



Alan LeBovidge
Commissioner

Gerard D. Perry
Deputy Commissioner

City and Town

A Publication of the Department of Revenue's Division of Local Services



Volume 18, No. 2 February 2005

The Massachusetts Uniform Electronic Transactions Act

by Linda M. Hamel, Esq.

On February 18, 2004, every city and town in Massachusetts became subject to the Massachusetts version of the Uniform Electronic Transactions Act (MUETA), Chapter 133 of the Acts of 2003, codified at M.G.L. Ch. 110G (2004). This article summarizes what municipal officials need to know about MUETA.

1. MUETA Applies to Municipalities.

Prior to the effective date of MUETA, Massachusetts was subject to Title I of the Federal Electronic Signatures in Global and National Commerce Act (E-SIGN), which validated electronic signatures, contracts and other records used in the private sector, and electronic documents, including contracts, related to municipalities' procurement activities. However, E-SIGN did not validate electronic signatures and records used by local governments in their purely *governmental*, non-market related activities. Many state and local government activities revolve around non-market-related activities, such as issuing building permits, zoning decisions or tax bills. The MUETA, which replaced Title I of E-SIGN, validates electronic signatures, contracts and other records used in municipalities' market and purely governmental transactions. MUETA overrides state or local law enacted prior to its effective date that explicitly or implicitly requires a handwritten signature or use of paper documents in connection with municipal transactions.

2. MUETA Does Not Apply to Some Municipal Activities.

MUETA does not apply to certain electronic signatures, contracts or other

records used by municipalities, including, among others, those governed by the Massachusetts Uniform Commercial Code, Chapter 106, other than sections 1-107 and 1-206, section 2 and section 2A of Chapter 106; any notice of the cancellation or termination of utility services, including water, heat and power; or of the default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual; the cancellation or termination of health insurance or benefits or life insurance benefits, excluding annuities; or any document required by any statute, regulation or rule of law, to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials. Thus, for instance, MUETA would not validate a municipal housing authority's use of an e-mailed electronic notice of eviction to notify a municipal housing project resident of an upcoming eviction. Before relying on MUETA to validate a new electronic system or record, municipal officials must determine whether MUETA applies to the electronic signatures, contracts or other records at issue.

3. MUETA Makes Electronic Signatures, Contracts and Other Records Equal to Their Paper Counterparts, and Preserves Substantive Law.

Although MUETA puts electronic signatures, contracts and other records used by municipalities on the same legal footing as traditional paper documents, MUETA also preserves all other substantive law related to signatures, con-

tracts and other records. For example, although MUETA would validate the use of an electronic, online application for a building permit, it would not change state or local law mandating that the applicant provide particular information in the permit application.

4. MUETA Allows Municipalities to Satisfy Retention Rules by Using Electronic Records.

Under MUETA, if state or local law requires that a municipality retain a record, the municipality can retain that record in electronic form as long as the electronic record (1) accurately reflects the information set forth in the record after which it was first generated in its final form as an electronic record or otherwise and (2) remains accessible for later reference. Legal requirements for check retention can be satisfied by retention of an electronic record of the information on the front and back of the check.

[continued on page nine](#)

Inside This Issue

From the Deputy Commissioner	2
Legal	
Telecommunications Tax Decision	2
Focus	
Circuit Breaker Update	3
Record Homes Sales and Prices Reported	8
Examining Education Systems: The Office of Educational Quality and Accountability	10
DLS Update	
Ferry Embarkation Fee Revenues	11
Community Preservation Act Borrowings	11
Seminar on Foreclosure Offered	11
State House Profile	12
Robust Lottery Sales Reported	12



From the Deputy Commissioner

The Division of Local Services has recently completed a videotaped version of Course 101, the basic course for

assessors, which is now available in DVD format.

Attendance at Course 101 and successful completion of the examination satisfies minimum qualification requirements for assessors that were established by 830 Code of Massachusetts Regulation (CMR) 58.3.1. Assessors, and assistant assessors with valuation responsibilities, must fulfill minimum qualifications within two years of the date of their original election or appointment.

While Course 101 is generally accessible at various locations statewide, some limitations have been observed in offering the course in the traditional classroom setting. For example, there are no review sessions of Course 101 available for those who do not pass the examination. Although not intended to replace the traditional Course 101 classes, providing Course 101 in an electronic (DVD) format will help address these limitations. It can also be used as a training tool for municipal employees.

For more information on the Course 101 DVDs and how to borrow copies, refer to Bulletin 2005-02B, available online at www.mass.gov/dls/publ/bull/2005/2005_02B.pdf. You may also contact Joan Gourke at 617-626-2353.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

Telecommunications Tax Decision

by James Crowley

In early January the Supreme Judicial Court issued the long awaited decision of *RCN-BecoCom, LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005). The case stemmed from an appeal of an Appellate Tax Board (ATB) decision concerning the local assessment of telecommunications property. The ATB had ruled that RCN-BecoCom, LLC (RCN) qualified as a telephone company under state statute and its telephone personal property, therefore, should be centrally valued by the Commissioner of Revenue. The ATB, however, also determined that all of RCN's personal property was taxable locally since RCN as a limited liability company did not enjoy any corporate exemption. Unanimously, the Supreme Judicial Court upheld the ATB decision.

RCN is a Massachusetts limited liability company that is a multi-service provider offering telephone, cable television and Internet services in the Commonwealth. For fiscal year 2000 RCN requested the Commissioner of Revenue to value its personal property since M.G.L. Ch. 59 Sec. 39 requires the central valuation of "machinery, poles, wires and underground conduits, wires and pipes of all telephone and telegraph companies" by the Commissioner.¹ Under this statute, the Commissioner certifies his valuation results to local assessors where the personal property is located and the assessors must use these central valuations in calculating the local tax obligation. The rationale for central valuation, which was approved by the Legislature in 1915, was to assure consistency in valuation throughout the Commonwealth.

