STATE AUDITOR'S OFFICE
DIVISION OF LOCAL MANDATES

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THE Community Connection

John Finnegan, Auditor of the Commonwealth

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THE LAST SIX YEARS: A MESSAGE TO LOCAL OFFICIALS

January 1987 marks the end of my six-year tenure as state auditor, a six-year period that witnessed the greatest change in state and local relationships since the founding of the commonwealth. During this period, a revolutionary public referendum, Proposition 2 1 2, became law. While public attention focused on the tax-cutting aspects of the new law and municipal officials struggled to provide necessary services on drastically reduced budgets, I was faced with the task of establishing the mechanism that would oversee this new relationship: the Division of Local Mandates.

Now, six years later, I feel confident that this task was accomplished - though your struggle continues: I say this not as a point of comparison but of elucidation: the establishment of DLM was merely the creation of a new tool; how you employ this tool in your struggle to provide local services is your challenge. And this challenge is an ongoing one that will probably never end.

As difficult as that process may appear, however, I leave office knowing that the Division of Local Mandates has already established a reputation and record of forceful and effective representation of your interests, though, certainly, we have not done this alone. It has required your cooperation, your counsel, your imagination and your courage.

Together, we have put sinew and muscle on a structure whose responsibility is to tell our legislature and our state government that they can't force muncipalities to do things without paying for them!

Together, we have changed the law- and rule-making process. Now, when new ideas surface on Beacon Hill and in state office buildings, the fact that all new costs must be borne by the state is discussed. Witness the Omnibus Education Bill. Generally, as a former public school teacher, I felt that the thrust of the legislation was positive. However, it soon became obvious that the huge costs (approximately $300 million) were going to fall directly on our communities. We brought the issue of funding the mandates involved to the legislature, and what happened? It is now a local option law with substantial state grant money.

Together, we have raised issues resulting in DLM determinations for payments to cities and towns of over $36 million for the costs of implementing state-mandated programs concerning uniform polling hours; census procedure changes; jail-cell retrofitting for suicide prevention; the Right-to-Know Law; ambulance regulations; the School Breakfast Bill and many others.

Together, we lobbied for passage of Massachusetts's first Sunset Law. Though in its infancy, this creative act promises to rewrite the book on pre-Proposition 2 1/2 law. The first Sunset Report has been delivered to the legislature this January, the result of your concerns and your suggestions.

Some battles remain in progress, however. Though a solution appears to be developing, we are still engaged in the dispute over funding for the the implementation of the revenue enhancement program (REAP). In many ways, this impasse is the most irritating: you have been forced to perform the detail work, while the state takes the money and the credit for the program.

Though we now await court support of our legal position, we took the political heat together resisting the state's arbitrary application of requirements for the operation of sanitary landfills. While we were all falsely accused of being anti-environment, we fought together for the principle of state funding that Propositon 2 1/2 demanded.

We are also fighting together for the proper application of the Local Aid Fund. It is preposterous that the funding for state mandates is taken from this fund. The Local Aid Fund was created to return taxpayers' dollars to local communities to provide the services desired by the communities -- not to pay for state mandates.

As I leave office, I realize that these and other battles remain to be fought. None of them will be easy. There are strong and varied adversaries. However, I feel a sense of accomplishment when I review the good work that we have done together through the Division of Local Mandates. With your continued support, this venture will have continued success.

Sincerely,

John Finnegan

A&F MANDATE FUNDING GUIDELINES TO BE CHANGED

After months of negotiations, the Executive Office for Administration and Finance (A&F) has responded to Auditor Finnegan's position that mandate funding must be provided up front. We have received an A&F proposal for advance funding to compensate cities and towns for implementation costs due to the Right-to-Know Law (RTK). This is an event of major significance, because the municipal payment guidelines developed for RTK are to be the model for all future mandated programs. A&F had previously established a funding procedure which called for state reimbursement of RTK monies appropriated and expended on the local level. Auditor Finnegan expressed dissatisfaction with this mechanism, calling on A&F to make payments in advance, or at least contemporaneously, for costs imposed by the mandate, consistent with the SJC interpretation of Proposition 2 1/2.

