

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

**Foster-Glocester Regional
School District**

v.

Town of Glocester

.....

DECISION

Held: In this appeal the FOSTER-GLOCESTER REGIONAL SCHOOL DISTRICT is seeking an order that would require the TOWN OF GLOCESTER to fund the Town's full proportionate share of the Regional School District's budget for the fiscal year 2006-2007, as that budget was established by the Foster-Glocester Regional School Financial Meeting held on March 21, 2006. As explained within this decision, we conclude that Glocester must pay the sum of \$212,000.00 to the treasurer of the Foster-Glocester Regional School District to make up the deficiency in Town's appropriation for fiscal year 2007.

DATE: August 24, 2007

Jurisdiction and Travel of the Case

In this appeal the FOSTER-GLOCESTER REGIONAL SCHOOL DISTRICT is seeking an order that would require the TOWN OF GLOCESTER to fund the Town's full proportionate share of the Regional School District's budget for the fiscal year 2006-2007, as that budget was established by the Foster-Glocester Regional School Financial Meeting held on March 21, 2006.

With regard to education matters, it is established that the Rhode Island Superior Court has jurisdiction over "Caruolo" actions (R.I.G.L.16-2-21.4) and maintenance of effort actions (R.I.G.L.16-7-23 (a)). Since the present case does not fall under either of these classifications, it would appear that primary jurisdiction to decide it is properly vested in the Commissioner of Education under R.I.G.L.16-39-1 and R.I.G.L.16-39-2.

Introduction

At the outset, we note that this is not a case where a school committee has adopted a budget that a town council has found to be excessive. (Sadly, as of late, this has not been an unusual event in Rhode Island.) Nor is it a case where a school committee alleges that its town council has not allotted it sufficient funds to allow it to properly operate a town's public schools. Instead, this is a case where a school committee adopted a budget that was probably acceptable to the town council — but the people, that is to say the electorate at a Regional School District Financial Meeting — adopted a school budget that exceeded what was acceptable to the town council by at least \$212,000.00. The affected town council alleges that the addition of this \$212,000.00 to its budget of around \$24,000,000.00¹ would (1) violate the fiscal caps created by R.I.G.L.44-5-2 and R.I.G.L.16-2-21(a) (i), (2) force the council to eviscerate municipal services, (3) raise the anxiety of municipal bond holders, and (4) place the town on the road to ineluctable insolvency.

The Regional School Committee submits that none of this is so, and that the freely expressed will of the people to add additional funds to the school committee's budget should be cheerfully accepted by council. The protagonists in this case are:

1. **The Town of Glocester:** The Town of Glocester, through its Town Council, has refused to add the \$212,000.00 at issue to its municipal budget. The Town of Glocester operates its own elementary schools, but it sends its middle school students and its high school students to public schools operated by the Foster-Glocester Regional School District. The legislation which created the Foster-Glocester Regional School District states: "The cost of the operation of the Regional School District shall be borne (sic) by the collective taxpayers of the towns of Foster and Glocester in the same proportion that the average membership of students from each town bears to the average membership of the school...."
2. **The Foster-Glocester Regional School Committee:** The Regional School Committee operates the Foster-Glocester Regional School District. The fiscal year

¹ Transcript April 18, 2007, page 128.

2006-2007 school budget it submitted to its appropriating authority, the Foster-Glocester Regional School Financial meeting, probably would have met with the approbation of the Glocester Town Council.²

- 3. The Foster-Glocester Regional Financial Meeting.** The Foster-Glocester Regional Financial Meeting functions much like a New England town meeting. The voters of Foster and Glocester have the right to attend and to vote on the Regional School District's budget. On March 21, 2006 the Foster-Glocester Regional School Financial Meeting convened to act on the 2006-2007 proposed budget of the Regional School District. The voters of the Regional School District—or at least those who attended the meeting—voted to add \$314,000.00 to the Regional School Committee's \$10,854,285.00 proposed budget.³ By operation of the Regional District's apportionment formula \$102,000.00 of this \$314,000.00 increase was assigned for payment to the Town of Foster and the remaining 212,000.00 was assigned for payment to the Town of Glocester. The Foster Town Council added this \$102,000.00 to its budget and it has paid its full monthly share of the budget to the Regional School District. The Glocester Town Council, on the other hand, declined to add the sum \$212,000.00 to its budget. Instead, Glocester has paid to the Regional School District its monthly share of school expenses in an amount which disregards the \$314,000.00 supplemental appropriation made by the voters at the Regional School District Financial Meeting.

