May 19th, 2022

Municipal Finance and Governance Legislation
Sean Cronin – Senior Deputy Commissioner of Local Services

On Wednesday May 18th, Governor Baker filed a FY22 supplemental budget bill that includes seven sections relating to municipal finance/governance. Below is a summary of each section:

Section 3 - OPEB Trust Fund Technical Correction

The Municipal Modernization Act expanded and clarified the process by which cities, towns, districts, counties and regional school districts could establish and operate an Other Post-Employment Benefits (OPEB) Liability Trust Fund under G.L. c. 32B, § 20. Section (k) of G.L. c. 32B, § 20 establishes a process by which a governmental unit can participate in the OPEB Fund of another governmental unit. The local authorization for that participation is given to the “governing boards” of both units. “Governing boards” is not a defined term within the statute. Based on the context of section (k) and the enumerated roles and responsibilities of the local executive and legislative branches, “governing boards” should read “governing body,” allowing the local legislative body to give said authorization for participation.

Section 4 – Special Purpose Stabilization Fund Appropriations

The proposed change to G.L. c. 40, § 5B, which establishes stabilization funds and regulates their administration, would amend the quantum of vote to appropriate funds from special stabilization...
funds from a two-thirds quantum to a simple majority. The present two-thirds quantum of vote needed for appropriating funds from a general purpose stabilization fund would remain the same.

Section 5 – Appointed and Combined Treasurer-Collector

The Municipal Modernization Act amended G.L. c. 41, § 1B, which provides a mechanism for towns to convert treasurers and collectors from elected offices to appointed ones. The purpose was to let towns use the same procedure and ballot question to combine the elected positions of collector of taxes and treasurer to a single appointed treasurer-collector position. However, the legislation did not provide the ability to combine the appointed positions of collector of taxes and treasurer to a single appointed treasurer-collector position. Several communities have pursued special legislation to effectuate such a combination. This amendment would permit such a combination by local acceptance of the town’s legislative body.

Section 6 – Treatment of Revenue

This section addresses two issues:

- **Insurance Proceeds** – a municipal or district department in charge of property that was damaged and for which the municipality or district receives insurance proceeds or restitution payments of $150,000 or less may spend the monies, without appropriation and the approval of the chief executive officer, to replace or repair the property under G.L. c. 44, § 53. In many cases, however, that replacement or repair must be made immediately. This proposal would also allow spending for this purpose in advance of the monies being received and, if the monies are not received within a certain period, require the municipality to fund that deficit. The proposal is patterned after the change made by the Municipal Modernization Act to G.L. c. 44, § 53A, which allowed spending in advance of grant funds.

- **General Fund Revenue Exception** – All money received or collected from any source by a city, town or district belongs
to its general fund and can only be spent after appropriation unless a general or special law provides an exception, i.e., expressly restricts use for a particular purpose or allows expenditure by a department or officer without appropriation. G.L. c. 44 § 53. This general rule of municipal finance occasionally presents communities with accounting and procedural difficulties in situations where an unexpected, conditional receipt is received. Such receipts, by law, would become part of the general fund, eventually close and become part of the next year’s free cash certification. When it becomes part of free cash, the original restrictions on the funds become muddied as under current law they must sit in an available fund that can be appropriated for any lawful purpose. Additionally, this process can take several months and many times these one-time monies are intended for immediate expenditure for their specific purpose. The proposed exceptions to the general rule would allow such one-time monies to be reserved in special fund, thereby not closing at the end of the fiscal year and not become part of the free cash certification. A distinction is made for monies received for one specific purpose to be spent without appropriation and other qualifying receipts to be reserved in a special fund and spent with appropriation. In both scenarios, this exception is limited to one-time, unanticipated receipts that affect multiple communities.

