

DUKES COUNTY CHARTER STUDY COMMISSION

THE IMPLICATIONS OF ABOLISHING COUNTY GOVERNMENT WITH NO REPLACEMENT

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Executive Summary

Abolishing county government with no replacement would have far-ranging effects, some of which would be immediate and readily apparent, others more subtle and long-term. These consequences are substantial and extend well beyond impacts on the activities under the direct purview of the County Commissioners and a County Manager:

- If the County were abolished, under State law the ownership of valuable County real estate, improvements and equipment currently assessed at more than \$15,000,000 (excluding the Airport) would be transferred to the State with no compensation. The State could then elect to transfer or sell the properties, such as the County-owned beaches, or alternatively transfer their management to the Towns where they are located or to some other Island entity. There is no guarantee, however, that such an agreement could be reached. Finally, the Charter Commission could propose legislation to the State providing for the ownership of County properties to remain on the Island. Again, given the varied experiences of other abolished counties and the difficulty predicting the policies of the State administration, it is impossible to determine the outcome of such proposals.
- While not a saleable asset, the loss of local ownership and control of the Airport, the County's single largest asset (assessed at \$63,676,160), cannot be ruled out.
- The County Manager's and County Treasurer's Offices would cease to exist. Setting aside the value of the services they perform, the residents of the County would face the additional loss of at least \$375,000 in revenue, which would go to the Commonwealth. There can be no assurance that this revenue the Commonwealth would receive would be used to offset the operating expenses of the remaining functions of the County, such as the Sheriff's Office.
- The Towns may be expected to pay for certain functions of the Sheriff's Office, especially discretionary functions. The FY07 operating budget for the Communications Center was \$660,000. That amount represents more than 85% of the total assessment of \$770,000 paid by the Towns in FY07 for ALL of the operations of the County.

While the transfer to the Towns of operational responsibility for regional services such as the Communications Center is unlikely, the Towns could be assessed the cost of operating discretionary regional services, in addition to any proportional assessment for the other functions of the Sheriff's Office. To put this in perspective, the Towns currently contribute less than \$200,000, or only 5% of the Sheriff's total budget. Additional assessments to cover discretionary regional services provided by the Sheriff's Office could expand well beyond \$200,000.

- There would be loss of a number of regional services, many invisible to the average County resident, such as engineering, health care access, public health, rodent control, the Veterans' Agent and the MV Parking Clerk, among others. The cost to the Towns¹ of replacing these

¹ Unless stated otherwise, the word "Towns" in this report refers to all 7 County Towns, including Gosnold.

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regional services is likely to increase. In the case of several services, like the Health Care Access Program, the loss of office space and secure County funding would threaten their existence.

- If the State did not take over all county retiree obligations upon abolishment of the County, the Towns' assessments for the County Retirement System could increase.
- In summary, despite the widely-held perception that Town assessments would decrease if County government were abolished, the increased cost of non-regionalized services, the funding of a larger share of the cost of the Sheriffs Office , and additional funding of the County Retirement System, when taken together, are likely to exceed the Towns' current assessments. This has been the experience of other abolished counties.
- The new Correctional Facility, currently planned for the grounds of the Airport, would not be reviewed by either the County Commission or by the Martha's Vineyard Commission since State facilities are exempt. This would, thus, remove a significant obstacle to the State's ability to build a facility based on the State's needs, which could be quite different than our own.
- The residents of the County would also lose a bonding capability (rated A++) to fund regional initiatives and a safety net for Towns that reach their bonding limits.
- Other consequences of abolishing the County are less tangible, but by no means less real. They are likely to involve the transfer of control over the operations (and perhaps the assets) of the County to authorities on the mainland, in most instances at the State level. As a result, accountability for services would be dispersed throughout departments and semi-autonomous agencies in the Commonwealth, and there would cease to be a single, local government authority for the Towns and residents of the County to hold accountable.
- Finally, there would be subtle, yet important, changes over time that could diminish the ability of the County's residents to control their own future. The Island would lose a formally-chartered organization to speak with a single, coordinated voice in dealing with Federal and State agencies as well as an important vehicle for providing regional services.

While the County includes the Elizabeth Islands, as a practical matter, it is the residents of Martha's Vineyard who would experience virtually all of these impacts. In effect, abolishing County government with no replacement could fundamentally change the exercise of "home rule", and eliminate the only local authority chartered to provide Island-wide leadership and regional services for the residents of Martha's Vineyard.