Positions of the Parties

The Town of Glocester

The Town of Glocester argues that the payment of the \$212,000.00 would cause a violation of the fiscal caps established by R.I.G.L.45-5-2 and R.I.G.L.16-7-23, not only in the 2006-2007 fiscal year, but in all the fiscal years yet to come. As one witness put it, "if we weren't able to afford the additional funds in the budget and fiscal year 06-07, the problem would compound in 07-08 and 08-09 and beyond."⁴ Glocester contends that the addition of \$212,000.00 to its budget would force severe cuts to its municipal services.⁵ Glocester also contends that the appropriation of \$212,000.00 might affect its bond credit worthiness.

The Town further contends that the Regional School District, at a Glocester Financial Town Meeting, agreed to waive the District's rights to the additional budget increase voted at the March 21, 2006 Foster-Glocester Regional School Financial Meeting.

² Transcript, April 18, 2007, page 90.

³ Minutes of the Forty-eight Annual District Financial Meeting, March 21, 2006 at 8:00 p.m. (It has been suggested that the reason for voting this increase was to allow teachers who had been laid off to return to work. Transcript, April 18, page 125.)

⁴ Transcript, April 20th, page 9; Transcript, April 20th, pages 86 and 96. Glocester expresses the concern that bond holders might become concerned if it reduced its fiscal reserves. We note, however, that bond holders have a complete assurance that the obligations owed to them will be paid without regard to any tax rate of levy rate limitations.

⁵ Transcript, April 20th, page 8.

The Foster-Glocester Regional School Committee

The Foster-Glocester Regional School Committee contends that the appropriation by the Town of Glocester of the \$212,000.00 would not place the Town in violation any statutory fiscal caps. The Regional School Committee also denies the existence of any mutual agreement to waive its claim to the \$212,000.00 at issue. It further suggests that any such agreement would be null and void for various legal reasons.

Findings of Fact

THE FOSTER-GLOCESTER REGIONAL SCHOOL BUDGET FOR FISCAL YEAR 2006-2007

1. On March 16, 2006 the Foster Glocester Regional School Committee approved a proposed operating budget of \$16,257,858 out of which \$10,854,285.00 would be requested from the Foster Glocester Regional School Financial Town Meeting in the form of an appropriation of municipal funds.⁶ (The difference between the \$16, 257, 858 operating budget and the \$10,854,285.00 in requested municipal funds would be covered by state school aid and federal grants)
2. The proposed budget seems to have taken into account financial advice from Glocester municipal authorities who counseled that a reduction of at least \$200, 000 should be made to the Regional School Committee's initial budget projections. In fact, the Regional School Committee, on a 5 to 4 vote, seems to have exceeded Glocester's hopes for a budget reduction. To reach its proposed \$10,854,285.00 budget request the Regional Committee eliminated \$393,000.00 in funding for teacher staff positions.⁷
3. On March 21, 2006 the Foster Glocester Regional School Financial Meeting convened to act on the proposed Regional School 2006-2007 budget. The voters of the Regional School District—or at least those who attended the meeting—proceeded to vote to add \$314,000.00 to the Regional School Committee's \$10,854,285.00 proposed budget.
4. The voter approved addition of \$314,000.00 to the Regional School Committee's budget seems to have come as a surprise, not only to the Regional School Committee, but also to the Foster Town Council (which would now have to raise an additional \$102,000.00) and to the Glocester Town Council (which would now have to raise an additional \$212,000.00.)⁸
5. The Foster Town Council has paid the additional \$102,000.00 that was allocated to it.
6. The Glocester Town Council, on the other hand, has declined to add the \$212,000.00 to its budget. Instead, Glocester has been paying to the Regional School District its monthly share of school expenses in an amount which disregards the \$314,000.00 supplemental appropriation made by the Regional School District Financial Meeting.

