

Budget Webinar
Thatcher Kezer
Chief Operating Officer
City of Framingham

Legal References Relative to Budgets

Partial list for discussion purposes only for MMA Municipal Councilors' Association webinar 5/13/2020.

See DOR Legal Index at <https://www.mass.gov/doc/legal-index-for-municipal-officers-0/download>

Anti-Aid Amendment: Mass. Const. Amend., Art. 18, as amended by Amend., Art. 46 and 103 (prohibiting appropriations and use of public property to benefit charities and non-governmental entities)

Appropriations

- Accountant's oversight: 41:58
- Annual operating costs (offset receipts): 44:53E
- By city council for purposes not included in mayor's budget: 44:33
- Certification by clerks: 41:15A
- City budget recommendations: 44:32
- Construction contracts: 44:31C
- Grant/gift exception: 44:53A
- Liability in excess of prohibited: 44:31
- Penalty for spending in excess of: 44:31; 44:62
- Transfers: 44:33B; See IGR 2017-13
- Use and disposition of municipal funds: 44:53 (appropriation prerequisite)

Budget

Cities: 44:32; 44:31A; 44:33-33B.

City Budgets: 44:32

City Charters: 43

Collective Bargaining

- Agreements, legislative body appropriation: 150E:7(b)
- Bargaining unit: 150E:3
- Definition of public employee: 150E:1
- Duty to bargain: 150E:6
- Evergreen clauses: 150E:7(a)
- Joint Labor Management Committee (JLMC): St. 1987, c. 589, § 1
- Labor relations commission: 150E:1
- Unfair labor practice: 150E:10

Free Cash Certification: 59:23 (no appropriations from free cash after June 30th until new certification by Director); See IGR 1986-104

Initiative Petitions (Cities): 43:37-41

Insufficient Appropriation: 44:31; 44:64 (unpaid bills)

Intermunicipal Agreements: 40:4A (in general); 40:4E (school collaboratives); 40:8G (police); 41:30B (assessing)

Levy: 59:21C, 21D (revenue a community can raise through real and personal property taxes); See generally DLS Levy Limits: A Primer on Proposition 2 1/2 and DLS Course 101 Handbook, Chapter 3

- Levy ceiling: 59:21C(b) (2 1/2 percent of full and fair cash value of all taxable real and personal property in community); See also Proposition 2 1/2
- Levy limit: 59:21C(f) (annual limit on amount of property taxes a community can levy); See also Proposition 2 1/2
- Levy limit override: 59:21C(g) (dollar increase in the levy limit approved by voters); See also Proposition 2 1/2
- Levy limit underride: 59:21C(h) (dollar decrease in the levy limit approved by voters); See also Proposition 2 1/2

Liabilities in Excess of Appropriations: 44:31 (departments cannot incur)

Line Item Appropriations: 44:33B (transfers); See IGR 2017-13 · Not for schools (line item autonomy): 71:34

Mayor:

- Budget authority: 44:32
- Removal authority: 43:54 (provision does not apply to school committee or elected assessor)
- Veto power: 39:4; 43:55, 43:63 (cannot be taken up by council for override for 7 days)

New Growth: 59:2A(a); See IGR 1990-401 (accelerated assessment); 59:21C(f) (Proposition 2 1/2 levy limit increase); See Annual BLA IGR

New Construction Assessment: 59:2A(a); See IGR 1990-401 (accelerated assessment); 59:2D (supplemental assessments)

Prior Year's Bills: 44:64 (if unenforceable because of insufficiency of appropriation; otherwise, payable with later appropriation, identifying funding source)

Proposition 2 1/2: 59:21C; See generally DLS Course 101 Handbook, Chapter 3; See also DLS Levy Limits: A Primer on Proposition 2 1/2; Proposition 2 1/2 Ballot Questions

