

The Commonwealth of Massachusetts



L. JOYCE HAMPERS
COMMISSIONER
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Department of Revenue
Leverett Saltonstall Building,
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May 11, 1981

Memo To: Local Government Officials

From: Edward J. Collins, Jr., Deputy Commissioner
Division of Local Services

Subject: Proposition 2½ (Chapter 580)
Informational Guideline Releases and Implementation
Seminars

E. J. Collins

In a continuing effort to assist in the orderly implementation of Proposition 2½, the Department of Revenue is issuing a number of explanatory and advisory releases to local government officials.

Previously the Department of Revenue had issued the following Proposition 2½ Guidelines:

December 4, 1980 - Memorandum, Instructions and Notification Of Each City and Town Fiscal 1982 Tax Levy Limitation.

January 7, 1981 - Joint Memorandum of Department of Education and Department of Revenue - Proposition 2½ and Fiscal Autonomy of School Committees.

January 19, 1981 - Joint Memorandum of Department of Revenue and Department of Education - Proposition 2½ and Regional School Districts.

February 24, 1981 - Memorandum, Instructions and Forms - Guidelines for Adjustment of Preliminary Full and Fair Cash Values. (Bureau of Local Assessment Informational Guideline Release No. 81-401)

With this mailing we are issuing the following Informational Guideline Releases:

Determining the Applicable Tax Levy Limit
(Property Tax Bureau I.G.R. No. 81-227)

Application of Levy Limits in Cities and Towns
(Property Tax Bureau I.G.R. No. 81-228)

Reduction in the Tax Levy
(Property Tax Bureau I.G.R. No. 81-229)

Tax Rates Under Chapter 580
(Property Tax Bureau I.G.R. No. 81-230)

Summary of Override Provisions in Cities and Towns
(Property Tax Bureau I.G.R. No. 81-231)

Acceptance of State Mandates in
Cities and Towns
(Property Tax Bureau I.G.R. No. 81-232)

Revocation of State Mandates in
Cities and Towns
(Property Tax Bureau I.G.R. No. 81-233)

Mayor's Role in School Budgetary Process
(Property Tax Bureau I.G.R. No. 81-234)

Municipal Obligation To Fund Revaluation
Programs
(Bureau of Local Assessment I.G.R. No. 81-403)

We will, from time to time, issue additional Informational Guidelines covering other areas of Chapter 580 as the issues are presented and decided upon.

In the meantime if you have any questions on these releases, those previously issued or any other subject pertaining to the implementation of Proposition 2½, please write or call us.

Questions relating to the determination of full and fair cash value should be directed to the Bureau of Local Assessment, preferably in writing, at P.O. Box 7032, Boston, Massachusetts 02204.

All other questions should be forwarded, again in writing, when possible, to the Property Tax Bureau, P.O. Box 7014, Boston, Massachusetts 02204.

Separate telephones have been installed and will be staffed during all business hours for your convenience. The direct lines are:

Bureau of Local Assessment - 727-0746
Property Tax Bureau - 727-0516

Every effort will be made to respond timely and accurately to your inquiry.

The Division of Local Services is also planning to conduct a series of seminars in various locations throughout the Commonwealth during the latter part of May.

Each of the seminars will be conducted in a two part format - Part A will consist of a general presentation of the major provisions of Proposition 2½ and the implementation thereof (one hour) and Part B will be structured so that those attending can meet individually with members of the Bureau of Local Assessment - (Full and Fair Cash Value questions), the Property Tax Bureau - (Tax Rates under 2½ and other 2½ implementation questions), and the Bureau of Accounts - (Revolving and Enterprise Fund questions and what can and can't be done under municipal finance and budget laws in dealing with Proposition 2½).

The Part B session will last two to three hours and hopefully will give each participant an opportunity to ask his or her questions as they pertain to his or her individual community.

It will also give us a clearer understanding of the particular types of implementation problems that may exist at the local level so that we can structure our assistance accordingly.

Within the next few days we will be sending out a more detailed announcement of these sessions.

