



Alan LeBovidge  
Commissioner

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Deputy Commissioner

# City and Town

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## WFB Works for Cities and Towns

by Tim Connolly

The Massachusetts Department of Revenue (DOR) is using E-Government to make compliance with the Commonwealth's tax laws simpler and more efficient. This year, DOR has implemented a new WebFile for Business (WFB) application. Massachusetts companies can use this application to register online, file many of their tax and unemployment insurance returns and make payments electronically. Businesses are now able to manage their tax accounts online, just as many of us manage our personal accounts using online banking services.

Similar to businesses, cities and towns can realize many benefits by using the WebFile for Business application. "The future is now," said Department of Revenue Commissioner Alan LeBovidge. "This filing season we'd like to encourage cities and towns to make the switch to filing withholding tax returns by computer and pay the tax due by electronic funds transfer. The technology exists and we want to take advantage of that. All cities and towns, regardless of their

size, should log on to [www.mass.gov/dor](http://www.mass.gov/dor) to try WebFile for Business."

The Division of Local Services (DLS) has already embarked on its own E-Government initiative by working to expand the use of electronic submissions by municipalities. In addition, since July 1, 2003, the Division began distributing only electronic versions of IGRs, Bulletins, and other notices, forms and letters. Using the WebFile for Business application is another way for municipalities and the Department of Revenue to work together more efficiently.

"The best part of WebFile is that a municipality can manage its tax accounts online," LeBovidge said. "It is a safe, secure way to do business with DOR. We think it will be a convenient tool for cities and towns."

DOR has expanded its electronic tax return mandate to include all employers, operators and vendors that withhold income taxes or remit room occupancy or sales and use taxes (the so-called trustee taxes) with a total annual liabil-

ity of \$10,000 or more. DOR already requires electronic filing for those with annual liability of these taxes of \$100,000 or more, as well as all new businesses.

As employers, all municipalities can use the redesigned WebFile for Business application to file and pay income withholding. WebFile provides an option to file and pay unemployment insurance contributions online to the Division of Employment and Training.

In the first quarter of fiscal 2004, DOR has collected more than \$3 billion in electronic funds transfers (EFT). That's \$1 billion more in EFTs than during the first quarter of fiscal 2003. More than 77,000 businesses, including payroll companies, are filing tax returns and paying taxes without mailing any paper to DOR.

Although about 68 percent of the Commonwealth's businesses do not qualify for the E-File mandate, DOR still encourages businesses to join the 21st century and try WebFile for Business. By Janu-

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## DOR Urges Municipalities to E-File Wage Reports

by Teresa L. O'Brien-Horan

In addition to the many other features highlighted on this cover page of *City & Town*, businesses can also fulfill their wage reporting obligations using WebFile for Business (WFB). The Quarterly Report of Wages Paid (Form WR-1) can be filed electronically using one of several different quick and convenient methods. Using WFB, businesses can choose to enter their quarterly wage information online. Larger businesses

may want to take advantage of the file upload of wage data that is available through WFB or may select the Secure File Transfer option. Details and specifications for each of these filing methods are available on the Department's website at [www.mass.gov/dor](http://www.mass.gov/dor).

During the Department's review of the electronic filing of wage reports, it has become clear that a number of cities

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### From the Acting Deputy Commissioner

In an effort to provide more information to local officials that is easily accessible and understandable, the

Division of Local Services (DLS) has designed its first series of Frequently Asked Questions (FAQs). These are now available on the DLS website ([www.mass.gov/dls](http://www.mass.gov/dls)) under the heading "What's New."

This series of FAQs contains questions and answers that relate to motor vehicle excise bills, exemptions and abatements. Links to more detailed information, such as forms and legal citations, are included in the answers. This FAQ section also provides links to additional resources, such as the Division's *Motor Vehicle and Trailer Excise Manual*, the Registry of Motor Vehicles and the Massachusetts General Laws website.

In a clear and concise manner, these FAQs address the significant number of telephone inquiries that the Division routinely receives regarding motor vehicle excise. While this feature provides the information that is most commonly requested, it is also a time saver for DLS staff. Therefore, we encourage local officials, as well as private citizens, to become familiar with this new FAQ section.

The motor vehicle excise FAQs are just the first in a series of FAQs on several municipal finance topics that the Division intends to provide on our website. In the future, we intend to expand the series to address such topics as the Community Preservation Act, state-owned land and local aid.

If you would like to offer any feedback on this feature, e-mail Joan Grouke at [groukej@dor.state.ma.us](mailto:groukej@dor.state.ma.us).

**Gerard D. Perry**  
Acting Deputy Commissioner

# Legal

## in Our Opinion

### Contract Zoning Case Decided

by James Crowley

The Supreme Judicial Court issued a long awaited decision on the subject of "contract zoning" in August 2003. The case is *Durand v. IDC Bellingham, LLC*, 440 Mass. 45 (2003). Here, residents in the Town of Bellingham brought suit challenging the rezoning of a parcel by town meeting. They alleged the town meeting vote was invalid since a power company had offered to give \$8 million to help construct a new town high school in return for a change in zoning.

The subject parcel had long been considered a good site for economic development. The property, however, was zoned for agricultural and suburban use. At an open town meeting in May 1995, a proposal to rezone the parcel for industrial use failed to obtain the required two-thirds approval of town meeting. IDC, which operated a power plant in Bellingham, acquired an option to purchase the property. IDC approached the selectmen in 1997 with a proposal to build a second power plant on the subject parcel. Town officials were very interested in increasing the tax base. Yet, during the negotiations town officials mentioned that, due to a budget shortfall, the town needed \$8 million to build a new high school. IDC promised an \$8 million gift to the town, which could be used for any public purpose. Payment would be made if the power plant were built and operated successfully for one year.

In May 1997 another town meeting was held to rezone the subject parcel. IDC presented to town meeting its proposal to build a second power plant and publicly promised to give \$8 million to the town upon construction of the power plant. Town officials endorsed the re-

zoning and the article passed by more than two-thirds vote of the town meeting.

Lengthy negotiations then ensued between IDC and the town as to the size of the power plant. Ultimately, a final agreement was reached. IDC received special permits from Bellingham's Zoning Board of Appeals in January 2001. Eight taxpayers who owned property abutting the parcel promptly filed a lawsuit in Land Court in January 2001 against IDC and the town. The Land Court ruled in favor of the plaintiffs. The Land Court judge found that IDC's promise of \$8 million to build the high school was "extraneous consideration" unconnected to the project and did not mitigate the impact of the power plant. The Land Court held that the offer of this gift was, in and of itself, sufficient to nullify the rezoning vote by town meeting. The town appealed and the Supreme Judicial Court (SJC) agreed to hear the case.