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Introduction

In late July 2007, a sub-committee was named by the Dukes County Charter Study Commission to identify the major implications of abolishing County government with no replacement. The task was to determine the implications of completely eliminating chartered County government without creating a new regional governmental organization to replace it.

Jim Newman convened the group, and Carlene Gating was chosen to chair the sub-committee. The members were John Alley, Tad Crawford, Mimi Davisson, Carlene Gating, Jim Newman, and Ted Stanley. Woody Williams served as an advisor. Members met on August 9, 20, 27, September 6, 10, 13, 17, and 24, 2007. There were also discussions with Airport Management, the Sheriff, the Register of Deeds, and the County Treasurer regarding the likely consequences of abolishing the County.

The sub-committee has provided as much detail as possible within the timeframe specified by the Charter Study Commission. It did not conduct an in-depth economic analysis. Nor did it undertake an exhaustive legal analysis. This report, therefore, does not constitute a legal opinion regarding the consequences of abolishing the County. It is an initial overview with numerous uncertainties which necessitated speculation. A detailed legal and financial analysis would be required in the event this option were chosen by the Charter Study Commission.

To date the Town of Gosnold has not participated in the work of the Charter Study Commission. Therefore, this report speaks largely to the implications of abolishing County government for the Island of Martha's Vineyard.

The current County Manager form of government was proposed by a Charter Study Commission in 1992, approved by the voters, and implemented in 1995. Due to widespread dissatisfaction with the performance of County government in recent years, the voters approved a resolution calling for the appointment of another Charter Study Commission to review current County government. The Charter Study Commission is required to recommend whether County government should continue in its current form, be modified in some way or be abolished. This report addresses the consequences of abolishing the county with no replacement and provides a baseline for evaluating other alternatives.

This discussion of the implications of abolishing County government without a replacement is broken down as follows:

- County Commissioners
- County Manager
- Airport
- Office of the Sheriff
- Registry of Deeds
- County Courthouse
- Treasurer
- Additional Considerations

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County Commissioners

The role of the County Commissioners is defined by the County Manager Charter that was implemented for Dukes County in 1995. Their role is legislative – to set direction for County government. If County government were abolished, under MGL Chapter 34B, Section 3, the terms of the County Commissioners would expire on a designated Transfer Date.² Their functions would then be eliminated or transferred to other agents.

- The authority for appointing an Island representative to the Steamship Authority would change. The new appointing mechanism is unknown, although it is likely that the appointing power would remain on the Island.
- The authority for appointing Airport Commissioners would also change. The new appointment mechanism is likewise unknown. The possibilities range from Commissioners being appointed by the State or by a locally-controlled inter-municipal agency. (See Airport section below.)
- Appointment of Associate Commissioners for the following functions would be eliminated and the roles performed by those appointees would either cease or continue in a different manner to be determined by the Towns:
 - Associate Commissioner for Public Health
 - Associate Commissioners for Youth Task Force
 - Associate Commissioner for Handicapped Issues
 - Associate Commissioner for Elderly Affairs
- The appointment mechanism for the following functions would also change. It is likely that these functions would continue in some form, but the appointment process is unknown.
 - Regional Housing
 - Dukes County Health Council
- The status of the Health Council as an official government agency would be lost. This would negatively impact its access to major grant funding, since many grants require that applicants have “official” government status.
- A focal point for advocacy on behalf of Island-wide interests would be lost. There would be no formally-chartered organization to speak with a coordinated voice in dealing with Federal and State agencies. Likewise, a potential vehicle for providing regional services would be lost. New regional services would require the creation of unique management structures for each service.

² The Transfer Date is not defined for our purposes in Chapter 34B and would likely need to be designated by the Charter Study Commission or the Commonwealth. See the report prepared by Phase II Sub-Committee 3 for further discussion of this issue.

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County Manager

The roles and responsibilities of the Dukes County Manager are defined in the County Manager Charter that was implemented in 1995 and MGL Chapter 34A Section 18. The County Manager's role is executive – to implement the directions set by the County Commissioners. If County government were abolished, there would be no further need for a county manager and all programs directly overseen by the County Manager would disappear in their current form. Some might re-surface in other forms, including private sector services. Others would disappear completely.

