



## TOWN OF NORTHBOROUGH

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February 26, 2018

Governor Charles D. Baker  
Massachusetts State House  
Office of the Governor  
Room 280  
Boston, MA 02133

Dear Governor Baker:

On behalf of the Town of Northborough, I respectfully request your support for the proposed legislative reforms outlined on the following pages. These are the priorities of the Town's Public Officials, as well as the Massachusetts Municipal Managers' Association and the Massachusetts Municipal Association. We believe that your administration's support of these items is in line with your demonstrated commitment to strengthening partnerships with local officials and building stronger communities across the Commonwealth.

The reforms that are highlighted herein would benefit municipal leaders' efforts to mitigate heightened pressures on local resources. Many of the rules, regulations and state laws that are in place today hinder their ability to apply creative and innovative means to effectively manage their organizations, 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.

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

Sincerely,

Jason Perreault, Chair  
Northborough Board of Selectmen

CC: Board of Selectmen  
Town Administrator  
Asst. Town Administrator  
Finance Director  
Superintendent of Schools  
Appropriations Committee  
Financial Planning Committee  
Senator James Eldridge  
Senator Harriette Chandler  
Representative Danielle Gregoire  
Representative Harold Naughton



TOWN OF NORTHBOROUGH  
STATE LEGISLATIVE PRIORITIES  
February 2018

**1. Provide a Multi-Year \$300 Million Chapter 90 Authorization**

Increased funding of the Chapter 90 program, through which the Commonwealth reimburses municipalities for eligible roadway improvement projects, is critically important as communities across the state seek to maintain safe local roadways and build strong local economies. The program's formula-based funding takes into account a community's population, road miles and employment. The Legislature authorized a \$300 million Chapter 90 program for Fiscal 2015, and ultimately, the full amount was released to cities and towns in January 2015. The subsequent Fiscal 2016, Fiscal 2017 and Fiscal 2018 authorizations were reduced to \$200 million, and the Governor has again sought \$200 million for the program in Fiscal 2019.

Level funding the Chapter 90 program for Fiscal 2019 provides inadequate support to communities seeking to maintain roads in a state of good repair. A 2014 state-wide survey by the Massachusetts Municipal Association (MMA) found that municipalities would need to spend in excess of \$600 million annually to bring roads up to the industry standard for ensuring well-maintained roads in good condition. In 2016, the MMA estimated that the overall annual spending need increased by about 9.6% over a two-year period. Actual spending by cities and towns is far less than the amount necessary to even maintain current road conditions. According to the U.S. Department of Transportation, once a local road is in a state of good repair, every dollar invested to keep it properly maintained will avoid \$6 - \$10 in repair costs due to lack of maintenance. The rapidly increasing costs cited by the MMA reflects the overall deterioration of our roadway infrastructure and underscores the detrimental effects of deferred and/or under investment in our aging infrastructure.

The timing of legislative action on Chapter 90 is also critically important with adherence to the April 1 notification date necessary to allow municipalities the needed time to plan, bid and award paving contracts and make maximum use of the funds during the full construction season. For most cities and towns, Chapter 90 is the primary source of funds for road construction and repairs, and delays or reductions in funding can result in paving projects being postponed until the following season. A multi-year bond bill would allow for better multi-year planning and more effective use of funding as well.

### **Why is Chapter 90 Funding a Legislative Priority for the Town of Northborough?**

The Town of Northborough has approximately 93 miles of roadway. Historically, the Town's annual spending on road construction projects has been limited to its Chapter 90 allocation, which has been insufficient to keep pace with needed maintenance and investments. In 2013, the Town completed a comprehensive pavement management study which assessed the condition of the Town's roadways. Notably, the study found only 4% of the Town's roadways to be in excellent condition and in need of no maintenance, and over one quarter (27%) of the roads were found to be in such poor condition that they require reclamation or reconstruction.

Ultimately, deferring investment in our roadways will negatively impact the Town's financial condition and bond rating by increasing costs and reducing the Town's ability to fund other services. Since completing the pavement management study, the Town has developed a pavement management plan to guide its investment in local roadway infrastructure. The Town's study found that if the Town were to invest only Chapter 90 funds for ten years, the backlog of roadway maintenance work would increase from an estimated \$17 million to almost \$44 million over that time period. Annual spending of \$1.1 million would be necessary to merely maintain current pavement conditions.

When Chapter 90 funds were increased to approximately \$800,000 during FY2016 and paired with an increased local appropriation of \$300,000, the Town met the minimum requisite funding. When the Town subsequently updated its Pavement Management Study, a slight improvement in the overall pavement condition index was noted. Unfortunately, Chapter 90 funds were reduced back to \$500,000 in FY2017 and FY2018, and are expected to remain at that level for FY2019. At this level, the Town's Chapter 90 allocation of approximately \$500,000 plus a local appropriation of \$300,000 results in a \$300,000 funding gap, which would be filled if the statewide Chapter 90 funding were increased to \$300 million. It is therefore critical that the Governor and Legislature act to ensure the swift passage and full funding of at least a \$300 million Chapter 90 program in Fiscal Year 2019 and beyond.

