



# DLS

DIVISION OF LOCAL SERVICES  
MA DEPARTMENT OF REVENUE

*Supporting a Commonwealth of Communities*

## **“What’s New in Municipal Law” Workshop C**

## Chapter 50 of the Acts of 2023

- Signed into law October 4, 2023 (one week after 2023 “What’s New in Municipal Law” conference)
- An Act to Improve the Commonwealth’s Competitiveness, Affordability, and Equity
  - §§ 2 & 3
    - › Section 2 Amends G.L. c. 59, § 5K
      - » Increases the possible senior work off abatement program amount from \$1,500 to \$2,000
    - › Section 3 Adds New Section 50 to G.L. c. 59
      - » Creates a new local option exemption
      - » Applies to unit owners who rent out units at an affordable rate to income qualifying persons
      - » The amount of the exemption will be determined locally and prorated to the square footage of the housing units rented and occupied by qualifying persons
      - » [IGR-2024-4](#)

## Chapter 77 of the Acts of 2023

- Signed into law December 3, 2023
- An Act Making Appropriations for the Fiscal Year 2023 for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects ([DLS Bulletin 2023-8](#))
  - §§ 8-10, 197 & 205
    - › Section 8 Amends G.L. c. 40, § 5B
      - » Creates special purpose stabilization funds
      - » Reduces vote threshold for appropriation from the same
    - › Section 10 Adds New Section 53K to G.L. c. 44
      - » Allows communities to separately account for mitigation/exaction payments in a special revenue fund and spend them for the named purposes without further appropriation

## Chapter 77 of the Acts of 2023

- An Act Making Appropriations for the Fiscal Year 2023 for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects
  - §§ 8-10, 197 & 205
    - › Section 9 Amends G.L. c. 44, § 53
      - » First, it changes treatment of insurance proceeds \$150K or less
      - » Second, it allows the Director of Accounts the ability to permit special revenue fund accounting in certain scenarios, either with or without further appropriation

## Chapter 77 of the Acts of 2023

- An Act Making Appropriations for the Fiscal Year 2023 for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects
  - §§ 8-10, 197 & 205
    - › How do the Section 9 Amendments effect opioid settlement receipts? ([DLS Bulletin 2023-7](#))
      - » Cities and towns that have received or will receive funds in Fiscal Year 2024, or thereafter, may place said funds into a special revenue fund and spend them for the specified purpose without further appropriation
    - › What about the funds already received?
      - » Section 197 of the Act allows a community to consolidate all monies previously received for this purpose into the special revenue fund
      - » The method and votes required to do so vary based on current treatment

## Chapter 77 of the Acts of 2023

- An Act Making Appropriations for the Fiscal Year 2023 for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects
  - §§ 8-10, 197 & 205
    - › Section 205 ([DLS Bulletin 2023-10](#))
    - › Allows a city or town to amortize over fiscal years 2025 to 2027 the amount of its fiscal year 2024 major disaster related deficit
    - › Must adopt a deficit amortization schedule before setting the fiscal year 2025 tax rate
    - › Major disaster examples: flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an immediate threat to the health or safety of persons or property
    - › Need to have a declaration of emergency locally or by Governor; approval to expend for such liabilities still needs Director approval

## Announcement: New/Recent Publications

1. [IGR-2024-1](#) Reimbursement of Property Tax and Motor Vehicle Excise Exemptions
2. [IGR-2024-4](#) Affordable Housing Property Tax Exemption
3. [BUL-2024-1](#) G.L. c. 44, § 53 Clause 4: Inflation Reduction Act Monetized Credits for Local Governments for Certain Clean Energy Projects and Proceeds Received Pursuant to the Altria Settlement Regarding JUUL Products
4. [BUL-2024-3](#) G.L. c. 44, § 53 Clause 4: Connect America Fund Phase II (CAF II) Auction Proceeds Received Pursuant to the Westfield Gas And Electric Winning Bid
5. [LFO-2024-2](#) Money from Marijuana Establishments and Medical Marijuana Treatment Centers
6. [BUL-2024-5](#) An Act Honoring, Empowering and Recognizing Our Servicemembers and Veterans (“HERO” Act) Chapter 178 of the Acts 2024

