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## *The Rosenberg Report*

Vol. XXVI  
June 22, 2004

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Hello!

Moving in the right direction -- that's how I'll characterize the \$22.5 billion fiscal '05 conference report the Legislature approved June 16th.

For example:

- We added \$700 million to the MassHealth program to fully fund children's health insurance and breast and cervical cancer screening programs;
- We added \$14 million to the Prescription Advantage program for senior citizens;
- And we adopted the Senate's proposal for higher education, funding the UMass system at \$337.8 million and \$7.5 million for Greenfield Community College, plus \$54.7 million for the contracts for higher education employees.

These are just a few of the tangible signs that the state's budget is moving, ever so slowly, in the right direction.

While we are pleased that this budget avoids the kind of savage cutting inflicted over the last three years, we are aware of two extremely important points: one, that we will continue to be dogged for years to come by structural deficits caused by spiraling health care costs, and two, that we are still climbing out of the hole the fiscal crisis has put us in. Fulfilling the mission of government -- to ensure that our citizens have the opportunity for healthy, safe and productive lives -- is always a challenge, but especially so when money's tight. To keep us moving in the right direction, all of us will need to be more creative, more cooperative, more mindful of the fact that we are all in this together.

I, for one, think those are all good things.

*Ciao!*

Have a great summer!



## June Focus

### *Fiscal '05 Conference Report*

Here are a few notable items from the conference report:

Includes the Senate amount -- \$12.5 million -- for the PILOT program for reimbursements to cities and towns hosting state-owned, tax-exempt property. That's \$2.5 million more than the House proposal, and \$4.5 million more than the governor.

Includes an amendment I sponsored that requires that the \$5 million child care rate increase be distributed equitably across the board. My goal was to ensure that western Mass. gets more than what the administration's formula would have provided. It's not a panacea, but we can't start bailing the boat unless we plug some holes first. The western Mass delegation will continue to work on this issue.

Includes an amendment I sponsored that transfers the health insurance costs of retired Franklin County employees to the Commonwealth. Franklin County was the first county in the state to convert to a Council of Governments. As a result, Franklin County communities are the only communities still bearing this responsibility among the seven counties that have abolished county government. It's a simple matter of fairness. If these retirees were still employed, they would be employed by the state, so the state should pick up their health insurance costs. It has been handled this way in all other abolished county governments. This could save Franklin County communities between \$75,000 and \$100,000 per year beginning in fiscal '05.

Includes a \$1 million increase for the state's regional transportation authorities, which will certainly help the Pioneer Valley Transit Authority.

Includes \$100,000 to help local communities with the costs of the 2004 U.S. Women's Open Championship. State Representative John Scibak (D-South Hadley) was the lead sponsor.

Includes \$20 million to increase salaries for private human service providers that deliver vital human and social services under contracts with the Commonwealth. These funds will be used solely to adjust wages for those human service workers who earn less than \$40,000 per year -- many of whom earn less than \$25,000 --and will help providers attract and retain qualified staff. The conference report also adopts the Senate's \$5 million pool for salary increases for daycare workers. Turnover rates in low-paying human service sector jobs are extremely high. Many agencies find it difficult to retain and/or hire staff for this difficult and necessary work. I hope this provision will help ease that burden.

Includes a "smart growth" plan to encourage new housing near town centers and public transportation.

Includes \$870 million for the state fund to reimburse hospitals for providing free care to low-income residents.

Includes money to hire 300 state troopers.

Includes measures to relieve senior citizens struggling to pay rising property taxes with a local option exemption for income-eligible seniors. Under the plan, communities could opt to exempt low-income seniors from between 5 and 20 percent of their property tax bill.

There's much more, of course. Here are a few links that will help sort it out. The conference report now goes to the governor who has 10 days to review it and make vetoes.

#### Highlights

[http://www.statehousenews.com/cgi/as\\_web.exe?pr04.ask+B+Highlights#Highlights](http://www.statehousenews.com/cgi/as_web.exe?pr04.ask+B+Highlights#Highlights)

#### Conference Report

<http://www.mass.gov/legis/05budget/conference.htm>

#### House-Senate comparisons and resolutions

<http://www.statehousenews.com/reports/budget'05/11A%20INSIDES.RTF>

#### *Public Construction Reform*

Also making its way to the governor is a major overhaul of the state's public construction laws, the first such reform effort in 30 years. The Senate's version -- the work of a bi-partisan special Senate commission -- was approved unanimously and is designed to streamline the project development process, make contractors more accountable and minimize costly project over-runs.