## **2. Increase Circuit-Breaker Funding**

Another top priority for the Town of Northborough is increased funding of the state's special education reimbursement program known as the "Circuit Breaker Program". The circuit breaker fund has been in existence since 2004 and reimburses local school districts for a portion of their costs above a certain threshold for educating students with severe disabilities. The average reimbursement over the past five years (FY2013 through FY2017) was 74.2% of eligible students' program costs that exceed four times the average foundation budget. The current state funding level of 65% fails to fund the program at the level required by law (75%), creating unanticipated losses for every school district in the Commonwealth.

When the circuit breaker fund was created, it was with the understanding that students with exceptional placement or program costs are the collective responsibility of all in the Commonwealth, not the sole responsibility of the communities in which the students reside. The circuit breaker fund has been instrumental in mitigating the divisiveness between regular education and special education because of the requirement that special education must be funded, even if it means compromising regular education programs. The circuit breaker has been highly successful in ensuring that Massachusetts provides sufficient support for both special education and regular education.

Due to the consistency with which the state has supported the circuit breaker since 2005, most districts built their fiscal 2018 budgets with the expectation that this funding will continue at the 75% level. However, the breach in this responsibility after the vast majority of districts had already passed their budget inappropriately pits special education against regular education. Left unaddressed, the funding gap will create unnecessary conflict and tension between districts and families, who are all working to do what is best for our special education students.

We seek your support in remedying not only the current-year funding gap, but also ask that you support a more expansive modification of the Circuit-Breaker Program that would increase the funding formula to 100% reimbursement for the cost of special education services that exceed the minimum threshold and that adds reimbursement for associated mandated special education transportation expenses. Given the high cost of providing specialized transportation, many districts are forced to reduce regular education school programs or further shift funds from the municipal side of the budget. Adding a transportation funding component would provide great relief to school budgets.

**Why is Circuit-Breaker Funding a Legislative Priority for the Town of Northborough?**

In Fiscal Year 2017, eligible special education expenses totalled \$2,502,506 for the Northborough K-8 School District. The minimum threshold or foundation amount was \$43,094. With 28 eligible student claims, this resulted in a net claim of \$1,295,874 (( $\$2,502,506 - (\$43,094 \times 28)$ ). By applying the approximate current 65% reimbursement rate, the District is slated to receive a total amount of \$842,317 in the current fiscal year.

An additional \$1,234,686 of eligible special education expenses were incurred at Algonquin Regional High School (Northborough-Southborough Regional School District). There were 15 eligible student claims resulting in a net claim of \$588,276. The District is slated to receive a total amount of \$382,378 in the current fiscal year.

In Fiscal Year 2017, special education transportation expenses for the Northborough K-8 Schools totalled \$629,510. An additional \$151,117 in transportation was spent at Algonquin Regional High school. These costs were completely funded through the school budgets.

Because special education services are mandated, schools continue to make cuts in other operational and programmatic areas to meet their share of these obligations. If the SPED Circuit-Breaker Program were funded at 100%, the Town would have received an additional \$453,557

based on FY2017 expenses for its K-8 schools and an additional \$205,898 would have been received for expenses associated with Algonquin Regional High School. If SPED transportation were included, another \$780,627 would be received.

Based on the information provided above, it is reasonable to estimate that a change in the circuit breaker threshold and/or a change to the Chapter 70 formula would result in an increase in special education relief to our community.

### **3. Ensure Sustainable OPEB Costs for Cities and Towns**

Legislative action to reduce the looming Other Post-Employment Benefits (OPEB) funding crisis is critical to keeping cities and towns from gutting essential services and increasing local property taxes. OPEB refers to non-pension benefits provided to retirees, consisting primarily of health insurance. According to the MMA, over the next 30 years, unfunded OPEB obligations represent a \$46 billion liability for municipalities in the Commonwealth. The magnitude of these costs becomes even more relevant as bond rating agencies now require reporting OPEB liabilities on municipal balance sheets. Without meaningful reform, the costs of retiree health insurance will consume an increasingly greater share of municipal budgets, and squeeze out funding for critical services.

Currently, employees who retire at age 55 having worked for at least 20 hours per week for at least ten years typically qualify to receive health insurance benefits for life. Unlike pensions, these medical benefits are not adjusted to account for full or part-time work, years of service, or age of the recipient at the time of retirement. Unlike pensions, these benefits are funded on a pay-as-you go basis. This model, adopted during a different era, is no longer sustainable. Reform is necessary to protect not only the financial well-being of municipalities, but to also protect retiree benefits in both the short and long term and to protect municipal jobs.

In 2011, the State enacted municipal health insurance reform, giving municipal officials a set of tools to change plan design features for active employees and retirees. But even with this authority, municipalities have little or no control over the primary drivers of general health care costs. With communities having little or no recourse for raising revenues in the Proposition 2 ½ era, if untouched, this unsustainable cost will crowd out funding for other key line items in municipal budgets, threatening jobs and core municipal services.

