



TOWN OF NORTHBOROUGH

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February 16, 2010

Governor Deval Patrick
State House, Room 360
Boston, MA 02133

Dear Governor Patrick:

On behalf of the Town of Northborough, I am writing to ask for your support of a number of legislative reform proposals that would benefit the residents of this Town and taxpayers across the Commonwealth. Many communities are still reeling from the \$724 million cut to local aid in fiscal 2010 and face mounting fiscal distress. Despite the positive outlook of many economists that the nation is on the road to recovery, municipalities face a recovery lag time, so in effect, cities and towns are not out of the woods yet. Municipalities seeking to balance their fiscal 2011 budgets are confronting difficult and painful decisions in the weeks and months ahead. The legislative priorities, listed below, would provide municipal leaders with tools necessary to effectively manage dwindling resources. Many of the rules, regulations and state laws that we have in place today hinder a community's ability to be creative and innovative, and many may in fact create inefficiencies, redundancies and waste in the use of the limited financial and human resources that are at a municipal manager's disposal.

The current economic crisis has hampered our ability to deliver public safety services, maintain our public infrastructure and support the education of our citizenry, all of which are vital to our economic competitiveness, business growth and the state's long-term prosperity. Local governments are the direct providers of these services on a daily basis. We also provide important social services to our youth and elderly populations, and we facilitate the dissemination of information to our citizens through our public libraries. In short, Massachusetts' cities and towns remain the front line of government and the most direct link to the people. Therefore, we desperately need powerful tools and resources to reduce the recession's impact on municipal services, to ensure that municipal personnel levels are adequate to deliver these services, and to protect local taxpayers from even more increases in the overburdened property tax.

During the last recession, local aid was cut up to 20 percent for most cities and towns. The impact is still being felt and has been further compounded by recent cuts to local aid and education funding. After adjusting for inflation, local aid in fiscal 2010 is a staggering \$1.3 billion below fiscal 2002 levels. Cities and towns have been in fiscal distress for the past eight years, curtailing services and increasing reliance on regressive property taxes.

With these facts in mind we also appreciate the historic nature and degree of fiscal uncertainty currently facing the Commonwealth and subsequently, all its municipalities. We respectfully request your support for the proposed reforms outlined on the following pages, which reflect the Town's Legislative Priorities, as identified by Town staff, the Municipal Managers' Association and the Massachusetts Municipal Association. We believe the items below would serve as a starting point for meaningful reform that would reduce the recession's impact on municipal services, support and empower local government, achieve cost savings and result in increased tax revenue.

We would be pleased to provide additional information or to meet with you, your staff, or any of your colleagues if you think this would be helpful. Again, thank you for your assistance.

Sincerely,

Fran Bakstran, Chairman
Board of Selectmen

CC: Board of Selectmen
Town Administrator
Asst. Town Administrator
Appropriations Committee
Financial Planning Committee
Senator James Eldridge
Senator Harriette Chandler
Representative Harold Naughton



STATE LEGISLATIVE ISSUES February 2010

1. Greater Control Over Health Insurance

Empowering cities and towns to modernize their health insurance plans outside of collective bargaining – this would simply give local officials the same power the state has to update health plans, and would save more money, more quickly and more efficiently than any other option (including joining the state plan, which is not an attractive alternative for many municipalities).

Cities and towns have worked hard to control health insurance costs as best they can, but they operate under a state law that reflects a double standard. Municipalities are required to negotiate and receive union approval to implement significant changes in their health insurance plans, while *the state has exempted itself from this requirement*, and implements basic decisions on health insurance outside of collective bargaining. It is far past time that this double standard end, and *we strongly urge the Legislature to give cities and towns the same authority as the state in designing health insurance plans for employees*. This one reform is the most effective way to bring immediate fiscal relief to all cities and towns, and is urgently overdue.

The real issue in terms of cost and savings opportunities comes in the area of “plan design.” Plan design generally refers to out-of pocket costs such as co-pays for doctor’s visits, prescription drugs, hospital visits and the like. This is because health insurance plans range in price based on the basic benefits that are offered. Plans that are designed with lower co-pays and deductibles for visits to the doctor, the emergency room, and for in-patient and out-patient procedures are more expensive than plans that have higher co-pays and deductibles.