The bill addresses three major areas: accountability, flexibility and opening up the public construction process to women and minorities.

#### Accountability:

- State and local governments would have greater oversight of public projects by giving them more access to evaluations of firms and contractors and their job performances on other construction jobs.
- For the first time, the Division of Capital Asset Maintenance and Management will certify subcontractors.
- Public agencies will be required to hire a project manager on development valued \$1.5 million or more.
- Pre-qualification of general contractors and sub-contractors will be mandatory on projects valued at \$10 million or more.

#### Flexibility:

- Introduces the use of alternative construction methods such as construction management at risk and design build delivery, which will improve efficiency and uniformity by bringing contractors and architects on earlier in projects and offering a maximum guaranteed bid.
- Allows municipalities discretion to use the requirement for peer review of preliminary design work.

- Adopts uniform procedures at the municipal level.

#### Inclusion of Women and Minorities:

- Codifies the state's affirmative marketing program to increase access to the public construction arena by women and minorities.
- Applies the marketing program to state-assisted municipal buildings.

Public Construction Reform  
<http://www.mass.gov/legis/bills/st02358.htm>

### Noteworthy

#### *Franklin County Jail*

I am leading the legislative delegation from Franklin County in an effort to jumpstart construction of a new Franklin County Jail and House of Corrections.

In a letter to Eric Kriss, secretary of the Executive Office for Administration and Finance, the delegation, which includes Senators Stephen Brewer (D-Barre) and Andrea Nuciforo (D-Pittsfield) and Representatives Daniel Bosley (D-North Adams), Christopher Donelan (D-Orange), Shaun Kelly (R-Dalton) and Stephen Kulik (D-Worthington), requested that the administration place the Franklin County Jail on a priority list of capital projects for fiscal '05. The delegation cited two key factors marking the seriousness of their request: 1) that the funding authorization and the design for a replacement facility has already been secured, but the project was not undertaken even though bids came in below estimates last year; and 2) that petitions have been filed in federal court challenging the adequacy of conditions at the jail.

The need is real and urgent. Plans are in place and we're ready to move. We just need the administration to give it the green light. My colleagues and I are committed to seeing construction begin on this project as soon as possible.

#### *Tax loophole closing bill*

Last month, the House and the Senate passed versions of a tax loophole closing bill that would save the state millions of dollars. The bill is now in a conference committee, but here are some of the highlights of the Senate bill:

- At minimum, \$88 million in tax revenue in fiscal '05 is expected to be collected which would otherwise be lost through these loopholes. Certain provisions have unknown fiscal impact but may save additional funds. In future fiscal years, the bill is expected to prevent the loss of at least \$90-150 million a year in tax revenue.
- Would require the State Lottery to check information from both DOR and CSE as to liens for child support and "past-due tax liability" before disbursing lottery prizes in excess of \$600.

- Provides for greater oversight of the Economic Development Incentive Program and corresponding economic development tax credits. Taxpayers must annually certify to the DOR that they meet all the statutory requirements of the EDIP program in order to qualify for tax credits. Economic Coordinating Assistance Council shall report on its statutorily required review of EDIP projects to the Committees on Commerce and Labor, and Taxation. Authority granted to the DOR Commissioner to decertify projects and seek recovery of tax benefits granted.
- Reduces the current schedule of valuing state-owned land and MWRA watershed land from 5 to 4 years and would no longer require the DOR to issue a report to the General Court of its equalization and apportionment findings. Further, it would allow DOR to hold a public hearing on such valuations and allow DOR to change valuations based on any new information obtained at these hearings. Notice of change would be sent to the assessors.
- Would extend the time for abatement of the motor vehicle excise tax to 3 years from the date the excise was due, or one year from the date the excise was paid, whichever is later. However, if the owner fails to apply for an abatement within such time limits, the board of assessors may abate whole, or any part of such excise where in the assessor's opinion it should be abated.
- Would tighten the current tax exemptions for Massachusetts Business Trust Holding Companies.
- Would change the method of reporting and paying income of certain trusts so as to model the federal system.
- Modifies taxation of nonresident partners to prevent changes to Mass Securities Corporations from exposing out-of-state passive investors to new taxes.
- Mirrors federal rules concerning tax treatment of installment sales transactions.
- Expands current withholding requirements by requiring "persons other than employers" to deduct and withhold payments made by such persons to residents and non-residents of the Commonwealth (i.e. independent contractors), with an exemption from the withholding requirement for non-profit corporations for performances with a compensation of less than \$10,000.
- Would decrease threshold for withholding taxes from payment of lottery winnings from prizes of \$5,000 to prizes of \$600.
- Increases the estimated tax filing threshold from \$200 to \$400.
- Increases the current penalty on bounced checks from \$10 to \$30 (if payment is under \$1500) and expands penalty provisions to include bounced electronic fund transfers.
- Replaces the current 6 year statute of limitation on liens for non-payment of taxes to 10 years, and extends the period for collection of taxes beyond 6 years to 10 years in certain bankruptcy cases if notice has been filed or recorded.
- Entitles the Commissioner to levy "any periodic or lump sum payment from state or local agency, unemployment compensation, judgments, settlements, and lottery winnings" to collect delinquent tax.
- Allows the Department to decouple from federal guidelines concerning electronic reporting and mandates certain filers to file electronically if they file at least 50 withholding returns.
- Grants DOR the authority to cross-check levies for unpaid child support and tax debt against mutual fund and brokerage accounts.
- Would amend the current definition of business income to include all income which under the Constitution of the US cannot be apportioned to non-