When the Commissioner declined to act on the ground that RCN did not qualify as a telephone or telegraph company,

RCN appealed to the ATB. The City of Newton then entered the fray since the valuation of RCN's taxable personal property in Newton was the subject of another appeal. The principal issue for the Supreme Judicial Court to decide was whether the ATB had properly classified RCN as a telephone company. The court observed that nowhere in M.G.L. Ch. 59 Sec. 39 did the Legislature define "telephone company." The Revenue Department argued that the term "telephone company" must be defined as of the date the statute was enacted, i.e., in 1915. In the early twentieth century, a telephone company referred to an entity *exclusively* involved in telephone type service. While DOR advocated for an "exclusivity" test to define a telephone company, the Newton assessors also proposed a "predominant nature of the business" test to determine eligibility. The Supreme Judicial Court rejected both tests. Instead, the court relied on the "substantiality" test that the ATB had employed. The ATB used a five factor substantiality analysis, which the court itself had originally used in *Fernandes Super Markets, Inc. v. State Tax Commission*, 371 Mass. 318 (1976) to determine the manufacturing classification of corporations.

The ATB listed these five factors as: financial receipts from telephone services, proportion of telephone receipts to total income, percentage of entire capital invested in telephone services, number of telephone service employees compared to total work force, and the ratio of telephone services to entire business activities. In reviewing the ATB's analysis, the court found that "extensive, careful and measured" findings supported the ATB's conclusion of a substantial telephone business. In the court's view, telephone companies had evolved over the decades to include more than just telephone service. The

[continued on page nine](#)

Focus

on Municipal Finance

Circuit Breaker Update

by Joan E. Gourke

This article provides an overview of the senior circuit breaker, which has been available in Massachusetts since 2001. It also discusses circuit breaker data derived from tax years 2001 through 2003. Data for tax year 2004 is not yet available, since the income tax filing season has not yet ended. Analysis of this data shows that although the number of communities in which filers claimed the circuit breaker credit rose only slightly from 2001 to 2003, there was a healthy increase in the number of senior citizens that claimed this credit, especially in the larger cities. Coupled with the fact that the amount of the maximum credit available more than doubled from tax years 2001 through 2003, this steady increase in the number of claimants resulted in the near tripling of the total value of circuit breaker credits claimed over this time span.

The "circuit breaker" is a tax credit program to assist low- and moderate-income elderly persons in paying property taxes and utility charges relating to their domiciles. Under this program (M.G.L. Ch. 127 Secs. 80 and 81 of the Acts of 1999), eligible homeowners and renters can receive a refundable credit on their state income taxes.

For the tax year beginning January 1, 2004, the maximum credit allowed is

\$820. If the credit due the taxpayer exceeds the amount of the total income tax payable for the year, the excess amount will be refunded to the taxpayer without interest.

To qualify for a credit, a person must be at least 65 years of age, occupy the subject property as his or her principal residence, and have had an income below a prescribed ceiling amount for the relevant calendar year. The taxpayer's total income cannot exceed \$44,000 for a single filer who is not the head of household, \$55,000 for a head of household, or \$66,000 for taxpayers filing jointly. Moreover, the assessed valuation of the real estate cannot exceed \$441,000.

The amount of the credit to which a qualifying person is entitled is the amount by which the taxpayer's property taxes, together with the eligible amount of that taxpayer's water and sewer charges, exceed 10 percent of the taxpayer's income. Taxpayers residing in communities that do not include water and sewer debt service in their property tax assessments may claim, in addition to their property tax payments, 50 percent of the water and sewer charges actually paid during the tax year when figuring their credit.

A senior who rents his or her domicile may also qualify for an income tax credit under circuit breaker tax credit program. The law presumes that 25 percent of a person's rent is for property

taxes and water and sewer bills. Accordingly, renters may claim the credit in the amount by which 25 percent of their annual rental payment is more than 10 percent of their total income. A renter whose rent is subsidized by the state or federal government through a rental assistance program, however, is not entitled to a tax credit under the program.

Tax credits received by qualifying seniors are not considered income for the purpose of obtaining eligibility or benefits under other means-tested assistance programs, including food, medical, housing energy and educational assistance programs.

Example for a Homeowner for Tax Year 2004 (in dollars)

Assessed value of home as of January 1, 2004	\$395,000
Single taxpayer's total income less certain deductions and exemptions	40,000
Real estate tax paid plus 50% of water and sewage charges	4,900
10% of total income	4,000
Real estate tax paid	4,900
Portion of real estate tax that exceeds 10% total income	900
2004 refundable credit limitation	820
Tax due	0
Total credit	820

Example 1

In order to safeguard the benefits of the tax credit program from the effects of inflation, the legislation contains language that automatically increases both the benefit amount and the eligibility limits in future years. The income, valuation and credit limits, set out in the statute, adjust automatically in synchrony with the consumer price index.

Table 1 shows the income threshold amounts for renters and homeowners, the assessed valuation threshold amount for homeowners, as well as the

continued on page eight

Circuit Breaker Credit Basics

— Income threshold amounts —

Tax year	Single indiv. not head of household	Head of household	Married filing joint return	Assessed valuation threshold amounts for homeowners	Maximum credit amount
2001	\$41,000	\$51,000	\$61,000	\$412,000	\$385
2002	42,000	53,000	63,000	425,000	790
2003	43,000	54,000	64,000	432,000	810
2004	44,000	55,000	66,000	441,000	820

Table 1

[illegible]