In a 4-3 decision the SJC ruled that the rezoning was valid. The court held that the voluntary offer of money or other public benefits, beyond what might be necessary to mitigate development, is not, by itself, an adequate ground to invalidate a town meeting vote. The court observed that the "extraneous consideration" language, which was cited by the Land Court judge, was a remark written by the SJC itself in a 1962 Newton decision. The SJC did note that the Appeals Court in two decisions had recognized "extraneous consideration" as a ground on which to challenge a zoning ordinance. Yet, both Appeals Court decisions had upheld the zoning ordinances that had been challenged.

In the case at hand, the SJC found no reason to invalidate the rezoning on the ground of "extraneous consideration" since the enactment of a zoning bylaw

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# Focus

## on Municipal Finance

### Proposition 2½ Referendum Trends

by Joe Markarian

Proposition 2½ was approved by Massachusetts voters on November 4, 1980, and incorporated in the General Laws as Chapter 59, Section 21C. Since FY82, its first year of implementation, the measure has functioned as the primary source of rules for raising property taxes by cities and towns.

It is a law that places two constraints on the amount of the tax levy that can be raised by a city or town and how much the levy can be increased from year to year. These constraints are called the levy ceiling and the levy limit. The levy

ceiling is determined by multiplying the total full and fair cash value of all taxable real and personal property in a community by 2.5 percent. The levy ceiling may change annually as property is added or deleted from the tax rolls and due to adjustments for market value fluctuations.

Secondly, and more importantly, is the levy limit, which is the maximum amount that a community can raise through taxation in any given year. To calculate the current year's levy limit, the prior year's levy limit is multiplied times 1.025, then increased by new growth.

The levy limit is increased from year to year as long as it remains below that year's levy ceiling. Each year, a commu-

nity's levy limit automatically increases by 2.5 percent over the previous year's levy limit. New growth is defined as a calculation of the net increase in municipal property values because of new construction/subdivision or return of exempt property to the tax rolls. A community is not obligated to tax to the limit annually. The difference between the actual tax levy and the levy limit is called excess capacity.

Proposition 2½ does, however, allow a community to increase its levy limit though the passage of an override and exceed its levy limit, or levy ceiling, through the passage of a debt or capital expenditure exclusion.

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#### Cherry Sheet Aid, FY1983–2004