## Tax Title Reform – Accounting Provisions

- “AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2025 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” (“Act”) Chapter 140 of the Acts of 2024
  - Local accountants should note that the Act requires any excess equity be held in escrow in a segregated interest-bearing account until disposed of either to the prior owner or under G.L. c. 200A
  - For information on the disposition process, please contact the State Treasurer’s Office Unclaimed Property Division.
  - Likely question: how to pay for retained property and/or retroactive claims for excess equity



## Proposed 2024 Municipal Empowerment Act

- Borrowing for School Projects
  - Allows a 40-year term for borrowing for a school construction/renovation project - current law allows for a maximum term of 30 years
- Town Budget Process
  - This section would require towns to delineate appropriations in a minimal manner as required of cities per the opening paragraphs of G.L. c. 44, § 32
- City Budget Process
  - Presently what authority the City Council has over a continuing budget is ambiguous and this change would conform to the intent of the continuing budget provision which is the continuity of government

## Proposed 2024 Municipal Empowerment Act

- Bond and Note Premium Reporting
  - A recent amendment to G.L. c. 44, § 20 required premiums received on a borrowing for which a Proposition 2½ debt exclusion had been approved at the time of sale to be used for project costs and reduce the borrowing. This eliminated the need for the community to adjust the debt exclusion to reflect the true interest costs of the borrowing, which is still required by G.L. c. 44, § 20. However, this accounting and budgeting issue persists for communities who used a Proposition 2½ debt excluded premium on capital prior to the amendment. The proposal requires communities to report the premium without adjusting the debt exclusion.
- DIF Expenditure Efficiencies
  - This section allows the “sinking fund” and “project cost” receipts, which are already being reserved, to be spent without appropriation and would change the name of the “sinking fund” to “debt service fund”

## Proposed 2024 Municipal Empowerment Act

- Departmental Revolving Fund Spending Cap
  - Lets the spending cap a community votes before July 1 apply in the upcoming FY and future FYs until it votes a new spending cap before the July 1 of the FY the new cap goes into effect
- Departmental Revolving Payment of Employees
  - This section amends the revolving fund statute to eliminate the requirement that payment from a revolving fund for wages or salaries for full-time employees may only be made if the revolving fund is also charged for the costs of fringe benefits associated with the wages or salaries so paid
- Election Cost Reimbursement
  - This section allows state reimbursements for Early Voting and Extended Polling Hours to both be accounted for in a special revenue fund, simplifying the budgeting process for elections - Currently, the former is treated as General Fund revenue and the latter is accounted for in a special revenue fund

## Proposed 2024 Municipal Empowerment Act

- Amortization of Emergency Spending Deficit
  - Codifies in the general laws the ability to amortize emergency related deficit spending over the subsequent 3 fiscal years, rather than account for the same in one fiscal year
- One Time Override for Non-Capital Expenses
  - Allows municipalities to adopt a one-year override for non-capital expenditures, similar to a capital outlay exclusion question
- Enterprise Fund Accounting
  - This section allows a community to utilize enterprise fund accounting for Broadband-only MLPs and landfill purposes
- Calculation of RSD Excess and Deficiency
  - This section modifies G.L. c. 71, § 16B 1/2 to conform to joint guidance promulgated by DLS and DESE concerning DLS' calculation of E&D

## Proposed 2024 Municipal Empowerment Act

- PEG Access and election reimbursement funds
  - Provides a local option to credit PEG Access and Cable related receipts to a special revenue fund and to spend from the fund without appropriation to pay for PEG services
- Gifts/Grants Local Process
  - Amends the gifts and grants statute so that a Selectboard, City Council or School Committee is the default acceptor of any gifts or grants and then to spend without further appropriation or approval for the intended purposes of the gift or grant
- CPA Land Purchases
  - This section clarifies the voting threshold for land purchase using CPA proceeds as being a 2/3's vote

## **PROPOSED: Municipal Empowerment Act**

**Any  
Questions?**

## **BOSTON TEACHERS UNION, LOCAL 66 AFT, AFL-CIO vs. BOSTON PUBLIC SCHOOLS, SJC-13491**

- Issue: In the absence of a timely motion to vacate an arbitrator's award, does the trial court have discretion to deny a motion to confirm an arbitrator's award based on whether there is a new dispute or "controversy" concerning prospective application of the award.
  - Massachusetts law at G.L. c. 150C, s.10 states: "Upon application of a party, the superior court shall confirm an award, unless within the time limits, hereinafter imposed grounds are urged for vacating, modifying or correcting the award, in which case the court shall proceed as provided in sections eleven and twelve."
  - The contract language at issue very plainly required the School Committee to hire a total of at least 18 cluster paraprofessional substitutes; accordingly, the arbitrator found the School Committee violated the contract when it failed to hire up to that total and ordered them to promptly do so.
  - The superior court dismissed the union's motion to confirm the award because there was no pending dispute between the parties on application of the contract, drawing on a federal First Circuit decision interpreting Chapter 150C. The Supreme Judicial Court reversed because there is no "case in controversy" requirement for exercise of jurisdiction such as the federal Constitution requires, the plain language of the statute is clear and its meaning is evident on its face. There is no discretion to deny confirmation without a timely motion to vacate or modify.