⁶ Exhibit C. Foster-Glocester Regional Public Schools Budget, 2006-07.

⁷ Foster-Glocester Regional School committee Minutes, March 16, 2006.

⁸ Transcript, April 20th, page 7.

THE TOWN OF GLOCESTER BUDGET

7. In fiscal year 2006-2007 Gloucester had in its reserve fund a sum which would have allowed it to cover \$212,000.00 at issue without violating any applicable tax rate caps or tax levy caps.⁹
8. The Gloucester financial town meeting voted to remove the sum of \$212,000.00 from the sum it allocated to the support of the Foster-Glocester Regional School District.

THE PURPORTED WAIVER AGREEMENT

9. Gloucester also contends that it reached an agreement with the Regional School Committee that permits the Council to ignore the \$212,000.00 increase in the appropriation made by the Regional District Financial Meeting.¹⁰ The tenor of this alleged agreement is that the Regional School Committee waived its rights to the \$212,000.00 without receiving anything in return for this waiver. Under this alleged agreement the Regional School Committee would simply handle any resulting budget shortfall by expending its own budgetary reserves. Gloucester suggests that this agreement was reached between various Gloucester officials and several members of the Foster Gloucester Regional School District who happened to be attending the Gloucester Financial Town Meeting on May 6, 2006. The school committee's attorney was present at the meeting, as was the Gloucester's town solicitor. The Town solicitor addressed the Gloucester Financial Town Meeting and in essence told the voters they could remove the \$212,000.00 from the Town's budget.¹¹
10. After a perusal of the minutes of Gloucester Town Council and the Foster-Glocester Regional School committee, we can find nothing in these minutes that demonstrates that Regional School Committee or the Gloucester Town Council ratified any such agreement. There were certainly discussions about using a school committee surplus funds to fund the \$212,000.00 gap created by the action of the Gloucester Financial Town Meeting; but these discussions, as far as the school committee was concerned, seemed to be premised on the idea that this \$212,000.00 would still form part of Gloucester's maintenance of effort requirement in fiscal 2007-2008.¹² The minutes show that members of the bodies were aware that discussions concerning the payment of the \$212,000.00 were taking place—but the minutes contain no vote concerning any purported agreement between the Regional School Committee and the Town of Gloucester.¹³ More importantly, as will be discussed in our conclusions of law, the purported agreement argued for in this case is in our view not allowable under Rhode Island law.

⁹ Transcript, April 18th, pages 81, 86, and 93.

¹⁰ School Committee, Exhibits 7 & 8.

¹¹ Minutes of the Gloucester Financial Town Meeting- May 6, 2006

¹² Letter of Gregory P. Piccirilli to Superintendent of the Foster-Glocester School District, May 10, 2006. Exhibit G. (Includes an attachment from the Superintendent.)

¹³ School Committee Notes/Minutes, May 12, 2006. Exhibit I.

11. The Regional School District's minutes for May 12, 2006 show that the school committee's lawyer and the Gloucester town solicitor had reached (or thought they had reached) some sort of "deal" or "agreement" concerning the payment of the \$212,000.00. As described to the school committee by the school committee's lawyer, the minutes suggest that this "agreement" involved deferring the payment of the \$212,000.00 until the following fiscal year. Of course, this description of the "agreement" is at polar opposites to the description of the purported agreement described by the Gloucester town solicitor at the hearing in this matter. The Gloucester town solicitor stated that the "agreement" was in the nature of a waiver in which the Regional School Committee simply waived its rights to the \$212,000.00, not only for the 2006-2007 fiscal year, but for any fiscal year in the future. Given the discrepancies here, we find as a matter of fact (without questioning the complete good faith of the testimony we heard concerning this alleged agreement) that the discussions at issue never resulted an objective "meeting of the minds" in any objective sense that would create either a contract or any other type of enforceable promise. *Opella v. Opella*, 896 A.2d 714 (R.I. 2006)