Municipality	No. of filers claiming credit 2001	Value of credits claimed 2001	Average credit per claimant 2001	No. of filers claiming credit 2002	Value of credits claimed 2002	Average credit per claimant 2002	Municipality	No. of filers claiming credit 2001	Value of credits claimed 2001	Average credit per claimant 2001	No. of filers claiming credit 2002	Value of credits claimed 2002	Average credit per claimant 2002
Millbury	56	\$17,054	\$305	59	\$28,569	\$484	Richmond	3	\$976	\$325	3	\$1,723	\$574
Millis	60	20,561	343	91	58,524	643	Rochester	10	2,754	275	12	8,206	684
Millville	9	2,892	321	15	7,911	527	Rockland	117	37,892	324	137	77,135	563
Milton	251	86,965	346	290	194,432	670	Rockport	73	24,447	335	84	48,380	576
Monson	27	9,000	333	28	14,219	508	Rowe	3	1,155	385	3	2,370	790
Montague	56	17,991	321	46	29,072	632	Rowley	20	7,186	359	29	18,223	628
Monterey	*	*	*	*	*	*	Royalston	*	*	*	*	*	*
Montgomery	*	*	*	3	1,514	505	Russell	10	3,526	353	5	2,795	559
Mt. Washington	n/a	n/a	n/a	*	*	*	Rutland	168	52,940	315	262	149,307	570
Nahant	35	12,088	345	40	26,001	650	Salem	37	13,032	352	47	29,989	638
Nantucket	*	*	*	5	2,532	506	Salisbury	101	32,562	322	148	87,807	593
Natick	279	94,962	340	326	200,621	615	Sandisfield	120	37,644	314	141	78,063	554
Needham	229	82,481	360	300	198,537	662	Sandwich	208	70,552	339	230	145,001	630
New Bedford	231	70,992	307	238	116,479	489	Saugus	58	20,080	346	92	48,333	525
New Braintree	4	1,520	380	5	1,821	364	Scituate	128	44,361	347	189	123,728	655
New Marlborough	n/a	n/a	n/a	*	*	*	Sharon	16	4,678	292	13	8,356	643
New Salem	*	*	*	49	30,511	623	Sheffield	28	9,176	328	26	12,600	485
Newbury	34	12,140	357	217	140,158	646	Sherborn	22	7,367	335	23	14,391	626
Newburyport	146	50,220	344	502	340,214	678	Shirley	10	3,285	329	13	7,113	547
Newton	428	148,887	348	5	1,821	364	Shrewsbury	115	36,381	316	151	87,928	582
Norfolk	38	13,602	358	51	32,159	631	Shutesbury	4	1,319	330	3	1,761	587
N. Adams	6	1,759	293	3	619	206	Somerset	36	9,713	270	58	19,315	333
N. Andover	131	44,153	337	197	129,961	660	Somerville	201	64,610	321	251	141,551	564
N. Attleborough	38	11,831	311	55	29,522	537	S. Hadley	155	53,265	344	160	96,482	603
N. Brookfield	7	2,425	346	5	1,226	245	Southampton	2	2,697	300	10	4,656	466
N. Reading	105	36,211	345	113	71,263	631	Southborough	58	19,691	340	63	37,185	590
Northampton	152	51,300	338	165	94,836	575	Southbridge	21	7,086	337	12	6,566	547
Northborough	71	24,743	348	94	54,936	584	Southwick	19	6,213	327	18	10,240	569
Northbridge	17	5,001	294	29	13,936	481	Spencer	7	2,188	313	11	4,504	409
Northfield	5	1,652	330	15	6,755	450	Springfield	400	123,851	310	387	192,043	496
Norton	31	10,018	323	48	26,172	545	Sterling	20	6,105	305	18	9,174	510
Norwell	93	32,762	352	110	75,459	686	Stockbridge	3	839	280	5	2,745	549
Norwood	206	62,700	304	262	136,301	520	Stoneham	284	94,677	333	368	226,717	616
Oak Bluffs	10	2,980	298	9	5,001	556	Stoughton	143	47,615	333	192	118,842	619
Oakham	3	1,155	385	5	3,773	755	Stow	47	17,503	372	65	44,673	687
Orange	9	2,892	321	12	5,373	448	Sturbridge	30	10,335	345	34	21,984	647
Orleans	18	5,372	298	16	8,462	529	Sudbury	118	43,298	367	144	101,947	708
Otis	*	*	*	3	83	28	Sunderland	16	5,577	349	19	10,710	564
Oxford	33	10,283	312	23	8,312	361	Sutton	23	7,349	320	27	16,834	623
Palmer	63	20,734	329	64	35,870	560	Swampscott	98	33,710	344	180	117,471	653
Paxton	19	6,437	339	19	10,601	558	Swansea	39	11,890	305	48	25,664	535
Peabody	163	50,918	312	243	129,643	534	Taunton	61	18,630	305	53	26,556	501
Pelham	10	3,489	349	11	5,739	522	Templeton	6	1,862	310	12	6,192	516
Pembroke	76	25,702	338	92	52,378	569	Tewksbury	129	40,420	313	166	94,693	570
Pepperell	19	5,773	304	30	16,721	557	Tisbury	10	3,394	339	12	6,436	536
Petersham	3	943	314	8	4,634	579	Tolland	n/a	n/a	n/a	*	*	*
Phillipston	*	*	*	116	59,733	515	Topfield	71	24,533	346	79	55,650	704
Pittsfield	126	39,877	316	116	59,733	515	Townsend	26	8,958	345	30	17,387	580
Plainfield	3	761	254	*	*	*	Truro	8	2,793	349	9	3,760	418
Plainville	34	11,732	345	40	26,110	653	Tyngsborough	45	15,358	341	49	28,789	588
Plymouth	242	81,691	338	282	161,593	573	Upton	15	5,038	336	21	11,334	540
Plympton	16	5,678	355	25	15,700	628	Uxbridge	49	16,612	339	55	29,322	533
Princeton	10	3,738	374	11	6,802	618	Wakfield	267	89,655	336	301	179,696	597
Provincetown	24	8,122	338	24	13,544	564	Wales	*	*	*	*	*	*
Quincy	562	183,543	327	817	489,092	599	Walpole	202	67,811	336	321	204,847	638
Randolph	164	51,932	317	186	101,657	547	Waltham	226	74,256	329	247	138,731	562
Raynham	55	17,424	317	67	36,946	551	Ware	22	6,095	277	21	8,995	428
Reading	295	105,090	356	332	212,559	640	Wareham	58	19,528	337	62	36,507	589
Rehoboth	24	6,763	282	34	18,185	535							
Revere	159	53,765	338	267	151,373	567							
All 25,643 \$8,519,448 \$332 31,356 \$18,477,910 \$589													

Source: Massachusetts Department of Revenue

*Totals for towns with less than three claimants have been left blank to maintain filers' privacy.

