

Memo

To: Mayor and Council
cc: Department Heads
From: Pat MacQueen
Date: July 20, 2009
Re: Manager's Report

LGC proposed Article 28-a Lawsuit Against the State

Attached is a letter from John Andrews of LGC dated 7/9/09 regarding plans to begin litigation with the State of New Hampshire over the fact that this year's state budget arbitrarily places additional costs in the form of increased retirement contributions on municipalities across the state as a direct result of the state arbitrarily lowering its contribution to the New Hampshire Retirement System from 35% to 30%.

There will be a steering committee of local officials to oversee the law suit and the expenditure of funds. The letter is reminding communities who have not previously contributed to this legal war chest to do so. Berlin did contribute its share to this fund in 2008 in the amount of \$2,325.04 so we should be all set.

We will be sending in our retirement payments to the NHRS with the attached statement suggested by LGS indicating that the additional amount attributable to the State's reduction of its contribution is being paid in protest and demanding that the NHRS account for that amount separately and be ready to reimburse municipalities the correct amount if a court of competent jurisdiction so rules.

Neighborhood Stabilization Program (NSP) Notice of Award

While we have talked about before, attached is the actual notice of award of the \$4.3M in NSP funds to the City of Berlin

CIP Reviews

This week we have begun reviewing Departmental requests for the next 2011-2016 Six Year Capital Improvement Program (CIP) with all city departments. This will occur this week and next week and then we will put together that CIP for Planning Board and Council review in August. Also, as part of this review we are going over how best to allocate the projects between the two proposed bond issues so that can be brought back as soon as possible to Council for review and finalization.

Thunder in the Mountains and Car Rally

As the Council is aware, Thunder in the Mountains and New England Car Rally were both held this past weekend. I wasn't able to attend either as I had to be in Connecticut, but I am told that they both came off pretty well. Given the weather we have had this year, it was actually pretty good and the attendance was good at both events. Peter Riviere guessed that there were probably about 3,000 people brought into the region around Berlin. Mayor Bertrand and his wife were on the VIP bus and appeared to have been duly impressed.

Department of Corrections Commissioner Wrenn Visit

On Monday August 24th DOC Commissioner Wrenn will be at the work session to discuss the changes at the State Prison with the Mayor and Council.

Community Development Director Back

I am happy to report that Laura Viger started work again today on a limited part-time basis with the permission of her physician. It is great to have her back and the challenge will be to be sure that she doesn't over do it.

Leadership Awards

Leadership North Country is inviting nominations for the 2009 Community Leadership Award. This award recognizes and honors leaders which have distinguished themselves in support of the North Country and its communities. The material for nominating a person or an organization for this award is attached.

Tax Collections Update

Attached



To: Cities and Towns, School Districts, SAUs, County Governments

From:

John B. Andrews, Executive Director, NHMA/NHLGC

Dr. Theodore E. Comstock, Executive Director, NHSBA

Betsy B. Miller, Executive Director/Government Relations Counsel, NHAC

Date: July 9, 2009

Re: Proposed Article 28-a Lawsuit Against the State

By now, we all have had time to assess the serious financial impact that the 2010-11 state budget will have on our municipal, county, and school budgets. The Legislature downshifted over \$100 million in state costs to local governments in order to use that "saved" money to fund state agencies and programs.

One of these "downshifts" was to arbitrarily reduce the State's share of the employers' retirement contribution for Group I teachers and Group II police and firefighters. Starting July 1, 2009, the State's retirement contribution drops from 35% to 30% and then drops again to 25% next July when the 2011 state fiscal year starts. Local governments must now pay what the State has decided not to pay. It will cost your property taxpayers \$9 million in the first year and \$18 million next year for a total of \$27 million for the biennium...an amount which many local governments have not budgeted.

And, it's only going to get worse. The Legislature doesn't replace money it has previously taken away from local governments. While the budget legislation says that the State will resume paying its 35% share when this biennium ends, we believe that the Legislature intends to gradually eliminate its contribution altogether, leaving local governments with 100% of the obligation. We believe that we must fight back. We believe that it is time to challenge these decisions.

In 1967, the State created the New Hampshire Retirement System for public employees. While the historical details are a bit cloudy, what is clear is that at various points the State agreed to pay a portion of the local government employer contributions for teachers, police, and firefighters. What is also clear is that before 1984, the State agreed to a contribution of 35% and that's where it's been ever since, until this budget year.

\$2325.04 paid
2/17/09

As you know, in 1984, the citizens of New Hampshire voted to amend our State Constitution by adding Article 28-a. A copy of the amendment is attached with this letter. Since then, the NH Supreme Court has considered two factors when deciding that a state action violates Article 28-a. The court has said that it “*must find both the existence of a new, modified, or expanded program or responsibility and an additional fiscal obligation.*” Both of these criteria are clearly present in the legislative decision to reduce the State’s financial obligation to pay its share of the employers’ retirement contribution in violation of its long-standing pre-1984 promise to local governments.