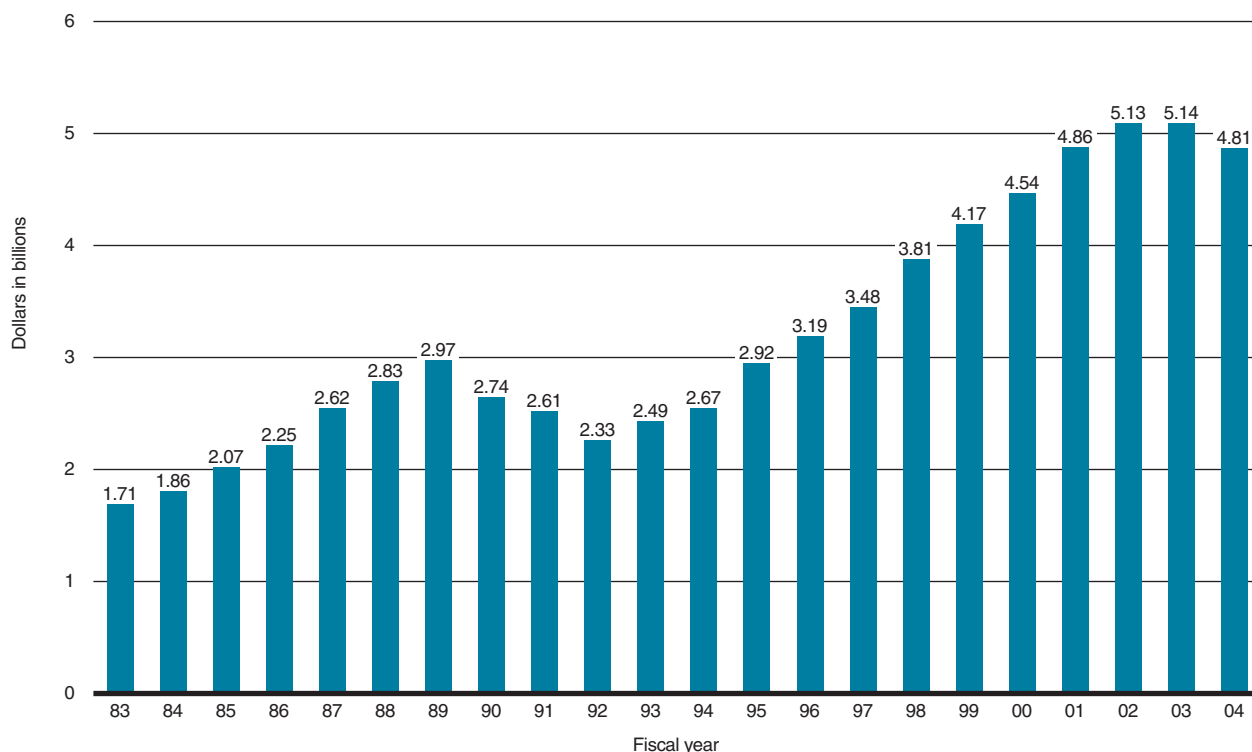


Figure 1

# Overrides by Community

Municipality	Overrides 1990-2004	Votes per year	Avg. override amount	Wins	Win pct.	Total win amount	Municipality	Overrides 1990-2004	Votes per year	Avg. override amount	Wins	Win pct.	Total win amount	Municipality	Overrides 1990-2004	Votes per year	Avg. override amount	Wins	Win pct.	Total win amount
Abington	4	0.3	740,932	2	50	1,078,000	Chesterfield	2	0.1	35,259	2	100	70,517	Hancock	2	0.1	8,500	2	100	17,000
Acton	7	0.5	956,742	3	43	2,878,000	Chicopee	0	0	0	0	0	0	Hanover	2	0.1	1,140,100	2	100	2,280,199
Acushnet	0	0	0	0	0	0	Chilmark	23	1.6	71,980	20	87	1,461,670	Hanson	26	1.9	158,446	4	15	662,217
Adams	1	0.1	275,000	0	0	0	Clarksburg	0	0	0	0	0	0	Hardwick	0	0	0	0	0	0
Agawam	0	0	0	0	0	0	Clinton	7	0.5	30,044	0	0	0	Harvard	18	1.3	117,566	4	22	1,762,395
Alford	1	0.1	40,000	1	100	40,000	Cohasset	18	1.3	242,924	7	39	1,780,385	Harwich	70	5	58,223	14	20	1,811,846
Amesbury	2	0.1	1,092,460	0	0	0	Colrain	5	0.4	52,890	1	20	90,000	Hatfield	20	1.4	36,135	2	10	27,000
Amherst	10	0.7	262,548	5	50	1,706,390	Concord	8	0.6	492,203	7	88	3,727,995	Haverhill	0	0	0	0	0	0
Andover	2	0.1	1,315,000	0	0	0	Conway	7	0.5	58,286	4	57	256,000	Hawley	1	0.1	15,000	1	100	15,000
Aquinnah	26	1.9	39,902	7	27	458,309	Cummington	0	0	0	0	0	0	Heath	5	0.4	58,809	5	100	294,045
Arlington	2	0.1	2,394,764	1	50	2,520,000	Dalton	7	0.5	186,507	0	0	0	Hingham	5	0.4	1,242,102	2	40	1,360,508
Ashburnham	21	1.5	171,466	4	19	847,450	Danvers	0	0	0	0	0	0	Hinsdale	4	0.3	100,300	3	75	275,637
Ashby	51	3.6	48,417	4	8	188,550	Dartmouth	0	0	0	0	0	0	Holbrook	6	0.4	563,167	2	33	1,132,000
Ashfield	4	0.3	60,950	3	75	243,799	Dedham	0	0	0	0	0	0	Holden	14	1	211,415	3	21	608,890
Ashland	2	0.1	577,500	1	50	0	Deerfield	3	0.2	200,838	3	100	602,515	Holland	83	5.9	25,755	24	29	676,060
Athol	13	0.9	291,869	0	0	0	Dennis	22	1.6	301,886	9	41	2,806,499	Holliston	5	0.4	203,000	2	40	460,000
Attleboro	0	0	0	0	0	0	Dighton	1	0.1	689,000	0	0	0	Holyoke	14	1	1,446,661	4	29	5,104,000
Auburn	1	0.1	243,000	0	0	0	Douglas	11	0.8	100,967	3	27	200,400	Hopedale	3	0.2	239,000	1	33	382,000
Avon	2	0.1	595,804	1	50	962,614	Dover	8	0.6	172,020	7	88	1,295,163	Hopkinton	8	0.6	316,934	3	38	1,797,899
Ayer	12	0.9	177,130	3	25	764,119	Dracut	10	0.7	588,623	0	0	0	Hubbardston	8	0.6	123,333	0	0	0
Barnstable	2	0.1	2,750,000	1	50	1,700,000	Dudley	2	0.1	466,900	0	0	0	Hudson	3	0.2	609,889	1	33	699,684
Barre	0	0	0	0	0	0	Dunstable	10	0.7	70,372	4	40	453,750	Hull	2	0.1	405,000	0	0	0
Becket	5	0.4	57,700	1	20	90,000	Duxbury	4	0.3	839,017	1	25	1,000,000	Huntington	6	0.4	73,923	2	33	106,460
Bedford	0	0	0	0	0	0	E. Bridgewater	0	0	0	0	0	0	Ipswich	5	0.4	213,849	3	60	904,147
Belchertown	13	0.9	236,839	3	23	979,483	E. Brookfield	0	0	0	0	0	0	Kingston	5	0.4	72,913	0	0	0
Bellingham	1	0.1	352,671	0	0	0	E. Longmeadow	4	0.3	355,546	2	50	830,944	Lakeville	9	0.6	417,485	1	11	850,000
Belmont	4	0.3	2,152,764	3	75	7,494,946	Eastham	63	4.5	39,024	30	48	616,104	Lancaster	30	2.1	150,207	4	13	280,847
Berkley	1	0.1	230,611	0	0	0	Easthampton	13	0.9	153,278	3	23	249,564	Lanesborough	1	0.1	160,000	0	0	0
