

Ch. 44 Sec. 31 Expenditures in Excess of Appropriation

Emergencies

Under the provisions of [G.L. c. 44, § 31](#) (originally St. 1913, c. 719, § 16), city or town departments may incur a liability in excess of appropriation in extreme situations posing an immediate threat to the health or safety of persons or property. Authorization by vote in a city of two-thirds of the members of the city council, and in a town by a majority vote of all the selectmen is required. The G.L. c. 44 § 31 stated criteria is “major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise”. The city council or selectmen must declare a local emergency before authorizing departments to incur liability in excess of appropriation.

Payments of liabilities incurred may be made with the written approval of the Director of Accounts from any available funds (cash flow) in the treasury. These payments must be reported to the assessors for inclusion in the next subsequent annual tax rate unless otherwise provided for by appropriation or transfer, or by borrowing under [G.L. c. 44 § 8\(9\)](#), as amended by St. 2012, c. 36, § 13 and/or [G.L. c. 44 §8\(9A\)](#).

See Division of Local Services [Bulletin 2011-12B](#) and the [Municipal Emergency Timeline diagram](#).

By way of example, G.L. c. 44 § 31 emergency payments made in FY13 after the setting of the tax rate up through June 30th must be reported to the assessors for inclusion in the FY14 tax rate unless otherwise provided for. G.L. c. 44 § 31 emergency payments made in FY14 prior to the setting of the tax rate may be included in the FY14 tax rate but must be included in the FY15 tax rate unless otherwise provided for.

Judgments

Under the provisions of G.L. c. 44 §31, payments of final judgments and awards or orders of payment approved by the industrial accident board rendered after the fixing of the tax rate for the current fiscal year may be made from any available funds (cash flow) in the treasury. If the judgment or award is over ten thousand dollars the approval of the Director of Accounts is required. Payments must be reported to the assessors for inclusion in the next subsequent annual tax rate unless otherwise provided for.

Payments of final judgments and awards or orders of payment approved by the industrial accident board rendered before the fixing of the tax rate may be made from any available funds (cash flow) in the treasury and must be reported to the assessors for inclusion in the next subsequent annual tax rate unless otherwise provided for. Director of Accounts approval is not required. Cities and towns may borrow for the payment of final judgments under [G.L. c. 44, § 7\(11\)](#).

By way of example, G.L. c. 44 § 31 payments in FY13 of final judgments and awards or orders of payment approved by the industrial accident board rendered after the setting of the tax rate up through June 30th must be reported to the assessors for inclusion in the FY14 tax rate unless otherwise provided for. Payments of final judgments and awards made in FY14 prior to the setting of the tax rate may be included in the FY14 tax rate but must be included in the FY15 tax rate unless otherwise provided for.

