DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

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Bulletin

BUL-2020-6

An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19

TO: Local Officials
FROM: Mary Jane Handy, Director of Accounts
DATE: May 2020
SUBJECT: **Deficit Spending Authority for Continued Operation After June 30, 2020 In the Event of a Delay in FY2021 Budget Adoption**

This Bulletin provides guidance to local officials regarding the procedures for obtaining deficit spending authority for continued operation beginning July 1, 2020 as authorized by section 5 of An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19, Chapter 53 of the Acts of 2020, (the Act). Section 5 provides an option for towns and districts for expenditure without appropriation if the town's or district's annual budget is delayed beyond June 30, 2020 due to the current COVID-19 emergency ("emergency").

Section 5 authorizes the Division of Local Services' Director of Accounts (director) to approve expenditure from any appropriate fund or account of an amount necessary to continue uninterrupted government operations of not less than 1/12th of the town's or special purpose district's FY2020 approved budget. The director's authority continues provided the emergency prevents budget adoption by a town or special purpose district meeting. Once the FY2021 budget is adopted, the deficit expenditure authority approved by the director terminates and spending authority thereafter will be pursuant to the budget approved by the town or district meeting.

Towns and districts may not spend beginning July 1, 2020 without either a FY2021 budget approved by the town or district meeting or approval of monthly deficit spending by the director under section 5 through the procedures described in this Bulletin. If it is possible that a scheduled town or district meeting may not be held by June 30, we strongly encourage that a monthly expenditure plan under this Bulletin be submitted as soon as possible to ensure spending authorization starting July 1.

I. Process to Receive Deficit Expenditure Approval by the Director

A. Delay of Town or Special Purpose District Meeting

Section 5 applies to a town or district where the adoption of its annual budget is delayed beyond June 30, 2020 due to the current COVID-19 emergency ("emergency").

Bulletin 2020-02 explains sections 1 through 4 of Chapter 53 of the Acts of 2020. These provisions grant authority to boards of selectmen and town councils to delay town meetings beyond June 30 and to moderators to recess and continue scheduled meetings due to the emergency. Towns are advised to consult with their local counsel regarding the responsibilities of the board or council and the form of vote to delay the meeting. Districts are advised to post their annual meeting warrants and have the moderator recess and delay the meeting if necessary.

B. Develop a Monthly Expenditure Plan

Section 5 requires that the selectboard, town council or board of commissioners approve an expenditure plan for the month of July for submission to the director that provides sufficient expenditure authority necessary to achieve uninterrupted government operations and prudent fiscal restraint. The plan development and approval process will continue for each successive month while the emergency continues and prevents the adoption of a budget by the town or district meeting.

The monthly expenditure plan should include:

- an expenditure estimate for operations in the general fund and enterprise fund (estimates should consider that a reduction in estimated revenues may be required during the FY2021 tax rate setting process);
- amounts sufficient to cover regional school district, pension or other similar assessments; and
- debt service payments.

The monthly budget plan should not include:

- any activities which you have reason to believe will not be supported by the relevant appropriations (once adopted);
- increases in salaries called for in collective bargaining agreements that have not previously been approved by the legislative body;
- appropriations such as reserved premiums, overlay surplus, free cash, stabilization or other similar funds balances;
- capital or other items that ordinarily require special purpose appropriation by town or district meeting; and

- estimated FY2020 COVID-19 emergency expenditure deficits or other emergency expenditure deficits given authorization by the director under G.L. c. 44, § 31.

FY2020 encumbrances, borrowing proceeds, gifts, grants, final judgments of courts or other adjudicatory agencies and other similar expenditures that do not require town or special purpose district appropriation for expenditure may be spent as usual without the director's authority.

Questions as to specific expenditures which can or cannot be added to the plan may be sent to the director for a decision.

C. Approve the Monthly Expenditure Plan

The monthly expenditure plan must be approved by the selectboard, town council or board of commissioners by majority vote pursuant to the open meeting law, as revised per Governor Baker's Executive Order on March 12, 2020. The vote need only indicate that the board or council approves the plan being submitted. The clerk of each board or council must certify that a vote to approve the plan was properly taken.

D. Submit the Monthly Request for Deficit Expenditure Authority

Towns and districts are required to complete and submit in Gateway for each month the Deficit Expenditure Approval form found in the "Misc Forms" Module along with these additional requirements:

- the uploaded monthly expenditure plan approved by the selectboard, town council or board of commissioners;
- completion of the summary of expenditures section of the form;
- an uploaded Clerk's certificate of vote stating the submitted plan was approved by the selectboard, town council or board of commissioners, the date and time of the meeting and vote results; and
- the Clerk's electronic signature.

Spending is not allowed beginning July 1 without a FY2021 budget approved by the town or district meeting or approval of monthly deficit spending by the director under this Bulletin. If it is possible that a scheduled town or district meeting may not be held by June 30, we strongly encourage that a monthly expenditure plan under this Bulletin be submitted as soon as possible to ensure spending authorization starting July 1.

II. Director's Approval

Section 5 authorizes the director to allow deficit expenditures for continued operations beginning July 1, 2020 of not less than 1/12th of the town's or district's FY2020 budget. For non-tax rate setting special purpose districts, the director will rely on FY2020 budget information received from the district's board of commissioners.

The director will approve monthly expenditures for July if the submittal is in compliance with section 5 and the instructions contained in this Bulletin. If the emergency continues to prevent budget adoption by a town or special purpose district meeting, the process described above will continue as long as necessary.

III. Accounting for Approved Expenditures

Once the town or special purpose district receives expenditure approval by the director, local officials must use best practices to manage spending so as not to exceed the director's expenditure allowance. When the annual budget is approved by the town or district meeting, the director's expenditure approval terminates and spending authority for the town or district is then pursuant to its adopted budget.

All expenditures made under the director's approval must be fully raised or otherwise funded on the FY2021 Tax Rate Recap.