- **County properties:** Through the County Manager, the County is responsible for managing and maintaining the County's properties. If the County were abolished, under State law the ownership of valuable County real estate, improvements and equipment currently assessed at more than \$15,000,000 (excluding the Airport) would be transferred to the State with no compensation. The State could then elect to transfer or sell the properties, such as the County-owned beaches, or alternatively transfer their management, to the Towns where they are located or to some other Island entity. There is no guarantee, however, that such an agreement could be reached. Finally, the Charter Commission could propose legislation to the State providing for the ownership of County properties to remain on the Island. Again, given the varied experiences of other abolished counties and the difficulty predicting the policies of the State administration at a point in time, it is impossible to determine the outcome of such proposals.

All County properties, such as the County Jail/House of Corrections, the Courthouse and the County Administration Building would be similarly affected.

It is noteworthy that in 1996, Governor Weld proposed legislation entitled "An Act Abolishing County Government", that provided for the transfer of all County properties to the Commonwealth. A "special commission on county properties and functions" was then to be formed to make recommendations to the governor and legislature concerning the disposition of county properties, including "Dukes county airport . . . and county beaches." This 13-member commission was to be made up largely of state officials, with no local representation. The commission could hold public hearings if it deemed appropriate, and had to make recommendations within 6 months after passage of the Act. If disposition of any properties was not made by legislation within the 6 months, the properties would automatically become the responsibility of the agency designated by the undersecretary for public buildings and real estate. While this act was never passed, it provides useful insight into the State's views at that time. The proposed act is attached for reference as Appendix B. The actions taken by a different administration could be quite different.

Beaches: The County is responsible for managing and maintaining the following State and County-owned beaches. All are expected to be impacted:

State Owned (under a custodial agreement with the County)

- Joseph Sylvia State Beach, which may revert to the Commonwealth.

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County Owned

It is likely that the following County-owned beaches would become the property of the Commonwealth. As explained above, it is also within the State's authority to either sell or transfer ownership of the County-owned beaches directly to the Towns where they are located or to some other entity. (See MGL Ch 7 section 40F, dealing with surplus property.) That entity could be a conservation organization, such as the Trustees of Reservations. If the Towns were given or sold these properties, they would most likely incur additional costs for the management and maintenance.

Finally, the Charter Commission could propose legislation to the Commonwealth providing for the ownership of County properties to remain on the Island. Based on the varied experience of other abolished counties, however, and the unknown agenda of the State administration at the time, it is impossible to determine the outcome of such negotiations.

- Norton Point Beach in Edgartown, now being operated and maintained by the Trustees of Reservations (TTOR) under a five-year contract with the County. The existing contract with TTOR would most likely continue for at least the term of the contract, with the Commonwealth functioning as the other party in place of the County. (See MGL Chapter 34B section 7.)
- A large portion of Eastville Beach in Oak Bluffs
- A small section of land on Vineyard Haven harbor near the yacht club
- The beach near the opening to Lake Tashmoo on Vineyard Sound, which is jointly owned by Tisbury and the County. While the County's portion may be lost, the beach would continue to be open to all Island residents.

The Commonwealth could take over the care, custody and control of these properties from the County and decide what entities would manage the properties. It is unclear whether the Commonwealth would look to the Towns where these properties are located to take on additional maintenance and operation duties (and costs). If Towns were dissatisfied with the beach maintenance provided by the State, they would have little recourse other than to perform the maintenance themselves, at additional cost.

Other County properties, such as the County Jail/House of Corrections, the Courthouse and the County Administration Building would be similarly affected.

- County Engineer: The services of an engineering firm, currently provided to the Towns at the discounted rate of \$35 per hour, would no longer be available through the County. Therefore, it is likely that Towns who use these services would see their engineering costs increase.

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- **Rodent Control Program:** The services of a licensed rodent and pest control officer would no longer be provided through the County. Towns would have to pay directly for rodent control to protect public health. The school system would have to find an alternative licensed source for rodent control as well as State-mandated pest management, and they would have to pay increased costs for these services.
- **Health Care Access Program:** This program could not continue in its current form without alternative funding, from the Towns or elsewhere. Currently the County funds about one-third of this program's total budget and provides valuable operating space for the program in a County-owned building that would transfer to the Commonwealth. This is the only stable funding received by the Access Program. The remaining funds it receives are in the form of short-term grants which have no guarantee of renewal.³
- **Prescription Discount Program:** This program is available through the National Association of Counties and would cease to be available if County government were abolished. It is unclear whether an alternative program would be available and how such a program would be coordinated. While this would not affect Town government budgets, it would have a direct financial impact on the residents who use the program.
- **Veterans' Agent:** The regional veterans' legislation, crafted for Dukes County by the Commonwealth, would cease to exist. This legislation enables the Towns to provide a regional structure for dealing with veterans issues. Under MGL Chapter 115, Section 3, in the absence of a "district agent", each town is required to appoint a full or part-time Veterans' Agent to administer State-funded veterans' benefits. Without the County Veterans' Agent, the Towns would have to devise an inter-municipal agreement to continue the Island-wide service or provide their own. Office space and administrative support for a Veterans' Agent would also have to be provided by the Towns.
- **Emergency Management:** This service would disappear in its current form without County government. It operates entirely with volunteers, receiving nominal financial support from the County. A formal mechanism for coordinating the management of emergencies would require a voluntary inter-municipal agreement between the Towns wishing to participate. Due to loss of the County government umbrella, the Towns would lose County-provided storage facilities as well as priority access to surplus federal and state material and equipment. At a time when the federal government is placing increased emphasis on regional solutions to emergency preparedness, qualifying for Homeland Security grants for the Island without a supporting county structure could prove more difficult.⁴