Berlin	37	2.6	24,894	11	30	362,724	Easton	7	0.5	475,768	2	29	2,129,633	Lawrence	4	0.3	1,813,949	0	0	0
Bernardston	4	0.3	180,228	2	50	203,913	Edgartown	23	1.6	113,528	15	65	2,852,957	Lee	5	0.4	117,213	1	20	228,683
Beverly	0	0	0	0	0	0	Egremont	3	0.2	91,333	2	67	170,000	Leicester	2	0.1	552,414	1	50	629,827
Billerica	14	1	242,233	0	0	0	Erving	1	0.1	175,000	1	100	175,000	Lenox	0	0	0	0	0	0
Blackstone	0	0	0	0	0	0	Essex	30	2.1	109,251	14	47	2,592,571	Leominster	0	0	0	0	0	0
Blandford	10	0.7	39,304	4	40	99,000	Everett	0	0	0	0	0	0	Leverett	14	1	49,054	8	57	430,871
Bolton	10	0.7	360,134	7	70	1,417,589	Fairhaven	1	0.1	741,000	0	0	0	Lexington	8	0.6	1,714,219	7	88	8,756,750
Boston	0	0	0	0	0	0	Fall River	0	0	0	0	0	0	Leyden	5	0.4	52,434	2	40	100,759
Bourne	2	0.1	1,255,000	1	50	2,285,000	Falmouth	2	0.1	1,332,943	1	50	980,000	Lincoln	11	0.8	516,636	7	64	2,593,000
Boxborough	5	0.4	128,600	2	40	113,000	Fitchburg	1	0.1	200,000	0	0	0	Littleton	1	0.1	361,344	1	100	361,344
Boxford	47	3.4	67,830	24	51	2,173,172	Florida	2	0.1	26,698	1	50	40,000	Longmeadow	3	0.2	2,683,333	2	67	4,400,000
Boylston	8	0.6	93,541	3	38	183,000	Foxborough	7	0.5	254,590	0	0	0	Lowell	0	0	0	0	0	0
Braintree	1	0.1	2,926,508	0	0	0	Framingham	10	0.7	1,410,094	4	40	11,650,938	Ludlow	0	0	0	0	0	0
Brewster	6	0.4	150,587	5	83	847,421	Franklin	2	0.1	2,425,175	0	0	0	Lunenburg	7	0.5	269,241	3	43	1,062,739
Bridgewater	8	0.6	175,611	0	0	0	Freetown	19	1.4	127,577	0	0	0	Lynn	0	0	0	0	0	0
Brimfield	5	0.4	188,051	1	20	253,034	Gardner	5	0.4	246,572	0	0	0	Lynnfield	1	0.1	884,409	1	100	884,409
Brockton	3	0.2	1,833,333	0	0	0	Georgetown	4	0.3	151,341	2	50	225,773	Malden	0	0	0	0	0	0
Brookfield	0	0	0	0	0	0	Gill	0	0	0	0	0	0	Manchester	4	0.3	386,033	3	75	344,131
Brookline	1	0.1	2,960,000	1	100	2,960,000	Gloucester	1	0.1	247,500	0	0	0	Mansfield	2	0.1	2,256,096	1	50	1,587,144
Buckland	21	1.5	24,121	7	33	120,085	Goshen	2	0.1	60,250	1	50	98,000	Marblehead	8	0.6	407,405	1	13	300,000
Burlington	0	0	0	0	0	0	Gosnold	1	0.1	7,219	1	100	7,219	Marion	53	3.8	46,122	34	64	1,774,583
Cambridge	0	0	0	0	0	0	Grafton	0	0	0	0	0	0	Marlborough	0	0	0	0	0	0
Canton	1	0.1	730,000	0	0	0	Granby	12	0.9	99,013	2	17	106,198	Marshfield	12	0.9	602,513	6	50	1,920,000
Carlisle	24	1.7	189,523	16	67	1,790,943	Granville	2	0.1	76,143	0	0	0	Mashpee	12	0.9	171,893	3	25	1,334,565
Carver	3	0.2	487,184	0	0	0	Grt. Barrington	8	0.6	425,211	2	25	724,760	Mattapoisett	56	4	61,840	22	39	1,660,829
Charlmont	5	0.4	58,325	1	20	95,000	Greenfield	1	0.1	1,358,297	1	100	1,358,297	Maynard	15	1.1	183,176	3	20	624,387
Charlton	16	1.1	131,182	5	31	221,481	Groton	3	0.2	379,692	3	100	1,139,075	Medfield	4	0.3	532,250	3	75	1,879,000
Chatham	94	6.7	30,331	54	57	1,997,455	Groveland	22	1.6	96,597	8	36	867,446	Medford	0	0	0	0	0	0
Chelmsford	8	0.6	820,271	2	25	2,605,000	Hadley	6	0.4	100,667	0	0	0	Medway	0	0	0	0	0	0
Chelsea	1	0.1	2,000,000	0	0	0	Halifax	16	1.1	126,426	2	13	489,618	Melrose	6	0.4	662,125	1	17	3,000,000
Cheshire	2	0.1	255,000	0	0	0	Hamilton	26	1.9	190,411	12	46	3,321,649	Mendon	6	0.4	311,625	2	33	561,589
Chester	22	1.6	14,875	8	36	97,309	Hampden	21	1.5	52,713	7	33	376,957	Merrimac	8	0.6	140,163	3	38	459,008

