DLS

DIVISION OF LOCAL SERVICES

MA DEPARTMENT OF REVENUE

Proposition 2½ Ballot Questions

Requirements and Procedures

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Supporting a Commonwealth of Communities

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PROPOSITION 2½ BALLOT QUESTIONS
REQUIREMENTS AND PROCEDURES

General Laws Chapter 59, § 21C

I. INTRODUCTION

Proposition 2½ limits the amount of revenue a city or town may raise from local property taxes each year to fund municipal operations. This amount is known as the annual levy limit. However, the law allows a city or town to increase tax revenues above that limit with approval of voters at an election. It also requires a city or town to reduce its levy limit as specified by the voters.

This summary explains the election procedure established by Proposition 2½ and the different types of questions communities may ask voters to approve.

II. TYPES OF BALLOT QUESTIONS

Proposition 2½ establishes two types of voter approved increases in taxing authority. It also allows voters to mandate a reduction in taxing authority.

A. OVERRIDES

A levy limit override increases the amount of property tax revenue a community may raise in the year specified in the override question and in future years. It increases the community's levy limit and becomes part of the base for calculating future years' levy limits. The result is a permanent increase in taxing authority. G.L. c. 59 § 21C(g).

The purpose of the override is to provide funding for municipal expenses likely to recur or continue into the future, such as annual operating and fixed costs, although it may be used for any municipal spending purpose.

The only limitation on the amount of the override is that the new levy limit, including the override, cannot exceed the overall Proposition 2½ levy ceiling of 2½ percent of the community's full and fair cash value.

B. EXCLUSIONS

An exclusion increases the amount of property tax revenue a community may raise for a limited or temporary period of time in order to fund specific projects. The amount of an exclusion may be raised in addition to the community's levy limit. It does not increase the community's levy limit nor become part of the base for calculating future years' levy limits.

The exclusion may be used to raise additional funds only for a capital purpose, which is any purpose for which a city or town is authorized to borrow. See generally G.L. c. 44, §§ 7 and 8. This includes most public building and public works projects, as well as land and equipment acquisitions.

An exclusion may be used by a community to fund its own capital spending, or its assessed share of capital spending by a regional school district or other regional governmental unit of which it is a member, whether the spending is financed by borrowing (debt exclusion) or within the annual budget (capital expenditure exclusion).

There is no limitation on the number or dollar amount of exclusions.

1. Debt Exclusions

If a capital project is being funded by debt, approval of a debt exclusion permits the community to raise the amount of the annual debt service payment for that project each year until the debt is retired. A debt exclusion may be presented to the voters to exclude the debt service on the community's borrowings, or the community's share of the debt service on a borrowing of a regional governmental unit of which it is a member. G.L. c. 59, § 21C(k). See Section IV-A-2 below.

Debt exclusion questions may be presented to and approved by the voters before or after the related debt is authorized or issued. An exclusion approved after repayment of the debt had begun applies prospectively, *i.e.*, to the remaining debt service payments owed on the obligation. A separate question may be presented for each borrowing or multiple borrowings may be included within a single question.

2. Capital Expenditure Exclusions

If the capital project is being funded by an appropriation, voter approval of a capital expenditure exclusion question permits the community to raise the amount of the project costs up to the amount stated in the question. This additional taxing authority is available for just the one fiscal year specified in the question. G.L. c. 59, § 21C(i½). A separate question may be presented for each budgeted project or multiple projects may be included within a single question.

C. UNDERRIDES

A levy limit underride decreases the amount of property tax revenue a community may raise in the year specified in the underride question and in future years. It decreases the community's levy limit and becomes part of the base for calculating future years' levy limits. The result is a permanent decrease in taxing authority. G.L. c. 59, § 21C(h).

III. ELECTION PROCEDURE

A. PLACING QUESTIONS BEFORE VOTERS

Proposition 2½ questions are placed on an election ballot by vote of the "local appropriating body," which is defined in towns as the selectboard, not town meeting. In towns without selectboards, a vote of the town council is required to present a question to the electorate. In cities, a vote of the city council, with the mayor's approval where required by law, is needed. G.L. c. 59, § 21C(a).

This is the only way an override or exclusion question may be placed on the ballot. They may not be placed on the ballot by a town meeting vote or any local initiative procedure authorized by law. A local initiative procedure, however, may be used as an alternative method of placing an underride question on the ballot.