Again, a smooth, orderly implementation of Proposition 2½ requires communication among all parties and we are encouraged by the tremendous cooperation we have received from Local Officials across the Commonwealth.

cc: Mayors
City Councils, and Board of Aldermen
Selectmen
Town and City Managers
School Superintendents
School Committee Chairpersons
Assessors
Accountants and Auditors
Finance Committees



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES

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PROPERTY TAX BUREAU

INFORMATIONAL GUIDELINE

RELEASE No. 81-227

SUBJECT:

Proposition 2½

Tax Levy Limits

May 1, 1981

Determining the Applicable Tax Levy Limit

Chapter 580 of the Acts of 1980 or Proposition 2½ as it is commonly known imposes four different limits upon the tax levies of cities and towns. These limits are as follows:

1. A limit based upon the full and fair cash value of the taxable real and personal property in the city or town. This limit requires that the tax levy may not exceed 2½% of the full and fair cash value of the real and personal property.
2. A limit based upon the preceding year's tax levy. This limit requires that the current tax levy may not be more than 102.5% of the tax levy of the preceding year. Or in other words, the tax levy may not increase by more than 2½% of the preceding year's levy.
3. A limit imposed upon those cities and towns in which the fiscal 1979 tax levy was less than 2½% of the full and fair cash value of its real and personal property. This limit restricts the tax levy to the same percentage of the full and fair cash value of real and personal property as the tax levy of fiscal 1979 bore to the January 1, 1978 full and fair cash value.
4. A limit imposed upon those cities and towns whose tax levies in

fiscal 1981 were greater than 2½% of the full and fair cash value of their real and personal property. This limit requires that the current tax levy be reduced by 15% of the fiscal 1981 tax levy or such lower percentage thereof as will produce a tax levy which is not more than 2½% of the current full and fair cash value of the real and personal property.

Issue: Which levy limits control

Decision: The wording of the statute and the arrangement of the limits within the statute requires that in cities and towns in which the fiscal 1981 tax levy did not exceed 2½% of the full and fair cash value of the real and personal property, the lower of the first three limits will apply. In those cities and towns in which the fiscal 1981 tax levy did exceed 2½% of its full and fair cash value, the fourth limit will control until such time as the current tax levy does not exceed 2½% or the 1979 percentage if applicable, of the full and fair cash value.

Guidelines: Local officials in estimating the maximum tax levy in cities and towns where substantial valuation increases are anticipated should be aware that the tax levy limit could be less than 2½% of the full and fair cash value of the real and personal property. A determination must be made as to which limit applies if an accurate estimate of the levy limit is to be made.

Examples: Each of the attached examples illustrates a situation in which a different limit determines the maximum tax levy for fiscal 1982.

In the first example the 2½% valuation limit controls since it would require a lower levy than would the levy growth limit.

Neither the 1979 levy percentage limit nor the levy reduction limit is applicable to this situation.

In the second example the levy growth limit applies as it would require a lower levy than would the 2½% valuation limit. Again neither of the other two limits apply.

The third example illustrates a situation in which the 1979 levy percentage limit controls as the fiscal 1979 levy percentage was less than .025 and would require a lower levy than the levy growth limit.

The fourth example shows the 15% levy reduction limit controlling. This limit which is applicable only where the fiscal 1981 tax levy exceeded the 2½% valuation limit controls even though it allows a higher limit than the 2½% valuation limit.

	<u>Example</u>	<u>Example</u>	<u>Example*</u>	<u>Example</u>
	1	2	3	4
I <u>Valuation & Limit</u>				
A. 1/1/81 Full and Fair Cash Value	\$1,025,475,000	\$ 13,978,000	\$81,167,000	\$313,838,000
B. Limitation Percentage (.025 or 1979 %)	.025	.025	.016669	.025
C. Valuation & Levy Limit (IA times IB)	25,636,875	349,450	1,352,973	7,845,950
D. F.Y. 1981 Tax Levy	25,210,438	271,630	1,340,000	11,465,749
II <u>F.Y. 1981 Levy in Excess of Valuation %</u>				
A. Excess of F.Y. 1981 Tax Levy over Valuation & Limit (ID minus IC)				3,619,799
B. 15% of F.Y. 1981 Tax Levy (ID times .15)				1,719,862
C. Levy Limit for F.Y. 1982 (ID minus smaller) (of IIA or IIB)				9,745,887
III <u>2½% Levy Growth Limitation</u>				
A. 2½% Annual Growth (ID times .025)	630,261	6,791	33,500	
B. F.Y. 1981 Levy + 2½% Growth	25,840,000	278,421	1,373,500	
MAXIMUM LEVY LIMIT FOR F.Y. 1982	25,636,875	278,421	1,352,973	9,745,887

