



Bulletin

2008-02B

2007 LEGISLATION

TO: Local Officials

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: January 2008

SUBJECT: Summary of 2007 Municipal Finance Law Changes

To keep you informed of legislative developments during the year, the Division of Local Services publishes on a periodic basis a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued or will issue any further implementation guidelines.

Attached is the **2007 edition** of the **LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 - 230 of the Acts of 2007.

Copies of these new laws can be obtained from the web site of the State Legislature: www.mass.gov/legis or the State Bookstore located in Room 116 of the State House.

2007 LEGISLATION

Ch. 61

FY2008 STATE BUDGET

An Act Making Appropriations for the Fiscal Year 2008 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements. *Effective July 1, 2007.*

§3 Local Aid Advances. Authorizes the State Treasurer to advance payments of FY08 local aid distributions to a city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance.

§67 Education Reform Waivers. Permits cities, towns and regional school districts to apply for various adjustments in their FY2008 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY2007 operating budgets and those revenues are not available in FY2008, (2) they have extraordinary non-school related expenses in FY2008, or (3) their FY2008 municipal revenue growth factor is at least 1.5 times the statewide average and is deemed to be excessive. Regional school districts that used non-recurring revenues in FY2007 that are unavailable for FY2008 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Requests for waivers must be made by October 1, 2007. **Informational Guideline Release (IGR) 07-302 issued July 2007.**

Ch. 67

MUNICIPAL GROUP INSURANCE COVERAGE

An Act to Reduce the Reliance on Property Taxes Through Municipal Health Care. *Effective July 25, 2007.*

Amends provisions of G.L. c. 32, 32A and 32B to create a local option for local governmental employers to obtain health insurance coverage for employees, retirees and their dependents by joining the state Group Insurance Commission (GIC) pool. The option addresses only health insurance benefits, not life, dental, or vision insurance.

Eligible local governmental employers are cities, towns, districts, counties, regional councils of government (RCGs) and regional planning agencies (RPAs), educational collaboratives and charter schools.

To join the GIC, a city, town, district or county must accept G.L. c. 32B, §19 and enter into a written agreement with a public employee committee made up of a retiree and a representative from each of its labor unions. The retiree has 10% voting rights and each union has weighted voting rights based on the proportion of its members. A weighted vote of 70% of the committee is required to join. If the employer is non-unionized, the decision to join is made by the city, town or district chief executive officer, educational collaborative or charter school board of trustees, RCG or RPA governing body.

Once adopted locally through coalition bargaining, employers must accept the health insurance options and plan design set by the GIC, but the percentage of health insurance costs paid by employees or retirees will still be determined at the local level. The premium contribution ratio for each type of plan (Medicare, PPO, HMO, Indemnity) must be included in the written agreement with the public employee committee. The premium contribution rate for non-union charter schools and educational collaboratives, RCGs and RPAs is the same rate set by the Legislature for state employees.

Employers must notify the GIC by October 1 of any year in order to have GIC health benefits effective July 1 of the following year. Employers that choose to purchase health insurance through the GIC must do so in three or six year periods. The written agreement with the public employee committee can establish the terms and conditions for withdrawal such as whether the decision will be made jointly by the employer and committee.

Employers will pay all costs associated with purchasing health insurance through the GIC, including payment to the state of an administrative fee, which cannot exceed 1% of premiums.

The GIC is expanded to include municipal representatives representing management and labor. Two new members are added immediately, with two more to be added after more than 45,000 municipal subscribers have enrolled.

See GIC website for additional information:

<http://www.mass.gov/gic/municipalities/municipalities.htm>

Ch. 68

UNDERPERFORMING LOCAL PENSION SYSTEMS

An Act to Reduce the Stress on Local Property Taxes Through Enhanced Pension Fund Investment. *Effective July 25, 2007.*

Amends provisions of G.L. c. 32, §22 and adds G.L. c. 32, §22(c^{1/2}) to require that underperforming local pension systems transfer ownership and control of assets to the state Pension Reserves Investment Management (PRIM) Board for investment.