The board or council must vote the question exactly as it will appear on the ballot.

1. Overrides and Underrides

   A majority vote of the board or council is needed to place an override or underride question on the ballot. G.L. c. 59, § 21C(g) and (h).

2. Exclusions

   A 2/3 vote of the board or council is needed to place an exclusion question on the ballot. G.L. c. 59, § 21C(i½), (j) and (k).

B. ELECTION PROCEDURE

Proposition 2½ questions may be placed on a regular or special municipal election ballot. Questions may also be placed on the state biennial election ballot. However, those questions must be submitted to the Secretary of State for certification by the first Wednesday in August preceding the election. G.L. c. 59, § 21C(i).

The usual laws and procedures relating to municipal elections apply. The municipal clerk must receive written notice of the question being placed on the ballot at least 35 days before the date of the election. G.L. c. 54, § 42C. The vote to place a question on the ballot must take place in sufficient time to meet this advance notice requirement.

A city or town may present Proposition 2½ questions to the voters as many times during the year as it chooses. The only constraint on the interval between these elections is the time needed to call and hold each election.

The Office of the Secretary of State is responsible for administering and enforcing election laws. Specific questions about the application of these laws to Proposition 2½ elections should be directed to the Elections Division of that office at 617-727-2828.

C. FORM OF QUESTIONS

Proposition 2½ specifies the form of each type of ballot question. This exact language must be used to properly place a question before the voters. The question forms are found in **Appendix A**.

1. Statement of Purpose

   All override and exclusion questions require a statement of the purpose or purposes for which the monies from the tax "assessment" or debt "issue" will be used.

a. Specificity of Purpose

The purpose must be described in a manner that enables voters to determine the appropriation(s) or debt obligation(s) covered by the question. The degree of specificity required to do this will depend on the type of question.

(1) Overrides

Override questions are designed to increase the amount of revenue generally available for appropriation. As a result, the spending purpose in an override question may be broad in scope such as general or departmental operating purposes. More specific spending purposes may also be stated such as where a service will be reduced or eliminated without the override. Examples of acceptable spending purposes are found in **Appendix B**.

(2) Exclusions

Exclusion questions are designed to fund specific capital projects. Therefore, the borrowing or spending purpose in an exclusion question must describe the particular project(s) being funded by the question.

b. Definition of Purpose

The purpose used in an override or exclusion question must be a spending or borrowing purpose. This means a purpose for which a community's appropriating body could vote to appropriate money or authorize debt. The purpose cannot be used to provide voters with information on the impact of an unsuccessful vote on the question or the underlying events or circumstances that may cause budget difficulties. Nor may it be used to promote or advocate for the override or exclusion.

For example, language that does not meet the definition of spending purpose would be questions with the stated purpose of "restoring monies lost due to local aid reductions" or "increasing free cash." These questions do not state a spending purpose because communities do not appropriate funds for these purposes.

In addition, language that explains the impact of voter action on the question and is intended to promote the override or exclusion does not meet the definition of spending purpose. For example, "preventing substantial reductions in town services, programs and personnel and further deferral of vital capital projects," "preventing a reduction in the police department budget," "preventing the layoff of 4 police officers," "maintaining current municipal and educational services" or "restoring school athletic programs" would be inappropriate. The question must simply specify the personnel, services or programs for which the additional funds will be used. Thus, appropriate purposes for the examples above would be "funding the town's operating and capital expenses,"

"funding the police department operating budget," "funding the salaries of 4 police officers," "funding municipal and educational services," or funding school athletic programs."

Finally, the spending purposes should not be characterized in a manner intended to promote the question by including financial information usually provided during the budget process. Examples would be "funding uncontrollable increases in employee health insurance costs" or "funding a 28% increase in the town's regional school district assessment." The question should just state the spending purpose: "funding employee health insurance costs" or "funding the town's regional school district assessment."

2. Other Information

Override and capital expenditure exclusion questions must also include the total amount of additional taxing authority being requested and the fiscal year in which it will be used. This information is not included in debt exclusion questions.

Any additional information about the requested amount, the services and programs to be funded by the requested amount, and the impact the vote will have on those services cannot be included in the question or on the ballot. That type of information should be provided in the course of a balanced, comprehensive, public information effort. Public information efforts undertaken by local officials must be consistent with election and campaign finance laws. See Sections III-F and G below.