*For those communities with a IB limitation percentage less than .025

1. Full and Fair Cash Value 1/1/78	\$	53,440,000
2. Levy F.Y. 1979	\$	890,789
3. Limitation Percentage $2 \frac{1}{2}$ %		.016669



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PROPERTY TAX BUREAU
INFORMATIONAL GUIDELINE
RELEASE No. 81 - 228
SUBJECT: Proposition 2½

Parcel specific or
community-wide levy
limitation.

May 1, 1981

Application of Levy Limits in Cities and Towns

We have received some inquiries concerning the application of the levy limits imposed by Proposition 2½. Many taxpayers assume that the actual assessment on their specific parcel will be limited to a percentage (generally 2½%) of the parcel's full and fair cash value. The purpose of this release is to clarify this question.

Issue

Are the assessments on specific parcels of property limited to a percentage (generally 2½%) of the parcel's full and fair cash value or is it a community's total tax levy that is limited to a percentage (generally 2½%) of the total full and fair cash value of all taxable property in the community?

Conclusion

The assessment limitation imposed by Proposition 2½ is upon a community's total tax levy without regard to specific amounts assessed upon individual parcels of property.

Reasoning

The percentage limitation imposed by Proposition 2½ restricts the "total taxes assessed" by any city or town upon real estate and personal property. The "total taxes assessed" upon real estate and personal property in a community is the tax levy and therefore it is a community's total tax levy that is limited.

Guideline

A misconception concerning Proposition 2½ is that the amount of tax which may be assessed upon a specific parcel of property is limited to a percentage (generally 2½%) of its full and fair cash value. The percentage limitation is an aggregate limit which is imposed upon a community's total tax levy.



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PROPERTY TAX BUREAU
INFORMATIONAL GUIDELINE
RELEASE No. 81- 229
SUBJECT: Proposition 2½

Reductions in the Tax Levy

May 1, 1981

REDUCTIONS IN THE TAX LEVY

Chapter 580 of the Acts of 1980 amends Chapter 59 of the General Laws by inserting a new Section 21C. Clauses two and three of that section require that, where appropriate, reductions must be made in the tax levy so as to get down to the lesser of 2½% or the applicable percentage for F.Y. 1979.

Background:

In order to achieve that result, the statute requires that the "total taxes so assessed shall be reduced annually by not less than fifteen percent of such total for each successive year . . ."

By letter of December 4, 1980 this Department notified municipalities of their overall preliminary levy limits and more specifically of their maximum levy limits for F.Y. 1982. (See also Department of Revenue I. G. R. No. 81-401). Consequently, a number of cities and towns will be required to make first year reductions of up to 15% of their F.Y. 1981 levies. For those municipalities already within 15% of their preliminary levy limits such first year reductions will serve to eliminate the overage once and for all.

Issue:

How are aggregate reductions in excess of 15% to be effectuated?

Guidelines:

A municipality which has not yet reached its preliminary levy limit by virtue of its first year's (F.Y. 1982) reduction must decrease its levy still further in the next fiscal year. That mandated reduction will consist of either a full 15% or such lesser amount as will permit the municipality to reach its preliminary levy limit.

For example, where an overall reduction of 20% is indicated, at least 15% must be taken in F.Y. 1982. The remaining 5% would be taken the following year. The municipality could, if it wished, absorb the entire 20% in the first year.

However, where a community implements full value assessments in F.Y. 1983, its preliminary levy limit will, if warranted, be adjusted upwards. Under such circumstances reductions remaining to be taken in the second or subsequent years may be absorbed by virtue of the valuation increase.



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PROPERTY TAX BUREAU

INFORMATIONAL GUIDELINE

RELEASE No. 81-230

SUBJECT: Proposition 2½

Tax Rates
Under
Chapter 580

May 1, 1981

Tax Rates under Chapter 580

Question:

Are tax rates in excess of \$25.00 per thousand dollars of valuation permissible under Chapter 580? This question has arisen most frequently in connection with cities and towns which have been certified by the Commissioner of Revenue as assessing real and personal property at its full and fair cash value and which will be taxing by classification in fiscal 1982.