Section 7 – Revolving Fund

The Municipal Modernization Act amended the departmental revolving fund statute, G.L. c. 44, § 53E½, which had let cities and towns set up revolving funds for certain self-supporting departmental programs as an alternative to funding in the budget by so voting at annual town meeting (towns) or before July 1(cities). The amendment provided for the revolving funds to be established by by-law or ordinance instead of an annual vote. The communities still need to vote each year on the amount of revenues available for expenditure for each fund during the fiscal year (comparable to retained revenue account in state budget). This proposal will let the spending cap a community votes before July 1 apply in the
upcoming fiscal year and future fiscal years until it votes a new spending cap before the July 1 of the fiscal year the new cap goes into effect.

**Section 8 – Mitigation/Exaction Payments Fund**

Municipalities often enter into host or mitigation agreements with developers or other entities to address the impacts of new development or location of a facility within the city or town and receive cash payments to mitigate these impacts. In addition, a developer may make a cash payment in lieu of undertaking a particular condition or obligation required by a zoning and other permitting by-law or ordinance, or a party renting municipal property may make payments in addition to the lease. Examples include a developer of a commercial property making a payment required under the town’s zoning bylaw in lieu of constructing sufficient parking spaces with the monies to be used by the town for the acquisition, improvement and maintenance of municipal parking; a developer providing a monetary contribution to a municipal affordable housing fund in lieu of building affordable housing on a project site or off-site; or a cell phone company that is leasing town-owned property for its equipment agreeing to give the municipality a "one-time payment" in addition to its lease. Under current municipal finance law, these mitigation payments or regulatory exactions are general fund monies that must be appropriated before they can be used for the dedicated purposes for which they are given and received. G.L. c. 44, § 53A. The parties often try to characterize the monies as gifts so as to be able to spend them without appropriation, but they are not gifts within any ordinary meaning of the term. This statute would let communities separately account for these payments and spend them for the dedicated purposes without appropriation.

**Section 25 – Shared Employees**

This proposal amends the Conflict of Interest Law to address potential violations of the law that arise when cities and towns enter into inter-municipal agreements or are members of regional governmental units. The state conflict of interest law categorizes
employees for purposes of the law as state, county or municipal. It does not address regional governmental entities or regional or shared initiatives. The shared goals of these entities can be hindered by inadvertent conflicts when a municipal employee takes broader actions that might impact the interests of communities where that individual does not serve. For example, special legislation was necessary to clearly remove any real or perceived conflicts when Lenox and Lee sought to share a town administrator. St. 2016, c. 304.

**Municipal Management Overview Video Now Available**

DLS Municipal Finance Training and Resource Center

We’re excited to share our latest video that provides an overview of municipal management and the roles and responsibilities of local officials. We believe this video provides a helpful introduction to the subject that can be utilized in a variety of ways to inform and educate. As you’ll see, it underscores the importance of teamwork and collaboration within town and city halls, regardless of the municipality’s specific management structure. Please visit the Municipal Governance page of our training page to learn more about the responsibilities related these roles.

In the coming weeks, DLS is also offering two virtual trainings. Please email dlsregistration@dor.state.ma.us with any questions.

**How to Value a Massachusetts Town for Taxation – Wednesday, May 25th at 10am**

DLS staff will provide an in-depth look at how Massachusetts assessors generate property valuations, review of market data, and use assessing technology to develop assessments in 2022. Staff from the Bureau of Local Assessment will also be available to answer questions from attendees. As a reminder, registration is free! To register, click here.

You can also find associated [property tax and Proposition 2 ½](#)
related resources on our Municipal Finance Training and Resource Center and view prior DLS webinars on our YouTube channel.

Excess and Deficiency: Upload and Certification Webinar – Wednesday, June 8th at 10am

DLS will provide instruction on how to complete the forms necessary for excess and deficiency certification. These forms, uploaded in Gateway, are used to calculate and approve a regional school district’s excess and deficiency amount each fiscal year.

This is a great opportunity for regional school and other local officials involved in this annual process to receive instruction on how to complete these forms accurately. DLS staff will answer related questions at the end of the webinar. To register, click here.

Be sure to bookmark the DLS events calendar and the Municipal Finance Training and Resource Center page. Subscribe to our YouTube channel to stay up-to-date on new presentations as they’re made available.