Municipality	Overrides 1990-2004	Votes per year	Avg. override amount	Wins	Win pct.	Total win amount	Municipality	Overrides 1990-2004	Votes per year	Avg. override amount	Wins	Win pct.	Total win amount	Municipality	Overrides 1990-2004	Votes per year	Avg. override amount	Wins	Win pct.	Total win amount
Methuen	0	0	0	0	0	0	Princeton	1	0.1	63,000	0	0	0	Tyngsborough	4	0.3	413,584	1	25	580,000
Middleborough	1	0.1	950,000	0	0	0	Provincetown	0	0	0	0	0	0	Tyringham	1	0.1	94,000	1	100	94,000
Middlefield	2	0.1	52,500	2	100	105,000	Quincy	0	0	0	0	0	0	Upton	6	0.4	337,103	3	50	1,257,529
Middleton	14	1	90,700	5	36	665,229	Randolph	0	0	0	0	0	0	Uxbridge	0	0	0	0	0	0
Milford	1	0.1	650,000	0	0	0	Raynham	19	1.4	242,006	0	0	0	Wakefield	1	0.1	760,000	1	100	760,000
Millbury	0	0	0	0	0	0	Reading	2	0.1	1,981,756	1	50	2,410,512	Wales	3	0.2	143,622	1	33	20,120
Millis	7	0.5	318,111	3	43	720,687	Rehoboth	0	0	0	0	0	0	Walpole	3	0.2	1,659,260	1	33	3,709,259
Millville	0	0	0	0	0	0	Revere	14	1	506,378	0	0	0	Waltham	0	0	0	0	0	0
Milton	6	0.4	1,018,133	6	100	6,108,797	Richmond	3	0.2	113,260	3	100	339,781	Ware	19	1.4	124,492	1	5	80,000
Monroe	0	0	0	0	0	0	Rochester	23	1.6	30,235	3	13	66,683	Wareham	1	0.1	336,532	0	0	0
Monson	17	1.2	146,458	0	0	451,000	Rockland	11	0.8	361,609	2	18	779,000	Warren	0	0	0	0	0	0
Montague	1	0.1	76,190	1	100	76,190	Rockport	5	0.4	564,547	5	100	2,822,735	Warwick	39	2.8	10,479	7	18	64,508
Monterey	1	0.1	65,000	1	100	65,000	Rowe	0	0	0	0	0	0	Washington	9	0.6	8,624	7	78	75,217
Montgomery	3	0.2	22,667	0	0	0	Rowley	40	2.9	89,248	6	15	409,759	Watertown	0	0	0	0	0	0
Mt. Washington	7	0.5	30,826	5	71	150,780	Royalston	10	0.7	19,570	1	10	16,000	Wayland	6	0.4	896,649	5	83	4,479,895
Nahant	5	0.4	107,921	2	40	328,488	Russell	0	0	0	0	0	0	Webster	0	0	0	0	0	0
Nantucket	25	1.8	260,857	5	20	4,100,000	Rutland	15	1.1	88,572	3	20	420,020	Wellesley	14	1	593,087	7	50	6,199,922
Natick	3	0.2	742,333	1	33	427,000	Salem	0	0	0	0	0	0	Wellfleet	47	3.4	57,114	33	70	1,744,135
Needham	21	1.5	1,270,733	12	57	2,493,016	Salisbury	24	1.7	178,388	7	29	1,100,067	Wendell	11	0.8	21,748	1	9	19,598
New Ashford	0	0	0	0	0	0	Sandisfield	9	0.6	19,823	5	56	97,347	Wenham	8	0.6	165,171	7	88	1,186,903
New Bedford	0	0	0	0	0	0	Sandwich	29	2.1	335,560	6	21	2,887,130	W. Boylston	1	0.1	200,000	1	100	200,000
New Braintree	12	0.9	27,820	1	8	1,690	Saugus	0	0	0	0	0	0	W. Bridgewater	5	0.4	271,583	1	20	62,500
New Marlborough	3	0.2	68,333	1	33	60,000	Savoy	8	0.6	19,698	2	25	29,039	W. Brookfield	0	0	0	0	0	0
New Salem	21	1.5	16,929	11	52	246,528	Scituate	2	0.1	1,161,610	2	100	2,323,220	W. Newbury	12	0.9	108,973	4	33	650,225
Newbury	11	0.8	137,742	6	55	761,534	Seekonk	5	0.4	561,290	0	0	0	W. Springfield	0	0	0	0	0	0
Newburyport	0	0	0	0	0	0	Sharon	12	0.9	894,222	6	50	8,029,220	W. Stockbridge	3	0.2	247,800	2	67	472,375
Newton	2	0.1	8,250,000	1	50	11,500,000	Sheffield	7	0.5	223,526	4	57	779,650	W. Tisbury	78	5.6	52,340	37	47	2,669,807
Norfolk	15	1.1	220,402	10	67	1,624,681	Shelburne	5	0.4	58,721	3	60	210,593	Westborough	0	0	0	0	0	0
N. Adams	0	0	0	0	0	0	Sherborn	7	0.5	312,357	7	100	2,186,500	Westfield	6	0.4	369,167	0	0	0
N. Andover	7	0.5	1,775,634	4	57	4,944,019	Shirley	14	1	124,600	2	14	294,271	Westford	20	1.4	411,533	8	40	4,096,126
N. Attleborough	0	0	0	0	0	0	Shrewsbury	1	0.1	200,000	0	0	0	Westhampton	10	0.7	105,380	5	50	85,525
N. Brookfield	2	0.1	275,000	0	0	0	Shutesbury	13	0.9	71,241	6	46	285,494	Westminster	20	1.4	71,098	6	30	757,704
N. Reading	10	0.7	244,259	0	0	0	Somerset	0	0	0	0	0	0	Weston	7	0.5	476,429	7	100	3,335,000
Northampton	1	0.1	1,281,639	0	0	0	Somerville	0	0	0	0	0	0	Westport	12	0.9	602,199	2	17	160,000
Northborough	3	0.2	284,179	1	33	487,370	S. Hadley	6	0.4	373,345	0	0	0	Westwood	4	0.3	1,168,695	3	75	3,174,780
Northbridge	2	0.1	509,600	1	50	24,200	Southampton	25	1.8	189,522	2	8	0	Weymouth	1	0.1	5,625,000	0	0	0
Northfield	9	0.6	78,394	3	33	167,541	Southborough	8	0.6	120,829	4	50	636,631	Whately	17	1.2	45,328	4	24	162,613
Norton	6	0.4	209,653	0	0	0	Southbridge	3	0.2	305,729	2	67	367,186	Whitman	9	0.6	641,315	0	0	0
Norwell	4	0.3	496,250	2	50	925,000	Southwick	0	0	0	0	0	0	Wilbraham	6	0.4	334,009	4	67	1,626,075
Norwood	0	0	0	0	0	0	Spencer	2	0.1	860,231	0	0	0	Williamsburg	25	1.8	23,416	19	76	499,686
Oak Bluffs	42	3	92,104	11	26	2,231,697	Springfield	9	0.6	2,515,852	5	56	10,812,136	Williamstown	2	0.1	380,700	1	50	550,000
Oakham	6	0.4	40,419	2	33	25,515	Sterling	15	1.1	91,430	4	27	397,498	Wilmington	3	0.2	682,174	0	0	0
Orange	65	4.6	77,186	14	22	659,468	Stockbridge	1	0.1	250,000	1	100	250,000	Winchendon	3	0.2	273,505	1	33	97,000
Orleans	5	0.4	88,508	5	100	442,541	Stoneham	5	0.4	481,800	0	0	0	Winchester	6	0.4	912,333	1	17	4,550,000
Otis	5	0.4	72,690	4	80	326,068	Stoughton	0	0	0	0	0	0	Windsor	7	0.5	35,993	4	57	142,818
Oxford	0	0	0	0	0	0	Stow	23	1.6	106,051	8	35	1,436,803	Winthrop	5	0.4	3,000,000	1	20	2,500,000
Palmer	7	0.5	235,439	0	0	0	Sturbridge	15	1.1	87,402	3	20	691,148	Woburn	1	0.1	600,000	0	0	0
Paxton	30	2.1	63,778	13	43	406,598	Sudbury	10	0.7	1,111,673	6	60	7,227,011	Worcester	7	0.5	1,183,785	1	14	4,583,000
Peabody	0	0	0	0	0	0	Sunderland	17	1.2	79,392	7	41	550,081	Worthington	11	0.8	43,193	5	45	0
Pelham	2	0.1	74,000	2	100	148,000	Sutton	2	0.1	647,234	1	50	614,983	Wrentham	1	0.1	681,000	1	100	681,000
Pembroke	1	0.1	1,250,000	0	0	0	Swampscott	2	0.1	2,153,395	2	100	4,306,790	Yarmouth	10	0.7	756,062	3	30	2,184,406
Pepperell	2	0.1	881,396	0	0	0	Swansea	2	0.1	2,500,000	0	0	0							
Peru	10	0.7	5,664	2	20	34,450	Taunton	0	0	0	0	0	0							
Petersham	4	0.3	46,323	0	0	0	Templeton	24	1.7	104,445	3	13	586,348							
Phillipston	9	0.6	54,358	5	56	346,610	Tewksbury	1	0.1	880,792	0	0	0							
Pittsfield	0	0	0	0	0	0	Tisbury	79	5.6	27,151	32	41	1,202,283							
Plainfield	0	0	0	0	0	0	Tolland	1	0.1	50,000	1	100	50,000							
Plainville	1	0.1	151,718	0	0	0	Topsfield	19	1.4	154,835	11	58	2,038,265							
Plymouth	1	0.1	4,000,000	0	0	0	Townsend	18	1.3	149,588	7	39	842,490							
Plympton	4	0.3	88,893	2	50	99,280	Truro	38	2.7	66,901	29	76	1,998,076							