Table 2

Senior Circuit Breaker Credits Claimed by Community for Tax Year 2003

Municipality	Number of filers claiming credit	Value of credits claimed \$	Avg. credit per claimant \$	Municipality	Number of filers claiming credit	Value of credits claimed \$	Avg. credit per claimant \$	Municipality	Number of filers claiming credit	Value of credits claimed \$	Avg. credit per claimant \$
Unknown	15	9,208	\$614	Chicopee	248	\$120,502	\$486	Hatfield	20	12,340	\$617
Abington	177	120,095	679	Clarksburg	*	*	*	Haverhill	283	160,140	566
Acton	229	160,999	703	Clinton	69	37,034	537	Heath	3	2,430	810
Acushnet	54	26,774	496	Cohasset	77	54,991	714	Hingham	219	151,493	692
Adams	24	11,718	488	Collins	14	8,442	603	Hinsdale	3	1,166	389
Agawam	124	65,927	532	Concord	145	99,742	688	Holbrook	165	105,078	637
Amesbury	187	125,026	669	Conway	8	4,911	614	Holden	107	62,892	588
Amherst	116	77,398	667	Cummington	3	1,940	647	Holland	19	9,655	508
Andover	265	186,631	704	Dalton	36	18,679	519	Holliston	148	102,659	694
Arlington	754	502,983	667	Danvers	389	238,199	612	Holyoke	103	57,934	562
Ashburnham	19	9,453	498	Dartmouth	127	71,089	583	Hopedale	50	31,141	623
Ashby	13	7,187	553	Dedham	282	178,682	623	Hopkinton	97	65,034	670
Ashfield	16	9,239	577	Deerfield	31	15,204	490	Hubbardston	*	*	*
Ashland	174	110,913	637	Dennis	38	18,600	489	Hudson	82	44,915	548
Athol	19	7,692	405	Dighton	33	18,528	561	Hull	129	83,703	649
Attleboro	142	77,733	547	Douglas	19	11,650	613	Huntington	5	2,777	555
Auburn	57	26,669	468	Dover	9	6,447	716	Ipswich	134	83,860	626
Avon	31	15,934	514	Dracut	221	123,740	560	Kingston	79	51,170	648
Ayer	21	12,559	598	Dudley	11	4,373	398	Lakeville	23	11,899	517
Barnstable	272	156,787	576	Dunstable	21	13,532	644	Lancaster	31	16,661	537
Barre	10	6,125	613	Duxbury	132	88,247	669	Lanesborough	9	4,140	460
Becket	*	*	*	East Bridgewater	75	44,249	590	Lawrence	107	53,337	498
Bedford	195	129,561	664	East Brookfield	4	3,102	776	Lee	43	22,642	527
Belchertown	42	22,762	542	East Longmeadow	181	111,395	615	Leicester	24	12,439	518
Bellingham	71	38,350	540	Eastham	24	12,049	502	Lenox	39	24,952	640
Belmont	186	129,328	695	Easthampton	65	27,495	423	Leominster	138	73,923	536
Berkley	5	2,626	525	Easton	157	91,646	584	Leverett	7	4,927	704
Berlin	19	10,359	545	Edgartown	*	*	*	Lexington	349	245,045	702
Bernardston	17	8,748	515	Egremont	5	1,422	284	Leyden	5	4,050	810
Beverly	398	255,552	642	Erving	*	*	*	Lincoln	12	8,555	713
Billerica	220	130,960	595	Essex	30	18,010	600	Littleton	42	25,728	613
Blackstone	34	15,994	470	Everett	140	76,422	546	Longmeadow	191	126,781	664
Blandford	10	6,316	632	Fairhaven	80	41,315	516	Lowell	335	171,915	513
Bolton	26	17,943	690	Fall River	89	42,383	476	Ludlow	123	63,973	520
Boston	1,003	571,795	570	Falmouth	145	82,307	568	Lunenburg	67	40,618	606
Bourne	82	47,138	575	Fitchburg	148	77,933	527	Lynn	496	282,434	569
Boxborough	25	15,334	613	Foxborough	118	65,964	559	Lynnfield	171	122,629	717
Boxford	32	23,823	744	Frammingham	773	511,091	661	Malden	347	217,442	627
Boylston	36	22,684	630	Franklin	142	86,159	607	Manchester	41	27,251	665
Braintree	378	225,190	596	Freetown	27	13,365	495	Mansfield	103	61,527	597
Brewster	67	37,421	559	Gardner	44	23,815	541	Marblehead	180	110,140	612
Bridgewater	131	78,113	596	Georgetown	43	22,793	530	Marion	37	20,701	559
Brimfield	8	3,223	403	Gill	5	1,407	281	Marlborough	212	129,273	610
Brockton	406	234,191	577	Gloucester	203	124,761	615	Marshfield	240	152,434	635
Brookfield	16	9,873	617	Graton	64	35,005	547	Mashpee	86	49,513	576
Brookline	223	152,557	684	Granby	29	17,974	620	Mattapoisett	72	44,676	621
Buckland	4	2,576	644	Granville	6	3,745	624	Maynard	180	121,117	673
Burlington	182	102,365	562	Great Barrington	82	46,785	571	Medfield	128	89,409	699
Cambridge	132	84,582	641	Greenfield	206	119,443	580	Medford	657	417,395	635
Canton	160	99,662	623	Groton	59	37,821	641	Medway	106	67,014	632
Carlisle	28	21,928	783	Groveland	35	20,122	575	Melrose	411	271,238	660
Carver	48	33,398	696	Hadley	44	20,657	469	Mendon	25	14,085	563
Charlmont	7	5,670	810	Halifax	48	26,409	550	Merrimac	35	19,300	551
Charlton	11	6,693	608	Hamilton	101	70,633	699	Methuen	222	122,692	553
Chatham	20	10,922	546	Hampden	53	30,000	566	Middleborough	74	43,198	584
Chelmsford	584	389,575	667	Hanover	166	112,152	676	Middlefield	3	2,044	681
Chelsea	60	32,015	534	Hanson	77	47,095	612	Middletown	51	35,011	686
Cheshire	3	1,626	542	Hardwick	6	3,320	553	Milford	195	112,553	577
Chester	5	3,375	675	Harvard	25	14,727	589	Millbury	90	49,955	555
Chesterfield	5	2,763	553	Harwich	81	40,551	501	Mills	92	52,995	576