Effective October 1, 2007, pension systems considered underperforming must transfer their assets to the PRIM Board. An underperforming system is defined as a system having a funding ratio of less than 65% and an average rate of return during that previous 10 years that is at least two percentage points less than the return of the Pension Reserves Investment Trust (PRIT) Fund over that same period.

Underperforming systems may also voluntarily transfer ownership and control of their assets to the PRIM Board before October 1, 2007. The decision to transfer is made by the retirement board of the system, with the approval of a majority of the local governing body. Local governing body is defined as in a county, the county commissioners, in a city, the city council and mayor or manager, in a town, the board of selectmen, in a regional retirement system, the regional retirement board advisory committee, and in all other districts, the district governing board.

By July 1 of each year, the Public Employees Retirement Administration Commission (PERAC) will review the investment performance and funding ratio of all systems using data as of January 1. If the review establishes that the system is underperforming, PERAC will notify the system to transfer the ownership and control of its assets to the PRIM Board. The notice is to include a financial report on the system, a description of the rights and duties of the PRIM Board and a schedule for the asset transfer.

The PRIM Board will hold the assets in trust for the system. The retirement board is to continue to perform its other functions and must notify the PRIM Board of its funding requirements for the next fiscal year at least 90 days before the start of the year.

A retirement board notified to transfer its assets may seek an exemption by appealing to a four member review board. The members of the board are the Executive Director of the PRIM Board or his designee, the Secretary of Administration and Finance or her designee, a member

selected by the State Treasurer from a list of three names submitted by the Massachusetts Association of Contributory Retirement Systems and a member of a municipal employee union appointed by the Governor. The appeal must be filed with the Secretary of Administration and Finance no later than 30 days after it receives the PERAC notice to transfer its assets. The review board may grant an exemption if the system's rate of return has exceeded the PRIT Fund rate of return for the previous two years, or the system's rate of return was affected by extenuating circumstances. The board may take into account the system's management costs, its risk return ratio and other factors it considers appropriate. Three of the four members must agree to grant the exemption.

Any exemption granted only takes effect if approved by a majority of the local governing body for the system within 30 days of the review board's decision. If the board denies the exemption, the system may appeal to the courts in the same manner as adjudicatory decisions of other state agencies, boards or commissions under G.L. c. 30A, §14.

See PERAC Memo 2007-35:

<http://www.mass.gov/perac/07memos/3507.html>

Ch. 74

NOTICE OF OVERDUE TAXES AND CHARGES

An Act Relative to Municipal Real Estate Tax Notices. *Effective July 25, 2007.*

Amends provisions in G.L. c. 59, §§57 and 57C that require municipal real estate tax bills to include a statement that there are past due amounts whenever any tax or charge that constitutes a lien on the property is overdue more than 90 days.

The delinquency statement requirement was added as part of the 2003 Municipal Relief Act, St. 2003, c. 46, §§52 and 54, but implementation was delayed until fiscal year 2008. The changes clarify that the statement need only appear on the actual real estate bill, not any preliminary bill.

In addition, collectors do not have to include delinquent charges for fire, water, sewer or electric service if more than one independent district or commission supplies that utility service within the municipality, or the municipal or district supplier has its principal location in another jurisdiction. **The FY09 annual tax bill guidelines will reflect these changes in the law.**

Ch. 82

IDENTITY THEFT PREVENTION

An Act Relative to Security Freezes and Notification of Data Breaches.

Section 17 adding new G.L. c. 93I effective February 3, 2008, otherwise effective October 31, 2007.

Amends G.L. c. 93 and adds G.L. c. 93H and 93I to establish comprehensive identity theft prevention measures.

Under amendments to G.L. c. 93, consumers may secure credit freezes to prevent new accounts from being fraudulently created in their name.

Under new G.L. c. 93H, businesses and governments must promptly notify consumers when their personal information is lost or stolen. Personal information includes the customer's name in combination with a social security, driver's license or financial account number. It does not include any data found in public records. The attorney general may bring an action to remedy violations.