The NH Retirement System has notified local governments that in mid-August they must begin to pay the additional money they owe for employees because the State reduced its contribution share. We are recommending that you pay the amount owed, but do so **under protest**. Attached is suggested language to include in a letter to NHRS when payment is made. This language will help preserve your right to sue the State for violating Part I Article 28-a of the State Constitution and to recover these additional contributions.

Last year, we established a legal fund to be prepared to fight unconstitutional retirement mandates adopted by the Legislature. We asked for a contribution equal to one-half of one percent of what each local government paid into the NHRS on behalf of local employees with a minimum of \$50 from very small employers. We estimated that \$500,000 would be needed, but we have not yet reached that goal. We thank you for your 2008 contribution, and we intend to use that money in this lawsuit unless we hear from you to the contrary. We are asking local governments that did not contribute last year to make a contribution at this time.

Now, we have a clear and significant 28-a case. We plan to start legal proceedings against the State as soon as possible in order to challenge this unconstitutional action and stop the downshifting of state responsibilities to local governments. There will be a steering committee of local officials to oversee the lawsuit and the expenditure of funds. This committee will include representatives of cities, towns, school districts, and counties. At the conclusion of this action, if there are any unexpended funds, they will be returned to participating political subdivisions on a pro-rated basis.

This is an important crossroad in the relationship between the State and local governments. Every year, the financial downshifting increases. Revenue sharing with municipalities, Medicaid reimbursements to counties, and catastrophic aid to schools have all been eliminated or changed by a decision of the Legislature. We must take a stand and put the State on notice that the property taxpayer can no longer be the State’s credit card when it needs revenue to pay for programs and services. Local government employers must be pro-active now in order to avoid more downshifting in the future. We urge your support and participation in this legal action against the State. We welcome any questions you might have in this regard. Please let us know as soon as possible if you do not want to participate in this litigation by calling 224-7447 x384.

Thank you for your participation and support

Suggested Language for Payment Under Protest to NHRS
~for inclusion in cover letters with checks or
in a separate letter if payment is made electronically ~

Please be advised that it is the position of [name of municipality/school district/county] that the increases in the employer contribution rates for Group I and/or Group II employees, as the case may be, from 65 percent to 70 percent in fiscal year 2010 and 75 percent in fiscal year 2011, under the amendments to RSA 100-A:16, II (b) and (c) contained in HB 2 (Laws 2009, Ch. 144), violate New Hampshire Constitution, Part I, Article 28-a. Therefore, that portion of the enclosed payment that is attributable to an increase in the employer's contribution rate above 65 percent is hereby paid under protest. We demand that the New Hampshire Retirement System account properly for the sum paid under protest and be prepared to reimburse us for that sum, with interest, at such time as a court of competent jurisdiction rules that the collection of said sum was in violation of Article 28-a.

NHMA
7/09

New Hampshire Constitution
Part I, Article 28-a

[Art.] 28-a. [Mandated Programs.] The state shall not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision.
November 28, 1984



New Hampshire
**Community
Development
Finance Authority**

July 8, 2009

Mr. Patrick MacQueen
City Manager
City of Berlin
168 Main Street
Berlin, NH 03570

Re: Neighborhood Stabilization Program (NSP) Notice of Award

Dear Mr. MacQueen:

On June 4, 2009, the Community Development Advisory Committee reviewed the staff recommendations for the 2009 Neighborhood Stabilization Program (NSP) applications. I am pleased to inform you that your application has been funded in the amount of \$4,300,000, of which \$700,000 (set aside funds) shall be used to benefit persons with incomes under 50% of area median income. This award is made pending Governor and Executive Council approval.

If you or your grant administrator has any questions, please feel free to contact your portfolio manager, George Hunton, at 717-9116.

Please note for auditing purposes, the Catalog of Federal Domestic Assistance number for HUD Neighborhood Stabilization Program (NSP1) is 14.228.

Sincerely,

A handwritten signature in cursive script that reads "Katharine Bogle Shields". The signature is written in black ink and is positioned above the typed name and title.

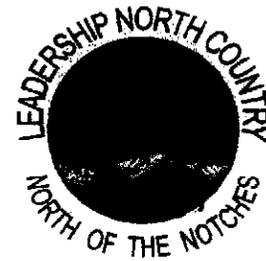
Katharine Bogle Shields
Executive Director

KBS/acc



NEW HAMPSHIRE
CHARITABLE FOUNDATION

NORTH COUNTRY REGION



2009 North Country Region of the New Hampshire Charitable Foundation Community Leadership Award

Dear Friends:

In conjunction with the Board of the North Country Region of the New Hampshire Charitable Foundation, Leadership North Country invites you to submit a nomination for the 2009 Community Leadership Award. Sponsored annually by the North Country Region, the Awards program publicly recognizes and honors leaders who have distinguished themselves in support of the North Country and its communities, especially those individuals who have increased the sense of connection and belonging in their communities.

The North Country Region 2009 *Community Leadership Award* recognizes an individual or long-standing organization who has had significant community impact by being a capacity builder - who enables community improvement. Eligible for nomination for the Community Leadership Award are community activists, individuals serving in leadership positions, individuals who exemplify the qualities of vision and collaboration and have demonstrated the ability to engage and recruit, and one who is a convener of people as well as a gatherer of resources. The community leader creates or contributes to the environment within which the community server can provide his or her service.

