



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, BOSTON 02133

A. JOSEPH DeNUCCI
AUDITOR

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September 8, 2009

Theodora K. Eaton, President
Massachusetts Town Clerks' Association
Town of Needham
1471 Highland Avenue
Needham, Massachusetts 02492

Dear Ms. Eaton:

This letter is in response to your request on behalf of the Massachusetts Town Clerks' Association and all city and town clerks throughout the Commonwealth regarding the cost of conducting the upcoming special state primary and special state election for United States Senate set for December 8, 2009 and January 19, 2010, respectively. As you know, Proposition 2 ½, passed in 1980, mandated that municipalities must be reimbursed for the costs of new state mandates. My Division of Local Mandates is charged with determining whether a new law is a mandate and the costs of that mandate.

Chapter 236 of the Acts of 2004 repealed prior law that would have avoided the cost of special elections by utilizing the traditional election schedule. In contrast, current law now requires the Governor to call an election within 145 to 160 days from the date a vacancy occurs. After a review of the pertinent statutes and case law, my Division of Local Mandates (DLM) has determined that Chapter 236 of the Acts of 2004 is a state mandate subject to the provisions of the Local Mandate Law. Further, DLM has prepared an *initial* statewide estimate of \$7.2 million in costs imposed on cities and towns pursuant to this mandate. Additional costs will be incurred as discussed below.

At this time, DLM can provide a *limited* statewide estimate of the cost of conducting the upcoming special primary and general elections. Based on recent election survey work conducted by DLM, my staff has identified \$7.2 million in direct election day costs for election day workers and law enforcement personnel. It is important to note that these costs are in addition to the state costs that Secretary of State Galvin has determined will be required by his office.

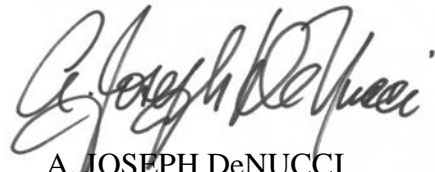
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However, the final cost to cities and towns will be significantly greater than this initial estimate. This is because cities and towns will also incur costs throughout the election process, including certifying nomination papers, printing voting lists, mailing and processing absentee ballots, programming voting equipment, setting up and breaking down each polling place, renting private facilities, closing the elections process, certifying returns, and counting ballots in those locations that do not use electronic voting equipment.

Thus the \$7.2 million estimate will serve as a minimum level of funding needed to cover these costs. To establish a maximum level of funding, I propose that we use as a basis, the municipal costs associated with the most recent statewide primary and general election. This amount, less the reimbursements received from the state or federal government for certain costs, will serve as a maximum level of funding needed for the upcoming special election. A reserve account established at the Executive Office of Administration and Finance should be funded for the purpose of reimbursing cities and towns for documented costs within this range of costs. My office will work with Secretary of State Galvin and the Massachusetts Town Clerks' Association to identify all mandated final costs to be reimbursed.

I look forward to working with you and our colleagues in government on a satisfactory resolution of these important matters.

Sincerely,



A. JOSEPH DeNUCCI
Auditor of the Commonwealth

cc: His Excellency Deval Patrick, Governor of the Commonwealth
Honorable William Galvin, Secretary of State
Honorable Therese Murray, Senate President
Honorable Robert A. DeLeo, Speaker of the House of Representatives
Honorable Steven C. Panagiotakos, Chair, Senate Ways & Means Committee
Honorable Charles A. Murphy, Chair, House Ways & Means Committee
Leslie Kirwan, Secretary of Administration & Finance