Table 1



**Proposition 2½ Referendum Trends**

continued from page three

An override is typically used by a community to fund a government spending purpose, i.e., general operations, police or fire personnel, schools, and becomes a permanent part of the levy limit base. In contrast, exclusions under Proposition 2½ are temporary. If the voters approve a capital expenditure exclusion, they agree to increase property taxes for one year only to raise the dollars necessary to finance an infrastructure improvement or major purchase, i.e., the outright purchase of a fire engine. By approving a debt exclusion, the voters allow a property tax increase to raise the tax dollars necessary to pay long-term debt service to fund a major project or purchase. The most frequent use of a debt exclusion is to finance school construction. At the end of the loan period, when the debt service is paid-off, the extra levy capacity ends.

As fiscal constraint has once again taken over the local budget process, more attention is directed to levy limit overrides. In sights into how frequently and for what purposes local leaders and voters choose to avail themselves of the override option can be drawn from historical trends. In the analysis that follows, we focus on levy limit overrides trends.

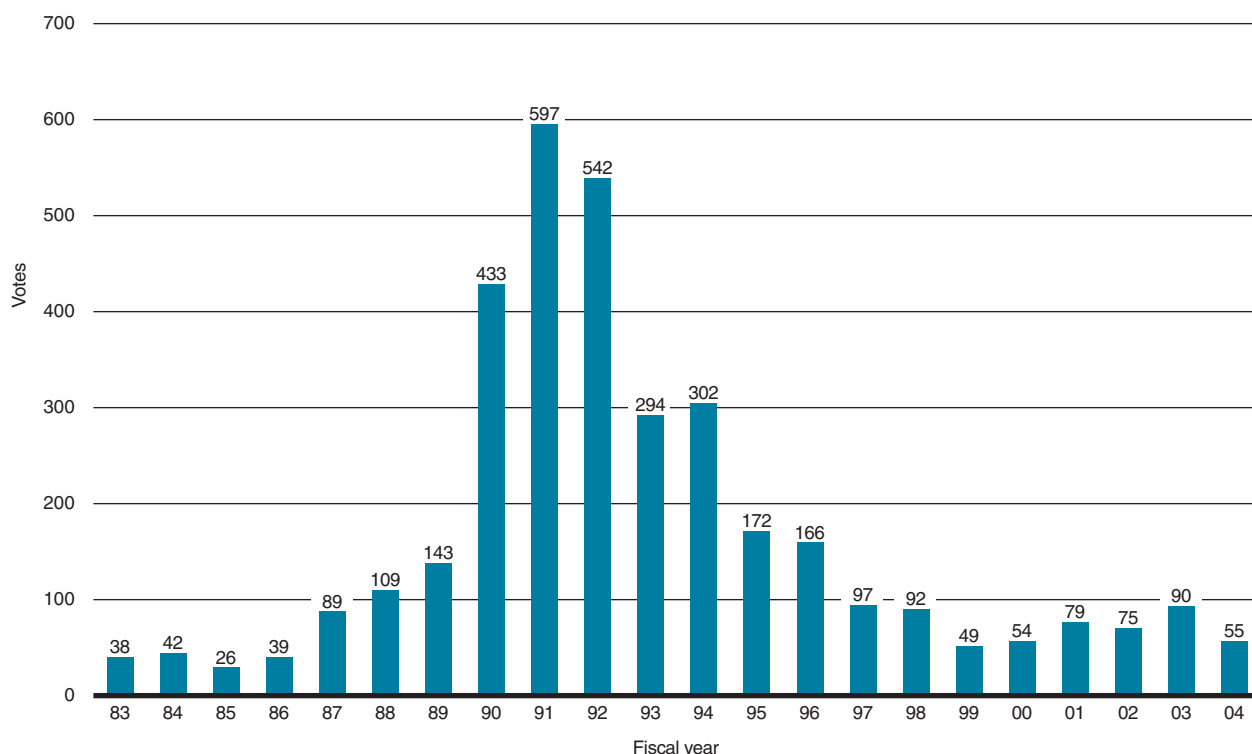
As a general reference, in 1980, high interest rates had already begun to give way as the state entered a period of growth that culminated around late 1987. The effects of an ensuing recession gained strength and peaked about 1992, which roughly marked the start of a prolonged period of economic prosperity. By the year 2000, fiscal conditions had again shifted and have only recently showed a glimmer of stability. Against this backdrop and timeline, the

override history of the Commonwealth can be discussed as well.

Over the course 22 years, cities and towns have placed 3,583 override referenda before local voters. Of that total, only 486 were considered in 134 of 351 communities between 1983 and 1989. Overrides were successful 53 percent of the time. While this early period could be viewed as one of acclimation to Proposition 2½, another more compelling observation sheds light on local reluctance to raise taxes with overrides. In five years from 1984 to 1988, cherry sheet aid to cities and towns was generous, increasing 10.8 percent per year, on average.

As recession began to take hold in 1989, state aid increased only 4.5 percent and went into decline for three ad-

continued on page nine

**Override Votes, State Totals FY1983–2004****Figure 2**

# DLS Update

## Circuit Breaker Credit Update

For tax years beginning on or after January 1, 2001, an owner or renter of a principal residence located in Massachusetts who is age 65 or older, at the close of the taxable year, may be eligible to claim a refundable tax credit against personal income taxes. Known as the "circuit breaker credit," this credit is based upon the actual real estate taxes or rent paid by a taxpayer eligible to claim the credit.

In accordance with the circuit breaker statute, for the purposes of calculating the circuit breaker credit total income, assessed valuation and maximum credit thresholds are adjusted annually by multiplying the statutory base amounts of these thresholds by the cost-of-living adjustment for the calendar year in which the taxable year begins.

For renters and owners in tax year 2003, the taxpayer's "total income" cannot exceed \$43,000 for a single individual who is not the head of household; \$54,000 for a head of household; and \$64,000 for a husband and wife filing a joint return.

For tax year 2003, the assessed valuation, before the residential exemption but after the abatements, of the homeowner's principal residence may not exceed \$432,000.

For homeowners and renters, the maximum credit available in 2003 is \$810. For more information on the 2003 circuit breaker credit, refer to Technical Information Release (TIR) 03-23. This TIR can be accessed through the Department of Revenue's website ([www.mass.gov/dor](http://www.mass.gov/dor)) under Rulings and Regulations.

## New Charter Schools Awarded

In October, the Department of Education (DOE) announced the approval of five new charter schools that were approved by the Board of Education earlier this year. The five new charter schools are:

- The Berkshire Arts and Technology School (a regional school that will serve several communities in the Berkshire region. The school will open in 2004 for students in grades 6 through 12);
- The Boston Preparatory Charter School (will serve students from Dorchester to Mattapan in grades 6 through 12);

- The Excel Academy Charter School (a regional school, serving students from East Boston and Chelsea in grades 6 through 8);

- Hill View Montessori Charter School of Haverhill (will serve students in grades 1 through 8); and;

- Salem Academy Charter School (will open in 2004 with a class of 88 sixth and seventh grade students and will add a grade every year through grade 12).

DOE also announced the renewal of 11 existing charter schools. These were approved by the Board of Education during FY03. These include Abby Kelley Foster, Boston Evening Academy, Champion, Health Careers Academy, Mystic Valley Regional, New Leadership, Rising Tide, River Valley, Sabi Foxboro, South Boston Harbor Academy, and Sturgis.

Today there are 50 existing schools serving more than 19,000 students, with an additional 13,000 others on waiting lists. Once the new charter schools open, Massachusetts will have a total of 55 charter schools. ■

## Zoning Case

is a legislative act which carries a strong presumption of validity. The court refused to invalidate a zoning enactment even if it were encouraged by the offer of a public benefit. According to the majority, the standard of review in a zoning case is whether the ordinance violates State law or constitutional provisions, is arbitrary, or is substantially unrelated to a public purpose. In *Durand*, the majority of the court held that the mere offer of the gift was no basis to invalidate the rezoning.

Three justices agreed with the result reached by the majority but for entirely different reasons. These justices found that the eight landowners had no standing to bring the lawsuit. They were not proper parties since they claimed no injury particular to themselves. They were not parties to the contract with IDC and had no authority to sue in the name of the town.

The three justices, however, believed that the town meeting entered into an unlawful agreement to rezone in exchange for a promise to pay \$8 million.

According to the three justices, the record disclosed that the power plant would not have a significant adverse impact on the community. It appeared the money was offered only to build community support for the power plant. For these reasons the three justices considered the agreement between the town and IDC to be illegal.