D. APPROVAL OF QUESTIONS

A question is approved if a majority of the people voting on that question vote "yes."

E. APPROVAL OF MULTIPLE QUESTIONS ON SAME BALLOT

A community may place as many questions on a regular or special municipal election ballot as it chooses. However, if the community decides to place questions on the state biennial election ballot, it is limited to three questions. G.L. c. 59, § 21C(i).

1. Overrides

a. Pyramid or Tier Overrides

A community may present a "pyramid" or “tier” override to the voters. A pyramid override asks voters to determine which, if any, of two or more funding levels they are willing to approve. A separate override question is placed on the ballot for each funding level, with each question stating the same purpose purposes. Tiered means that the purposes of a higher funding level include purposes in addition to the purposes of all lower funding levels. Any question is approved if a majority of the persons voting on that question voted "yes." If more than one question is approved, the question specifying the highest dollar amount governs. This rule also applies where the questions are presented as alternative proposals to the voters.

The Elections Division of the Secretary of State's Office advises communities presenting pyramid or tier overrides to include voting instructions on the ballot. The following language is recommended:

> Questions 1a, 1b and 1c are separate questions. You may vote for or against each question independently. Each question requires a majority of those voting on that question to pass. If more than one question passes, the question with the highest dollar amount will prevail.

b. "Menu" Overrides

A community may place several override questions each of which will fund different services or programs on the same ballot. If voters approve more than one override question stating different purposes, the community's levy limit may be increased by the total of the amounts specified in all approved questions.

c. Multi-year Overrides

A community may seek voter approval of an override for more than one year. To do so, a separate question must be placed on the ballot for each fiscal year in which the additional levy capacity being requested will be used. The amounts and purposes in the question may be the same or different.

Appendix C provides examples of single, multi-year, pyramid, tier and menu override approaches.

2. Exclusions

A community may place several exclusion questions for different capital projects or groups of capital projects on the same ballot. The community may raise the additional amounts excluded by each question approved by the voters.

F. VOTER INFORMATION

Local officials may not publish and provide voter information materials at public expense, including a summary of the impact a “yes” or “no” vote will have on local services, unless specifically authorized by statute. See G.L. c. 53, § 18B (local acceptance required) and the following special acts that authorize certain officials to prepare and distribute voter information on municipal elections: St. 1987, c. 274 (Newton Election Commission), St. 1989, c. 630 (Cambridge Election Commission), St. 1996, c. 180 (Sudbury Selectboard), St, 1998, c. 89 (Burlington Selectboard), St. 2002, c. 238 (Dedham Selectboard), St. 2004, c. 149, §§ 285-288 (Lancaster Selectboard), St. 2006, c. 404 (Yarmouth Selectboard) and St. 2006, c. 427 (Shrewsbury Selectboard).

Questions about voter information or ballot content should be directed to the Elections Division of the Office of the Secretary of State at 617-727-2828.

G. CAMPAIGN ACTIVITIES

General Laws Chapter 55 governs the raising and spending of money for ballot questions as well as political candidates. The law also regulates the conduct of public officials and employees undertaking campaign finance activities.

In general, the law regulates conduct not speech. Thus, while local officials can take a position on an override or exclusion question and speak in favor of or in opposition to it, they cannot spend public funds or use public resources, such as personnel, supplies and facilities, to promote or oppose the question. *Anderson v. City of Boston*, 376 Mass. 178 (1978). Public employees may work on an override or exclusion campaign on a volunteer basis, on their own time, in any capacity other than fundraising. They may also make personal contributions to political committees established for the purpose of promoting or opposing the ballot question.

The Office of Campaign and Political Finance (OCPF) is responsible for administering and enforcing campaign finance laws. Its website includes materials that provide guidance about the application of these laws to the conduct of local officials and employees in Proposition 2½ elections. See, for example, Interpretative Bulletins 91-01, *The Use of Governmental Resources for Political Purposes*, and 92-02, *Activities of Public Officials in Support of or Opposition to Ballot Questions*. Specific questions should be directed to OCPF at 617-727-8352.

H. REVOCATION OF QUESTIONS

Proposition 2½ does not provide for the revocation or rescission of an approved question. An override can be negated, however, by voter approval of an underride. An exclusion can be negated by not funding the related borrowing or appropriation.

