



The ADVISORY BOARD

NEWSLETTER

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MWRA CURRENT EXPENSE BUDGET FOR FY93

There is more than one way to build a budget that would meet the Authority's goals for current operations in fiscal year 1993. To underscore this point, the Advisory Board concluded its 60-day review period with some 150 recommendations for adjustments and reductions which would reduce next year's spending by over \$53 million. If accepted, the recommendations could mean an increase in systemwide water and sewer rates to the order of 14% instead of the 36% originally proposed by the Authority in February.

The MWRA staff prepared the FY93 budget request with a much firmer hand than in previous years by level-funding, if not actually reducing, many items. Department heads were directed to look everywhere for possible reductions, at organizational and staffing alternatives, at energy conservation and overtime limits, and at efficiencies that could reduce the use of outside contracted services.

Even so, there were other major items which drove the proposed budget up over \$100 million more than the FY92 budget: the proposed infiltration/inflow grant program, increases in outfall monitoring research, the full-year cost of the pelletizing plant, anticipated increases in watershed costs, and the build-up of staff to operate the new Deer Island treatment plant (now only 24 months away, with performance testing to begin even earlier).

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DECISION ON LAWSUIT

On Friday April 17th, Supreme Judicial Court Justice Herbert Wilkins handed down a decision on the outstanding Motions to Dismiss in the case of MWRA Advisory Board, et al. v The Commonwealth of Massachusetts, et al. This represents the first official decision in the eight months of the lawsuit.

The brightest part of the decision for cities and towns comes with the denial of the Motion to Dismiss the claim with respect to the \$120 million prepayment of the MDC debt. Justice Wilkins acknowledged that there was an actual controversy with no effective administrative remedy. Most importantly, the Court found standing in communities and individual ratepayers to sue over such matters. In rejecting the state's contention that individual plaintiffs are asserting claims as taxpayers without following appropriate statutory procedures, Justice Wilkins stated, "There is a meaningful difference between taxpayers and the individual ratepayers." This decision, considered with other recent decisions, gives municipalities more authority to sue over state budget issues.

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The Advisory Board focused its review on these items, and other across-the-board expenses such as reserves deposits, interest income, and debt service requirements (which are to cross the 50% mark for the first time in FY93). Just over a dozen recommendations account for 90% of the Advisory Board's total package of proposed reductions for FY93.

The Ad Hoc Budget Review Committee set the stage for a much more focused and efficient approach to the budget deliberations. During the 60-day review period, there were a number of discussions on the shape and size of some of the emerging recommendations.

As a result of this review, which included joint discussions in February about the Authority's financing strategy, the Authority decided to announce, the same day that the Advisory Board met to approve its comments, that FY93 rates would be set no higher than 23%. This decision, made two months before the MWRA Board of Directors finalizes the budget, was designed to enable cities and towns to capture already-agreed upon rate reductions during, rather than after, municipal budget deliberations.

After the review, the Authority and Advisory Board staffs met to screen the recommendations, arrive at initial agreements, and assemble an agenda for the Working Committee. This Committee, whose members included Robert Ciolek, the Chairman of the MWRA Board of Director's Administration and Finance Commitee, and Anne Paulsen, the Advisory Board's Vice Chairman for Finance, met soon after to resolve another set of recommendations, leaving relatively few unresolved issues to be tackled with the important policy level items at the meeting of the full Board of Directors. That meeting took place on May 18, and as though assured of a more productive process, attendance was better than ever before for a budget hearing.

We still await the resolution of new position requests, interest income, and recalculation of debt service and related CORE deposits and coverage requirements. The Board of Directors is expected to vote on a written response to the Advisory Board's Comments and Recommendations at the June 10 meeting, and to approve a final FY93 budget at the June 24th meeting.



THE BILLING CYCLE TAKES ANOTHER TURN

Acknowledging that for some communities changing the way water and sewer bills are issued is difficult, the Advisory Board voted recently to request the Authority postpone a proposed change in the billing cycle to 25% on August 15, November 15, February 15, and May 15. [See related article in April 1992 issue.]