³ In FY 2007 the Health Care Access Program secured the approval/enrollment of 2,425 residents in MassHealth, Commonwealth Care, Free Care and related programs. In addition to losing insurance enrollment services and related assistance; if the Access Program were discontinued, the County's residents would lose disability application assistance, help for low-income seniors with prescription medication needs, bilingual health assistance for non-English speakers and the local liaison to the Department of Transitional Assistance for food stamps and emergency assistance.

⁴ This service is charged with providing a coordinated approach to emergencies that affect all towns – such as hurricanes, severe winter storms, epidemics, terrorist attacks – and providing a single interface with state and federal

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- County Employees: MGL Chapter 34B Section 15 provides that employees of an abolished county who are transferred to the Commonwealth will be transferred “without impairment of seniority, retirement or other statutory rights of employees, without reduction in compensation or salary grade,” but goes on to permit subsequent layoff or abolition of position. This would apply to employees in the Sheriff’s Office and Registry of Deeds. All others would likely be phased out or terminated over time.

A summary of the value of the County Commissioners’ and County Manager’s assets, annual operating budget, and number of employees can be found in the Appendix.

agencies during an emergency, including the County’s interface with FEMA and MEMA. It also involves emergency incident planning.

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Airport

The Airport is part of a transportation network that links Dukes County to the world beyond its shorelines. The Airport existed before the County Manager form of government was implemented in 1995 and would continue to exist regardless of what happened to County government. The Airport would continue to interact with – and be subject to – the laws and regulations of numerous federal, state, and local agencies. Its management would continue to be relatively autonomous, governed by an Airport Commission.

- If Dukes County government were dissolved, ownership of the Airport would revert to the federal government – probably the General Services Administration (GSA) – that originally deeded the land to the County.⁵ The GSA would then in turn likely delegate disposition to the Federal Aviation Administration to find an entity to take responsibility for the Airport. One possible outcome would be an inter-municipal agreement between Edgartown and West Tisbury or between all six Island Towns⁶, pursuant to enabling legislation allowing two or more towns to establish, maintain and operate an airport as a joint enterprise.⁷ However, the possibility of a State authority assuming control of the Airport cannot be ruled out, especially in light of the State’s prior indication of interest in the Airport. (See County Manager section above.) It is impossible to know the final disposition of the Airport until a decision is made to abolish County government and detailed negotiations about the Airport are completed.
- It is also possible that appointment of Airport Commissioners, currently selected by the County Commissioners, would become the responsibility of the State authority or, alternatively, an inter-municipal entity formed to oversee the airport. (See MGL Chapter 90: Section 51E.)
- The current use of County buildings such as the Communications Center and the Correctional Program Building would probably not be affected, because each would continue to be governed by their respective lease agreements with the Martha’s Vineyard Airport

⁵ Pursuant to a deed dated August 27, 1959, the federal government, acting through the Administrator of the General Services Administration, transferred surplus property to Dukes County. That property is now occupied by the Airport and Airport Business Park. The transfer was conditioned on such property being used for "public airport purposes." The FAA provided a waiver to the County for the Airport Business Park from the airport use requirement. The deed specifically provides that any transfer of this property is subject to approval by the FAA.

⁶ No conversations have been conducted with any of the Towns about the desirability or feasibility of creating an inter-municipal entity to replace the airport functions of Dukes County.

⁷ See MGL Chapter 90 Section 51N. This provision falls under “Management of State-owned Airports,” but is arguably applicable here under the language of MGL Chapter 90: Section 39G. Further information regarding the laws and policies which might affect the disposition of the Airport can be found in FAA Order 5190.6A Chapter 8 Section 1 Paragraphs 8-7. These documents are available on the Internet.