IV. RELATIONSHIP TO APPROPRIATIONS

Proposition 2½ establishes a limit on the annual property tax levy and approval of an override or exclusion question only increases the amount a community may raise in taxes. It does not authorize or require spending for the purpose of the question.

Similarly, an underride only decreases the amount a community may raise in taxes. The legal power to make spending decisions is still vested in the community's appropriating body (town meeting/town council/city council).

A. USE OF ADDITIONAL TAXING AUTHORITY (EARMARKING)

Approval of an override or exclusion question establishes the maximum amount of additional taxing authority available to the community. The spending decisions made by the community's appropriating body determine if any or all of this additional taxing authority is actually used. Thus, while the additional dollars are still part of the community's general unrestricted revenues (levy) and are not a separate financing source for the purpose of making appropriations, those dollars are considered "earmarked" because they cannot be raised in the tax levy unless the community appropriates them for the purpose stated in the question.

1. Overrides

a. General Overrides

A community's levy limit is increased by the amount stated in an override for any purpose except for a stabilization fund so long as all appropriations made for the stated spending purpose and fiscal year equal or exceed that amount, *i.e.*, the first dollars appropriated for that spending purpose are deemed to come from the override. If total appropriations for the year are less than the stated amount, then the community may only increase its levy limit by the amount actually appropriated.

The additional funds raised by the override are "earmarked" for the stated spending purpose only in the first fiscal year.

b. Stabilization Fund Overrides

The additional funds raised by an override to fund a stabilization fund are earmarked for that purpose in the first fiscal year and in subsequent fiscal years upon appropriation. Any change in the purpose for which the additional levy capacity may be used in future years must be approved by a majority of voters at an election. See Informational Guideline Release (IGR) No. 24-12, *Stabilization Funds* (March).

In the first year, town meeting, town council or city council makes an appropriation into the fund of any amount up to the amount stated in the override. The community's levy limit is increased by the amount stated, or amount appropriated if less.

In subsequent years, the community's levy limit is increased only where the additional levy capacity is "appropriated" by a 2/3 vote of the selectmen, town council or city council, with the mayor's approval if required by law, for the same stabilization fund purpose. If "appropriated," the assessors raise the amount in the tax rate.

2. Debt Exclusions

a. Total Exclusion

A debt exclusion covers debt service on the amount of borrowing authorized or contemplated for the stated purpose at the time of the election. Debt service includes payments of principal on permanent debt and interest on permanent and temporary debt.

The debt service on any additional borrowing above the amount fixed at the time of election is not covered unless (1) it is a modest amount attributable to inflation, new regulatory requirements or minor project changes, or (2) another debt exclusion is approved by the voters. See IGR No. 22-14, *Proposition 2½ Debt Exclusions* (July).

Any premiums received on the debt issue must be offset against the stated interest cost when calculating the debt exclusion so that it reflects the true interest cost incurred to finance the project. G.L. c. 44, § 20. The manner in which a premium adjustment is made depends on when the bonds or notes were sold. See IGR No. 22-1, *Premiums and Surplus Proceeds for Proposition 2½ Excluded Debt* (February) for an explanation of when and how a premium adjustment is made.

If the project has been completed, abandoned or discontinued, there may be unspent surplus debt excluded proceeds. G.L. c. 44, § 20. If there are unspent surplus proceeds when the project is completed, abandoned or discontinued, the debt exclusion for that project must be reduced proportionately unless the surplus proceeds are appropriated for another debt excluded project. See IGR No. 22-1, for an explanation of when and how this reduction is made.

b. Annual Exclusion

The additional taxing authority available to a community each fiscal year until the debt covered by the exclusion is retired is the total principal and interest payment due net of any reimbursement received from the state or federal government for the project. This amount represents the community's share of the project's debt service for that year. If user fees, betterments or other local revenues are being used to fund all or part of the debt service, a community may exclude the principal and interest net of the local revenue, but it is not required to do so.

If an additional borrowing for the project is not covered by the exclusion, the additional taxing authority for each year is calculated by applying the percentage the borrowing amount fixed at the time of the election bears to the total debt issued for the project.