Despite the recommendations contained in the 2012 final report of a special commission charged with studying OPEB, no meaningful reform has been achieved to date. The Town supports the Massachusetts Municipal Association's call for reform that modernizes the benefit structure by increasing eligibility standards, but also allows cities and towns to retain their existing management authority to change retiree premium contribution rates and to adopt various sections of Chapter 32B that dictate who receives retiree benefits.

### **Why is OPEB Reform a top Legislative Priority for the Town of Northborough?**

In addition to implementing plan design changes in Fiscal Year 2010 with the full support of all of its unions, the Town of Northborough also unanimously adopted MGL Chapter 32B, Section 18 at the Annual Town Meeting in April 2009. The adoption of Chapter 32B, Section 18 required Medicare eligible retirees to move out of the HMO active health plans on July 1, 2010 and into Medicare supplement or "Senior Plans," which are specifically designed for the medical needs of seniors and effectively shares these health care costs with the Medicare program. By adopting Section 18 the Town's GASB 45 Unfunded Actuarial Accrued Liability (UAAL) for Other Post-Employment Benefits (OPEB) for retiree medical benefits was immediately reduced from \$90.4 million to \$34.3 million. Northborough's current actuarially-assessed OPEB liability stands at \$39.1 million.

In response to the newly quantified OPEB liability, Northborough Town Meeting created a Trust Fund in 2011 to begin setting aside funds. Town Meeting then adopted the local option hotel and meals taxes in 2013 as a future dedicated funding source for OPEB. The Town contributed \$500,000 of combined meals tax and general revenues to the OPEB Trust fund in Fiscal Years 2015, 2016, 2017 and 2018, and seeks to do so again in Fiscal Year 2019. While the Town continues to work with its actuary to refine its long-term OPEB funding plan, the fact remains that municipalities cannot fund themselves out of this problem. The solution requires immediate action by the Legislature to reform the benefit structure in order to make it sustainable for all stakeholders.

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

- ***State Delegation for Stormwater Permitting:*** We ask that you support the Massachusetts Department of Environmental Protection's (MassDEP) efforts to obtain delegated authority from the U.S. Environmental Protection Agency (EPA) over the National Pollutants Discharge Elimination System (NPDES) program. The NPDES water quality program includes administration, permitting, compliance, inspection and enforcement activities for facilities that discharge effluent into surface waters, as well as stormwater managed by over 250 communities. Massachusetts is one of only three states that do not have delegated authority to oversee NPDES programs. Benefits of having MassDEP oversee the process instead of the EPA include the following:
  - DEP's strong relationships and experience working with cities and towns on a variety of regulatory matters aimed at maintaining high water quality standards in the Commonwealth;
  - enhanced opportunity for integrated water management benefiting overall water quality;
  - MassDEP has a track record of offering outreach and technical assistance to municipalities and its ability to do so would likely strengthen permit compliance;
  - delegated authority would allow DEP to provide better information on water quality conditions across the Commonwealth.

- **Oppose Unfunded Mandates:** We seek your support in working with the MMA and municipalities to comprehensively review and analyze unfunded mandates imposed by state law, regulation or other action. In addition to seeking full funding for all current mandates, we ask that you support the MMA's proposal that would require the Executive Office to specify the local impact of any signed legislation.
- **Modernize Procurement and Public Construction Laws:** The following suggestions would reduce the direct financial and administrative costs of dealing with overly restrictive and outdated purchasing and public construction regulations and laws. A major cost factor in public construction is a requirement that Towns 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. We urge you to address the long overdue problem of excessively high public construction costs within the Commonwealth.
- **Ambulance Billing:** We ask that you oppose legislation that would allow insurance companies to pay patients directly, rather than ambulance service providers, for emergency medical service (EMS) calls. The practice of reimbursing patients leaves providers—often municipalities—with the responsibility of collecting fees directly from the patient. This practice is confusing to the patient and adds additional administrative burden (cost) when municipalities must track down payments. Additionally, we ask that you oppose legislative proposals that restrict municipal officials' authority to set rates that cover the actual cost of EMS. Municipal control over the rates would ensure that costs are not passed from insurance companies onto local property taxpayers due to below-cost reimbursements.
- **Agricultural Composting:** We seek your support of legislation filed by Senator Chandler (Senate Bill No. 407) to shift oversight of all Department of Agricultural Resources Registered compost operations to the Department of Environmental Protection (DEP) to ensure compliance with DEP standards. A commercial composting facility on agricultural land should not be considered an exempt activity just because it is sited on a farm. If material is transported onto the site, it should go through DEP Site Assignment per 310 CMR 16.000 and comply with local zoning. Ongoing oversight from DEP including periodic inspections to verify quantity and quality of material should take place, as well as a process for residents' concerns to be addressed. As it stands now there are two different standards of regulation for the same activity with the only distinction being whether the activity takes place on farm land or not. It is the goal of this proposed legislation to regulate all commercial composting operations through DEP and to have local land use regulations, and zoning, apply.

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