Municipality	Number of filers claiming credit	Value of credits claimed \$	Avg. credit per claimant	Municipality	Number of filers claiming credit	Value of credits claimed \$	Avg. credit per claimant	Municipality	Number of filers claiming credit	Value of credits claimed \$	Avg. credit per claimant
Millville	13	7,056	\$543	Rochester	18	9,905	\$550	Warwick	*	*	*
Milton	311	206,468	664	Rockland	169	107,678	637	Washington	*	*	*
Monson	37	16,295	440	Rockport	84	52,900	630	Watertown	328	\$208,141	\$635
Montague	96	62,822	654	Rowe	*	*	*	Wayland	161	113,558	705
Monterey	4	1,740	435	Rowley	39	24,019	616	Webster	44	27,639	628
Montgomery	4	1,369	342	Royalston	3	1,922	641	Wellesley	86	63,169	735
Mount Washington	*	*	*	Russell	3	1,852	617	Wenham	37	23,643	639
Nahant	45	26,673	593	Rutland	14	6,214	444	West Boylston	65	37,666	579
Nantucket	8	5,043	630	Salem	399	255,508	640	West Bridgewater	55	33,876	616
Natick	387	254,229	657	Salisbury	49	30,339	619	West Brookfield	11	5,993	545
Needham	275	193,415	703	Sandwich	3	1,060	353	West Newbury	33	22,435	680
New Bedford	343	186,936	545	Saugus	243	136,708	563	West Springfield	166	88,058	530
New Braintree	7	4,014	573	Scituate	253	167,538	662	West Stockbridge	5	2,082	416
New Marlborough	3	1,602	534	Seekonk	119	73,161	615	West Tisbury	5	2,691	538
New Salem	*	*	*	Sharon	224	161,897	723	Westborough	160	106,063	663
Newbury	55	34,767	632	Shelfield	17	11,046	650	Westport	31	15,469	737
Newburyport	246	180,776	654	Shelburne	26	15,091	580	Westwood	202	140,980	698
Newton	598	420,577	703	Sherborn	28	20,807	743	Weymouth	514	296,827	577
Norfolk	54	35,182	652	Shirley	17	9,429	555	Whately	9	4,882	542
Norham	3	899	300	Shrewsbury	184	102,226	556	Whitman	159	109,305	687
North Andover	252	188,857	670	Shutesbury	5	2,988	598	Wilbraham	141	85,048	603
North Attleborough	65	37,190	572	Somerset	71	31,655	446	Williamsburg	32	19,984	625
North Brookfield	12	7,367	614	Somerville	306	195,216	638	Williamstown	35	20,562	587
North Brookfield	135	86,884	644	South Hadley	175	97,406	557	Wilmington	179	105,101	587
North Reading	213	125,072	587	Southampton	17	10,349	609	Winchendon	16	7,351	459
Northampton	138	91,621	664	Southborough	100	64,044	640	Winchester	202	146,528	725
Northborough	29	13,517	466	Southbridge	22	11,644	529	Winthrop	139	91,088	655
Northbridge	10	6,616	662	Southwick	26	13,886	534	Woburn	254	140,708	554
Northfield	67	43,666	652	Spencer	10	4,990	499	Worcester	588	329,313	560
Norton	122	81,089	665	Spencer	525	283,697	540	Worthington	10	7,397	740
Norwell	324	190,917	589	Sterling	35	19,613	560	Wrentham	64	37,844	591
Oak Bluffs	14	9,336	667	Stockbridge	5	3,499	700	Yarmouth	201	119,610	595
Oakham	4	2,890	723	Stoneham	429	273,595	638	Out-of-state	135	79,805	591
Orange	22	13,729	624	Stoughton	221	131,096	593	All	38,847	\$23,853,312	\$614
Orleans	19	10,326	543	Stow	94	66,499	707	Source: Massachusetts Department of Revenue			
Otis	3	1,661	554	Sturbridge	36	24,448	679	*Totals for towns with less than three claimants have been left blank to maintain filers' privacy.			
Oxford	42	19,505	464	Sudbury	171	126,889	742				
Palmers	80	45,348	567	Sunderland	17	10,405	612				
Paxton	15	7,661	511	Sutton	27	15,675	581				
Peabody	457	259,794	568	Swampscott	184	124,609	677				
Pelham	13	9,199	708	Swansea	57	30,604	537				
Pembroke	112	64,536	576	Taunton	86	45,544	530				
Pepperell	44	24,233	551	Templeton	11	6,319	574				
Peru	*	*	*	Tewksbury	209	118,589	567				
Petersham	10	6,574	657	Tisbury	14	7,797	557				
Phillipston	*	*	*	Tolland	*	*	*				
Pittsfield	158	86,216	546	Topsfield	86	64,926	755				
Plainfield	*	*	*	Townsend	33	19,662	596				
Plainville	61	37,468	614	Truro	15	7,894	526				
Plymouth	339	203,478	600	Tyngsborough	77	47,023	611				
Plympton	26	18,084	696	Upton	29	19,571	675				
Princeton	14	10,318	737	Uxbridge	65	37,688	580				
Provincetown	25	15,010	600	Wakefield	359	224,037	624				
Quincy	936	594,573	635	Wales	*	*	*				
Randolph	233	128,407	551	Walpole	368	231,849	630				
Raynham	82	49,566	604	Walworth	345	196,995	571				
Reading	422	286,892	680	Ware	32	14,693	459				
Rehoboth	32	15,902	497	Wareham	89	52,726	592				
Revere	341	207,143	607	Warren	18	10,118	562				
Richmond	3	1,186	395								

Table 3

Circuit Breaker Update

continued from page three

maximum credit allowed for tax years 2001 to 2004.