In any event, the high school was constructed. However, the power plant was not built and the town never received the \$8 million. ■

continued from page two

# DLS Update

## Special License Plates for Communities

During the fall of 2002, the Legislature enacted Chapter 90 Sec. 2F relative to the Registry of Motor Vehicles' issuance of Special License Plates. These plates have already become familiar on the roads in communities statewide. Drivers are requesting the Red Sox, Bruins and "United We Stand" plates at a steady pace, with proceeds from the required special plate fee going directly to the Jimmy Fund, Massachusetts Youth Hockey and the Massachusetts 911 Fund respectively. So, how is any of this relevant to local officials? The answer lies in recent changes enacted as part of the Municipal Relief Act. But first, a bit more background.

Chapter 90 Sec. 2F directly identifies close to two dozen specific groups or causes that may establish special plates. The legislation also establishes the requirements a group or sponsor must meet in order to begin manufacturing and distribution of the plate. In short, a group that is sponsoring a distinctive plate must post a \$100,000 bond, collect 1,500 applications for the plate (each accompanied by a check for the \$40 special plate fee) and undertake various administrative and design responsibilities. The sponsoring group must remit the 1,500 applications and the funds to the Registry of Motor Vehicles (RMV). Finally, design, manufacturing and distribution of the plates can begin.

Aside from the recognition gained as these plates appear on the road, the sponsor also enjoys financial rewards. Of the initial \$40 special plate fee, \$28 is remitted to the identified charitable cause. The remaining \$12 goes to the RMV to cover the cost of plate manufacture. When a plate is renewed, the customer must pay the registration cost,

plus the \$40 special plate fee. At renewal, the entire special plate fee goes to the sponsoring group.

The link between this process and the role of community officials becomes clear in Section 87 of the Municipal Relief Act (Chapter 46 of the Acts of 2003). This section amends the "plate legislation" to include cities and towns as an authorized group to establish a distinctive license plate and, most importantly, receive proceeds from the associated special plate fees.

Under Section 87 of the Municipal Relief Act, cities and towns are now included in the list of groups and organizations that can use a distinctive plate and ultimately receive revenue from the payment of special plate fees by motorists. Unfortunately, this does not mean that each community within the Commonwealth will soon have its own distinctive plate. Since many smaller towns would not be equipped to fulfill the administrative requirements of the program and because the RMV simply cannot manufacture, distribute and track over 351 different types of plates, the legislation creates a beneficial solution. This resolution authorizes a single distinctive

plate, available to any Massachusetts resident, to be organized and administered by a city, town or statewide organization acting on behalf of all cities and towns. This entity would post the required bond, collect 1,500 checks and applications, and work with the RMV to design a single distinctive plate. Upon registration, special plate fees collected by the RMV will be disbursed to the general fund of the community in which the vehicle is garaged.

"This leaves it up to one community or organization to volunteer, on behalf of all cities and towns in the Commonwealth, to design a special plate and meet all the other criteria under Chapter 90 Section 2F," said Steven Sebestyen, Deputy Registrar of Motor Vehicles. According to Sebestyen, the RMV has received several inquiries about this program but no community has yet committed to the administrative duties associated with the creation of a special license plate series.

Is your community interested in taking on or helping to coordinate this challenge? If so, contact Mr. Robert Haley, Treasurer, Town of Hanover, at 781-826-3571 for more information. ■



**Figure 3.** An artist's rendering of a special license plate for Massachusetts communities. A design has not yet been proposed for the plate.



## CPA Matching Funds Distributed

Revenue Commissioner Alan LeBovidge has announced that the matching funds under the Community Preservation Act (M.G.L. Ch. 44B) reflecting surcharges on property taxes during FY03 were distributed on October 15, 2003.

The state matching funds this year were calculated at 100 percent of the amounts committed by the assessors, based on the surcharge rate adopted. While Chapter 44B provided for a multi-tier formula for computation of the matching funds, the fund balance at June 30, 2003, was sufficient to award 100 percent of the commitment in the first tier, which is the maximum allowed under the statute.

Chapter 44B contains requirements for minimum appropriations or reservations for each of the three purposes of the Act. Chapter 165 of the Acts of 2002 expanded many of its purposes. Local officials should consult Informational Guideline Release 00-209 (as amended by IGR 01-207 and IGR 02-208). These IGRs are available on the Division of Local Services' web site at [www.mass.gov/dls](http://www.mass.gov/dls) under "IGRs" in the Quick Links Box.

Table 2 lists the matching fund awards for the 54 communities that adopted the CPA for FY03. ■

CPA Matching Funds			
Community	Fiscal year adopted	Rounded (in \$)	Surcharge pct. adopted (3% max.)
Acton	2003	473,465	1.50
Agawam	2003	299,875	1.00
Amherst	2002	144,081	1.00
Aquinnah	2002	34,669	3.00
Ashland	2003	452,091	3.00
Ayer	2002	229,445	3.00
Bedford	2002	801,952	3.00
Boxford	2002	375,808	3.00
Braintree	2003	382,802	1.00
Cambridge	2002	5,277,518	3.00
Carlisle	2002	238,618	2.00
Chatham	2003	441,932	3.00
Chelmsford	2002	168,775	0.50
Chilmark	2002	113,572	3.00
Cohasset	2002	233,566	1.50
Dartmouth	2003	277,769	1.50
Dracut	2002	478,059	2.00
Duxbury	2002	922,706	3.00
Easthampton	2003	116,232	3.00
Easton	2002	484,857	3.00
Georgetown	2002	171,074	3.00
Grafton	2003	118,427	1.50
Hampden	2002	29,650	1.00
Harvard	2002	109,946	1.10
Hingham	2002	443,740	1.50
Holliston	2002	235,716	1.50
Hopkinton	2002	420,112	2.00
Leverett	2003	45,776	3.00
Lincoln	2003	203,365	1.50
Marshfield	2002	621,322	3.00
Medway	2002	369,747	3.00
Nantucket	2002	997,557	3.00
Newton	2002	1,758,952	1.00
Norfolk	2002	279,768	3.00
North Andover	2002	886,192	3.00
Norwell	2003	504,055	3.00
Peabody	2002	442,846	1.00
Plymouth	2003	962,918	1.50
Rockport	2003	239,902	3.00
Rowley	2002	214,246	3.00
Scituate	2003	632,644	3.00
Southampton	2002	65,475	3.00
Stockbridge	2003	63,672	3.00
Stow	2002	270,419	3.00
Sturbridge	2002	188,282	3.00
Sudbury	2003	1,030,840	3.00
Tyngsborough	2002	260,994	3.00
Wareham	2003	322,305	3.00
Wayland	2002	432,175	1.50
Wellesley	2003	511,283	1.00
Westford	2002	924,436	3.00
Weston	2002	1,051,629	3.00
Westport	2003	285,139	2.00
Williamstown	2003	118,946	2.00
<b>Total</b>		<b>27,161,342</b>	

Table 2

## WFB

continued from page one

ary 1, 2005, all business taxpayers will be converted to electronic returns and payments.