The annual exclusion amount may be adjusted from year to year in order to moderate the impact on taxpayers, provided that (1) in any year in which the exclusion raised is more than the actual local share of the debt service due for that year, the accounting officer reserves the excess for appropriation to pay debt service costs for future years, and (2) the total amount excluded during the adjusted schedule does not exceed the amount that would be excluded otherwise. See IGR No. 22-14.

3. Capital Expenditure Exclusions

A community may use all of the additional taxing authority provided by an approved capital expenditure exclusion question so long as the amount appropriated for the specified capital project for the fiscal year, net of any reimbursement received from the state or federal government for the project, equals or exceeds the amount stated in the question. This amount represents the community's share of the project cost for that year. If the community's share is less than the amount stated in the question, then the community may only increase its taxing authority by its share. If user fees, betterments or other local revenues are being used to fund all or part of the project, a community may net out the local revenue, but it is not required to do so.

B. APPROPRIATION - ELECTION SEQUENCE

A community should adopt a budget process that will result in a balanced budget by July 1, but in any event it must have a balanced budget within the limits of Proposition 2½ by the time it sets a tax rate for the year. It may establish its expenditure and revenue budgets in any order it chooses. It could first seek voter approval of an override or exclusion question and then make appropriations for the year within a fixed revenue estimate. Alternatively, the community could choose to first adopt its expenditure budget and if that budget requires additional revenue to fully fund it, then seek voter approval of an override or exclusion question. If the question is successful, the budget will be balanced and a tax rate may be set without further action. If the question is not successful, then the community will have to reduce appropriations and/or increase non-tax revenues in order to establish a balanced budget and set a tax rate. The chart in **Appendix D** summarizes the sequencing options explained in this section and Section IV-C below.

C. CONTINGENT APPROPRIATIONS

A third budgeting approach available only to towns with town meetings is to adopt a balanced budget and then appropriate additional amounts to supplement that budget expressly contingent on the subsequent approval of an override or exclusion question. G.L. c. 59, § 21C(m).

A contingent appropriation vote does not place a question on the ballot. The decision whether or not to present any Proposition 2½ question to the voters is still made by the selectboard. See Section III-A above. It may choose not to present a question for any or all contingent appropriations made by town meeting. It may also place a question on the ballot for less than the contingent appropriation, which if approved, makes the appropriation effective to the extent of the amount stated in the question.

1. Statutory Requirements

Contingent appropriations may be made from the tax levy, available funds or borrowing and are subject to the following statutory requirements:

- A contingent appropriation is not effective until the override or exclusion question is approved. This means that until the question is approved, a town cannot spend from the contingent appropriation.

- The statement of spending purpose in the override or exclusion question must be substantially the same purpose as the contingent appropriation. This means the question need not be worded in exactly the same way as the appropriation. However, it must describe the purpose in a sufficiently similar manner that the voters can identify the particular appropriation the question is intended to fund. In the case of operating appropriations, this may mean the selectboard does not have as much flexibility in describing the specific positions, programs or services the question is intended to fund. See Section III-C-1-a above. In addition, each contingent appropriation need not be the subject of a separate question. The selectboard retains the power to decide the content of all questions and may include several contingent appropriations within a single override or exclusion question. In that case, the question must state the purpose of each appropriation it is intended to fund.

- The deadline for obtaining voter approval of override or exclusion questions for contingent appropriations made at an annual town meeting is September 15. More than one election may be held, but the contingent appropriation is null and void if the related question is not approved by September 15.

- The deadline for obtaining voter approval of override or exclusion questions for contingent appropriations made at any other town meeting is 90 days after the close of the town meeting at which the contingent appropriation vote was taken. More than one election may be held, but the contingent appropriation is null and void if the related question is not approved by the end of the 90 day period.

- If the contingent appropriation was made from the tax levy, the tax rate cannot be submitted to the Department of Revenue for approval until the override or exclusion question has been voted upon, or the applicable deadline for holding an election has passed, whichever occurs first.

2. Appropriation Types

Town meeting may make any appropriation contingent on a Proposition 2½ ballot question even if "contingency" language was not included in the warrant article under which the vote was taken. Any language in the vote that indicates the appropriation is subject to the approval of a Proposition 2½ question is sufficient.