The award recipient will be announced at the North Country Region Annual Celebration on Wednesday, September 23rd at the Highland Center in Crawford Notch.

To make a nomination, complete the enclosed form and return it to Gloria Tremblay at the address below by **July 29, 2009**. When submitting a nomination, please answer the questions as completely as possible as the winners will be selected based primarily on the information provided. **Handwritten submissions are not accepted.** Please contact Gloria Tremblay gtremblay@ccsnh.edu or 752-1113 ext. 3003 for an electronic version of the form.

The New Hampshire Charitable Foundation serves communities throughout New Hampshire, southeastern Maine, and eastern Vermont. The Charitable Foundation manages a growing collection of charitable funds created by individuals, families, and corporations, and awarded more than \$34 million in grants and scholarships in 2008. The Charitable Foundation is non-partisan, frequently playing the role of convener and catalyst on a broad spectrum of issues. Based in Concord, the Charitable Foundation roots itself in the communities through seven regional advisory boards. More information is available at www.nhcf.org, or by calling 603-225-6641.

Now in its 6th year, the goal of Leadership North Country is to create a leadership core in the northern part of the state who know how to partner and network with each other and how to find leadership partners in new areas. They know and understand what kinds of deliverables and services are available from organizations and agencies outside the North Country for the betterment of its citizens and communities. This group consists of seasoned leaders wishing to know more about how their communities and the state work, as well as new and emerging leaders wishing to learn more about the process of Leadership, and how they can become involved in their communities.

Please share your stories and your support of North Country volunteers and leaders with us!

Sincerely,

Kevin Shyne

Kevin Shyne, Chair

North Country Region Community Award Committee

Leadership North Country
White Mountains Community College
2020 Riverside Drive
Berlin, NH 03570
(603) 752-1113 ext. 3003

North Country Region 2009 Community Leadership Award

This award will be given to an individual or long-standing organization who has had significant community impact by being a capacity builder - who enables community improvement. Eligible for nomination for the Community Leadership Award are community activists, individuals serving in leadership positions / individuals who exemplify the qualities of vision and collaboration and have demonstrated the ability to engage and recruit, and one who is a convener of people as well as a gatherer of resources.

Nomination submitted by:

Your Name: _____

Mailing Address: _____

Telephone #: _____

Email Address: _____

Nominee information:

Name: _____

Mailing Address: _____

Telephone #: _____

Email Address: _____

Please answer the following questions as completely as possible. The judges will select the winner based primarily on the information you provide. The nominated individual will not be contacted by the Foundation for additional information. Letters of support, written by others for this individual, may be included or sent separately. A separate sheet may be used if needed.

1. Describe how your nominee has distinguished themselves in support of the North Country and its communities through **volunteer** commitment. Describe the contributions your nominee has made towards improving the quality of life in northern New Hampshire. Please indicate the time period over which these contributions have been made.

2. In what capacity has your nominee demonstrated their impact (i.e. professional capacity, voluntary or governing board capacity)?

3. Describe your nominee's leadership skill and ability to engage and work with other people to build stronger, more effective community organizations and resources.

Return to:

**Leadership North Country
White Mountains Community College
Attn: Gloria Tremblay
2020 Riverside Drive
Berlin, NH 03570
(603) 752-1113
gtremblay@ccsnh.edu**

Nominations must be postmarked by July 29, 2009



City of Berlin
Finance Department

Blandine J. Shallow, Finance Director, 168 Main Street, Berlin, NH 03570
603-752-1610, fax 603-752-8586, email bshallow@berlinnh.gov

Memorandum

July 14, 2009

TO: Mayor David Bertrand
Members of City Council
City Manager J. Patrick MacQueen

FROM: Blandine J. Shallow

RE: Property Tax Collections through June 30, 2009

Tax Year	Annual Warrant	Total Collections	Balance Due 6/30/2009	Percent Collected
2009	\$ 6,803,004	\$ 5,194,720.41	1,608,283.59	76.36%
2008	\$ 13,641,945	\$ 13,046,025.48	\$ 595,919.52	95.63%
2007	\$ 13,661,786	\$ 13,378,279.68	\$ 283,506.32	97.92%
2006	\$ 12,964,526	\$ 12,951,329.45	\$ 13,196.55	99.90%
2005	\$ 12,926,046	\$ 12,918,362.92	\$ 7,683.08	99.94%
2004	\$ 12,181,517	\$ 12,169,287.21	\$ 12,229.79	99.90%
2003	\$ 11,318,272	\$ 11,306,647.39	\$ 11,624.61	99.90%
2002	\$ 11,219,259	\$ 11,208,146.82	\$ 11,112.18	99.90%
Total	\$ 87,913,351	\$ 86,978,078.95	\$ 935,272.05	98.94%
Special Warrants	\$ 1,543	\$ 91.00	\$ 1,452	5.90%