

WATCHDOG REPORT

BOCES overcharges districts**Official says it's a necessary 'accounting practice'**

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Journal News

As taxpayers across the state struggle under the burden of some of the nation's highest property taxes, regional education agencies overcharged New York school districts by \$473 million from 2007 to 2011.

At least \$100 million in overcharges appears likely for 2012.

The costs come from the state's 37 Boards of Cooperative Educational Services, the regional agencies that provide instruction in career, technical and special education as well as classes for adults and teachers. They also supply non-instructional services that support school districts' management or central office functions.

In theory, providing services on a regional basis would save money for taxpayers as economies of scale result in lower costs. But a recent report by state Comptroller Thomas DiNapoli found that BOCES districts routinely overbill local schools and regularly price those services higher than necessary.

Daniel T. White, superintendent of Monroe 1 BOCES in Perinton said the

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DIGITAL EXTRA

Click on this story at **DemocratandChronicle.com** to review the refunds that BOCES across the state have made to member school districts.

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overcharges generally fall within acceptable budgeting and accounting limits.

"When we set our pricing, that happens 18 months before the end of a school year and we are using estimates of anticipated participation and estimated costs," he said. "As participation ebbs and flows for a service throughout the year the costs for a district ebb and flow, too. And we set our costs so we don't have to go back to a district midyear and say we need more money."

State Education Commissioner John King, at a Sept. 21 meeting of *The Journal News* / [LoHud.com](#) Editorial Board, said BOCES' overcharges should be viewed as an "accounting practice" necessary to run the system. He said BOCES districts eventually return the overcharges to the local school districts that provide part of their financial support.

"The payments for services that aren't rendered in a particular year are then applied to next year's activities," he said. "The taxpayers are still getting services for those dollars, even if there is an accounting delay."

But critics say that BOCES' actions are evidence that taxpayers are getting taken, year after year. The refunds that totaled \$118 million for the 2010-11 school year — the last year that data were available — show that the annual overcharges range from 2 percent to 16 percent of a BOCES district's annual budget, according to a *Journal News* / [LoHud.com](#) analysis of documents obtained under the Freedom of Information law from the 37 BOCES districts. The refunds also include repayments from other BOCES districts that provide services to local schools outside their BOCES region. Refunds peaked at \$129 million for the 2009-10 school year. Monroe County BOCES districts were refunded \$6.8 million that year.

"BOCES' overcharges are a one-two punch for taxpayers," said Howland Robinson, a Bedford attorney and executive committee member of the nonpartisan group Better Education and Smarter Taxation for New York. "In year one, taxpayers are billed for nonexistent expenses, so the school budget is X plus the overcharge."

In subsequent years, Robinson said, the overcharge for phantom expenses becomes part of the baseline of spending that's used to calculate the state's tax cap.

"The tax cap perpetuates the overcharge in ever-escalating amounts, due to compounding," Robinson said.

Kent Gardner, chief economist at the Rochester-based Center for Governmental Research, said one thing is clear: The taxpayers get taxed for BOCES services, but it's the districts, not homeowners, who get reimbursed for the overcharge.

"The taxpayer doesn't get the refund," he said.

But Steven Ayers, assistant superintendent for business in the Hilton Central School District, said taxpayers do get that money back, if indirectly. "There is nothing in education law that describes a process by which a school district can refund property taxes," he said. "The only recourse we have, the only mechanism we can use to return this to taxpayers is to apply it toward the tax levy."

And, he said, that's what districts do.

"It's erroneous to say that taxpayers don't get it back," said White, of BOCES 1. "It is returned to taxpayers in the form of that money getting booked as revenue and used to offset expenses in the following year. And if you're looking at the amounts, they're generally reasonable amounts and signs of a system that's working well. We are very careful, always taking a look at where our surpluses come from and using that information to make sure we are costing things appropriately."

In Monroe County, two BOCES agencies serve 19 local school districts. Over the past four years, these agencies have refunded close to \$18 million to member districts. "Our services and budgets are based on anticipated use and anticipated need and these are projections," said Jo Anne Antonacci, superintendent of BOCES 2 in Spencerport. "We are always looking at the most efficient way to do things for our member districts and we need to make sure we are covering our costs."

State Education Department spokesman Dennis Tompkins said districts overestimate what services they need, and then get the money back.

"It's not an extra charge to the taxpayers," he said. "No one is wasting the funds." The BOCES system is a little-known level of New York state government, and largely unmonitored by taxpayers who provide substantial funding for it. Each BOCES has a volunteer board, appointed by local school districts that are part of the regional agencies. Upstate BOCES officials say the overcharges are necessary to fund the system, which relies on state aid and payments from local school districts to support its myriad services. The 37 BOCES districts lack the power to levy property taxes, so they rely on the taxing powers of local school districts and the state.

"The only revenues we receive are from services purchased from us," said White. "We can't run at a zero margin, we need to be conservative with our pricing, but not ridiculous. We need to shoot to stay within an acceptable percentage." BOCES officials say they inflate their costs in deference to local school districts, which may face midyear demands for services that were not planned for when the local districts' budget was prepared in the spring.

Antonacci said allowing for unanticipated expenses such as changes to student Individual Education Plans or the addition of students with significant specialized needs is good accounting practice. BOCES districts can't save unused dollars at year's end and stash them in a reserve fund, as school districts and municipalities do. So each fall, after the districts close their books for the school year that ends June 30, they total up a program's actual costs, which get subtracted from what the local districts have been charged. Local school districts then deposit the refunds into their general treasury to use as needed.

In Ithaca, the Tompkins-Seneca-Tioga BOCES refunds equaled 16 percent of its budget in 2010-11. David Parsons, the district's assistant superintendent for administrative services, says the overcharges protect the districts from unforeseen needs.

"We give them the worst-case scenario, so they aren't surprised and get caught short," Parsons said. "If a district hasn't budgeted for that contingency, you can be in trouble in a hurry."

Bennett Gershman, a Pace Law School professor, said such practices benefit the local school districts, but leave the taxpayer with nothing in return.

"It's a scheme that enriches the schools at the taxpayer's expense," Gershman said. "There's no transparency here, and the taxpayer doesn't know how he's being manipulated. In a time of scarcity, with everybody cutting back and downsizing, it's a lot of money."

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