

# **Association of Town Finance Committees**

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## **Proposition 2½ Ballot Questions**

**October 19, 2013**

# AGENDA

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- **Basic referendum procedures**
- **Town meeting & election sequencing**
- **Contingent appropriations**
- **Debt exclusion scope & budgeting**
- **Campaign activities**

# BALLOT QUESTIONS

## Resources

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- DOR/DLS web site [www.mass.gov/dls](http://www.mass.gov/dls)
  - Publications
    - *Proposition 2½ Ballot Questions – Requirements and Procedures (10/2008)*
    - DLS Legal Staff Attorney of the Day (617-626-2400)  
[DLSLAW@dor.state.ma.us](mailto:DLSLAW@dor.state.ma.us)
- AFTC Handbook - Proposition 2½ Chapter 6
- Elections Division - Office of Secretary of State
- Municipal Counsel

# REFERENDUM PROCEDURE

## Question Types

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- Levy limit override or underide
  - Operating or other purposes
  - Permanent increase
  
- Exclusion
  - Capital purposes only
  - Temporary increase
    - Debt (until debt retired)
    - Capital (1 year)

# REFERENDUM PROCEDURE

## Question Presentation

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- Voted by selectboard
- Must vote the actual question
  - Majority for overrides
  - 2/3 for exclusions

# REFERENDUM PROCEDURE

## Question Form

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- Specified by statute
  - Spending or borrowing purpose
    - All questions
  - Dollar amount
    - Overrides and capital exclusions
  - Fiscal year effective
    - Overrides and capital exclusions

# REFERENDUM PROCEDURE

## Municipal Elections

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- May present at regular or special
  - Written notice to town clerk at least 35 days in advance of scheduled election date
  - Unlimited number of questions

# REFERENDUM PROCEDURE

## State Elections

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- **May present at state biennial**
  - **Certification to State Secretary by 1st Wednesday in August**
  - **Limited to 3 questions**



# REFERENDUM PROCEDURE

## Question Approval

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- **Majority voting on question**
  - **Single or menu questions**
    - **Each approved question counts**
  - **Pyramid or tiered questions**
    - **Approved question with highest dollar amount counts**

# REFERENDUM PROCEDURE

## Question Revocation

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- **Override**
  - **Underride**
  
- **Exclusions**
  - **Project not funded**

# RELATED SPENDING

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- All spending and borrowing approved by town meeting
  - May vote before or after election
  - May vote even if ballot question fails
    - Spending is within levy limit
  - May not vote even if ballot question approved

# CONTINGENT APPROPRIATIONS

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- Town meeting can vote any appropriation or borrowing contingent on ballot question
- Contingent appropriation not valid unless related ballot question approved by deadline
  - Approved ballot question for same purpose always valid

# CONTINGENT APPROPRIATIONS

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- Contingent appropriation vote does not place question on ballot
  - Selectboard can place, decline to place, place lower amount
- Can use single, menu or pyramid approach for ballot question
  - Purpose must be substantially same as appropriation

# SEQUENCING

## Contingent Appropriation First

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### ELECTION DEADLINES

- May hold 1 or more elections
  - ATM appropriations
    - September 15
  - STM appropriations
    - 90 days after STM dissolves

# SEQUENCING

## Contingent Appropriation First

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### REFERENDUM PASSES

- No action required
- Related appropriation valid and tax increase available to cover

# SEQUENCING

## Contingent Appropriation First

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### REFERENDUM FAILS

- No action required
- Related appropriation null and void



# SEQUENCING

## Contingent Appropriation First

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**REFERENDUM  
NOT HELD**

- No action required
- Related appropriation null and void

# SEQUENCING

## Election First

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**REFERENDUM  
PASSES  
&  
APPROPRIATION  
THEN FAILS**

- Referendum valid
- If override/capital exclusion, have until tax rate set to vote related appropriations
- If debt exclusion, have reasonable time to authorize related debt

# SEQUENCING

## Election First

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**REFERENDUM  
FAILS  
&  
APPROPRIATION  
THEN PASSES**

- Appropriation valid
- Referendum may be presented again
- Budget must be adjusted within levy limit before tax rate set

# SEQUENCING

## Election First

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**BOTH PASS  
OR  
BOTH FAIL**

■ **No action required**

# SEQUENCING

## Appropriation First

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**APPROPRIATION  
PASSES  
&  
REFERENDUM  
THEN FAILS**

- **Appropriation valid**
- **Referendum may be presented again**
- **Budget must be adjusted within levy limit before tax rate set**

# SEQUENCING

## Appropriation First

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**APPROPRIATION  
FAILS  
&  
REFERENDUM  
THEN PASSES**

- Referendum valid
- If override/capital exclusion, have until tax rate set to vote related appropriations
- If debt exclusion, have reasonable time to authorize related debt

# SEQUENCING

## Appropriation First

---

**BOTH PASS  
OR  
BOTH FAIL**

■ **No action required**

# BUDGETING EXCLUDED DEBT

## Exclusion Scope

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- Exclusion covers borrowing amount authorized/contemplated at election, plus interest on temporary and permanent debt
- See *IGR 02-201* on DOR standards for allowing additional amount
  - Modest dollar increases for inflation or minor project changes



# BUDGETING EXCLUDED DEBT

## Annual Exclusion

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- Principal and interest due in year net of state/federal reimbursements
  - Netting of local receipts depends on receipt
    - See *Annual Levy Limit Instructions*
  - Offsetting of premiums required
    - See *Bulletin 2013-01B*

# BUDGETING EXCLUDED DEBT

## Exclusion Schedule

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- See *IGR 02-201* for DOR standards for adjusted debt exclusion schedule
  - Total cannot exceed amount to be excluded under regular schedule
  - Excluded amount above debt service paid in any year reserved to pay debt service in future years

# ELECTION ACTIVITIES

## Resources

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- Office of Campaign & Political Finance (OCPF) <http://ocpf.cloudapp.net/>
  - Interpretive Bulletin (IB) 91-01 *Use of Governmental Resources (6/5/2012)*
  - IB 92-02 *Activities of Public Officials (6/5/2012)*
- State Ethics Commission
- Municipal counsel

# **ELECTION ACTIVITIES**

## **General Guidance**

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- **May take position on question**
- **May serve on or work for ballot committee in individual capacity**
- **May contribute personal funds to ballot committee**

# **ELECTION ACTIVITIES**

## **General Guidance**

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- **NO use of public resources**
  - **Preparation and distribution of information limited**
  - **Use of public facilities by groups allowed if have equal access**
- **NO advocacy during business hours**

# **ELECTION ACTIVITIES**

## **General Guidance**

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- **NO fundraising for ballot committee**
- **NO fundraising in public buildings**
- **NO compelled contributions or work**