Issue:

Does the 2½% limit imposed by Chapter 580 apply to classes of property such as residential, open space, commercial, industrial and personal property or does it apply only to the total taxes levied by a city or town upon real and personal property?

Discussion:

As already indicated in I.G.R. No. 81-228 the language of Chapter 580 clearly limits only the total taxes assessed upon real and personal property by the city or town. The limit does not apply to an individual parcel of real estate or to an item of personal property nor does it apply to any particular class of property. The following example shows the tax rates required in a town having a total valuation of \$50,000,000 and a tax levy of \$1,250,000.00 (a levy of 2½%) when a residential factor of 1 is used and when a residential factor of .65 is used.

CLASS	VALUATION	RESIDENTIAL FACTOR 1			RESIDENTIAL FACTOR .65		
		% OF LEVY	LEVY	RATE	% OF LEVY	LEVY	RATE
1	\$20,000,000	40	\$500,000	\$25	26	\$325,000	\$16.25
2	5,000,000	10	125,000	25	6.5	81,250	16.25
3	10,000,000	20	250,000	25	27	337,500	33.75
4	10,000,000	20	250,000	25	27	337,500	33.75
5	5,000,000	10	125,000	25	13.5	168,750	33.75
	<u>\$50,000,000</u>	<u>100</u>	<u>\$1,250,000</u>		<u>100</u>	<u>\$1,250,000</u>	

The use of the .65 residential factor reduces the residential and open space tax rates to \$16.25 and increases the commercial, industrial, and personal property tax rates to \$33.75. The total tax levy, however, remains at \$1,250,000.00 and is therefore within the 2½% limit imposed by Chapter 580.

If, however, a residential factor of one is used in such a town and a residential exemption of \$2,962.96 was allowed on each of the 500 residential parcels whose average value is \$40,000, the residential rate would be increased to \$27.00 with the other rates remaining at \$25.00 as shown in the following example:

	<u>Residential Factor 1</u>
Residential Exemption	\$2,962.96
Number of Parcels	x 500
Total Residential Exemptions	<u>\$1,481,480</u>
Residential Full & Fair Value	\$20,000,000
Total Residential Exemptions	<u>-1,481,480</u>
Residential Taxable Value	<u>\$18,518,520</u>

<u>Class</u>	<u>Taxable Valuation</u>	<u>% of Levy</u>	<u>Levy</u>	<u>Rate</u>
1	\$18,518,520	40	\$500,000	\$27
2	5,000,000	10	125,000	25
3	10,000,000	20	250,000	25
4	10,000,000	20	250,000	25
5	5,000,000	10	125,000	25
	<u>\$48,518,000</u>		<u>\$1,250,000</u>	

Conclusion:

A tax rate in excess of \$25.00 is permissible under Chapter 580 under the following conditions:

1. Where assessments are at full and fair cash value and a residential factor other than one is used.
2. Where a residential factor of one is used and a residential exemption is granted.
3. Where the fiscal 1981 tax levy was more than 2½% of the total full and fair cash value of real and personal property and the required reduction of 15% of the fiscal 1981 levy can be achieved with a tax rate in excess of \$25.00.
4. Where assessments are at less than full and fair cash value and the community after the 15% required reduction is still above 2½%.



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PROPERTY TAX BUREAU
Informational Guideline

Release No. 81-231
Subject: Proposition 2½
Override provisions

May 1, 1981

Summary of Override Provisions in Cities and Towns

We have received inquiries concerning the override provisions of Proposition 2½. The override provisions set in place a mechanism by which adjustments may be made in the limitations imposed upon each community's tax levy. Approval by the required vote of an override question placed on the ballot at a biennial general election or at a general election called by the legislature will adjust the levy limitation as provided. The new limitations as enacted via the override procedure will first be effective no sooner than fiscal year 1984 or at such later year as called for on the ballot question.

Summary

Vote to increase the "percentage of full and fair cash value" levy limit.

A vote of approval by 2/3 of the persons voting on the question will increase the "percentage of full and fair cash value" levy limit from its present limit (generally 2½%) to a higher, less restrictive levy limit. The percentage will only be increased to the specific percentage designated on the ballot question. This increased limitation percentage will only be effective for the fiscal year indicated on the ballot question.