Conclusions of Law

GENERAL PRINCIPLES

1. "Under the state's constitution, the General Assembly has a responsibility to 'promote public schools... and to adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of education...'" *Town of Johnston v. Santilli*, 892 A.2d 123 (R.I.2006) See: Rhode Island Constitution, Article XII, Section 1) Therefore, in Rhode Island, public education is a state, not a local, function. *Royal v. Barry*, 91 R.I. 24 (1960)) Under Article XII the General Assembly has near plenary control over public education and school finance. *City of Pawtucket v. Sundlun*, 662 A.2d 40 (R.I.1995)
2. The General Assembly requires cities and towns to establish public schools. The law places these public schools under the control and management of local school committees. Local school committees are under the supervision of the Rhode Island Board of Regents for Elementary and Secondary Education. R.I.G.L.16-2-2
3. "Districts and towns undertake to provide for the education of children, not by force of any agreement, but as a duty required of them by law, like the duty to keep highways in repair. The extent, control, and change of this duty is under the direction of the legislature. The consent of the municipal corporation is not required." *In Re Application of School Committee of North Smithfield*, 26 R.I. 165 (1904)
4. The Rhode Island Supreme Court has held that, "although school committees act as agents of the state, they are not state agencies but municipal bodies." *Town of Johnston v. Santilli*, 892 A.2d 123 (R.I.2006)

5. Contracts may not contravene state statutes. *Kells v. Town of Lincoln*, 874 A.2d 204 (R.I. 2005) Contracts must be supported by adequate consideration. *Ed Peters Jewelry Co., Inc. v. C & J Jewelry Co. Inc.* 51 F.Supp.2d 81 (D.R.I. 1999)

THE FOSTER-GLOCESTER REGIONAL SCHOOL DISTRICT ACT

6. The Special Act of the General Assembly which created the Foster Gloucester Regional School District in 1955 requires the Foster-Glocester Regional School Committee to prepare a proposed budget, "...which it believes will efficiently operate the Regional School district for the ensuing year..."¹⁴ This proposed budget is then submitted to the Foster-Glocester Regional School District Financial Meeting.
7. The Special Act gives the Foster-Glocester Regional School District Financial Meeting the authority to, "determine the annual regional school district budget as to over-all amount."¹⁵ The Regional School District Financial Meeting is in the nature of a town meeting at which the electors of Foster and Gloucester are eligible to cast their votes.
8. The Special Act states, "The cost of the operation of the Regional School District shall be bourne (sic) by the collective taxpayers of the towns of Foster and Gloucester in the same proportion that the average membership of students from each town bears to the average membership of the school..."
9. "The town treasurer of each town of the regional school district *shall pay* to the regional school district treasurer on the first day of each month, commencing July 1 of each year, the *sum demanded* by said regional school district treasurer, which sum shall be in accordance with section 9(b) [which defines operating costs and rules for apportionment]. (Emphasis added)
10. "Within ten days subsequent to the adoption of the budget at the regional school district financial meeting, the regional school district treasurer shall certify to the budgetary officers and financial town meeting of the respective towns the amount to be raised by taxes in each town as herein provided for the support of the regional school district which amount shall become a part of the budget for each respective town, and *shall be appropriated in full by the financial town meeting.*" (Emphasis added)

TAX LEVY CAPS AND TAX RATE CAPS

11. Concerning school committee budgets, state law now provides that, "the budget adopted and presented by any school committee for the fiscal year 2008 shall not propose the appropriation of municipal funds (exclusive of state and federal aid) in excess of one hundred five and one-quarter percent (105.25%) of the total of municipal funds appropriated by the city or town council for school purposes for school purposes for fiscal year 2007...." R.I.G.L.16-2-21(d)(i)

¹⁴ Section VII, Procedure for the Adoption of the Annual Budget.

¹⁵ Section V, The Regional School District Financial Meeting.