domiciliary states and specifically allocate this income to Massachusetts if the taxpayer maintains a commercial domicile in the Commonwealth.

- Puts domestic and foreign corporations on equal footing with respect to the non-income measure of the corporate excise and with respect to determining whether corporations are tangible or intangible to conform with the decision in the *Perini* case.
- Would allow Commissioner to require certain corporations make a single filing for the non-income measure of the excise.
- Clarifies the sales factor apportionment formula to include receipts from licensing of intangibles if used in the Commonwealth.
- Restricts qualifying securities, for purposes of Mass Securities Corporations, to “equity or debt instruments and options, futures and other derivatives, that are traded on a public exchange or in the secondary market” and that are not issued by affiliates; cash and cash equivalents; interests in REITs; and certain passive investment vehicles.
- Would authorize the Commissioner to license cigar manufacturers, wholesalers, vending machine operators, transportation companies, “unclassified acquirers” and retailers, using a process that would mimic the process for cigarettes.
- Increases fines for each violation of the minimum pricing laws. First offense is \$10,000, second offense is \$25,000 and a 14-day suspension of license, and third offense is \$50,000 and revocation of license.
- Expands the sales tax to impose the tax on an ultimate sale made to a purchaser residing in the Commonwealth regardless of “agreement or arrangement for the sale, transportation, shipment or delivery” of the property.
- Extends from five to ten years the duration of a certificate of exemption from the sales tax for 501(c)(3) organizations.
- Limits the current “Val-Pak” exemption to those direct and cooperative direct mail promotional advertising materials to advertising leaflets “no greater than 6 pages in total length” and “promoting one or more than one business.”
- Overturns the *Morton Buildings* decision to extend the use tax to products “manufactured, fabricated or assembled from materials acquired either within or outside the Commonwealth.”
- Allows taxpayers to pay use tax owed based on estimated use tax liability per return.
- Creates a new account within Child Support Enforcement, the Child Support Penalties Account. This account would be funded by CSE penalties already collected and provides specific legislation to allow CSE to retain penalties and fees *and expend* such penalties and fees (the “expenditure provision” was accidentally omitted in FY04 Budget).
- Imposes additional reporting requirements on insurance companies to ascertain whether claimant, in cases involving payout of \$500 or more, owes taxes to the Commonwealth. If taxpayer owes, company may remit to the DOR the full amount of taxes owed.
- Creates a study commission on the hotel occupancy excise tax.
- Creates a study commission on combined reporting.

*Wrongful felony convictions*

On June 16th, the Senate approved a bill making those wrongfully convicted of felonies eligible for compensation of up to \$500,000. Supporters of the bill said that over the years the state has only apologized to those found innocent after years of incarceration.

#### *Emergency contraceptive bill*

The Senate also approved, and sent to the House, a bill designed to make sure all hospitals guarantee rape and sexual assault victims access to emergency contraception, more commonly known as the morning-after pill.

#### *State-wide workplace smoking ban*

On June 18th, Massachusetts became the sixth state in the nation -- joining New York, Connecticut, Maine, Delaware and California -- to ban smoking in the workplace. The new regulations take effect July 5th. On that date, all workplaces in the Commonwealth that have one or more employees must be smoke-free. There are a number of exemptions, including private membership clubs and "smoking" or "cigar" bars.