Vote to increase the percentage by which the tax levy may exceed the previous year's tax levy.

Generally, the tax levy may not increase by more than 2½% over the previous year's levy. A vote of approval by 2/3 of the persons voting on the question may increase this percentage. The percentage will only be increased to the specific percentage designated on the ballot question and will only be effective for the fiscal year indicated.

Vote to decrease the "percentage of full and fair cash value" levy limit.

An adjustment of the percentage of full and fair cash value to which the tax levy is limited to a lower, more restrictive percentage is also provided for in Proposition 2½. This decrease is brought

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about by a simple majority vote (not a 2/3 vote) approving the ballot question providing for the lower limitation percentage. This question will be placed on the ballot if the legislative body of the city or town so votes or if required by local initiative procedure. The percentage will only be decreased to the specific percentage designated on the ballot question and will only be effective for the fiscal year indicated.

Guideline

Adjustments of a community's levy limits are provided for by the specific override provisions of Proposition 2½. The override provisions allow for the following adjustments

- (1) an increase of the "percentage of full and fair cash value" levy limit (by a 2/3 vote)
- (2) an increase of the percentage by which the tax levy may exceed the previous year's levy (by a 2/3 vote) or
- (3) a decrease of the "percentage of full and fair cash value" levy limit (by a majority vote).

The override questions may be placed on the ballot at a biennial general election or at a general election called by the legislature, except that the question providing for a decrease must be placed on the ballot only when the legislative body of the city or town so votes or when required by initiative procedure.

Section 12 of Proposition 2½ provides that a county, district, public authority or other governmental entity may not increase the total costs, charges or fees to cities and towns by more than 4% over the preceding year's final total. There is no local override provision in place by which this limit may be adjusted.

Clarification of the process for determining the proposed percentage to appear on the ballot for voter approval and of the mechanism for placing the override question(s) on the ballot, including any applicable deadlines, is forthcoming.



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PROPERTY TAX BUREAU
INFORMATIONAL GUIDELINE
RELEASE No. 81-232
SUBJECT: Proposition 2½

Provision for funding
of state mandates -
prospective application

May 1, 1981

Acceptance of State Mandates in Cities and Towns

We have received inquiries concerning the application of the "state mandates" provision (section 2) of Proposition 2½. This section prohibits the imposition of costs upon cities and towns by state laws, rules or regulations unless such costs are reimbursed by the state. A city or town may, however, assume such costs by voting to accept the provisions of the law, rule or regulation or by appropriating a sum of money for the purposes or programs authorized by such laws, rules or regulations. Municipal officials have asked if this provision is only applicable to laws, exemptions, rules and regulations enacted or issued after the effective date of Proposition 2½, December 4, 1980. The purpose of this release is to clarify this question.

Issue

Does the "state mandates" provision (section 2) of Proposition 2½ operate prospectively only?

Conclusion

The "state mandates" provision of Proposition 2½ operates prospectively only. The state funding and local acceptance requirements of this section only apply to laws, exemptions, rules and regulations enacted or issued after the effective date of Proposition 2½, December 4, 1980.

Reasoning

The general rule in Massachusetts is that a statute operates prospectively unless a contrary legislative intent is clearly shown. Rather than showing a contrary intent, statutory language requiring action by the general court "at the same session in which such law is enacted" as well as language referring to a rule or regulation "which shall result in the imposition of additional costs" indicates an intent to operate prospectively. The general rule of statutory construction and the specific language of the provision indicate that the provision was intended to operate prospectively.

Guideline

Municipal officials are advised that a law, exemption, rule, or regulation enacted or issued subsequent to December 4, 1980, which imposes additional local costs is not effective with respect to any city or town unless certain funding requirements are satisfied.

A law enacted subsequent to December 4, 1980 which imposes additional local costs will not be effective in a city or town unless the Commonwealth assumes such costs or the community accepts the law by vote or appropriation.

A law enacted subsequent to December 4, 1980 which grants or increases an exemption from local taxation will not be effective in a city or town unless the Commonwealth provides for the reimbursement of any resulting loss of taxes.

An administrative rule or regulation issued subsequent to December 4, 1980 which imposes additional local costs will not be effective in any city or town unless the Commonwealth assumes such costs.