It is noteworthy that Barnstable Municipal Airport, where the airport lies almost entirely within the town of Barnstable, has airport commissioners only from Barnstable. The neighboring town of Yarmouth, which is affected by the flight routes in and out of the airport, has requested a voting member on the airport commission. Barnstable has, to date, prevented Yarmouth from having any representation on the commission.

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Commission. It is difficult to predict whether the activities that are housed in these buildings could face future termination, subject to the terms of their respective lease agreements, if Airport needs change. The Airport Commission itself would have primary control over these decisions.

- Grant Assurances – The State authority or new inter-municipal entity assuming responsibility for the Airport would be required to accept the terms of the existing grant assurances made by the County to the Federal government. In other words, the State or Towns making up the new entity would be liable for any financial default by the Airport. (See MGL Chapter 90 Section 51N.)
- Bonding Authority – The State or inter-municipal entity that would oversee the Airport would likely become the bonding authority for the Airport, with some enabling legislation. While MGL Ch34B, Section 5 provides that all liabilities of an abolished county become obligations of the Commonwealth, it is more likely that the County’s remaining bond obligation of approximately \$600,000, which was used to fund the current terminal, would transfer with the new authority. At the end of FY07 (i.e., 6/30/07), the Airport had a reserve fund of \$237,230 to meet this bond obligation.
- The Airport employees would no longer be under the umbrella of the County with respect to payroll, disbursements, health insurance and retirement benefits. These functions would need to be provided through the new airport authority.
- The Airport has an Emergency Planning Group which includes fire, medical services and police, as the incident requires. The Airport interfaces directly with the Emergency Management Director in providing him with the information needed by FEMA and MEMA. This coordination would need to be replaced.

A summary of the value of the Airport’s assets, annual operating budget, and number of employees can be found in the Appendix.⁸

⁸ Further information regarding the laws and policies which might affect the disposition of the airport can be found in MGL Chapter 90 Section 51N and in FAA Order 5190.6A Chapter 8 Section 1 Paragraphs 8-7. These documents are available on the Internet.

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Office of the Sheriff

The County Sheriff position is a constitutionally mandated office governed by a number of provisions in MGL, most notably Chapter 37 and Chapter 126, Section 16, which deals with correctional facilities. The Office provides emergency dispatch, civil process services, a jail/correctional facility and other services that support the community and local law enforcement. The Office of Sheriff would continue to exist if County government were abolished, and there would be little immediate change in the day-to-day operation of the Sheriff's functions.

- The Sheriff would remain an elected official, but would become a State employee and would, therefore, be governed by a different set of payroll and benefits guidelines (MGL Chapter 34B, Section 12). All employees of the Sheriff's Office would be affected by this changed employment status. (See MGL Chapter 34B, Sections 12-14.)
- It is unlikely that any major regional function or activity of the Sheriff's Office would be turned over to the Towns; but it is a real possibility that the Towns would have to pay additional assessments to cover some portion of the total cost of regional services. For example, the County Communications Center is a core regional function of the Office of the Sheriff that cost \$660,000 to operate in FY07. If operation of the Communications Center were to be transferred to the Towns, the Towns would have to assume responsibility for that budget. That amount (\$660,000) represents more than 85% of the total assessment of \$770,000 paid by the Towns in FY07 for ALL of the operations of the County. While the transfer to the Towns of operational responsibility for regional services such as the Communications Center is unlikely, the Towns could be assessed the total cost of operating discretionary regional services, in addition to any proportional assessment for the other functions of the Sheriff's Office. To put this in perspective, the Towns currently contribute less than \$200,000, or only 5% of the Sheriff's Total Budget. Additional assessments to cover discretionary regional services provided by the Sheriff could expand well beyond \$200,000.
- The Civil Process is another core function of the Sheriff's Office. It involves the delivery of all legal documents emanating from the courts, including Small Claims Notices, Torts, Summons, Subpoenas, Evictions and Restraining Orders. In FY07 it generated \$56,000 in fees. In the absence of County government, all revenues received for service of civil process documents would go directly to the Commonwealth. It is not clear whether this revenue would be used by the State to offset the expenses of the Sheriff's Office or the assessments paid by the Towns.
- Local involvement in budgetary review and local oversight of the Sheriff's expenditures by the Treasurer and County Manager would no longer exist. This would simplify the Sheriff's budgetary process, but would reinforce the Sheriff's accountability to the State.
- There would no longer be local control or oversight of future services and capital building pursued by the Sheriff's Office. The new Correctional Facility, currently planned for the grounds of the Airport, would not be reviewed by the County Commission; and it would not be reviewed by the Martha's Vineyard Commission (MVC), since State facilities are exempt

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from review by the Commission. The new Correctional Facility could be voluntarily submitted for MVC review, but this is unlikely.