Information for business owners, including fact sheets, "no smoking" signs and a guide for implementation of the smoke-free workplace law will be available at [www.mass.gov/dph/mtcp](http://www.mass.gov/dph/mtcp). Training and technical assistance will be available for local boards of health. Six information sessions to discuss the law, resources and enforcement issues have been scheduled.

As required by the new law, the Department of Public Health will create a commission to assist in the effective implementation and compliance of the smoking ban.

The commission will include representatives from the business community, local boards of health, public health organizations and state government.

### Roundup

#### *Gay marriage update*

May 17th has come and gone and the world didn't end. Statewide, about 2,500 license applications were issued, with more than 200 of those in communities in my district.

During budget debate, gay marriage opponents in the House of Representatives attempted to insert an amendment that called for a study of the cost of gay marriage. That attempt failed.

In the Senate, we attempted to attach an amendment that would repeal the 1913 statute that prohibits out-of-state couples from obtaining marriage licenses in Massachusetts if their marriage would not be legally recognized in their home state. That statute, which was originally conceived as a means of preventing interracial marriage, has been dormant for decades. In fact, previous administrations had instructed city and town clerks to ignore the statute. But, as you know, the Romney administration has sought to reactivate it.

Unfortunately, the Senate's repeal attempt did not survive the conference committee. But in the past week or so, various civil rights organizations, and a group of city and town clerks who said they don't want to become "gay marriage police," have filed suit to overturn the 1913 law.

The wheel is still in spin on this issue . . .

### *Veterans bill*

Late last month, the Senate approved a bill that expands the definition of the term veteran, enabling thousands of Massachusetts veterans to access state veterans' benefits.

Currently, Massachusetts law defines "veteran" based on military service within certain time periods when the United States was engaged in combat. With few exceptions, those who served between 1975-1990 are presently not considered veterans under state law.

The bill brings the state's definition of a veteran more closely into alignment with the standards for federal veterans' benefits by including that 15-year period. The bill also will affect a small number of veterans who served between 1946-1950. Those currently serving are covered by the Gulf War, which began in 1990.

### *State grants*

The Massachusetts Cultural Council recently awarded grants to some local artists for their exceptional work. Congratulations to:

Tamara Grogan from Greenfield who won in the Fiction/Creative Nonfiction category;

Nicole Nemec, also from Greenfield, who won that same category;

and Andrew Varnon, again from Greenfield, who won in the Poetry category.

For more information about the arts in Massachusetts, visit

[www.massculturalcouncil.org](http://www.massculturalcouncil.org)

### *TeamRosenberg*

Your support is greatly appreciated!

Join *TeamRosenberg* <http://www.stanrosenberg.com/teamrosenberg.php>

### Trivia

Now for the answer to last month's question -- Match the community with its correct birthday.

- |                |          |
|----------------|----------|
| 1) Northampton | a) 250th |
| 2) Buckland    | b) 225th |
| 3) Montague    | c) 350th |

The answer is: 1-c; 2-a; 3-b

And our winner is Don F. from somewhere in cyberspace. We'll send Don information on who to contact in my Boston office and we'll look forward to seeing him at the State House. Congratulations! And thanks to everybody who played along!

Now to this month's question and another chance to win lunch and a State House tour.

Name the former presidents who are buried in Massachusetts.

Submit your answer to [tumitch@sprynet.com](mailto:tumitch@sprynet.com) and watch this space for the correct answer and the prize winner.

### Links

Here are a few links. Until next time, happy surfing!

Join TeamRosenberg! <http://www.stanrosenberg.com/teamrosenberg.php>

Click here [tumitch@sprynet.com](mailto:tumitch@sprynet.com) if you want to be removed from our list.

Click here for our on-line feedback form [www.stanrosenberg.com/form.html](http://www.stanrosenberg.com/form.html)

Forward this link to a friend [www.stanrosenberg.com/issues/rosenreportreg.html](http://www.stanrosenberg.com/issues/rosenreportreg.html)

Guide to Lawmaking -- <http://www.state.ma.us/legis/lawmkng.htm>

Massachusetts State Government Home Page -- <http://mass.gov/>

The Legislature's web page -- <http://www.state.ma.us/legis/>

Senate's Bill Text System -- <http://www.state.ma.us/legis/billsrch.htm>

Legislative Tracking System -- <http://www.state.ma.us/legis/ltsform.htm>

My personal website -- <http://www.stanrosenberg.com/>

The Rosenberg Report (May, 2004, edition) --  
<http://www.stanrosenberg.com/issues/may2004.html>