The provisions of this section do not apply to any costs to cities and towns or exemptions to local taxation resulting from a decision of any court of competent jurisdiction, or to any law, rule or regulation enacted or promulgated as a direct result of such a decision.



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PROPERTY TAX BUREAU
INFORMATIONAL GUIDELINE
RELEASE No. 81-233
SUBJECT: Proposition 2½
Revocation of previously
accepted optional laws

May 1, 1981

Revocation of the Acceptance of an
Optional Law by Cities and Towns

Inquiries have been received from local municipal officials concerning the application of the revocation of acceptance provision of Proposition 2½. The question most commonly asked is whether a city or town may revoke the acceptance of an optional law thereby eliminating certain costs at the local level. This release is issued to answer this question and to summarize the provisions of Proposition 2½ relating to revocation of acceptance.

Issue

May a city or town revoke a prior acceptance of an optional provision of the General Laws?

Conclusion

An optional provision of the General Laws previously accepted by a city or town may be revoked pursuant to G.L. Ch. 4, section 4B at any time after three years from its acceptance. The revocation of a special act of the general court remains governed by G.L. Ch. 4, section 4A.

Reasoning

G.L. Ch. 4, section 4B as inserted by Proposition 2½ generally restates the existing law as set forth in the previously enacted G.L. Ch. 4, section 4B. The intent of both sections is identical, to provide a local option for repealing a previously accepted optional law thereby eliminating certain unwanted costs. This additional provision authorizes such local option and sets forth the procedure for revoking an acceptance.

Guideline

The basic provisions of these sections authorize revocation of acceptance of an optional law

- (1) after the expiration of three years from the date of acceptance, and only
- (2) if approved by a vote to revoke effected in the same manner as the original vote of acceptance.

Approval of such revocation by a majority of the voters voting on the matter may be required if a petition requesting such approval is signed by 5% or more of the registered voters of a city or town.

A revocation will not affect any contractual or civil service rights which come into existence between a city or town and any officer or employee thereof as a result of the original acceptance. Such a revocation will, however, apply to the successor to the incumbent officer or employee.

It is recommended that the applicable section be carefully reviewed prior to utilizing the option to revoke. Specific restrictions are included therein: for example, a law which contains within itself another manner of revocation is not subject to this section.

In summary, the revocation provisions afford a city or town the opportunity to eliminate certain unwanted costs by granting the city or town the local option to repeal an optional law.



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PROPERTY TAX BUREAU
Informational Guideline

Release No. 81-234
Subject: Proposition 2½
Mayor's Role in School
Budgetary Process

May 1, 1981

Mayor's Role in School Budgetary Process

Questions have arisen relative to the role of the mayor in the school budgetary process.

Issue:

Specifically, does the mayor have the power to reduce the school committee budget prior to submitting it to the city council? Or, alternatively, must the mayor submit the school committee budget to the council without alteration?

Conclusion:

The mayor may exercise his power pursuant to General Laws, Ch. 44, Sec. 32 so as to make bottom line reductions in the school committee budget prior to submitting it to the city council.

Reasons:

The mayor has traditionally had the power to reduce the school committee budget prior to submitting it to the city council. That power is conferred by Ch. 44, Sec. 32 of the General Laws. In the case of Mayor of Holyoke vs. Board of Aldermen of Holyoke, et al, 412 NE 2d 328,330 (1980) the Supreme Judicial Court in construing the tax cap legislation (St. 1979, Ch. 151) made the following observation:

Although, prior to the enactment of St. 1979, C. 151 the mayor had the power not to recommend the amount requested (by the school committee) any deficiency in his recommendation could have been made up by an appropriate court order. (emphasis added)

That "appropriate court order" is a reference to the fiscal autonomy law as it existed prior to the passage of Proposition 2½ (St.1980, Ch. 580). The portion of the statute which provided a mechanism for the restoration of reductions made by the mayor in the annual school budget has been eliminated. In its place has been substituted the following Sec. 34 of Ch. 71:

Every city and town shall annually provide an

amount of money sufficient for the support of the public schools provided however that no city or town shall be required to provide more money for the support of the public schools than is appropriated by vote of the legislative body of the city or town.

