DLM Report

Division of Local Mandates   Office of the State Auditor   October 1987

A. JOSEPH DeNUCCI, AUDITOR OF THE COMMONWEALTH

Tax Cap Determination Helps All, Including Cities and Towns

A message from State Auditor A. Joseph DeNucci on his recent Tax Cap determination:

Under Chapter 555 of the Acts of 1986, I am responsible for making a conclusive determination as to the existence and amount of any excess net state tax revenues for fiscal year 1987 and each subsequent year. I recently announced that Massachusetts taxpayers will receive tax credits of over $29 million this first year under the so-called Tax Cap law.

As it turned out, my certification of the actual tax credit was less than others had projected, which, in effect, means good news for cities and towns. First, the immediate benefit is that $70 million of the recently announced state surplus was transferred to the newly created Stabilization Fund, which is committed to be used to help cities and towns in cases of extreme need. Had my tax credit certification been as others had estimated, the amount set aside in this fund would have been reduced significantly by the increase in the tax credit.

Further, my determination sets a precedent for succeeding years by establishing a base level of allowable state tax revenue which is $50 million greater than originally estimated. This should result in additional revenue being collected and available in each succeeding year before the tax credit is triggered. The legislature, therefore, will be able to fund additional appropriations for important programs, including aid to cities and towns.

My ruling on the tax credit was based, not on a desire to "please everyone," but on a strict interpretation of solid accounting principles and the Tax Cap law. The decision was arrived at independently and determined by three key elements: the inclusion of the 3.75 percent surtax in the 1986 fiscal year revenue base; the use of the most current wage and salary data available, and the identification of additional tax revenue.

It was our determination that the $59.3 million collected by the state under the 3.75 percent surtax (which replaced the 7.5 percent income surtax in December 1985) must be included in the fiscal 1986 base year. We came to that conclusion because the money was collected, recorded, reported and included in the official financial statements of the Commonwealth for fiscal 1986, and was not repealed and refunded until fiscal 1987. Unlike the former 7.5 percent surtax, the 3.75 percent surtax was not excluded from the base year by the authors of the tax cap. For that reason, I concluded, with the advice of my legal and financial experts, that the 3.75 percent surtax ($59.3 million) must remain in the fiscal 1986 base in order for the determination to be in compliance with the law and accounting principles and standards.

The law also requires us to use the most current data available in figuring wage and salary growth. We used figures from the calendar years 1984, 1985, and 1986 in determining income growth, while the Department of Revenue based its calculation on the years 1983, 1984 and 1985. The use of the more recent data increased the tax credit by $19.2 million.

Another factor to be considered was the existence of additional state tax revenue. For example, the Division of Insurance collected more than $3.9 million in fiscal 1986 and more than $5.5 million in fiscal 1987, both of which are clearly tax revenue that must be included in the calculation. We also found additional beano receipts of more than $305,000. This money must also be added to the tax revenue base.

We arrived at the $29 million figure by using methodology that included conducting the largest fiscal year-end cash cut-off in the Commonwealth's history; reviewing and analyzing all tax revenue, and testing the most current data available. It was an involved and lengthy process that had only one goal: an independent and accurate determination.

Again, the good news is that my tax credit determination will provide additional funds for the many important programs and services upon which the public depends. Included in this category certainly are the services provided by our cities and towns.

I was very pleased to hear that many mayors supported my determination. Jim Segel, departing Executive Director of the Massachusetts Municipal Association, praised the decision, saying that it was "fair and reasonable" and "will provide a benefit both to the state and its residents."

I certainly share Jim's feeling and, as Auditor, I understand the demands being placed on all levels of government and will continue fulfilling my responsibilities as best I can in accordance with the law.

Polling Funds Distribution

DLM has completed certification of the 1988 polling funds figures. As a result, a total of $374,344.69 will be distributed to cities and towns to offset their increased costs for coverage of extended voting hours for the March 8, 1988 presidential primary.