The new G.L. c. 93I sets standards for the disposal of records containing personal information by businesses and governments. Personal information for purposes of this chapter includes the customer's name in combination with a social security, driver's license or financial account number or a biometric indicator. Documents or other records containing personal information must be redacted, burned, pulverized or shredded. Electronic and other media must be destroyed or erased so that personal information cannot be read or reconstructed. Violators are subject to a civil fine of not more than \$100 per data subject affected up to a maximum \$50,000 for each instance of improper disposal. The attorney general may file a civil action in the superior or district court in the name of the commonwealth to recover penalties and may bring an action to remedy violations.

The Director of Consumer Affairs and Business Regulation and the Supervisor of Public Records are responsible for setting regulations for how businesses and government agencies must protect personal information to prevent data breaches.

Ch. 91 **CAPITAL EXPENDITURE EXCLUSIONS FOR CAPITAL SPENDING BY REGIONAL ENTITIES**
An Act Relative to the Regional School Budget Process. *Effective August 14, 2007.*

Amends G.L. c. 59, §21C(i $\frac{1}{2}$) to allow a city or town that is a member of a regional governmental entity, such as a regional school district, to present a Proposition 2 $\frac{1}{2}$ capital expenditure exclusion referendum to its voters in order to levy above its levy limit to fund its assessed share of the entity's capital spending not financed by debt.

Under Proposition 2 $\frac{1}{2}$, communities can seek voter approval to raise taxes for a temporary period to fund capital spending financed by debt (debt exclusion for the life of borrowing). They may also present a debt exclusion to voters in order to raise taxes to fund their proportionate shares of debt issued by regional entities of which they are members as reflected in their annual assessments. G.L. c. 59, §21C(k). In 1986, Proposition 2 $\frac{1}{2}$ was amended to enable communities that funded smaller capital projects from sources other than debt to seek voter approval to raise taxes temporarily to cover that spending as well (one year capital expenditure exclusion). St. 1986, c. 562, §1. However, the capital expenditure exclusion provision did not include the language found in the debt exclusion that also allows that referendum to be used in situations where the capital spending is done by a regional entity rather than the city or town.

Beginning in fiscal year 2008, a community that is a member of a regional entity that decides not to finance capital spending by debt will now be able to ask voters to increase taxes for a particular fiscal year to cover the portion of its assessment for the year that is attributable to that spending.

Ch. 110 **FUNERAL AND BURIAL EXPENSES FOR FALLEN FIREFIGHTERS AND POLICE OFFICERS**
An Act Relative to Payment of Funeral and Burial Expenses for Firefighters and Police Officers Killed in Performance of Duties. *Effective August 15, 2007.*

Amends local option G.L. c. 41, §100G $\frac{1}{4}$, to increase to \$15,000 the amount of funeral and burial expenses to be paid by a city or town in cases where a firefighter or police officer is killed in the line of duty or dies from injuries received in the line of duty. Previously, maximum amount payable was \$5,000. Also adds requirement that expenses be documented.

Ch. 140 **FISCAL YEAR 2007 SUPPLEMENTAL BUDGET**
An Act Making Appropriations for Fiscal Year 2007 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. *Effective October 19, 2007.*

§60 Municipal Group Insurance Coverage. Extends until October 29, 2007, the deadline for local governmental employers to join the state GIC for fiscal year 2009. See Chapter 67 above.

Ch. 169 **PROPERTY TAX CLASSIFICATION**
An Act Making Appropriations for Fiscal Year 2007 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. *Effective November 16, 2007.*

Repeals Chapter 3, Section 1 of the Acts of 2004, beginning in tax year 2008. As a result, the maximum property tax classification shift from residential to business taxpayers for all cities and towns will once again be governed by the formula found in G.L. c. 58, §1A. Under that formula, business taxpayers cannot pay more than 175% percent of their fair cash value share of the property tax levy and residential taxpayers cannot pay less than 50% of their single rate share, or the lowest percentage share of the levy they have paid since classification began, whichever is higher.
IGR 07-403 issued November 2007.

Last Act: **Chapter 230 approved by the Governor on January 4, 2008.**