Tables 2 and 3 show the number of filers claiming credit, the total value of credits claimed, and the average credit per claimant by community. *Table 2* relates to tax years 2001 and 2002, and *Table 3* relates to tax year 2003.

In 2001, the first year the senior circuit breaker tax credit was available, there were 334 communities with taxpayers claiming circuit breaker credits. While the circuit breaker legislation established the maximum credit amount for 2001 at \$385, it also provided that for subsequent tax years, the maximum credit amount will be an amount equal to \$750 multiplied by the cost-of-living adjustment. In 2001, the total value of credits claimed was \$8,519,448.

In 2002, the number of communities with senior circuit breaker credit claimants increased slightly to 335. However, the total value of credits claimed more than doubled from the total in 2001 to \$18,477,910.

Although the number of communities with circuit breaker claimants remained relatively stable from 2001 to 2002, it appears that the number of filers claiming credit was on the rise, going from 25,643 to 31,356. Most of the larger cities experienced increases in claimants. For example, the number of claimants in Boston increased from 620 in 2001 to 738 in 2002. In Quincy, the number increased from 562 to 817. The number of filers in Worcester increased from 362 to 428, but the number in Springfield decreased from 400 to 387. In Fall River, the number of claimants increased from 65 to 82.

In addition to the increase in the number of filers, another reason for the sharp increase in the total value of credits claimed from 2001 to 2002 was the fact that the maximum credit amount more than doubled from \$385 in 2001 to \$790 in 2002. As a result, the average credit per claimant rose 77 percent, from \$332 in 2001 to \$589 in 2002.

In 2003, 338 communities had circuit breaker claimants, and there were 38,847 filers claiming circuit breaker tax credits. This figure represents a 51 percent increase over the number of filers claiming credit in 2001 and a 24 percent increase over the number of claimants in 2002. The total value of credits claimed in 2003 (\$23,853,312) was almost triple the amount claimed in 2001. From 2002 to 2003, this amount increased by almost 30 percent.

The maximum credit increased to \$810 in 2003, which represents a 110 percent increase over 2001, but only a 2.5 percent increase over 2002. Compared to 2001, the average claim in 2003 (\$614) increased by 85 percent. From 2002 to 2003, the average claim increased by 4.2 percent. The number of claimants for Boston, Quincy, Springfield, Worcester and Fall River increased for all of these cities from 2002 to 2003. ■

Record Homes Sales and Prices Reported

According to figures released by the Massachusetts Association of Realtors (MAR) in November 2004, sales of detached, single-family homes and condominiums rose to their highest level in state history from July through September 2004. MAR attributed this strong housing market to "low mortgage rates, an improving labor market and rising inventory levels." MAR also reported that "[t]he unprecedented demand led to a 45th consecutive quarter of home price gains, and has the residential real estate market on a pace that would make 2004 the best year ever for home sales in the Bay State."

MAR also reported that across the state, detached single-family home sales "rose in all regions except Cape Cod and the Greater Fall River-New Bedford area, with greater Boston, Worcester County, and the South Shore each reporting year-to-year sales increases greater than the statewide rate of growth for the quarter." In the condominium market, "double-digit sales gains over 2004 third quarter activity occurred in all regional markets except southeastern and western Massachusetts, where sales declined modestly from year ago levels."

Data from MAR's report also found that housing prices continued to rise steadily across the state this past summer to

new record highs. In the detached single-family home market, the statewide median selling price increased 11.1 percent, from \$315,000 in the third quarter last year to \$350,000 in the comparable quarter of 2004. In addition, the statewide median selling price for condominiums climbed 15 percent in the past year, from \$233,000 in the three-month period from July–September 2003 to \$268,000 in the same quarter this year.

Sales and price data from the MAR report reflects transactions occurring through Realtor®-affiliated multiple listing services in the Commonwealth, and account for approximately 80 percent of all real estate sales in Massachusetts. ■

MUETA

continued from page one

5. MUETA Does Not Require Municipalities to Buy Any Particular Hardware or Software.

MUETA is technologically neutral; it does not require that municipalities purchase any particular software or hardware in order to create legally valid electronic signatures, contracts and other records.

6. MUETA Sets Standards for Electronic Signatures.

MUETA defines an electronic signature as "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record." It requires that, in order to be valid, electronic signatures created by municipalities identify, or "authenticate," the person creating the signature; that the authenticated individual have intent to sign; and that the electronic

signature be attached to or logically associated with the electronic record being signed.

7. State Agencies Can Set Standards for Electronic Municipal Signatures, Contracts and Other Records.

Under MUETA, the Commonwealth's Supervisor of Public Records and the Records Conservation Board can set standards with respect to municipalities' creation, maintenance and preservation of electronic records, signatures and contracts and the method of converting paper government records to electronic format. The Supervisor of Public Records and the Records Retention Board had already adopted some standards for electronic records prior to the enactment of MUETA, and are likely to issue more over the next few years. Municipal electronic records must adhere to such requirements.

Conclusion

The enactment of the MUETA has significantly impacted the legal environment in which municipalities use electronic signatures, contracts and other records. Municipal officials who plan to replace traditional ink signatures and paper documents used in municipal transactions with their electronic counterparts should consult with legal counsel regarding the impact of MUETA. ■

Linda M. Hamel is the general counsel of the Commonwealth of Massachusetts Executive Department's Information Technology Division and can be reached at Linda.hamel@state.ma.us.

The opinions expressed in this article are those of the author alone and do not represent the position of the Commonwealth of Massachusetts, the Massachusetts Department of Revenue, or the Information Technology Division.

Telecommunications Tax Decision

continued from page two

changing nature of the telecommunications industry had led historical telephone companies into becoming bundled service providers. According to the court, denying telephone status to companies such as RCN would effectively amount to a judicial repeal of M.G.L. Ch. 59 Sec. 39. Such action the court refused to take. Rather, the court invited the Legislature to reconsider the entire statutory framework in light of technological advances.