Unfortunately, state law requires cities and towns to collectively bargain changes that would modernize their health insurance plan designs. On the other hand, the state has exempted itself from this, and plan design for state employees is determined by the Group Insurance Commission. If cities and towns had the same authority as the state, they could quickly modernize their health plans to incorporate realistic co-pays, deductibles, and tiered networks (as the state has done) and reduce the cost of municipal health insurance throughout the Commonwealth.

Keeping the status quo means leaving this important cost containment measure to the agonizingly slow and ineffective collective bargaining process that requires the agreement of all unions before affecting any change. Further, this change is far superior to the current option of having cities and towns consider joining the state plan, as there are many communities for whom the state plan would not work nearly as well, due to offsetting costs that depend on many complex factors, including the number of retirees, the percentage participation in indemnity plans, and other considerations.

Why is this initiative the top Legislative Priority for the Town of Northborough?

In early 2009, the Town engaged its unions in bargaining over plan design changes. It took several months of negotiations before all of the unions ultimately agreed to implement changes for fiscal 2010 that resulted in nearly \$400,000 in savings. Achieving these savings was critical to filling the budget gap that resulted from significant reductions in state aid. While the Town appreciates the cooperative effort shown by its employees in supporting plan design changes during a time of fiscal crisis, municipalities should have the power to incrementally adjust their plan features such as co-pays, deductibles and tiered benefits to avoid being saddled with health insurance premiums that are more expensive than those offered to state employees and even further out of line with private sector employers.

2. Pension Funding Relief

Enacting the Governor’s proposal to allow cities and towns to extend their pension funding schedules by ten years to 2040, would protect local taxpayers from unnecessarily high assessments during this time of fiscal crisis. Unless the funding schedules are extended from 2030 to 2040, market losses due to the recession will trigger steep increases in annual pension assessments for cities and towns. Combined with cuts to local aid and declining revenues, higher pension costs are likely to result in steep budget cuts to key municipal and school services.

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Northborough’s annual pension assessment for FY2011 is \$1,077,718. If the state fails to extend the 2030 deadline, it is estimated that the assessment could increase by as much as \$500,000 in FY2012. This increase is attributable to the unprecedented losses of approximately 30% in the market collapse of 2008.

3. Refrain from Imposing Unfunded Mandates on Municipalities

The state needs to refrain from imposing any further unfunded mandates and requirements on cities and towns, as these mandates harm municipal budgets, adversely impact municipal service delivery and increase reliance on the property tax. Local governments cannot continue to absorb these mandates and the workload they impose without compensation, reimbursement, or other relief from the state, no matter how worthy the cause. Despite recent dramatic declines in state aid to municipalities and reductions in state reimbursement programs, the state has not shied away from its long-standing practice of subjecting cities and towns to a slew of mandates that impose additional requirements and costs on municipal budgets without any financial assistance or relief. A recent example of a costly unfunded mandate was the special state primary and special state election for the United States Senate seat. A decision from the State Auditor ruled that the elections were mandates, and provided an initial, conservative statewide estimate of \$7.2 million in costs imposed on cities and towns pursuant to the mandate.

The Legislature's decision to walk away from fully-funding its share of the Police Career Incentive Pay Program (Quinn Bill) may ultimately be another unfunded mandate forced on communities throughout the Commonwealth. Cities and towns accepted the Quinn Bill based on a promise of 50% funding from the state. The Quinn Bill provides officers earning associate's, bachelor's and master's degrees 10%, 20% and 25% bonuses, respectively. In fiscal 2010, the state reduced its share of the Quinn Bill by more than 80% to \$10 million. Even in communities with strong contract language clarifying that the municipality is responsible only for its share of the Quinn Bill payments, and not for an unfunded portion of the state's share, unions have gone to court seeking to force cities and towns to make up the shortfall. The Legislature must act to clarify that cities and towns are not responsible for making up the \$48 million shortfall in the state's share of this program unless the community has explicit local contract language that it will do so. Until such legislation is passed, communities are in financial and legal limbo, and any requirement to pay the state's share is an untenable unfunded mandate.