Highly Recommended: Year-end Close

The DLS Financial Management Resource Bureau (formerly the Technical Assistance Bureau) has offered financial management advice to municipalities across the state for over 30 years. To share this guidance more broadly, we thought it would be helpful to highlight some of our more useful, timely, or interesting recommendations for the benefit of City & Town readers.

Among the many responsibilities of the accounting office is the process of reviewing, reconciling, and verifying that all financial transactions and other aspects of the community’s general ledger are finalized at close of the fiscal year. Coordinating this activity involves collaborating with the financial team and departments to help ensure a smooth, timely, and accurate process. This article offers some pointers, general guidance, and resources for a
successful year-end close.

**Develop and adhere to a comprehensive year-end schedule:** A year-end schedule identifies required activities and timeframes, deliverables, and expectations for department heads, administrators, and policymakers to avoid delays in the completion of closing entries, trial balances, reconciliations, account analyses, financial reporting, and ultimately the certification of free cash. A good practice for managing this step includes the accounting official issuing a memo with timetables and details for handling the final or split fiscal year payroll, accounts payable warrant schedule, treasurer’s requirements for departmental turnovers, and requesting encumbered funds. It is also recommended that an internal stakeholder meeting be held to review the key points of the procedures and schedule to ensure clarity on responsibilities, dates, and required documents.

**Heed the DLS Bureau of Accounts Director’s Annual Year-End Letter:** The letter for accountants, auditors, treasurers, collectors, clerks, and regional school business officials describes important updates, changes, and relevant actions specific to those roles and serves as a tool for financial officials to understand the specific obligations, deadlines, and required filings of their colleagues. To ensure receipt of this important announcement, finance officials should confirm that the city or town clerk has accurately entered their contact information in the DLS Gateway application. The latest year-end letters can be found on the DLS website [here](#).

**Plan for encumbering funds:** The accounting official should communicate to department heads and officials the process, time, and documentation requirements for encumbering funds. Encumbering can be done throughout the year as part of a purchase order process. However, at year end, encumbrances are used to reserve funds for purchases or services clearly made before June 30 that remain outstanding. Therefore, departments, boards, and committees must provide documentation of any legal obligation for purchases made but not received or service contracts begun but not completed for funds to be encumbered. The encumbered funds will be released for payment in the next fiscal year when either the
goods have been delivered or services completed, or if the contract has been canceled. Invoices received in the following fiscal year for purchases not encumbered must be presented to the legislative body as an unpaid prior year bill.

**Review of all general ledger accounts:** By early June, it is essential that accounting officers and department heads review the general fund appropriation accounts, special revenue funds, and all other accounts. By June 30, these accounts should be up to date, reconciled, and not in deficit.

**General Fund** – The general fund represents the budget appropriations passed by the legislative body. Officials with spending authority should be monitoring their respective accounts regularly to ensure expenditures through the end of the year do not exceed account appropriations. They should also confirm all personal service accounts will have sufficient balances for the final payrolls. Accounting officials have a responsibility to ensure there are no accounts with deficit balances and to deny an expenditure to an appropriation account that lacks sufficient funds. Legislative sessions, either town meetings or city council, can address potential deficits at any time in the fiscal year. Two additional options are available if the accounting officer and department heads identify any general fund accounts heading into deficit closing in on year-end: reserve fund transfers and appropriation or year-end transfers.

Cities and towns can authorize as part of the budget a reserve fund to provide for extraordinary or unforeseen expenditures at any time throughout the fiscal year. At year end, this fund can also be used for de minimis appropriation shortfalls. In a town, the finance committee authorizes the transfer (M.G.L. c. 40, § 6), whereas in a city, transfers are approved by a majority vote of the city council upon recommendation of the mayor and the city auditor or officer having similar duties (M.G.L. c.40, §5A).

The appropriation transfer, or year-end budget transfer, option gives budget flexibility to cities and towns during May and June and until July 15 (M.G.L. c.44, §33B). In a town, an appropriation transfer is permitted by a majority vote of the select board and a majority vote
of the finance committee. During this year-end period in a city, a majority vote of the council with the mayor’s or manager’s recommendation to make a transfer is needed.

