dog fund. Chester, Granville, Holland, Holyoke, Palmer, Southwick, Wales and Westfield will share \$73,686. Appropriation of these funds is restricted to libraries or schools.¹

Six cities and towns have assumed operation of the Hampden Regional Animal Control Center. Chicopee, Granby, Hampden, Holyoke, Southampton and Springfield will receive the \$31,434 balance from the comparable county operation.

Mayors or selectmen of these cities and towns have received notice of the distributions. ■

1. M.G.L. Ch. 140, § 172.

Questions & Answers

➡ *continued from page two*

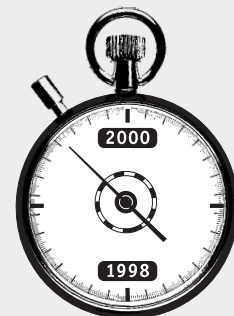
Q: *A finance committee member noted that a particular vendor received substantial payment for supplies furnished to the town. The member was also aware that the law authorizes the board of selectmen and accountant to disapprove payment if fraudulent, unlawful or excessive.⁷ Would the term "excessive" give discretion to selectmen and the accountant to disapprove payment if the purchase is deemed imprudent?*

A: No. These statutes merely permit the selectmen or accountant to disapprove the payment of a bill if it is in excess of the unencumbered balance in the department's budget or if the bill exceeds the contract price for goods or services. ■

written by James Crowley

1. M.G.L. Ch. 121A § 10 and M.G.L. Ch. 59 § 5 Cl. 47.
2. M.G.L. Ch. 59 § 21C(f).
3. M.G.L. Ch. 59 § 71.
4. M.G.L. Ch. 41 § 108.
5. M.G.L. Ch. 44 § 68.
6. M.G.L. Ch. 59 § 21C (a).
7. M.G.L. Ch. 41 §§ 52 & 56.

Countdown to Y2K



Municipal Fiscal Calendar

August 1

Taxpayer: *Deadline for Paying 1st Quarterly Tax Payment M.G.L. Ch. 59, Sec. 57C: Deadline for Payment Without Interest*

Taxpayer: *Annual Boat Excise Return Due*

Accountant: *Notification of Total Receipts of Preceding Year*

August 15

Assessors: *Deadline to Vote to Seek Approval for Authorization to Issue Preliminary Tax Bills*

Treasurer: *4th Quarter Reconciliation of Cash for the Previous Fiscal Year (due 45 days after end of quarter)*

August 31

Taxpayer: *Last Filing Day for Classified Forest Land, M.G.L. Ch. 61*

Assessors: *Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for semi-annual bills)*

September 15

Treasurer/Collector: *Compensating Balance Report*

Account/Superintendent/School Committee: *Jointly Submit End of Year Report to the DOE*

September 30

State Treasurer: *Notification of Quarterly Local Aid Payments on or Before September 30*

Opportunities for Training

Course 101, *Assessment Administration: Law, Procedures, Valuation* will be given at the University of Massachusetts in Amherst, August 9–13, 1999, from 8:30 a.m. to 4:00 p.m.

A Classification Training Workshop will be given on Wednesday, August 11, 1999, at the Campus Center, University of Massachusetts, Amherst at 10:00 a.m.

Contact Barbara LaVertue, training coordinator, at (617) 626-2340 for more information. Registration for this course is through the Massachusetts Association of Assessing Officers. ■

Reminder

Please check to ensure that all correspondence sent to the Division of Local Services is using our new address:

Division of Local Services
PO Box 9490
Boston, MA 02205-9490

Local officials who have not changed to the new address risk delays and possible loss of correspondence.

Also, this address is for the Division of Local Services only. Tax returns or other forms belonging to the Department of Revenue should be sent directly to them.

Treasurers and accountants have been sending meals tax and sales tax returns to the DLS. The correct PO Box for meals tax is 7040 and for sales tax is 7039. The zip code for those boxes is 02204. ■

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 website at www.state.ma.us/dls or by writing to PO Box 9490, Boston, MA 02205-9490.

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