- Other effects of abolishing County government would be more subtle, since the Office of the Sheriff would become even more formally and directly accountable to the Commonwealth than it is today. This could mean participation of the Sheriff's Office in discretionary local community programs, like Triad and Project Lifesaver, could be at risk.

A summary of the value of the Sheriff's Office assets, annual operating budget, and number of employees can be found in the Appendix.

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Registry of Deeds

The Registry of Deeds is mandated under MGL Chapters 36 and 64D to maintain property records for the County and would continue to exist if County government were abolished. Therefore, there would be little change in the day-to-day operation of the Registry's functions.

- The Register would remain an elected official, but would become a State employee accountable to the Secretary of the Commonwealth and would, therefore, be governed by a different set of payroll and benefits guidelines. (See MGL Chapter 34B, Section 10.) All employees of the Registry of Deeds would be affected by this changed employment status.
- All Deed Excise revenue from the Registry of Deeds would go to the Commonwealth. This revenue from the Registry is currently apportioned as follows:
 - 57.5% goes directly to the Commonwealth for non-county uses,
 - 32.0% goes to the County Sheriff's Office,
 - 4.2% goes to the County Registry of Deeds,
 - 6.3% goes to Dukes County

Assuming only the 6.3% that goes to Dukes County is impacted, the residents of the County would, for all practical purposes, lose \$166,294 based on FY07 receipts.

- The Registry of Deeds earned additional revenue in recording fees, which are currently apportioned approximately as follows:
 - 71.0% goes directly to the Commonwealth,
 - 29.0% goes to the County

In FY07 the County's portion of this revenue was \$265,520 and was about equivalent to the appropriation actually received from the County for its mandated "maintenance of effort" payment to the Registry. If the County were abolished, the 29% would also go to the Commonwealth.

- Cash balances in the Registry's Deeds Excise Fund and the Technology Fund as well as equipment used by the Registry would go to the Commonwealth. No money would stay with the County or with the Registry of Deeds.

A summary of the value of the Registry of Deeds assets, annual operating budget, and number of employees can be found in the Appendix.

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County Courthouse

In addition to its judicial functions, the Courthouse is also occupied by the Registry of Deeds.

Ownership of the courthouse and its land could transfer to the Commonwealth pursuant to MGL Chapter 34B, Section 6, and would be operated by the Office of the Chief Justice. At least one other county, Hampshire County, has retained ownership of its historic courthouse building, but this would require special negotiations with the State legislature to accomplish that outcome.⁹

It could be argued that it would be desirable for the State to assume full ownership and maintenance responsibility for the Courthouse. The funding the County has received from the State for the maintenance of the Courthouse has consistently fallen short of what is needed. As a result, this historic building requires costly renovation. There is no assurance, however, that the condition of the building would improve under the State, and to the contrary is likely to continue to deteriorate based on the State's past actions.

A summary of the value of the Courthouse assets, annual operating budget and number of employees can be found in the Appendix

⁹ Hampshire County had difficult and protracted negotiations with the State to keep its historic courthouse, and ultimately prevailed. This was largely because i) they had a powerful official championing their cause, ii) the County had done a good job of maintaining the building, demonstrating they were likely to continue to maintain it, and iii) the County offices occupied the building, and the successor COG would continue to occupy the building. At least two of those factors would not be present here, making the outcome more uncertain.

Although Hampshire County was able to maintain ownership of their historic courthouse, the State's law library continues to occupy the ground floor of the courthouse. The language going into conference committee specified that the State would have the right to lease space for the law library; however it came out of conference committee with a 99 year lease at nominal rent. Because the lawyer responsible for the trial court leases tries to be reasonable, Hampshire County receives rent at \$5/sq ft instead of the usual \$1, but market value at the time was more like \$15/sq ft.

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Treasurer

The Treasurer's position is mandated under MGL Chapter 35 and exists to support the operations of County government. In addition to supporting the County Manager, the Treasurer also provides financial services to the Airport, the Office of the Sheriff, the Registry of Deeds and the Land Bank. If County government were abolished, the Treasurer position would no longer exist.