In both cities and towns, transfers in any amount are made from one appropriation to another appropriation except for funds from municipal light or school department budgets, which are not available for these transfers. In all cases, the amount of any operating appropriation available to be transferred is the unspent and unencumbered balance, meaning the amount after all potential liabilities to be charged are considered. Accounting officers should determine this amount before any transfer from an appropriation is requested. Click here to download the latest DLS informational guideline release on year-end transfers.

Special Revenue Funds – Finance officials should monitor these accounts throughout the year in coordination with the responsible department heads to ensure the funds do not go into deficit. Communities expending funds based on approved reimbursable grants should file the paperwork with the granting agency before June 30 and funds must be in hand before September 30 to avoid a year-end deficit and subsequent reduction in free cash. Additionally, communities must file Chapter 90 (the state program that provides annual roadway construction and maintenance funds to cities and towns) reimbursement requests by September 30 to avoid a hit to free cash.

Capital Projects and Special Article Accounts – Accounting officers and treasurers should ensure there are no unfunded or deficit balances for active capital projects or special article accounts. If the projects were authorized by borrowing funds, the funds, either short-term (temporary) or long-term bonds, should be in place by June 30.

Inactive and Outdated Accounts – Finance officials should review these accounts with department heads and the chief administrative officer to determine if they can either be closed by year-end or be reauthorized for another use. Additionally, accounting officials may want to confer with the community’s legal counsel or independent
auditor to determine if a legal reason exists requiring the account to remain active. Closing accounts when a project or purchase is complete and there are no longer any pending obligations releases the available balance and increases the uncommitted fund balance, resulting in an increase in the community's free cash. Alternatively, reauthorizing the accounts provides a direct funding source for a different purpose.

**Internal Borrowing** – Throughout the year, communities can access funding for authorized projects by borrowing internally from stabilization funds in advance of issuing bonds or notes, provided that the debt was previously authorized at a town meeting or by city council vote. This temporary source provides necessary funding, but the advanced funds must be formally accounted for and repaid by June 30. To restore the funds, the treasurer must issue either long-term or short-term debt. Any balance related to outstanding internal borrowing will result in a reduction to free cash in that amount. For more information on advance of funds, click here.

Collaboration and being well-organized is key to finalizing a community's financial position for the June 30 fiscal year-end. Department heads and other officials should engage with the accounting office on a prescribed schedule to review all general fund and special revenue accounts, verify that all revenues and expenditures have been correctly recorded, confirm that there will be no deficit balances, and submit all available invoices for payment. The department heads also must provide documentation required for encumbering appropriation amounts for legal expenditure in the next fiscal year.

Click here for a sample FMRB year-end policy. This policy details the tasks that must be completed, their associated deadlines, and the parties responsible for timely and successful year-end closing process.

**Assessor Cheat Sheet: Order of Forms in Gateway**
Jennifer Williams - Bureau of Local Assessment Field Advisor
As we prepare for a new fiscal year, we felt it timely to provide local assessors with an overview of the correct order for submitting forms to the Bureau of Local Assessment (BLA) in Gateway. Each year after the Spring town elections, assessors should be updating the Local Officials Directory (LOD) located under the Directory tab in Gateway. Assessors are required to complete the "Assessor Certification" form found in the Local Officials Directory and are tasked with updating the assessing staff including appointed or elected assessing officials and their terms start and end dates. When complete, they sign the form and click the “Submit to Clerk for Certification” button on the bottom of the screen. We ask the assessors to remind their respective city or town clerk to verify the information on the form, sign, and click the “Do Clerk Certification” button on the bottom of the screen to complete the process.