The MWRA has reported several times over the last few years that as debt service becomes a larger part of the annual budget, the Authority will need to implement a shift in the billing cycle to bring in more dollars earlier in the year than had previously been required.

In response to the Advisory Board members' requests, the Authority has postponed such a change for several years, although it indicated that implementation would come in FY93. Even so, a number of service area communities have stated that shifting payments to a point earlier in the year will still be difficult to execute. In deference to those communities, Advisory Board members recommended, at their May 21st meeting, that the Authority postpone the change another year and poll each community about the viability of such a change for FY94.

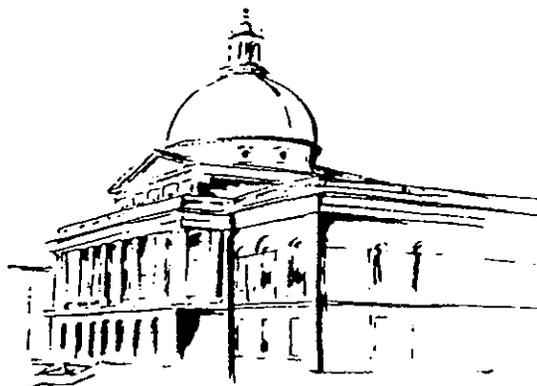


Justice Wilkins dismissed the cities and towns' claim against the state's demand for a lump sum payment in lieu of a furlough program on the grounds that the claim was moot. His Honor went on to explain that it is unclear whether any such obligation is still in effect because the Commonwealth has refunded monies withheld from state employee salaries in the 1991 fiscal year due to the furlough program. This position was offered by the Advisory Board in January and rejected by the State. As it stands, the MWRA will not make the \$1.3 million payment.

The Court also dismissed the claim on the "per gallon tax" claiming that the issue was not yet ripe for judicial decision. Justice Wilkins dismissed the complaint "without prejudice" and left the door open to revive the claim as soon as an excessive charge is set by the state and billed to the MWRA.

The case will now move down to Superior Court where we can expect to encounter a rather lengthy discovery process before the suit finds its way onto the docket and before a Superior Court judge. The timeline for this action is uncertain. The prospect of a speedy judicial decision is unlikely, although, this decision may pressure the state into a non-judicial settlement. Time is in the plaintiffs' corner in this situation, because with each day that passes ratepayers realize savings while the state receives nothing.

Last spring the Advisory Board and cities and towns unsuccessfully pleaded with Senators and Representatives to remove these anti-ratepayer sections from the state budget. The Commonwealth has dismissed the validity of Advisory Board claims at every opportunity and has nothing substantive to show for its obstinacy. In contrast, the municipalities have won another substantive issue by establishing increased standing, which in turn enhances their ability to seek legal redress from the courts when their pleas to the State House fall on deaf ears.



LEGISLATIVE CAUCUS

The MWRA legislative caucus met on Tuesday, May 19th in the State House and Representative Bill Cass (D-Wakefield) and Bob DeLeo (D-Winthrop) Co-Chairmen of the caucus reported on a meeting they attended with Governor Weld. They stated that the caucus' representatives expressed many concerns that legislators have relative to the Governor's stance on issues facing MWRA ratepayers. The Governor listened to their concerns and stated that he would try to obtain an additional \$50 million from the federal government for the Boston Harbor Project. The delegation thanked the Governor, but stated that it was imperative that he obtain significantly more cash. They strongly encouraged the Governor to expand his scope and increase his efforts on behalf of ratepayers.

The legislative caucus moved on to discuss the need for legislators to coordinate their efforts during state budget deliberations in order to protect ratepayers' interests. The caucus members agreed to file amendments to the budget and delete any unfair language in this year's version, as well as file amendments to strike those sections which passed last year including the water tax and furlough payment. The caucus also endorsed a resolution proposed by Representative DeLeo which called on the President and Congress to channel additional federal dollars to the Boston Harbor Project.



CALENDAR

JUNE

- 5 - Wastewater Advisory Committee, 11:00 a.m.
- 10 - Board of Directors Meeting
- 11 - Operations Committee Meeting, 8:30 a.m., Brookline
- 11 - Safe Drinking Water Hearing, 1:30 p.m., Framingham
- 12 - Executive Committee Meeting, 8:15 a.m., Advisory Board
- 18 - WSCAC Meeting, 10:30 a.m., Boston
- 18 - Sewer Rate Methodology Meeting, 6:00 p.m., Dedham
- 18 - Advisory Board Meeting, 7:30 p.m., Dedham
- 24 - Board of Directors Meeting

JULY

- 3 - Wastewater Advisory Committee, 11:00 a.m.
- 8 - Board of Directors Meeting
- 15 - WSCAC Meeting, 10:00 a.m., Quabbin Reservoir
- 29 - Board of Directors Meeting

AUGUST

- 7 - Wastewater Advisory Committee, 11:00 a.m.
- 19 - Board of Directors Meeting
- 20 - Advisory Board Field Trip

WATERSHED BILL SIGNING

On Wednesday, May 20, 1992 Governor Weld signed the watershed protection bill into law, thereby, ending a five year stalemate. The Advisory Board's Chairman Walter Woods and Vice-Chairman of Finance, Anne Paulsen, represented the Advisory Board at the ceremony which was held in Marlborough.

SPECIAL ANNOUNCEMENT

The Advisory Board is now accepting letters of intent and resumes from anyone interested in one of the three positions of Advisory Board Appointee to the MWRA Board of Directors. The Appointee will be chosen at the June Advisory Board meeting. All those interested please contact Joe Favaloro, Executive Director of the Advisory Board.

AN UPDATE ON THE CAPITAL PROGRAM

As the formal CEB review process draws to a close, the Advisory Board staff plans to turn to the Capital Improvement Program for a review and status report.

In the absence of a newly-prepared and updated capital budget, the MWRA continues to operate under the program and spending authority of the FY92-94 Capital Improvement Program and Budget (the "CIP") approved a year ago, June 1991.

Since then, a number of programs and projects have experienced changes in direction, schedule, and/or required budgets. For example, the Combined Sewer Overflow project now includes a systemwide master planning phase which requires a smaller budget during FY92 and FY93 than had been assumed in the most recent CIP. The primary residuals project (to construct egg-shaped digesters) on Deer Island, came in nearly \$30 million under budget, but has been delayed and amended to reflect the longer timeframe needed to obtain necessary permits.

Changes such as these combined with other decreases, contract amendments, and change orders, have resulted in changed expectations for actual capital spending. Through April, the Authority has accrued \$330.9 million, more than ever before for a similar period, but \$116.2 million less than the \$447.1 million budgeted for the ten months (the equivalent of spending at 74% of budget).

The Advisory Board expects that this gap will persist through the end of the fiscal year and that the Authority will end FY92 at an accrued spending level closer to \$445 million than to the \$581.5 million budgeted, for a difference of over \$135 million.

In the coming weeks, the Advisory Board staff will be meeting with members of the Authority staff to review projected spending for the remainder of this year and for FY93. In addition, the Authority staff is preparing a Capital Budget amendment on the proposed transfer of the infiltration/inflow grant program to the Capital Improvement Program, for consideration by the Advisory Board.

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LEGISLATIVE UPDATE

House 5507

Includes House 393: AN ACT RELATIVE TO CERTAIN FEES TO BE PAID BY THE MWRA (Rep. Cass) Seeks to repeal the \$.00015 per gallon tax on water which could add up to \$16 million per year to ratepayers. House 394: AN ACT RELATIVE TO THE WATERSHED MANAGEMENT FUND (Rep. Cass) Seeks to repeal the Watershed Management Fund to be managed by the Commonwealth. House 395: AN ACT RELATIVE TO CERTAIN PAYMENTS TO BE MADE BY THE MWRA TO THE COMMONWEALTH (Rep. Cass) Seeks to repeal the section which provides for the prepayment of the MDC debt purported by the Governor to be \$120 million. House 5507 also includes House 392, which seeks to spread the costs around the state. In addition, House 5507 includes House 396, relative to the compensation of employees of the MWRA. These bills were issued a favorable report by the Committee on Natural Resources and incorporated into one bill (H. 5507) which is now awaiting action by the House Ways and Means Committee.

House 3102

AN ACT TO REDUCE WATER AND SEWER FEES

(Rep. Cohen)

The legislation would allow homeowners to deduct their water and sewer fees from their taxes. Still waiting for a report from the Taxation Committee.

Senate 921

AN ACT TO HAVE THE COMMONWEALTH PAY 50% OF THE COST FOR THE PLANNING, DESIGN AND CONSTRUCTION OF ANY PUBLICLY OWNED WATER TREATMENT FACILITIES REQUIRED TO MEET THE FEDERAL SAFE DRINKING WATER ACT

(Senator Havern)

This legislation seeks to establish a 50% subsidy of the MWRA's debt service costs related to the Boston Harbor Project. If such a program were started in FY94 it would save \$1 billion in rate revenue or \$1,235 per household over a five year period. The MBTA enjoys a similar subsidy from the state. This bill received a favorable report from the Natural Resources Committee. The Committee is presently working on a redraft and there is no time deadline. Action is not anticipated until the SRF stalemate is resolved.

Senate 978

AN ACT RELATIVE TO THE ESTABLISHMENT OF THE CLINTON-LANCASTER WASTEWATER DISTRICT

(Senator White)

Seeks to transfer the Clinton Wastewater Treatment Plant from the operating and capital budget of the MWRA to the Clinton/Lancaster Sewer District. This treatment plant costs MWRA ratepayers an additional and unnecessary \$2.8 million a year. The bill was amended to include a provision that employees of the plant will be considered employees of the district and not of the town. The Committee on Natural Resources has rescheduled a public hearing in Clinton on this bill. The date has yet to be announced. The Advisory Board has filed an amendment to insert this language into the FY93 state budget.

CLINTON LANDFILL

The Secretary of Environmental Affairs has rejected a proposal by Resources Control Incorporated to build a 300 ton per day solid waste landfill in Clinton. The landfill would have been located 1700 feet from the edge of the Wachusett Reservoir. This reservoir is a vital component of the MWRA water supply system and serves more than 2.5 million people. Current water quality testing at the reservoir demonstrates exceptionally high levels of fecal coliform due mainly to the local seagull population. The decrease in water quality and the need for a \$400 million filtration plant has been primarily attributed to the gull contribution to the fecal coliform levels.

The issue was brought before the Advisory Board's Operations Committee for discussion and consideration. The committee strongly felt that no plan should be approved that has a potential to increase costs to ratepayers. An increase in the gull population would cause a further decrease in water quality at the reservoir. The result would be additional treatment requirements possibly leading to a filtration plant of greater size and cost. The committee authorized the Chairman to submit a letter

to the Secretary of Environmental Affairs, voicing the Advisory Board's concern that adding a new solid waste landfill at the proposed location would increase the potential source of food for gulls, thus escalating the existing problem.

The Secretary's decision states that the Final Environmental Impact Report for the proposed solid waste landfill does not adequately comply with the Massachusetts Environmental Policy Act (G.L., c.30, s.61-62H) and with its implementing regulations (301 CMR 11.00). Although RCI has developed a gull control plan, it does not meet the statutory obligations of full disclosure and discussion of environmental impacts, as well as implementation of all feasible mitigation measures. Also, the FEIR did not establish quantitative measures for monitoring bird population and evaluating their effects on the reservoir.

The Secretary of Environmental Affairs has stated that a supplemental FEIR is required to address the concerns of both gull pollution and an alternative disposal site for solid waste in the event the landfill were closed due to the increase in adverse effects on water quality.



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