12. Concerning municipal tax levies (not budgets) state law now provides at R.I.G.L. R.I.G.L.44-5-2 (Maximum Levy) that: “through and including fiscal year 2007, ...a city or town may levy a tax in an amount not more than five and one-half percent (5.5%) in excess of the amount levied and certified by that city or town for the prior year. Through and including its fiscal year 2007, but in no fiscal year thereafter, the amount levied by a city or town is deemed to be consistent with the five and one-half percent (5.5%) levy growth cap if the tax rate is not more than one hundred and five and one-half percent (105.5%) of the prior year's tax rate and the budget resolution or ordinance, as applicable, specifies that the tax rate is not increasing by more than five and one-half percent (5.5%) except as specified in subsection (c) of this section. *** (b) In its fiscal year 2008, a city or town may levy a tax in an amount not more than five and one-quarter percent (5.25%) in excess of the total amount levied and certified by that city or town for its fiscal year 2007.”
13. The tax levy cap contained in R.I.G.L.44-5-2 provides rather comprehensive protection for bond holders
14. Rhode Island has a *maintenance of effort* provision to prevent increases in state school aid from being diverted to municipal purposes:

R.I.G.L.16-7-23 Community requirements – Adequate minimum budget provision. – (a) The school committee's budget provisions of each community for current expenditures in each budget year shall provide for an amount from all sources sufficient to support the basic program and all other approved programs shared by the state. Each community shall contribute local funds to its school committee in an amount not less than its local contribution for schools in the previous fiscal year. ***. The courts of this state shall enforce this section by writ of mandamus.

(b) Whenever any state funds are appropriated for educational purposes, the funds shall be used for educational purposes only and all state funds appropriated for educational purposes must be used to supplement any and all money allocated by a city or town for educational purposes and, in no event, shall state funds be used to supplant, directly or indirectly, any money allocated by a city or town for educational purposes. All state funds shall be appropriated by the municipality to the school committee for educational purposes in the same fiscal year in which they are appropriated at the state level even if the municipality has already adopted a school budget. **All state and local funds unexpended by the end of the fiscal year of appropriation shall remain a surplus of the school committee and shall not revert to the municipality.** Any surplus of state or local funds appropriated for educational purposes shall not in any respect affect the requirement that each community contribute local funds in an amount not less than its local contribution for schools in the previous fiscal year, subject to subsection (a) of this section, and shall not in any event be deducted from the amount of the local appropriation required to meet the maintenance of effort provision in any given year. (Emphasis added)

15. School committees may act, “only through public meetings since individual board members have no authority to bind the board.” (R.I.G.L.16-2-9.1 (10)) A public body can bind itself, “only by...official acts...or by the authorized actions of its representatives. *Casa DiMario v. Kenneth Richardson et al.*, 763 A.2d 607 (R.I. 2004)
16. “The power of school committees is coextensive with the authority conferred upon them by the General Assembly to foster education as agents of the state.” *Greenhalg v. City Council*, 603 A.2d 1090 (R.I., 1992)

LACHES

17. “Laches, in legal significance, is not mere delay, but delay that works a disadvantage to another. So long as parties are in the same condition, it matters little whether one presses a right promptly or slowly, within limits allowed by law; but when, knowing his rights, he takes no steps to enforce them until the condition of the other party has, in good faith, become so changed that he cannot be restored to his former state, if the right be then enforced, delay becomes inequitable and operates as an estoppel against the assertion of the right. The disadvantage may come from loss of evidence, change of title, intervention of equities and other causes, but when a court sees negligence on one side and injury therefrom on the other, it is a ground for denial of relief.” See: *America Condominium Association v. IDC*, 844 A.2d 117, at 134 (R.I. 2004).

RULES OF STATUTORY CONSTRUCTION

18. **R.I.G.L.16-2-26. Special statutes prevailing.** – Except as provided in this section, the provisions of this chapter are subject to the provisions of any special statutes respecting any particular city or town, none of which are repealed by this chapter.
19. **R.I.G.L.45-2-1. Charters and special acts.** – Every town, city, and district has all the existing powers and privileges, and is subject to all existing duties and liabilities, conferred or imposed upon it by its charter, or by the several acts of the General Assembly specially relating to it, until the charter or acts expire by their own limitation, or are revoked or repealed.