Having ruled in favor of RCN as to telephone company status, the court then addressed the taxability of RCN's personal property. The court noted that M.G.L. Ch. 59 Sec. 5 Cl. 16 granted exemptions to corporations. The court declined to extend corporate exemptions

to entities such as RCN that had made a voluntary business decision to operate in Massachusetts as a limited liability company. The court expressly refused to adopt a policy of granting Cl. 16 corporate exemptions to any business entity operating as a telephone company. Consequently, all of RCN's personal property in Newton was taxable, which amounted approximately to \$3 million in valuation.

In conclusion, the Supreme Judicial Court recognized that a multi-service business, substantially involved in telephone service, can enjoy telephone company status with resulting central valuation of its telephone service personal property and its shared personal property by DOR. Personal property

exclusively used for cable television or Internet service is to be valued by local assessors. Furthermore, most of the entity's personal property will be exempt if the business is a corporation. As a result, the form of ownership can have a significant impact on municipal tax revenues. Consequently, it appears that cable television property that is also used to provide telephone service (shared property) will no longer be subject to valuation by local assessors, and may also enjoy a corporate utility exemption under M.G.L. Ch. 59 Sec. 5 Cl. 16(l), if owned by a corporation that provides a substantial telephone service. ■

1. RCN-Beco was the first bundled carrier to file for central valuation.

Examining Education Systems: The Office of Educational Quality and Accountability

by Joseph Rappa, Ed. D.

In the spring of 2001, the Governor's office once again entered the arena of education reform by establishing the five-member Educational Management Audit Council (EMAC) and the Office of Educational Quality and Accountability (EQA). This new agency was a successor to the similar sounding 13-member Educational Management Audit Board (EMAB), created by Executive Order 393 in 1997 by Governor Weld. The EMAB was supported by Department of Revenue (DOR) auditors under the capable direction of Mr. Dieter Wahl. Independently, the Department of Education (DOE) had been conducting pilot reviews of schools and districts. The EMAB and the DOR auditors conducted a total of 42 district level audits from 1998 until 2001. These extensive financial audits are on file at DOR and at the EQA.

This reform agency originated from legislative action in 2000, M.G.L. Chapter 15, Section 55A, which created the EMAC. This initiative combined elements of both the DOR financial audit and the programmatic inspections conducted the DOE. The resulting review process, adopted by the EQA was approved by the EMAC, and employs a protocol with 15 standards, representing five domains of administrative practice. The five domains are Leadership and Governance, which focuses on the policy and role of the superintendent, school committee, and the district leadership team; Curriculum and Instruction, which examines the learning expectations for students and teaching quality expectations applied by the district; Assessment and Evaluation, which are the district's practices involving the testing of students, and the evaluation

of staff, administrators, programs and purchases; Budget, Finance, and Capital Asset Management, which is the process of budget development, asset and resource management and the efficient and effective use of all funds and capital assets to promote quality education; and Student Academic Support Services, which is the extent to which the district uses its resources to assure that all students meet the state's performance standards for students, as measured by the MCAS tests. The central question of the EQA's process is "To what extent is the critical analysis of student achievement data a driving force in the planning, design, implementation, and evaluation of the school and district improvement process?"

Key Elements

The multi-level EQA examination process has several features that are unique to Massachusetts and our practice of conducting educational audits. First, all of the examiners used by the EQA are subjected to a two-part training, which involves a two-week seminar and over 120 hours of internships and a guided orientation to the process. Currently, there are 48 examiners at the EQA with a combined total of over 1,000 years of experience in the field of education and finance. Examiners take over three weeks to preview, review and evaluate a school system using the domains and standards discussed above. A week is spent reviewing district and state supplied documents covering the four-year examination period. Standards-based questions are generated based on this review. Then, a team of four to six examiners spend four days conducting on-site investigations and interviews. After a period of reflection, the team reconvenes to evaluate the evidence, produce findings, and rate the quality of the administrative practices of the district.

In addition to public school officials and school committee members, municipal officials are interviewed. The financial

review also takes into account all grants, foundation funds, endowments, and other revenue from all sources. This last element is unique to the Massachusetts process. Most discussions of school funding do not include the use and impact of grant, foundation and endowment funds. In Lowell, for example, that would mean that approximately \$20 million would not be included in other review processes, and in Springfield, that figure would be over \$40 million.

Since beginning the district review process in the spring of 2002, over 75 school districts and 25 charter schools have been examined by the EQA. Clearly, the larger urban systems are of greatest interest and involve the largest budgets. As of March of 2005, every major urban area in the Commonwealth will have been examined. To date, in addition to the examinations, the EMAC has recommended seven school districts to the State Board of Education (BOE) for declarations of "under-performance"; the BOE made declarations of "under-performance" on three of them: Holyoke, Winchendon, and Southbridge. In addition, over 14 districts have been placed on "Watch," a monitored, locally-directed improvement process that is re-examined after 18 to 24 months.

In the last year, the EQA's work and capacity has grown. At present, in addition to the executive director, the EQA employs a chief operations coordinator, two full-time field coordinators, two part-time coordinators, two administrative assistants, and a publications and writing staff of three. These staff work with over 47 contracted field examiners to conduct over 50 district examinations annually. In FY2005, there are two to three examination teams in the field every week. For those interested, the EQA's standards, protocols, and reports can be found on the web at www.mass.gov/doe/sda/eqa/. ■

DLS Update

Ferry Embarkation Fee Revenues

Port communities on the Cape and Islands realized more than \$1 million from January 1 through September 30, 2004, the first nine months they were authorized to charge a fee on passenger ferry trips. Section 11 of Chapter 55 of the Acts of 2003, as amended by Sections 44–47 of Chapter 65 of the Acts of 2004, allows any city or town within the counties of Barnstable, Nantucket, Bristol, and Dukes to impose an embarkation fee of \$.50 on all passenger ferry trips leaving from a port within the city or town (see Technical Information Release (TIR) 04-18, available at www.mass.gov/dor/rul_reg/tir/TIR_04_18.htm).

In addition, all commuter excursion fares and school-related fares are exempt from the fee. Under the legislation that was originally passed, a city or town could set the fee at any amount up to \$1 and had the option of exempting the commuter excursion fares.

