

OFFICE OF THE STATE AUDITOR

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FOR IMMEDIATE RELEASE:

February 14, 2017

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Auditor Determines Part of Early Voting Law Imposes an Unfunded Mandate on Local Governments

BOSTON, MA — Auditor Suzanne M. Bump today released a determination that certain early voting costs incurred by local clerks should be paid for by the Commonwealth. Bump's Division of Local Mandates (DLM) conducted the review and made the determination in response to petitions from the City of Woburn and the Town of Oxford.

"The early voting law certainly is to be regarded a success. It did, however, mandate new procedures for clerks. Some of these should be paid for by the state, not municipalities according to the Local Mandate Law."

The determination cited the requirements that municipalities establish an early voting polling location that has sufficient staffing and privacy for voters as the factors driving the conclusion. In 2016, Woburn reports spending a total of \$5,446.25 on these requirements and Oxford reports spending \$1,486.94.

As part of its research, DLM solicited cost estimates from the Commonwealth's 351 cities and towns. Based on information from the 80 percent of municipalities that responded, which represent 91.33 percent of Massachusetts registered voters, Bump's office estimates that in-total municipalities spent \$719,708.25 on these required costs during this time period.

Under the Unfunded Mandate Law, cities and towns, when faced with a potential unfunded mandate, can petition DLM to issue a determination. Woburn and Oxford can use the determination provided today to seek a court-ordered exemption from compliance with the law until state funding is provided. Additionally, local governments can seek legislative changes to the law, which may involve state funding for mandated expenses, or modification of the mandate.

The early voting law, which was passed into law in 2014, requires that municipalities allow any qualified voter during biennial state elections (and other elections taking place at that time) to vote during a twelve-day early voting period. The Massachusetts Secretary of the Commonwealth's Office reports that more than one million voters cast their ballots during this period in 2016, representing more than 22 percent of registered voters in the state.

In addition, municipalities report additional costs related to personnel for optional early voting locations or extended evening and weekend hours, office supplies, newspaper advertising, police personnel at early voting locations, and the costs associated with a

central vote tabulation facility. While the determination did not find these costs to be unfunded mandates, Bump's office estimates \$1,190.624.43 in municipal spending related to these services during this time period.

DLM was established in 1980 as part of Proposition 2 ½, an initiative that limits the abilities of cities and towns to increase property taxes. Under the state's Local Mandate Law, the Legislature and state agencies are prohibited from passing costs along to municipalities to implement state programs. DLM was established to respond to municipal request to determine whether an unfunded mandate has been passed on to local governments, and make a cost determination of the state funding necessary to sustain a mandate. Since its creation, DLM has received 675 petitions from municipalities and members of the Legislature asking the Division to review whether legislative or regulatory action imposes an impermissible unfunded mandate on a municipality. In response, DLM has issued 436 unfunded mandate determinations, finding in favor of municipalities 79 times. As a result of these efforts, approximately \$343 million in state funding or other remediation has been provided to local communities.

Survey responses from municipalities are available at:

<http://www.mass.gov/auditor/docs/dlm-mandate/2017/early-voting-cost-totals-by-municipality-2-8-17.xlsx>

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