Contingent appropriations may be used for appropriations for operating budgets, capital projects and regional school assessments. Towns often approve a regional school debt issue contingent on passage of a debt exclusion, but no appropriation is being voted at that time as required by G.L. c. 59, §21C(m). While most regional school committees treat contingent debt approvals coupled with an unsuccessful election within 60 days of the date the committee authorized the debt as a disapproval for purposes of G.L. c. 71, § 16(d), bond counsel should be consulted regarding these votes.

Appendix E provides examples of articles and motions that may be used for contingent appropriations for operating budgets, capital projects and regional school assessments.

V. ROLE OF DEPARTMENT OF REVENUE

The Division of Local Services (DLS) in the Department of Revenue has general supervisory authority over local property tax administration and financial practices. It issues guidelines to assist local financial officials in the performance of their duties, renders legal opinions on local tax and finance issues, conducts training programs and approves revaluations and tax rates. DLS is also responsible under Proposition 2½ for calculating a community's levy limit and for ensuring that a community does not set a tax rate that results in a tax levy exceeding the amount allowed by the law. G.L. c. 59, § 21D.

Appendix F contains additional DLS resources about Proposition 2½ and DLS contact information (address, telephone number and website).

Appendix A

PROPOSITION 2½ BALLOT QUESTION FORMS

The form of each type of Proposition 2½ question is prescribed by G.L. c. 59, § 21C. To properly present a question to the voters, the following statutory language must be used:

Levy Limit Override (G.L. c. 59, § 21C(g)):

Shall the (city/town) of _____ be allowed to assess an additional $_____ in real estate and personal property taxes for the purposes of (state the purpose(s) for which the monies from this assessment will be used) for the fiscal year beginning July first _____?

Yes ____ No ____

Levy Limit Underride (G.L. c. 59, § 21C(h)):

Shall the (city/town) of _____ be required to reduce the amount of real estate and personal property taxes to be assessed for the fiscal year beginning July first _____ by an amount equal to $_____?

Yes ____ No ____

Capital Expenditure Exclusion (G.L. c. 59, § 21C(i½)):

Shall the (city/town) of _____ be allowed to assess an additional $_____ in real estate and personal property taxes for the purposes of (state the purpose(s) for which the monies from this assessment will be used) for the fiscal year beginning July first _____?

Yes ____ No ____

Debt Exclusion (G.L. c. 59, § 21C(k)):

Shall the (city/town) of _____ be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to (state the purpose or purposes for which the monies from the local issue will be used)?

Yes ____ No ____

Appendix B

LEVY LIMIT OVERRIDE PURPOSES

Voter approval of a levy limit override under G.L. c. 59, § 21C(g) increases the amount of revenue a community may raise from the property tax on a permanent basis. An override is designed to provide a community with the ability to generate sufficient revenues to fund costs that are likely to continue into the future, such as annual operating and fixed expenses, although it may be used to provide funds for any valid municipal spending purpose.

All override questions require a statement of the purpose or purposes for which the additional monies will be used. The purpose used in the question must be a spending purpose. This means a purpose for which a community's appropriating body could vote to appropriate money. The spending purpose may be broad in scope, such as general or departmental operating purposes, or may be stated as a specific program or service.

If the override is to fund personnel costs and other expenses normally appropriated as part of departmental operating budgets, the spending purpose may be broadly stated as in the following examples:

- Funding the Town's operating budget.
- Funding operating expenses and capital expenditures.
- Providing for the general administrative cost of operating the schools, police department, fire department and other town departments.
- Funding the operating budget of the Public Schools and the Municipal Government.
- Defraying school operating expenses.
- Funding the Town's Regional School District assessment.

Specific positions, programs and services ordinarily funded within an appropriation for a municipal department or regional governmental unit may be the subject of an override question when the additional funds will be used to prevent the reduction or elimination of those services or to permit their commencement or expansion. For example, if two firefighter positions within the fire department operating budget were being eliminated, an override for the purpose of "funding two firefighter positions" would be acceptable.

A more specific spending purpose may also be used if the override is to fund a particular purpose or program that is the subject of a separate line item or special article appropriation as in the following examples:

- Defraying the costs of retirement contributions and health, life and unemployment insurance premiums.

- Funding the contractual costs of trash collection and disposal.

- Funding the Stabilization Fund.