Acceptance of this law is by referendum placed on the city or town election ballot by the selectmen, town council or city council with the approval of the mayor of any city or town with a port. The question passes by a majority vote. The fee takes effect on January 1 of the calendar year after the acceptance.

Ferry operators pay the fees to the Department of Revenue (DOR) on a quarterly basis, and the state treasurer distributes the funds quarterly. The monies received are deposited in a special fund to be appropriated by the city or town for the purpose of mitigating the impact of ferry service on the municipality.

So far, Barnstable, Falmouth, Tisbury, Oak Bluffs and Nantucket all approved the fee. The communities that do not share a harbor with any other city or town (Falmouth, Tisbury, Oak Bluffs and

Nantucket) receive 100 percent of the receipts. However, since Barnstable shares a harbor with Yarmouth (a town that does not have ferry service), 25 percent of the receipts are credited to Yarmouth, while Barnstable receives the balance.

The following table shows the amount collected by each of these communities from January 1 through September 30, 2004.

Ferry Fee Collections

Barnstable	\$144,136
Falmouth	351,230
Nantucket	163,167
Oak Bluffs	190,594
Tisbury	217,659
Yarmouth	46,913
Total	\$1,113,699

Table 1

Community Preservation Act Borrowings

A question was raised as to the borrowing authority of cities and towns that have accepted the Community Preservation Act (CPA) established by M.G.L. Ch. 44B. Specifically, a local official inquired whether a community may borrow only in reliance on the local CPA surcharge revenue expected to be received in subsequent years and may not borrow against the state matching funds.

M.G.L. Ch. 44B Sec. 11 authorizes municipalities to "issue, from time to time, general obligation bonds or notes in anticipation of revenues to be raised pursuant to Section 3, the proceeds of which shall be deposited in the Community Preservation Fund." In our view, a plain reading of the phrase "in anticipation" of surcharge revenue indicates a legislative intent to limit the amount that a municipality may borrow under M.G.L. Ch. 44B for community preser-

vation purposes. Consequently, a city or town may not issue bonds and notes under M.G.L. Ch. 44B unless the debt service on the proposed borrowing as well as on all previously issued debt can be accommodated within local surcharge revenues that are expected to be raised by taxation over the life of the bond payment schedules. If surcharge revenues alone should later prove insufficient, however, the debt service is to be paid from any other fund monies available for that community preservation purpose.

It must also be noted that all CPA borrowings are general obligation debt of the community. Therefore, in the event that fund monies are not available to meet the annual debt service payments, then the payments must be made from other available municipal revenues.

Seminar on Foreclosure Offered

Lieutenant Governor Kerry Healey is offering a seminar for local officials entitled "Understanding the Tax Foreclosure Process." This seminar will be held on Thursday, March 3, 2005, from 10:30 a.m. to 1:00 p.m. in the Gardner Auditorium at the State House.

Some of the scheduled panelists (subject to change) include: The Honorable Deborah Patterson and John Harrington of the Land Court; Robert J. Kerwin of the City Solicitors Association; Nils Nordberg of the Massachusetts Collectors & Treasurers Association; and Christopher Hinchey, Esq. of the Division of Local Services.

Please note that due to the size of the auditorium, only two individuals per municipality can attend. Please contact sarah.a.maloney@state.ma.us for more information. ■

State House Profile: Special Assistant to the Lieutenant Governor

For Lieutenant Governor Kerry Healey, facilitating communication between the Romney-Healey administration and Massachusetts' 351 cities and towns is a top priority. As Special Assistant to the Lieutenant Governor, **Jonathan Horka** plays a vital role in the events she holds with local officials, and other Massachusetts citizens, statewide. He has held this position since March 2004.

According to Jonathan, "I'm the guy that keeps the trains running on time." In other words, Jonathan oversees the operation of the Office of the Lieutenant Governor. He works closely with the Lieutenant Governor's Chief of Staff and Romney-Healey Administration Director of Municipal Affairs, Christopher Barrett, on issues that local officials bring to the attention of the administration. Along with Barrett, Jonathan makes it his top priority to provide local officials with the access they need to the executive branch of government.

While attending the University of Maryland, where he received a bachelor's degree in Logistics and Transportation and Marketing, Jonathan worked as a volunteer for some political organizations and campaigns. Jonathan joined the Romney-Healey campaign in 2002 and has gone on to work in the Office of Advance and Special Events and the Governor's Office of Intergovernmental and Legislative Affairs. While working in the legislative office, Jonathan focused on bills pending before the governor and home rule legislation.

Regarding his work for the Lieutenant Governor, Jonathan said that he appreciates "the public service aspect" of this position. He also said he especially enjoys "the fast pace" involved with "building public events," and also the fact that "there is no daily routine."

A native of Northborough, Jonathan resides in Cambridge. ■



Jonathan Horka

Robust Lottery Sales Reported

State lottery sales for the first half of FY05 rose 5.9 percent over the same six-month period in FY04. The Lottery had sales of \$2.2 billion for the months of July through December, surpassing FY04 mid-year revenues of \$2.1 billion. In FY04, the Lottery enjoyed a record-breaking year with \$4.3 billion in revenues.

State Treasurer Timothy P. Cahill, who serves as Lottery Chairman, said that "In FY04, the Lottery returned more than \$700 million in local aid to the Commonwealth."

Cahill credited a number of factors for the successful start in FY05, including restored lottery advertising after a seven-year hiatus, as well as an increase in instant ticket sales. So far this fiscal year, instant ticket sales have grown by more than \$183 million. He also noted that Mega Millions, the new Cash WinFall game, the Numbers Game and Megabucks have enjoyed robust sales this year.

The Legislature increased the Lottery's FY05 advertising budget from \$5 million to \$7 million. ■

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.

Joan E. Gourke, Editor

To obtain information or publications, contact the Division of Local Services via:

- website: www.mass.gov/dls
- telephone: (617) 626-2300
- mail: PO Box 9569, Boston, MA 02114-9569