Under the revised guidelines, A&F would provide an advance payment for the first quarter of FY '88. This funding will be available to draw down for RTK expenses. The fund can be replenished quarterly by submitting prior quarter RTK records to A&F. This process would continue until the fourth quarter, when actual costs would be compared to the quarterly funding payments and any variance would be compensated or credited. The first quarter advance would be available to any community submitting to A&F documentation of 100 percent of their initial Right-to-Know grant and an acceptable budget and program narrative.

Because of this new commitment from A&F, cities and towns meeting the two criteria for advance payments need not appropriate their own funds for FY '88 Right-to-Know compliance. As a result, it appears certain that municipal concerns with implementation of this important law have now been resolved favorably. More importantly, it appears that the Administration is willing to base future compensation for state mandates on this new up-front payment plan, a welcome change in policy for state mandate funding for cities and towns.

DLM is reviewing the proposed guidelines and will meet with A&F to discuss the details and timing of the revised guidelines.

AMBULANCE REIMBURSEMENTS FOR 28 COMMUNITIES

Nearly $175,000 will soon be returned to 28 communities for costs incurred under Department of Public Health (DPH) ambulance service regulations.

Auditor Finnegan has submitted to DPH a statement detailing this information in order to effect distribution of the funding. These mandated costs were identified by DLM in an August 1984 ruling. The Legislature subsequently included the $175,000 in the FY '87 budget to reimburse cities and towns for the improvements to their ambulance services.

DPH is seeking an additional appropriation for FY '88 for continued local funding of these requirements.

AMENDMENT TO THE SUICIDE PREVENTION LAW EXTENDS EFFECTIVE DATE

The December 31, 1986 effective date of the Suicide Prevention Law has been extended again to June 30, 1987 to allow local police departments additional time to suicide-proof their lock-up facilities. However, the issue of local police personnel costs remains unresolved. In a letter to state legislative leaders recommending the extension of the effective date, Auditor Finnegan requested that the General Court provide for $4.72 million in state funding for local personnel costs to implement the 15-minute cell check requirement. This funding has yet to be appropriated.

The June 30, 1987 extension provides time to seek a legislative solution to address this concern. In the meantime, community officials may wish to contact their legislators to request their support for state assumption of the anticipated new personnel costs.

STREET LISTING COSTS

Auditor Finnegan has recently determined that costs totalling $196,558.39 were incurred by an additional 60 communities due to compliance with the Race and Primary Language Law. These cities and towns should receive state funding by Feb. 6, 1987.

The determination is a supplement to the Auditor's initial report of $621,244.88 incurred by 283 cities and towns, submitted to the Secretary of State's office late last year. To date, the costs for 343 communities totals $817,803.27 of the $890,000 appropriation secured to fund this state mandate.

AUDITOR RELEASES SCHOOL BREAKFAST COSTS

Auditor Finnegan has recently submitted a report to the General Court assessing the financial effect of Chapter 346 of the Acts of 1986, the School Breakfast Law. The Division of Local Mandates conducted the analysis of survey data provided by school officials from the 79 districts and municipalities affected by the law. DLM is finalizing cost data for the two communities that have yet to submit full school breakfast information, and expects to issue a supplement to the report shortly. The data is being studied by a working committee comprised of state and local officials created by c. 346 to establish the state payments for the mandated school breakfast program.

The law requires selected school districts to make free or reduced price breakfasts available to eligible students. The law provides for state funding to communities with costs exceeding federal reimbursement rates. The FY '87 appropriation is $360,000. Based on DLM's analysis for 77 of 79 affected school districts, the appropriation will be sufficient to cover these local costs.

The statute calls for state assumption of "reasonable" costs of implementing the school breakfast program. The working committee intends to include supervision costs as an eligible expense. DLM expects to review the draft guidelines as soon as they become available.

We are grateful for the excellent response to our requests for survey data.

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Comm. from John Finnegan, State Auditor, transmitting for informational purposes a copy of the January, 1987 issue of "The Community Connection".

In City Council,

February 2, 1987

Placed on File