"We would appreciate cities and towns doing their part in helping DOR reduce our annual processing burden," LeBovidge said. "We think that once they try WebFile for Business they'll like it." Municipal officials who would like to learn more should call DOR at 800-392-6089 or visit [www.mass.gov/dor](http://www.mass.gov/dor). You can also register online to participate in a free workshop on WebFile for Business. ■

**Tim Connolly is the Communications Director for the Massachusetts Department of Revenue.**

## Wage Reports

continued from page one

and towns that by law should be filing Form WR-1 electronically are not in compliance. The Commonwealth's Wage Reporting system, authorized under Massachusetts General Laws, Chapter 62E, requires that any Massachusetts employer who reports wages for 250 or more employees must do so electronically. "We were very concerned to find that a number of cities and towns with well over 250 employees continue to submit their wage reports on paper," said Commissioner Alan LeBovidge.

Beginning with the third quarter filing, representing the months of July through September 2003, Form WR-1s submitted on paper by any employer with 250 or more employees will not be processed and a letter will be sent to the business indicating that their third quarter submission must be made electronically. "I want to alert municipalities that

they may be hearing from us that their WR-1 has been rejected," stated Commissioner LeBovidge. "Larger employers have always had the requirement to file on tape or diskette but, now that we have expanded our electronic filing options, there is no reason for cities and towns not to e-file."

Businesses with 250 or more employees are directed to submit their WR-1s electronically within 30 days of notification to avoid penalties. To learn more about the filing of electronic wage reports, click on WebFile for Business on DOR's homepage at [www.mass.gov/dor](http://www.mass.gov/dor) and select 'Start the Tour' to view the various features available to cities and towns. ■

**Teresa L. O'Brien-Horan is the Deputy Commissioner in charge of the Massachusetts Department of Revenue's Processing Division.**

## Prop 2½ Referendum Trends

continued from page six

ditional years through FY92. It was during this period when cities and towns turned to overrides in huge numbers. While overrides votes totaled 486 in seven years ending in FY89, individual referenda in three years between FY90 and FY92 numbered 433, 597 and 542. More overrides than ever were proposed and approved during these years, but voters still demonstrated skepticism. After a success rate of 45 percent in FY90, overrides were successful only 28.3 and 25.5 percent of the time in FY91 and FY92, compared to 53.2 percent over the prior seven year span.

Beginning in FY93, state aid to cities and towns again began to increase and for five years between FY95 and FY99 the total cherry sheet appropriation rose an average of 9.3 percent annually. During this same period, the number of override votes went in the opposite direction, declining from 172 in FY95 to 49 in FY99.

Reflecting yet another economic swing, the rate of increase in cherry sheet aid took a downturn in FY00 and was virtually level funded in FY03. Total aid dollars then declined 6.4 percent in FY04.

As history would suggest, starting in FY00, diminishing cherry sheet aid set off a corresponding increase in the frequency of overrides, but not nearly in a volume comparable to the recessionary period of the early 1990s when 1,572 votes were taken over three years alone. From FY00 to date in FY04, 353 votes have taken place.

What distinguishes the current from the earlier period, is the success rate of override votes. Between FY00 and FY04, overrides have been successful 60 percent of the time, compared to an average of 31.4 percent from FY90 to FY92 during similar economic conditions. This seems to suggest that cities and towns have become more judicious in utilizing overrides as a source of new revenue, and that voters are more receptive to overrides as an appropriate course of action.

But, for a significant number of municipalities, overrides remain an unacceptable course of action. Of 351 cities and towns in Massachusetts, 69 have never placed an override referendum before local voters. An additional 64 communities have put an aggregate total of 279 override requests since 1990 before their

respective voters, never to have been successful.

Some towns turn to the voters to make frequent budget decisions through an override. Seventy communities have placed at least one override per year before voters since 1990 and 21 have placed two or more on average. Topping the list is the town of Chatham, which has had 94 override votes (succeeding 57 percent of the time). Typical of the trend among communities with frequent votes, however, is the low \$30,331 average dollar amount of the overrides. On the other hand, the average dollar associated with overrides by 40 cities and towns which have sponsored only one vote in the last 13 years is \$819,036.

These trends suggest that overrides are sometimes used as a means to defer annual budget decisions to the electorate, and are used at other times, as a means for a community to periodically catch-up to increasing operational costs of government over time. In the end, however, it is no surprise that cities and towns tend to go to the voters more often during difficult fiscal times than during healthy economic periods. ■

## DLS Profile: Deputy Director of Accounts

**Anthony Rassias** has been the Deputy Director of Accounts for the last two and one-half years. He replaced Judy Luca, who left the Division of Local Services (DLS) in 2000. Although Tony has held this position for just a few years, he is a veteran employee of the Division.

Tony received a Bachelor of Science degree in Government and also a Masters Degree in Public Administration from Suffolk University. Shortly after completing graduate school, he began pursuing a career related to local government. In 1980, he began working in the Division's Property Tax Bureau as the Supervisor of Local Taxation. Tony recalls that former Deputy Commissioner Edward Collins asked him to stay with the Division for at least three years. It appears that Tony more than complied with Mr. Collins' request, as he has worked for the Division for a total of 21 years. During his career at DLS, he has also worked in the Bureau of Local Assessment and the Education Audit Bureau.

As Deputy Director of Accounts, Tony's major responsibility is to ensure that the thousands of documents submitted to DLS by cities and towns annually are reviewed as accurately and efficiently as possible. He also oversees four supervisors in the Bureau of Accounts.

Regarding the FY04 tax rate setting process, Tony said he would like to "thank all the cities and towns that sent in their forms early to the Bureau in an effort to meet everyone's deadlines." Tony is a presenter at the Division's New Officials Finance Forum. Throughout his career at DLS, he has made presentations to numerous municipal organizations and instructed at schools for municipal finance officers. A resident of Dracut, Tony is married to Karen Rassias, Deputy Assessor in Saugus, and is the father of Christopher Anthony, age three. ■



**Anthony Rassias**

## Community Comparison Report

The Community Comparison Report is a handy tool that state and local officials frequently use to compare one community against several. Some of the information that appears in the report includes type of community (city or town), location by county, school structure, population, income per capita, equalized valuations, land per square mile, operating budget, next certification year, and whether the community issues property tax bills on a quarterly or semi-annual basis. Data for each city and town throughout the Commonwealth is listed in this report.

Click on <http://www.dls.state.ma.us/MDMSTUF/Socioeconomic/ComparisonReport.xls> to access this report. It uses FY03 data as well as data from the 2000 U.S. Census. In addition to the Community Comparison report, the Municipal Data Bank provides other spreadsheets containing various types of socioeconomic information and data. To access these, link to <http://www.dls.state.ma.us/allfiles.htm#socio>. ■

### 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. Grouke, Editor**

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