Discussion

A. Laches

The Town of Glocester alleges that the Foster Glocester Regional School Committee unreasonably delayed in presenting its claim for the sums now at issue and that this appeal should therefore be dismissed. We have to reject this argument because the Town has failed to allege or prove that this alleged delay has prejudiced its case in any way. See: *America Condominium Association v. IDC*, 844 A.2d 117, at 134 (R.I. 2004). In any event we can find no unreasonable delay in the presentation of this claim.

B. The Purported Waiver Agreement

As our findings of fact indicate, we find that no mutually assented to agreement exists in this case. *Opella v. Opella*, 896 A.2d 714 (R.I. 2006). We also find that any such agreement would be void because it would contradict the special act that established the Foster-Glocester Regional School district, including the financial mechanism that funds the district. Contracts cannot contradict state law. *Kells v. Town of Lincoln*, 874 A.2d 204 (R.I. 2005) In addition, the purported agreement was not created in accordance with the formalities that must be completed before a public body can commit itself to an agreement. *Casa DiMario v. Kenneth Richardson et al.*, 763 A.2d 607 (R.I. 2004). School committees may act, “only through public meetings since individual board members has no authority to bind the board.” (R.I.G.L.16-2-9.1 (10)) A public body can bind itself, “only by...official acts...or by the authorized actions of its representatives. *Casa DiMario v. Kenneth Richardson et al.*, 763 A.2d 607 (R.I. 2004) There is no evidence in the minutes of the Town of Glocester and the minutes of the Foster-Glocester Regional School District of any vote adopting and memorializing any agreement in this matter or that anyone was commissioned at a public meeting to reach an agreement. Therefore, no agreement exists. Furthermore, an agreement which attempted to vacate the results of the vote of the people assembled at the Regional School district Financial Meeting would surely be against public policy because it would have the purpose and effect of defeating the results of a valid election. Contracts cannot contradict state law. *Kells v. Town of Lincoln*, 874 A.2d 204 (R.I. 2005)

C. Levy and Budget Caps

At the outset we find that all budget cap and levy cap provisions enacted by the General Assembly are applicable here. This means that during fiscal year 2007, the fiscal year immediately relevant to our case, a community could comply with the 5.5 % tax *levy* cap by demonstrating that its tax *rate* had not increased by more than 5.5 %. In pertinent part the law states at R.I.G.L. 44-5-2 (**Maximum Levy**) that:

...through and including fiscal year 2007, ...a city or town may levy a tax in an amount not more than five and one-half percent (5.5%) in excess of the amount levied and certified by that city or town for the prior year. Through and including its fiscal year 2007, but in no fiscal year thereafter, the amount levied by a city or town is deemed to be consistent with the five and one-half percent (5.5%) levy growth cap if the tax rate is not more than one hundred and five and one-half percent (105.5%) of the prior year's tax rate and the budget resolution or ordinance, as applicable, specifies that the tax rate is not increasing by more than five and one-half percent (5.5%) except as specified in subsection (c) of this section. [Subsection (c) relates to municipal bonds] ***

We therefore conclude that the Town of Glocester, in fiscal 2007, was required by R.I.G.L. 44-5-2 to keep any increase in its *tax levy* to 5.5% or, in the alternative, keep any increase in its *tax rate* to 5.5%. Could Glocester have stayed within its 5.5% tax levy cap in fiscal 2007 if it paid the \$212,000.00 at issue here? We have to answer this question in the affirmative. This is because the town's reserve fund more than sufficed to cover this

sum.¹⁶ We are aware that in fiscal year 2008 a school committee's budget cannot exceed its 2007 budget by more than 5.5%. R.I.G.L.16-2-21(d) (i) However, this limit was not applicable to the fiscal 2007 school budget year. The applicable law states: "the budget adopted and presented by any school committee for the fiscal year 2008 shall not propose the appropriation of municipal funds (exclusive of state and federal aid) in excess of one hundred five and one-quarter percent (105.25%) of the total of municipal funds appropriated by the city or town council for school purposes for school purposes for fiscal year 2007...." (R.I.G.L.16-2-21(d)(i)). This school budget cap was simply not applicable in fiscal 2007. (In fact the minutes of the March 28, 2006 meeting of the Town Council of Glocester record the town solicitor of Glocester observing that school committees [in fiscal year 2006-2007], "do not have the restraint that the Towns have in the 5.5% cap mandated by the state.)

