#7

House and Senate Approve Brownfields

Final language still unclear; development prospects hopeful

The House and the Senate have both approved versions of the so-called Brownfields legislation. Massachusetts, as an older industrial state, contains many sites that have barriers to development and redevelopment due to the residual hazardous materials.

The House and Senate versions vary in several important ways. The House version has a more expansive definition of an economically distressed area than the Senate. The definition of this is important as clean-up projects in these areas are then eligible for tax credits. The House uses the definition of economic target areas originally created by Chapter 23A Section 3D, the legislation which created the Economic Assistance Coordinating Council. The Senate version remains somewhat the same but increases the percentage of household that have income under 51% of the median in the commonwealth to 85% from the house number of 80%. The Senate removes the ability to designate a specific area as an economic distressed instead of an entire municipality. It also does not allow the use of the commercial vacancy rate as a factor that would designate a municipality as a distressed area. The Senate version adds former shipbuilding facilities over 100 acres, former gas plants, and federal empowerment zones to their definition of economically distressed.

The next major difference between the House and Senate versions is the treatment of liability. This is less directly important to municipalities, but is a major point in the outcome of the legislation in general. The House version allows the entities who may have originally contaminated to no longer be liable for future damages sites, after the site is cleaned and certified. Opponents feel this rewards polluters, while proponents note that many of the materials that we now think of as hazardous were legally used and disposed of. The difference may be central to success of the measure, as companies frequently are less willing to sell or redevelop land if they could retain responsibility for future owners' pollution or problems.

A further difference between the two versions is the property tax abatement language. This change would allow municipalities to restructure property tax payments with interested developers. The MMA is concerned that the language found in the House bill could force municipalities to restructure property taxes for *any* eligible applicant. The Senate language is more definite about this change being a local option in every case.

A conference committee must now be appointed to develop a consensus bill.

For further information on this issue,
please contact Heather Hartshorn of the MMA staff

If this new,
Please forward to
the Council.

Ask Margaret Drury

Managed Care Reform

In recent years, concern over the cost management techniques of the HMO industry and the potential of these to create incentives for inadequate care has received a great deal of attention from a variety of sources. Although most of the evidence of need for change is anecdotal, the sense that the managed care industry needs increased regulation, rightly or wrongly, has caught the attention of many policymakers throughout the country and here in Massachusetts as well.

Last summer a comprehensive reform bill, H. 4637, was drafted by members of the Health Care and Insurance Committees but this measure was met with concern by House Leadership and the affected industry. At this time, the legislation has redrafted but has no bill number. It is currently before the House Committee on Ways and Means.

Representative Harriette Chandler, one of the chief architects of the plan, recently visited the MMA Committee on Labor and Personel to describe the major changes proposed in the redraft.

- Increased information on HMO's will be available, including how doctors are compensated, what sort of medication and experimental procedures are covered, and their accreditation status. Much is this information is already compiled by large purchasers and accreditation groups but is not readily available to members of the general public.
- The plans would be encouraged to improve grievance procedures and a state office would be created to review situations where agreement could not be reached.
- The state would mandate coverage of an emergency room visit if a "prudent layperson" would seek care in that circumstance.

Concern over the impact of the bill have been expressed by the Mass. Association of HMOs. They see many of the reforms as reasonable in spirit, but the details would prove onerous for the industry and increase the cost of managed care. Concerns also arise as other health care entities are exempt from the regulations, making HMOs less competitive.

The Senate is thought to favor more expansive reform of the managed care industry, thus this measure faces great obstacles in passing both houses before the end of the legislative session. With health care costs increasing after years of stability, costly mental health parity legislation pending in the legislature, and uncompensated care pool fees being passed along to municipalities, the hard work done by the cities and towns to control these costs is being threatened. Legislative assessment of the potential costs of these bills is being strongly advocated by the MMA.