- Capital outlay/exclusion: 59:21C(i 1/2)
- Compliance: 59:21D (Commissioner cannot approve rate which would allow levy above Prop. 2 1/2 limit)
- Contingent appropriation (towns only): 59:21C(m)
- Debt exclusion: 59:21C(k); See IGR 2002-101 (increases in project costs, modest increases due to inflation, regulatory requirements, and minor project changes come within the original debt exclusion vote)
- Debt exclusion computation when premium received: 44:20
- Pre-Proposition 2 1/2 debt exclusion: 59:21C(j)
- Election scheduling: 59:21C(i); 54:42C
- Exclusion limit: 59:21C(l)
- Forms of questions: 59:21C(g), (h), (i 1/2), (j), (k); See generally DLS Proposition 2 1/2 Ballot Questions

- Lead paint removal agreements: 111:127B1/2
- Levy ceiling: 59:21C(b)
- Levy limit: 59:21C(f)
- Local appropriating body: 59:21C(a) (board of selectmen, town council, or city council with mayor's approval if required by law)
- Majority vote required to place questions on ballot: 59:21C(g) (overrides); 59:21C(h) (underrides)
- New Debt (Post-Proposition 21/2): 59:21C(k)
- Old Debt (Pre-Proposition 21/2): 59:21C(j)
- Override: 59:21C(g)
- Referendum decision: 59:21C(a) (decision to place Proposition 21/2 referendum question is made by selectmen in town and city council in city, with mayor's approval if required)
- Septic system repair agreements: 111:127B1/2
- Two-third (2/3) vote required to place questions on ballot: 59:21C(i1/2), (j), (k) (exclusions)
- Underground fuel tank removal agreements (residential): 111:127B1/2
- Underride: 59:21C(h)
- Water/sewer debt shift: 59:21C(n); See IGR 1993-207 (Proposition 21/2 debt exclusion without ballot question)

Quorum

- Cities: 43:71, 85, 99

School Building Assistance: 70B

- Application of Grants: 70B; See IGR 2008-102
- Debt: 70B(d) (borrowing for city, town or regional school district share of approved project costs), 70B:6(e) (borrowing authorized for feasibility studies required to apply for project grants)
- Massachusetts School Building Authority: 70B:1A
- Reimbursement: 70B:4
- Statement of interest: 70B:5

Schools

- Annual budget: 71:34
- Appropriation: 71:34 (school committee has line-item autonomy)
- Minimum required local contribution under the Education Reform Act – school funding: 70:2
- Penalty for spending less than amount required to be appropriated: 70:11
- Pre-payment of special needs tuition: 71:71D
- School committee control of school buildings: 71:68
- Transportation reimbursement: 71:7A, 71:7B; See also 71:34 and 40:4 (municipality may contract outside school committee for transportation)
- Waivers to spending requirements and minimum local contributions under the Education Reform Act: 70:6A; IGR 2013-302

Shift in Tax Rate (Multiple Rates under Property Tax Classification): 40:56; 58:1A

Snow and Ice Removal:

- Annual Report to DOR: 44:31D

- Deficit spending: 44:31D
- Private ways: 40:6C, 40:6D

Special Revenue Funds: established by statute; See An Analysis of the Treatment of Municipal Revenue, K. Colleary, City and Town, Vol. 19, No. 1 (January 2006)

Tax Increment Financing (TIF): 23A; 40:59; 40:60; 40:60A; 40:60B; 59:5(51)

Tax Rate: 59:23 (certified by Commissioner)

Tax Rate Shift: 40:56; 58:1A

Taxpayer Suits:

- One or more taxpayer(s) - suit to enforce municipal finance laws: 44:59
- Ten or more taxpayers – suit to prohibit illegal appropriations: 40:53

Transfer of Appropriations: 44:33B; See IGR 2017-13

Valuation Date: 59:2A (“assessors of each city and town shall determine the fair cash valuation of ... real property for the purpose of taxation on the first day of January of each year.”)

Veto: 39:4; 43:55; 43:63 (by mayor; cannot be taken up by Council for override for 7 days)

Vote (unpaid prior year’s bills): 44:64 (4/5 vote at annual town meeting or 9/10 vote at special town meeting or 2/3 vote of city council for unpaid previous year’s bill legally unenforceable due to insufficiency of appropriation when liability incurred)