"A 1983 law setting standardized polling hours statewide from 7 a.m. to 8 p.m. means that many of the Commonwealth's citizens will have additional time to vote," Auditor DeNucci said. "It also means the cost of polling has increased for cities and towns."

Under the polling law, communities must send documentation of their additional election costs to DLM for review and certification before being forwarded to the Secretary of State's Office.

All but one of Massachusetts' 351 cities and towns will share in the latest distribution. The Town of Lincoln will again use volunteer poll workers and, therefore, incur no costs.

Survivor Tax Exemption Is A Mandate

Auditor DeNucci has determined that a 1986 law increasing property tax exemptions for survivors of police officers and firefighters killed in the line of duty is a mandate that must be funded by the state. DeNucci's decision is in response to a petition to DLM from the Town of Billerica.

Under the new law, Billerica said three surviving spouses qualified for an additional $2,253 in property tax exemptions for fiscal 1987.

Prior to passage of the 1986 law, survivors of public safety personnel killed in the line of duty received a $700 property tax exemption. Now, they are entitled to a full exemption. Approximately 150 widows or children qualify for the exemption which totals an estimated $120,000 annually statewide.

DLM found that Billerica lost revenue, and that the state, under the terms of the local mandate statute, is obliged to compensate cities and towns for any post-1980 law granting or increasing property tax exemptions.

DeNucci informed the Chairman of the Billerica Board of Assessors, Maureen Hafner, that his determination, in itself, does not relieve the town of the duty to comply with the 1986 law. He pointed out that relief could only come by a court judgment or a legislative remedy.

"I wholeheartedly support this deserved tax exemption for those families that have sacrificed so much for the safety and welfare of our communities. Nevertheless, Proposition 2 1/2 explicitly states that the state must fund any such exemption, and I will urge the legislature to quickly do so," said DeNucci.

DEQE Testing Order Called Mandate

The City of Fall River is entitled to $34,300 in state funding to offset the costs of state mandated dioxin testing at the city's municipal incinerator, according to a determination by Auditor DeNucci.

The testing, the first of its kind in the nation, was required by the Department of Environmental Quality Engineering (DEQE) to determine whether emissions from the city's incinerator will meet new DEQE standards for assessment and control of dioxin.

Dioxin is a toxic compound formed in some unknown way through the waste incineration process. The tests, which detect particles in minute quantities, are extremely expensive and can cost $20,000 to $100,000 per test, depending on a variety of factors, including the size and age of the facility.

"I support the state's increasing concern over sources of pollution. However, the local mandate law imposed by Proposition 2 1/2 does not allow exceptions for worthy programs," said DeNucci.

Police Training Legislation Issue

The Committee on Public Service is currently considering three bills (H. 84, H. 1378 and H. 1733) that could drastically affect police departments. The bills would require all present and future public safety personnel with police powers to have completed 480 hours of police training through the Criminal Justice Council. Failure to have completed the training would prohibit any officer from exercising police powers.

The bills appear to have wide support. However, police chiefs and municipal officials across the state are concerned that the training requirement could throw departmental staffing into disarray. One result of the requirement would be the loss of police powers for most temporary, seasonal and special police officers. This is of particular concern to smaller towns and resort communities. An even greater fear is that there are possibly thousands of regular police officers currently on active duty that would have to go back to school to complete the training requirement. Police officials also point out that departmental budgets would be forced to accommodate the added expense of salaries paid to officers or their replacements during the training period.

The committee decided that more information on the implications of the proposed laws was necessary. Chairman Kevin Blanchette (D-Lawrence) appointed a sub-committee of Rep. Henri Rauschenbach (R-Brewster), Rep. Timothy O'Leary (D-Melrose) and Rep. Daniel Bosley (D-North Adams) to address the problem. The sub-committee is now working with DLM and the Criminal Justice Training Council to assess the statewide costs of training existing police officers who currently have not taken the training course. DLM will keep you informed of the results of the study.

DLM REPORT

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Comm. from A. Joseph DeNucci, State Auditor transmitting a copy of the October, 1987 edition of the DLM Report Re: tax cap determination.

In City Council,

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Placed on File

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