- The Treasurer and staff would finish their terms, assisting with an orderly transfer until the Transfer Date. (See MGL Chapter 34B: Section 9.) There would be no Treasurer position after the Transfer Date.
- The Land Bank legislation requires the Land Bank to use the accounting services of the Treasurer's Office, which are provided at no charge. The Land Bank would need to find another source of accounting services, resulting in increased cost to the Land Bank, and the Land Bank legislation would need to be amended accordingly. Any liabilities of the Land Bank under existing bonds would remain with the Land Bank.
- The Airport and the Sheriff's Office would likewise need to find another source of accounting services as well as employee compensation and benefits administration. It would be preferable for accounts payable and payrolls to be processed locally, although this is by no means assured. Furthermore, while it is uncertain where the remaining accounting and financial reporting functions would be performed, it is likely that they would be absorbed by one or more State agencies.
- The Treasurer's Office includes the Martha's Vineyard Parking Clerk who services the needs of all six Island Towns. In the absence of County government, the Towns would have to appoint individual parking clerks and hearing officers as well as assume responsibility for the collection of parking fines imposed in their towns. Island citizens would lose the convenience of paying parking fines at a central location with parking. Alternatively, the Towns would have to devise an inter-municipal agreement to continue the Island-wide service. Office space and administrative support for the parking clerk would also have to be provided by the Towns.
- Management of the Dukes County Contributory Retirement System is a function that operates entirely independent of County government. It manages a \$60,000,000 investment portfolio and services the pension of all school system and municipal employees, other than teachers. The County Treasurer is the Chairman of a five member board that oversees its activities. While the County Retirement System would continue to exist, abolishing the County would strip all current County employees as well as County retirees and all former retirement eligible County employees from this local retirement system and transfer them to the Commonwealth. (See Section on Additional Considerations for outline of the consequences of this change in the status of these employees.) It is noteworthy that in at least one other abolished county, the State only took over the retirement assets with respect to county retirees, but not the liabilities, leaving the towns with a bigger assessment to pay into the retirement system each year. It took Franklin County ten years to get the State to assume these liabilities. It is uncertain as to whether the State would take on those obligations if Dukes County were abolished, since they

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arguably were incurred under and for the benefit of the County, and might therefore result in additional assessments to the Towns each year.

A summary of the value of the Treasurer's assets, annual operating budget, and number of employees can be found in the Appendix.

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Additional Considerations

Most implications of abolishing County government with no replacement would be specific to the functions being abolished or dispersed. However, there are significant additional overarching considerations:

Financial Considerations

County Assets:

- If the County were abolished, the real estate assets, buildings and equipment transferred to the Commonwealth would be substantial, even if the Airport is not taken into account. These include the Beaches, the County Jail/House of Correction and the Courthouse. All assets, however, would be valued under MGL Chapter 34B Section 8(c) at only 75% of their assessed value, and they would be transferred to the Commonwealth or other agencies, without compensation other than offsetting existing County liabilities and the costs involved in abolishing the County. (See below for a fuller explanation of this calculation.)

A summary of all of the County assets is presented in the Appendix.

- Any current employees of the County that were transferred to the Commonwealth or other agencies may be subject to new compensation guidelines and less favorable benefits and personnel policies. Some positions would be eliminated over time.

A summary of the number of current County employees is presented in the Appendix.

- All liabilities of the County (except perhaps those associated with the Airport) would become obligations of the Commonwealth.¹⁰ These would include the unfunded pension and related liabilities of the County,¹¹ except as noted on page 15 above.
- The County's assets (assuming they are transferred to the State), valued by the State at 75%, are likely to exceed in value the liabilities that would be transferred. If this were the case, the Towns would have no residual liability associated with the transfer of the County's liabilities to the Commonwealth. However, this is only because the Island would be giving away valuable properties under its control.¹² Further, until we obtained an appraisal of County properties and a reasonably accurate estimate of the future liabilities of the employees and

¹⁰ See MGL Chapter 34B Section 5.

¹¹ MGL Chapter 34B Section 8(b) defines how the unfunded pension liability shall be determined.

¹² Under MGL Chapter 34B Section 8, if the County liabilities that transfer to the Commonwealth, including unfunded pension and other liabilities, were to exceed the value of assets to be transferred, the Towns would be obligated to pay the difference. The only current substantial obligations of the County are the unfunded pension and related liabilities, totaling about \$3.7 million as of 1/1/07 and the \$500,000 Airport bond, which would probably stay with the new airport authority. The cost of effecting the transition, including legal, accounting and other services, would also likely be substantial. The liabilities would be compared to County assets, primarily real estate valued under MGL Chapter 34B Section 8(c) at 75% of assessed value.