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Northborough spends approximately \$13,000 to conduct an election. This means that the recent primary and special state elections cost local taxpayers about \$26,000. These costs were unanticipated, and absent reimbursement from the state, the Town may be faced with reducing spending in other areas to cover the cost of the elections.

The total cost of fully funding the Police Career Incentive Pay Program in Northborough for fiscal 2010 is approximately \$200,000. Northborough accepted the Quinn Bill based on a promise of 50% funding from the Commonwealth. The state's failure to fully fund its share of the program in fiscal 2010 (approximately \$100,000 for Northborough) has created a funding gap of approximately \$84,000 dollars locally. The state's decision to withdraw its financial support for the program should not impose a huge new unfunded mandate or burden on municipalities and local taxpayers.

4. Modernize Procurement and Public Construction Laws

The following suggestions would reduce the direct financial and administrative costs of dealing with overly restrictive and out-dated purchasing and public construction regulations and laws.

- As recommended by the Inspector General several years ago, raise all of the bid thresholds, and then index these thresholds so that the legislature does not need to revisit the issue every 20 years when the old thresholds become outdated.
- Raise the threshold in Chapter 149 and 30 requiring payment bonds for repair and construction projects from \$2,000 to \$50,000.
- Amend Chapter 149 to eliminate the requirement for filed sub-bids.
- A major cost factor in public construction is a requirement that Towns must pay "prevailing wages" that are often greater than the wages paid by local contractors. In addition, this requirement involves far more paperwork than local contractors are prepared or willing to take on for a one-time project. It is ironic that a law, which was initiated to encourage the award of contracts to local tradesmen, would have an opposite effect. There should be legislation that would exempt construction projects of \$100,000

or less from the prevailing wage law. At a minimum, the law should be modified to allow greater flexibility for smaller construction projects. We urge you to address the long overdue problem of excessively high public construction costs within the Commonwealth.

Why is this initiative a top Legislative Priority for the Town of Northborough?

It requires over 70 hours of training under the Office of the Inspector General to become a Massachusetts Certified Public Purchasing Official (MCPPO). Completion of the requisite coursework costs a municipality at least \$1,550 for each individual, plus ongoing continuing education credits. The labyrinth of requirements for even the smallest of projects makes it impossible for public officials to use common sense and good business practices. It creates a bottleneck at the local level for departments that have projects to complete, because they must wait for the local MCPPO to review and sign-off of each procurement process. At a minimum, the Legislature should raise the thresholds and standardize requirements for all projects under \$100,000.

The Town has also paid significantly more for construction projects due to the prevailing wage law. In 2009 the Recreation Director sought quotes from several reputable flooring companies to establish the basis for a budget request to replace the Town Office's gym floor. Based upon the Director's market research, it was determined that a budget of approximately \$55,000 would be sufficient to perform the work. Once the Recreation Director consulted with the Town's Procurement Officer, she was informed of the various procurement regulations and the need to inform potential bidders that the project would be subject to prevailing wages. The new budget estimate for this exact same project was over \$82,000, or 49% higher than if a private sector company had the same work done.

The Police Chief had a similar experience recently when he attempted to get quotes for the painting of the police station. Reputable local contractors did not want to respond because of the burdensome paperwork required by public procurement laws. At least one contractor stated that the prevailing wages were so much higher than he paid his personnel, that he did not want to bid the job for fear that his crew would not be satisfied when their wage rates reverted back to what the private sector jobs would pay.

5. Impact/Mitigation Fees

The state needs to develop a fair system of assessing the cost of new developments on municipalities and allowing them to recoup some of these costs from developers. Many other states provide municipalities the ability to charge impact fees on new developments in order to mitigate the capital costs associated with growth. A constitutional change will allow Massachusetts to utilize this technique of growth management for funding infrastructure and facilities such as schools. This modification to the State constitution, which will benefit municipalities and their residents, is long overdue. We urge you to support the actions necessary to have the State constitution properly amended.

Why is this initiative a top Legislative Priority for the Town of Northborough?

The process for negotiating mitigation funds from developers is time consuming with results that vary dramatically from municipality to municipality, and from developer to developer. There should be one set of rules for all to follow. It is expensive and time consuming to create a local by-law that accomplishes most of what should be authorized and standardized at the state level. The Town of Northborough had budgeted \$25,000 in the FY2010 Planning Budget to study and create a local mitigation by-law that would accomplish some, but not all, of what an impact fee would. Given the fiscal constraints facing the Town, the requested funding had to be eliminated from the FY2010 budget. Once again, the Town is left with no standard rules or process with which to plan for the impacts of development.