Omitted and revised assessments (O&R) must be committed by June 20 and reported to BLA within ten days. The omitted and revised assessment form is located under the Tax Rate tab in Gateway. This form includes a section to report any rollback taxes committed in the prior fiscal year as well. The O&R assessment form must be submitted whether any omitted and/or revised assessments were committed for the prior fiscal year. If there’s nothing to report, simply check the “We have no omitted, revised or rollback taxes to report” checkbox at the top of the page and submit the form. Copies of all commitments for any omitted, revised, and/or rollback taxes should be uploaded in the form. Please keep in mind the fiscal year when filling out the form. A property issued a revised assessment for a FY2022 tax bill will report the revised amount on the FY2023 O&R form because it becomes part of the FY2023 tax rate setting process. This may be why the current fiscal year’s O&R form is locked.

In most cases, if a city or town has no omitted or revised assessments to report the community can immediately submit the LA13A amended growth form located in the Tax Rate tab. The LA13A form must be submitted even if there is no amended or abated growth to report. Simply check the box that states, "We have no previously unassessed or permanently abated tax base levy
The LA13A form is used to report any growth that was not reported in the prior fiscal year due to an omitted and/or revised assessment (reported in column B). The LA13A form is also used to report any property that had reported growth in the prior fiscal year and had that growth permanently abated (reported in Column C). A reminder that any rollbacks reported on the O&R form that qualifies as growth should be reported on the next fiscal year’s LA13 and not as amended growth for the prior fiscal year.

Once a city or town’s property values are set and ready for submission to BLA for review, the assessor submits the LA3 sales report located in the LA3 tab. Please ensure the sales statistics meet the certification standard guidelines including sale price halve and sale price quartile statistics prior to submission. Additionally, please check to ensure the Loc ID’s have been imported into the LA3 spreadsheet.

If the city or town is in an interim year (not their five-year certification review), then the assessor would immediately submit the LA15 form located in the LA3 tab. The LA15 is auto populated from the LA3 sales report and provides a summary of the statistics of the sale properties.

Once the LA3 sales report is submitted, the next form is the LA4 assessment/classification form. The LA4 is found under the tax rate tab in gateway and provides the parcel counts and total valuations for each major class of property within a city or town. Before submitting the LA4, a majority of the board of assessors must either sign the form in Gateway or sign a letter designating the assessor to sign on behalf of the board. Copies of the signed letter and a copy of the CAMA system LA4 should be uploaded in the form.

The LA13 growth form is in the Tax Rate tab. The assessors enter their abatement counts and abated value for each class in columns A and B of the form. The new growth valuations are reported by property class in column C of the form. Beginning in FY2022, BLA required all communities to utilize the standardized new growth
template when submitting their growth for BLA review. The template should be uploaded into the LA13 form and it is located on the landing page of the Tax Rate tab.

City and towns in their five-year certification review have a few additional forms to submit under the Certification tab. The first form for certification cities and towns is the certification work plan. This form is entered by mid-April and is the blueprint for the upcoming certification. It includes information relating to who will conduct the revaluation work and a timetable on when different benchmarks will be completed.

The next form is the preliminary LA4 form. This form mirrors the LA4 form found in the Tax Rate tab but is submitted when submitting for preliminary certification of values. Once the property values are reviewed and preliminary certification is granted by BLA, the certification community must advertise and hold a public disclosure of the proposed values. A minimum of five business days to allow the public to view the proposed values and discuss any issues regarding the data and/or property value prior to the finalization of values and abatement process is required. After the public disclosure period has concluded, the assessor submits the LA10 form. The assessor reports any property that a value change of +-10% from the preliminary certified value.

The LA10 form must be submitted even if there are no values changes from preliminary certification, the assessor simply checks the box stating, “We have no assessment adjustment data to report; notice of public disclosure has been uploaded.” The notice (s) of public disclosure must be uploaded to the form including any notices from local newspapers, impact statements or second home notices, and screenshots of advertising on city or town websites. The assessor would then submit the LA4 assessment/ classification form found in the Tax Rate just as described above.
### Cheat Sheet

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#### Certification only Forms

| Certification work plan-     | Certification tab | By mid-April                                    |
| Preliminary LA4-             | Certification tab | Submit for preliminary cert                     |
| LA10-                        | Certification tab | Completion public disclosure                    |

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