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Additional Considerations

- Access to Surplus Property. Without County government, the Towns would lose priority access to surplus federal and State material and equipment. Disposal of surplus property is managed within a specified order of priority, with county governments having priority over towns. If County government were abolished, the Towns in Dukes County would be queued up with the 351 other Massachusetts towns for surplus property, behind all county governments in the Commonwealth.
- Federal and State Grants. Some grants, such as Homeland Security grants and those received by the Vineyard Health Care Access Program, are more likely to be awarded on a regional basis than on a town by town basis, since they require evidence of regional collaboration.
- Cape Light Compact. The existing inter-county agreement would have to be amended to some form of inter-municipal agreement.
- Bonding Capability. The County enjoys a Standard & Poor's rating of A++. The residents of the County would lose a bonding capability authorized to fund regional initiatives and a safety net for Towns that reach their bonding limits.
- Cape & Islands EMS. The County currently pays \$11,000 per year so that the Towns' ambulances can be tied into the Cape & Islands EMS system. The Towns would need to replace this service.
- Bulk Buying. At the cost of \$500 a year, the County serves as a member of Barnstable County's purchasing system providing the Towns, the school system and other regional authorities within the County with access to that system for the purchase of office supplies and equipment. One of the regional agencies or Towns in the County would need to assume this responsibility on behalf of the others.

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Experiences of Other Counties

Without exception, the representatives from the abolished counties we contacted stated that there were real disadvantages associated with the loss of County government, despite the fact that in both Hampshire and Franklin Counties county government was replaced with an alternative form of regional government. They all stated that, if faced with the decision again, they would not abolish the County.

Abolished Counties (contacted)

- Franklin County. County government was replaced with a Council of Governments. According to the representative from the Franklin Council of Governments we consulted, the principle disadvantages of abolishing the county were the negative impact on the region of having to transfer all their real property to the State, with the exception of their Communications Center, and the loss of their ability to issue bonds. The towns in the region also lost the stability of knowing they “were all in this together”, because each town now has the ability to opt out of the Council. Given its design, however, the Council is viewed as a more accountable form of government to the towns.
- Hampshire County. County government was replaced with a Regional Council of Governments. It was their experience that they were largely unable to control the outcome in the process of abolishing the County (for example, see footnote 9 regarding Hampshire’s courthouse). The proposed legislation submitted to the State conference committee often came back with substantial changes, which largely benefited the State.

In Hampshire County, only 12 of the original 20 towns remain as full voting and dues paying members of the COG, although the county now provides services to over 80 towns, including all but one of the former members.

Other Counties (contacted)

- Nantucket County. The representatives from Nantucket stated that county government gives them an additional voice at the State level. They also commented on the ability of their County Registry of Deeds to respond more quickly to local needs than a State-operated Registers’ Office. Nantucket uses its County powers of eminent domain to gain additional access to the water.
- Barnstable County. In describing one of the benefits of Barnstable County’s form of county government, a county representative said: “the closer government is to home, the more responsive government will be to the people in those homes.” The representatives of Barnstable County also expressed the view that regionalization is being driven by economic necessity and that the consolidation of functions (e.g., public health, environmental protection, waste disposal and wastewater management) will happen either through the county or its large towns.

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APPENDIX

Financial Summary of County Government

This information, for the most part, has been supplied by Group 2, which was chartered to complete an analysis of the County's finances.

<u>County Function</u>	<u>Assessed Value of Assets at 100%¹⁷</u> (including cost of equipment)	<u>FY07 Annual Operating Budget</u>	<u>Number of Current Employees or Full-Time Equivalents (FTEs)</u>
County Commissioners & County Manager	\$7,599,041 ¹⁸	\$869,540	6.5
Airport	\$63,676,160	\$2,707,600	23
Office of Sheriff	\$3,229,534	\$3,700,000	47
Registry of Deeds	\$118,118	\$339,307	4
County Courthouse	\$4,042,700	\$58,735	0.5
Treasurer	\$41,335	\$260,132	3
Total	\$78,706,888	\$7,935,314	84

¹⁷ Under MGL Chapter 34B section 8, the State would recognize only 75% of the assessed value of these assets in determining any residual liability of the Towns upon abolishing the County (i.e., if liabilities transferred exceeded 75% of the assessed value of the assets transferred).

¹⁸ These assets include the beaches, which are valued at \$5,783,800.