For further information on this issue,
please contact Heather Hartshorn of the MMA staff

Fitness and Medical Standards

Standards created under the Pension Reform Act of 1987 or "Wellness Act" are still being decided

In 1987, as part of the Pension Reform Act, which became chapter 697, section 10 of the Acts of 1987, communities that accepted the funding schedule, provided for in Section 22D of Chapter 32, also voluntarily accepted health and fitness standards for their public safety officers. One hundred and eighty-eight cities and towns now found themselves tied to standards that had not yet been developed. Over the next ten years, these regulations would be implemented although the promised state funds would never appear.

These standards apply to all public safety personnel hired in pension reform communities after November 1, 1996. The Legislature, the Department of Human Recourses, and the Department of Public Health are currently all tinkering with these standards:

Delay (S. 1967)

What was originally an MMA sponsored bill to exempt call, volunteer and part time public safety officers was rewritten by the Public Service Committee. The new bill would delay implementation for all categories of employees in order to give more time to prepare for the implementation. The Public Service Committee has said they are interested in making changes so that testing will not be as onerous. A new testing site in Hudson may be opened and the existing sites (Malden, Bridgewater, and Northhampton) may be kept open on evenings and weekends. A toll free number will be established to help centralize information and hopefully streamline the process of participating in the call and volunteer service.

The fate of the exemption is unclear. Both the House and Senate Chairs of the Public Service Committee feel these standards should be applied to all public safety officers as the fitness level of public safety officers should not be depend upon where you. Taking this to its logical conclusion one might also become concerned as to whether these standards might latter be applied to all municipalities as currently fitness levels depend upon whether or not you live in a pension reform community. This would be difficult to do as this would be a very clear mandate. The Rural caucus has placed the exemption for call and volunteer firefighters on their legislative agenda.

Wellness standards

Wellness standards are currently being developed by the Department of Public Health. Participation by those covered by the "wellness act" is voluntary. Currently, the Department of Public Health is taking a regulatory stance towards this program and not providing the program models and assistance asked for by the MMA, police and fire organizations. The

legislature and the affected bodies are working with them to create better standards.

In-service fitness and medical standards

In-service standards are currently being developed by the Division of Human Recourses. They have proposed the Medical standards would be the same as at the time of initial hiring and officers would be tested every four years. The initial legislation suggested testing every two years. The Physical Ability Test (PAT) would also be the same as at time of initial hiring but the activities would have to be completed without rest periods. These tests would occur every two years. Costs are estimated to run between $200-600 for the medical exams. The PAT is administered by HRD, but costs would accrue to municipalities for travel and overtime expenses.

Re-examination of employee who failed any aspect of the medical or PAT would occur after 16 weeks. In the original proposal 6 weeks passed between tests. Sixteen weeks would be necessary to prepare using the HRD training program. Status of employee awaiting such re-examination is unclear; information about the failure will be kept at HRD between the first and second attempts. Between the second and the third attempts the information will be released to the municipality. Retirement or dismissal procedures for employees unable to meet standards requirements would be subject to collective bargaining agreement, and would not result in automatic termination.

Enduring problems

- The standards do not do what they were supposed to. In the intervening ten years since the law was passed, additions to federal law, including the Americans with Disabilities Act, have made creating tough tests that would be easy to administer virtually impossible. Tests must be specific to the duties of the job so the tests have become difficult to administer. Additionally, and of the greatest concern, the tests are such that reportably 95% of men pass easily.
- Costs are still a concern. The medical portion of the exam is costly for all. and the wellness component will be expensive as the reimbursement of $100 can not hope to cover all of the costs.

The MMA is working with the Department of Public Health, the Legislature, and the Human Resources Division to resolve these problems.

Attached is a list of affected communities.

For further information on this issue,
please contact Heather Hartshorn of the MMA staff

S-332

Comm. and Rpts from City Officers #1

A communication was received from Mayor Francis H. Duehay, transmitting an information packet from the Massachusetts Municipal Association.

In City Council April 27, 1998

PLACED ON FILE