While local officials have flexibility in describing the purposes of an override generally, less flexibility exists in describing the purposes of an override where it is being presented to fund one or more contingent appropriations because the spending purpose in the question must state substantially the same spending purpose(s) as the appropriation(s). Therefore, if, for example, an additional appropriation is made for the municipal school department operating budget or regional school district annual assessment contingent on an override, local officials would be limited to using "funding school operating expenses," "funding the Yourtown regional school district assessment" or similar language to describe the purpose of the override. They could not be as specific about the positions, programs or services that the school committee intends to eliminate from the budget if the override is unsuccessful as they might be if a contingent appropriation had not been used.

Moreover, local officials cannot use the question to provide voters with information on the underlying events or circumstances that are causing budget difficulties or to promote or otherwise advocate for the question. For example, "preventing the layoff of 4 firefighters" would be inappropriate because it explains the impact of voter action on the question and is intended to advocate for the override. The question should simply state the personnel, services or programs the additional amounts will be used to fund, which in this case would be "funding 4 firefighter positions."

Other examples of purposes in override questions that include advocacy language or would otherwise be inappropriate because they do not state spending purposes are the following:

- Restoring monies lost due to local aid reductions.

- Funding uncontrollable increases in employee health insurance costs.

- Preventing substantial reductions in public safety, education and other municipal services.

- Maintaining an adequate level of municipal services.

- Funding current positions.

- Restoring school athletic programs.

Appendix C

LEVY LIMIT OVERRIDE APPROACHES

I. SINGLE QUESTION OVERRIDE

Presents voters with a single choice of additional funding for general or specific spending purposes. The following are examples of single question overrides:

Example 1. General Purposes

Shall the Town of Yourtown be allowed to assess an additional $2,000,000 in real estate and personal property taxes for the purposes of funding the operating budgets of the Town and the Public Schools for the fiscal year beginning July 1, ____?

Example 2. General Categories

Shall the Town of Yourtown be allowed to assess an additional $2,000,000 in real estate and personal property taxes for the purposes of funding local and regional school, public safety, library, highway, parks and recreation and general government expenses for the fiscal year beginning July 1, ____?

Example 3. Multiple Departmental Purposes with Allocation

Shall the Town of Yourtown be allowed to assess an additional $2,000,000 in real estate and personal property taxes for the purposes of funding the following departmental expenses: School Department ($750,000), Police Department ($250,000), Fire Department ($250,000), Public Works Department ($250,000), Public Library ($250,000), Parks and Recreation Department ($150,000), Council on Aging ($25,000) and Financial Offices, including Assessors, Collector-Treasurer, Accountant, ($75,000) for the fiscal year beginning July 1, ____?

Example 4. Single Departmental Budget

Shall the Town of Yourtown be allowed to assess an additional $200,000 in real estate and personal property taxes for the purposes of funding the Fire Department for the fiscal year beginning July 1, ____?

Example 5. Specific Positions/Programs/Services

Shall the Town of Yourtown be allowed to assess an additional $200,000 in real estate and personal property taxes for the purposes of funding four full-time firefighter positions for the fiscal year beginning July 1, ____?

II. MULTIPLE QUESTION OVERRIDES

Presents voters with multiple choices of additional funding for general or specific spending purposes. There are three multiple question approaches: "menu, "multi-year" and "pyramid" or "tier" overrides.

A. "MENU" OVERRIDE

The "menu" approach presents two or more questions each of which will fund different services or programs. Each question stands on its own merits. Therefore, if the voters approve more than one question, the community's levy limit is increased by the total of the amounts specified in all approved questions.

The following is an example of a "menu" override:

> Shall the Town of Yourtown be allowed to assess an additional $1,000,000 in real estate and personal property taxes for the purposes of funding the Yourtown Public and Yourtown Valley Regional High Schools for the fiscal year beginning July 1, ____?
>
> Shall the Town of Yourtown be allowed to assess an additional $250,000 in real estate and personal property taxes for the purposes of funding the Fire Department for the fiscal year beginning July 1, ____?
>
> Shall the Town of Yourtown be allowed to assess an additional $250,000 in real estate and personal property taxes for the purposes of funding the Police Department for the fiscal year beginning July 1, ____?
>
> Shall the Town of Yourtown be allowed to assess an additional $100,000 in real estate and personal property taxes for the purposes of funding the Public Library for the fiscal year beginning July 1, ____?

B. MULTI-YEAR OVERRIDE

The multi-year approach present two or more questions each of which applies to a different fiscal year. The amounts and purposes need not be the same. