



MANS&C

The Massachusetts Association of Nonprofit Schools and Colleges



A Letter From the President

It's easy to be lulled into a false sense of security when you have MANS&C working for your nonprofit school, college or university on Beacon Hill.

Year after year, MANS&C Legislative Counsel John J. Spillane manages to stop bills that would impose financial burdens and unnecessary regulations on our member institutions, chipping away at our independence.

And yet, with the opening of every new legislative session, new challenges arise and old ones return.

We hope that MANS&C members – and anyone thinking of becoming a member – will join us at the MANS&C board meeting on Nov. 29 to learn what John does and how he manages to stop so many well-meaning – but misguided – bills.

He'll also talk about the storm clouds on the horizon in the new session that begins in January.

As you'll see in this newsletter's Legislative Report, John expects a number of familiar bills to be re-filed in the upcoming session. He is particularly concerned about heightened interest in imposing endowment taxes at the state level. This past session, a bill that targeted large

endowments failed to gain traction. John expects it to return, possibly along with other bills that may target smaller endowments, as well.

We hope that you'll take a look at John's successes and make MANS&C membership part of your risk management practices. If you belong to AICUM or AISNE, or if you already have your own legislative counsel on Beacon Hill, you will more than double your influence by joining MANS&C, too.

Remember, John's work is only one of the services that MANS&C provides. Find out more at www.mansac.org or contact me at gpojasek@chch.org or 781-314-0836 for more information.

I hope you come to the Nov. 29 meeting, which will be held at Chapel Hill-Chauncy Hall School in Waltham, starting at noon, and will include a free lunch. Registration for the event is quick and easy. [Just click here.](#)

Best Regards,
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Federal Tax on Large Endowments Takes Effect

An unprecedented new federal tax on colleges and universities with large endowments is about to go into effect for the new fiscal year. The tax, which is permanent, is said to be the first attack on the tax-exempt status of nonprofit institutions.

Part of the new federal tax overhaul, the measure levies a 1.4 percent excise tax on annual investment earnings of private colleges with enrollments greater than 500 students and endowments valued at more than \$500,000 per full-time student.

About 30 colleges and universities nationwide will be affected, including Harvard, MIT, Amherst, Williams, Wellesley and Smith in Massachusetts.

According to an article in the *Chronicle of Higher Education*, many higher-education leaders consider

the endowment tax to be a gateway for future taxes on college and university funds and a precedent that threatens all charities.

College trade organizations and a number of Congressional lawmakers are working to overturn the tax.

Fortunately, the Internal Revenue Service recently issued guidelines that will offer some relief to the affected institutions: they will not be taxed on unrealized income from their billions of dollars in assets before the law went into effect. The guidelines allow a stepped-up basis for calculating the tax. By using appreciated prices on assets, the tax will apply only to income earned since the end of 2017.

MANS&C Success at the State House

The current legislative session is drawing to a close, and MANS&C is pleased to announce another string of successes on Beacon Hill, thanks to the hard work of Legislative Counsel John J. Spillane.

The session began in January 2017 with the filing of close to 6,000 bills. Using a sophisticated computer tracking system, he has been tracking hundreds of bills that would have been costly to nonprofit schools, colleges and universities, restricted our right to sell and develop property, and threatened our independence.

The following are some of the more significant bills that were stopped recently because of John's efforts:

- › **House Bill 1565** required nonprofit schools and colleges to make payments in lieu of taxes on real and personal property equal to 25 percent of what they would have paid if they were not tax-exempt
- › **House Bill 2594** gave communities the right of first refusal as part of a lengthy process when a nonprofit wants to convert tax-exempt property to residential, commercial or industrial use
- › **House Bill 3526** threatened to impose property taxes on institutions whose top five highest-compensated officers, directors, trustees, employees, independent contractors or others earn more than \$2.5 million a year

- › **Senate Bill 92** attacked the Dover Amendment by expanding the reach of local planning boards and instituting a site plan review for building projects by nonprofit schools, colleges and universities
- › **Senate Bill 194** established a committee to study the Dover Amendment
- › **Senate Bill 204** mandated a number of safety requirements for athletic and recreational facilities, all of which are already in place at our member institutions

John also focused on **Senate Bill 1533**, which called for an excise tax on nonprofit colleges and universities whose endowments exceed \$1 billion. Even though this bill was directed to larger institutions, it also presented a potential threat to smaller colleges and secondary schools because it could easily lead to taxation of smaller endowments as well.

Noting that Democratic gubernatorial candidate Jay Gonzalez has called for a similar tax, Spillane believes this issue will reappear in the new session that begins in January.

Spillane is still keeping a close watch on the current informal session of the legislature, which ends on Dec. 31. However, an objection from only one legislator can stop a bill from being considered.

Changes to Massachusetts 529 Plans Fall Short on Beacon Hill

An attempt by state lawmakers to discourage Massachusetts 529 Plan funds from being used for expenses at K-12 private and parochial schools failed in the closing hours of the formal legislative session on July 31.

The failed state amendment was in response to the federal tax overhaul that was narrowly approved by Congress last December and then signed into law.

When created about 20 years ago, 529 Plans were intended exclusively for college expenses. The new law expanded 529 Plans, stipulating that distributions after Dec. 31, 2017 also could be used for K-12 expenses in private and parochial schools.

Because the Massachusetts income tax is linked to the federal system, the law passed by Congress automatically gave state residents a break on their state income taxes when used for K-12 expenses.

Although state legislators cannot change the federal tax breaks, they do have the power to eliminate the state income tax benefit.

As the formal session approached the end, the state Senate approved a budget amendment that eliminated the Massachusetts state tax

deduction when 529 Plan funds were used for expenses at K-12 private and parochial schools. No similar amendment was in the House budget, however, and a joint conference committee failed to take action on it. The amendment was effectively dead.

The amendment's sponsor, state Sen. Pat Jehlen, a Somerville Democrat, argued that the Congressional changes were little more than a voucher system that wealthy people could use to send their children or grandchildren to private schools.

She also believes that the Massachusetts constitution prohibits public aid to private education.

Each state administers its own version of the 529 Plan. Favorable tax treatment may be limited to investments made in a plan offered by an individual's home state.

In Massachusetts, families can deduct 529 Plan contributions of up to \$1,000 per parent, or \$2,000 filing jointly, from their state income taxes. Account investment earnings accumulate tax-free.

A number of states have decided not to conform to the new law; others are undecided or are in the process of conforming.

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