Glocester also contends that even if it were able to fund the \$212,000.00 in fiscal 2007, the appropriation of \$212,000.00 to the Foster-Glocester Regional School District in fiscal year 2007 would have placed the Town of Glocester in an inevitable violation of the 5.25% *levy cap* that is in effect for fiscal year 2008. Concerning this point, it must be recalled that Rhode Island law, at R.I.G.L.16-7-23 (a) contains maintenance of effort provision that requires (with a few exceptions not relevant to the present case) towns to appropriate to the use of their respective school committees a sum which is not less than the town's prior year school appropriation. (This provision is meant to prevent towns from "recapturing" for municipal use any increases in state school aid that the General Assembly might provide.). This means that if Glocester's budget share were to be increased by \$212,000.00 in fiscal year 2007 this sum would augment the "base" upon which Glocester's required maintenance of effort would be calculated in fiscal 2008.¹⁷ Glocester argues that honoring this increase in the school committee's base would force the Town to violate the 5.25% levy cap that is in effect for fiscal 2008.

The short answer to Glocester's argument is that the 5.25% levy cap does not prohibit any particular expenditure. Instead, the cap simply requires the Town to make a choice of which expenditures it wishes to make within the 5.25% levy cap. Of course, some expenditures are more mandatory than others. In the present case it is important to note that we are dealing with a *Regional* School District. (Emphasis added) It is evident that *Regional* School Districts, which by their very nature include at least two towns, could not function if each town in the Regional District could make a discretionary decision about how much funding it wished to provide to the Regional District School Committee. Instead, a Regional School District's budget, by its very nature, must be set by one common entity — in this case the Foster-Glocester Regional School District Financial Meeting — which has the power to bind the towns that make up Regional School District. It would appear to be self-evident that regional school systems cannot function if members of the region have the right to treat their regional financial obligations as just another discretionary budget item. We would therefore be reluctant to adopt legal constructions

¹⁶ Exhibit 6, at page 3.

¹⁷ How the addition of \$212,000.00 to the 2007 budget would impact *maintenance of effort issues* for fiscal 2008 is not now before us, since this case only concerns tax rate and levy cap issues along with laches and the purported agreement to waive the result of the Regional Districts Financial Meeting. If maintenance of effort issues were to arise, these issues would be properly before the Superior Court. R.I.G.L.16-7-23

which would damage the financial mechanism that the General Assembly has established to govern the Foster-Glocester Regional School District.

The General Assembly, concerning the financing of the Foster-Glocester Regional School District, has decided that: “The town treasurer of each town of the regional school district *shall pay* to the regional school district treasurer on the first day of each month, commencing July 1 of each year, the *sum demanded* by said regional school district treasurer, which sum shall be in accordance with section 9(b) [which defines operating costs and rules for apportionment]. (Emphasis added) The General Assembly has also decided that: “Within ten days subsequent to the adoption of the budget at the regional school district financial meeting, the regional school district treasurer shall certify to the budgetary officers and financial town meeting of the respective towns the amount to be raised by taxes in each town as herein provided for the support of the regional school district which amount shall become a part of the budget for each respective town, and *shall be appropriated in full by the financial town meeting.*” (Emphasis added) There is nothing discretionary about any of this language.

Conclusion

We are therefore forced to the conclusion that Glocester must pay the sum of \$212,000.00 to the treasurer of the Foster-Glocester Regional School District to make up the deficiency in Town’s appropriation for fiscal year 2007. We laud Glocester’s commitment to fiscal prudence, but we think that this prudence must be expressed in a way that conforms to the General Laws of Rhode Island and to the Special Act which created the Foster-Glocester Regional School District. In any event we are sure that the fiscal restraints imposed on school committee budgets by R.I.G.L.16-7-23 are fully applicable to the Foster-Glocester Regional School District. These restraints should moderate Glocester’s concerns that school committee expenditures will increase at an excessive rate in the future.

APPROVED:

Forrest L. Avila, Hearing Officer

Peter McWalters, Commissioner

August 24, 2007
Date