It is a rule of long standing that a statute is to be interpreted with reference to pre-existing law and if reasonably practicable it is to be explained in conjunction with such other statutes so that there may be a harmonious consistent body of law. General Laws, Ch. 44, Sec. 32 sets forth the general budgetary process to be followed in cities other than Boston. Sec. 34 of Ch. 71 as quoted above is seen as focusing upon the role of the appropriating authority within that budgetary process as it relates to the school committee budget.

As such, Sec. 34 of Ch. 71 as amended contains no language which is inconsistent with Sec. 32 of Ch. 44. This latter section requires the mayor to recommend a budget for each city department, including the school department, to the city council for appropriate legislative action.

On January 7, 1981 this Department issued a memorandum jointly with the Department of Education. At that time, it was recognized that the school committee had lost its bottom line budgetary autonomy. Such loss was brought about by the elimination of the enforcement provisions from the so-called fiscal autonomy law. By the same token, it was determined that neither the mayor's authority nor that of the city council had expanded in such a way as to permit either party to exercise line item control within the school budget.

Now, in the absence of clear unambiguous language to the contrary, we do not construe Sec. 34 of Ch. 71 as amended as expanding the authority of the city council in connection with the budgetary process under Sec. 32 of Ch. 44.

Rather we conclude that the mayor retains the authority under said Sec. 32 to submit recommendations to the city council with regard to the school department budget.



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Bureau of Local Assessment
Informational Guideline

Release No. 81-403
Subject: Proposition 2 1/2

Funding of Revaluation
Programs

May 1, 1981

Municipal Obligation to Fund Revaluation Programs

We have received inquiries as to whether a revaluation program constitutes a "state mandated" program which, under the provisions of Section 2 of Chapter 580 of the Acts of 1980, Proposition 2 1/2, cannot be imposed on a city or town unless funded by the Commonwealth. The purpose of this release is to clarify this issue.

Issue

Is a revaluation program undertaken to achieve full and uniform assessments in accordance with constitutional and statutory requirements a "state mandated" program subject to the operation of Section 2?

Conclusion

Section 2 does not affect the obligation of assessors to achieve and maintain full and uniform assessments and of municipalities to fund programs to do so because full and fair cash valuation of property for tax purposes is a constitutional requirement.

Reasoning

Full and fair cash value assessments are required by the Massachusetts Constitution in order to protect the property owner's right to pay only his or her fair share of the tax burden. The Supreme Judicial Court, in the 1974 Sudbury decision and other decisions and orders which followed, has mandated the attainment of this constitutionally based standard for assessments in all cities and towns in the Commonwealth and has placed the responsibility of directing local assessors to do so upon the Commissioner of Revenue.

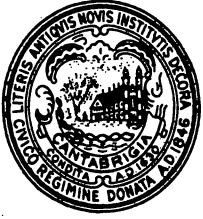
Secondly, Section 2 operates prospectively so as to apply only to laws, exemptions, rules and regulations enacted and issued after the effective date of Chapter 580, December 4, 1980. The current statutory provisions, including those of Chapter 797 of the Acts of 1979, which set forth the assessors' duties relative

to the assessment of property and the Commissioner's responsibilities to direct local assessors to perform their legal duties were all enacted prior to December 4, 1980 and, therefore, are not subject to Section 2.

Finally, the provisions of Section 2 do not apply to any cost imposed on a city or town as a result of a decision or order of any court of competent jurisdiction, or to any law, rule or regulation enacted or promulgated as a result of any such decision.

Guideline

Municipal officials are advised that cities and towns still remain legally obligated to fund their assessors' programs to achieve and maintain full and fair cash value assessments. A revaluation program undertaken to ensure compliance with constitutional and statutory requirements is not a state mandated program within the meaning of Section 2.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 498-9011

EXECUTIVE DEPARTMENT
JAMES L. SULLIVAN
City Manager

May 18, 1981

To the Honorable, the City Council:

Enclosed for your information is a copy of a communication from the Division of Local Services of the State Department of Revenue, relative to the implementation of Proposition 2½.

Very truly yours,

James L. Sullivan
City Manager

JLS/mbf
Enc.

Agenda # 10 F-170

Comm. from Div. of Local Services of the
State Dept. of Revenue re: implementation
of Prop 2½.

In City Council,

May 18, 1981

5-18-81

Referred to the
Budget Hearing

- May 27, 1981 -