6. Restore Circuit-Breaker Funding

Restore funding to the state’s special education reimbursement program known as the “circuit breaker” program which provides reimbursements to school districts that must provide high-cost programs for special education students. In past years, the state reimbursed districts for approximately 75% of special education expenses incurred above the special education foundation amount. During the fall of 2009 the state cut over \$6.9 million from the program’s fiscal 2010 budget, and as a result, school districts statewide have seen reimbursement rates plummet to 30 – 40% of eligible costs. These mid-year cuts are particularly difficult for districts that set their budgets prior to the state making its determination of funding levels, and must now try to find ways to make up for the fiscal 2010 cuts while preparing for even less funding in fiscal 2011.

Why is this initiative a top Legislative Priority for the Town of Northborough?

Fiscal 2010 cuts to circuit-breaker funding resulted in a loss of \$476,000 in reimbursement to Northborough’s K-8 schools. Because special education services are mandated, schools will have to make cuts in other operational and programmatic areas to meet their obligations.

In addition to the top six legislative priorities above, the Town is also including the following bulleted list of additional (secondary) issues and initiatives that we hope you will support.

- **Telecommunications Loophole:** While legislation was recently enacted codifying the Appellate Tax Board's ruling that telecommunications companies are subject to local taxation on poles and wires over public ways, the Legislature needs to enact the second half of telecommunication tax reform *by eliminating the remaining obsolete and unwarranted exemption of telecommunications equipment from the personal property tax*. This reform would provide up to \$25 million in local revenues that telecommunications companies avoid paying under our outdated tax statute. It is time for telecommunications companies to pay their fair share of the property tax. The \$25 million in revenue could be used for property tax reduction, education, road construction and maintenance or any other municipal expense.
- **Departmental Revolving Funds:** Section 53E 1/2 of Chapter 44 authorizes cities and towns to establish one or more revolving funds for individual municipal departments and to set a limit on expenditures from each fund. Annual reauthorization is required for each fund by Town Meeting upon the recommendation of the board of selectmen, in the case of a town, and by the city council upon the recommendation of the mayor/city manager, in the case of a city. We are asking the Legislature to eliminate the annual approval requirement and replace it with a one-time authorization by the local appropriating authority that would be revisited only to change the dollar limit or revoke the authorization.
- **Property Tax Overlay Accounts:** Each year every community in the Commonwealth sets aside an amount of money from the Proposition 2 ½ limited tax levy for tax exemptions for eligible elderly and disabled residents as well as tax abatements and appeals. These funds are not used for town services but in fact go towards a reduction of individual taxes. Accordingly, the amount set aside for this purpose should not be included in the levy limit established under Proposition 2 ½. We urge you to support this technical amendment to the Proposition 2 ½ law.
- **Personal Property Taxes:** We support Senate Bill 1355, *An Act Relating to the Collection of Personal Property Taxes*, which would authorize municipal Collectors to perfect a security interest in the personal property of a delinquent taxpayer. Unlike delinquent taxes on real estate or delinquent water or sewer charges, which become a lien against the property, delinquent taxes on personal property do not constitute a lien on anything, making effective collection of personal property taxes by non-judicial means problematic. This proposal would create a process for personal property similar to the lien process for real property.
- **Amend Community Preservation Act:** Municipal officials are striving to implement green initiatives and innovative practices that reduce costs, increase energy efficiency, and contribute to a healthy environment. Amending General Laws, Chapter 44B, the Community Preservation Act, to allow projects relating to Green Energy Initiatives to be eligible for Community Preservation funds would provide an important tool to promote such practices.

- **Capital Project Fund:** Amend Chapter 44, Section 20 to allow up to \$25,000 remaining in a capital project fund, after the project is complete, to be appropriated for the purpose of retiring any debt incurred to pay for the capital project. The remaining balance could be used to pay the debt that was issued.

On behalf of the Town of Northborough, thank you in advance for your consideration of these important issues and initiatives.