## Owens v. City of Malden, 85 F.4th 625 (2023)

- Issue: Did the City underpay police officers for off-duty, private detail shifts by deducting the ten percent (10%) administrative fee allowed by G.L. c. 44, s. 53C from their hourly rate?
  - The collective bargaining agreement at hand calls for a “Detail Board” controlled by the patrolmen’s union to set the rate for details based on the highest patrolmen’s rate times 1.5, including the night shift differential. The Detail Board, however, included some other aspects of pay in the detail rate calculation, including a longevity/educational enhancement.
  - The trial court concluded the City had deducted the 10 percent administrative fee from the rate as set by the Detail Board, when that fee is supposed to be paid by the private party that employed detail services. The Court of Appeals, however, looked at the actual language of the collective bargaining agreement and reversed the trial court on the basis that patrolmen were paid for details at a rate in excess of what the contract required, regardless of the rate the Detail Board set, so there was no basis under the Wage Act to find liability and award damages.
  - What will you do if the town manager and their private law firm lawyer come to you to ask about how wages and salaries for a given group are calculated and paid?



# Jalkut v. City of Quincy, 104 Mass. App. Ct. 138 (2024)

Issue: Who was the correct owner of 1.5 acres of land in Quincy that John Adams left by trust in 1822 – the Adams Temple and School Fund or the City of Quincy?

- This case works a bit in reverse or inside out because originally, the trustee for the Adams Fund sought judicial permission to sell the 1.5 acres of land at issue here. The City sought to intervene, asserting their ownership interest, and at the same time, initiated proceedings to take the 1.5 acres by eminent domain. So, the City owns the land one way or the other.
- The history of the Adams Fund and two deeds granting land relative to the trust dates back to 1822, and there have been multiple lawsuits previously, including multiple petitions to modify the purpose of the trust after a school created based on the trust closed.
- This case was decided based on a prior case that asserted the City mismanaged the assets of the Adams Fund to the detriment of the beneficiary, the Woodward School for Girls. That prior case established the Adams Fund owned the parcel indispute and this court honored that decision.
  - › Because the issue presented in the prior case decided the identical issue of ownership of 1.5 acres of land, involved the same parties, and because resolving the question of ownership was essential to the prior case, was finally adjudicated in the prior case and was fully litigated in the prior case, there was no basis to revisit the question of ownership prior to the City taking the parcel, and the City was precluded from asserting it was the correct owner under the 1822 deed. However, this case did nothing to determine what compensation is owed to the Adams Fund, other than the bottom-line question that some compensation is owed.
  - › If your city/town thinks it has title to some land or personal property, assert that claim at the earliest possible time, including if that means suing for a declaration of title.

## Sheetz v. County of El Dorado, USSC No. 22–1074 (2024)

- Issue: Whether a legislatively imposed monetary fee relative to land use (a little over \$23K traffic impact fee charged to install a pre-fab house on semi-rural land) is subject to the “essential nexus” and “rough proportionality” tests for whether a permit condition is allowed under the Fifth Amendment taking clause?
  - The short answer is “yes”. According to the SCOTUS by a unanimous decision, there is nothing in the historic record, constitutional text or precedent that exempts a public legislative body from the takings clause.
  - The Court surveys the history of taking private property for a government purpose such as building courts and other public buildings – it traces to colonial laws arranging for compensation of private landholders which, in turn, traces back to Parliament having the exclusive authority to take private property and obligation to pay a “reasonable price”.
  - The court emphasized that it does not matter which public body imposes or enforces the law, rule, regulation or other source of authority to restrict use of, take possession of or condition use of private property upon payment of a fee or other mandatory measure.
  - The Court reinforced that these principles may apply to a broad array of land use restrictions, citing cases involving mineral rights, wetlands restrictions, etc...

**Any  
Questions?**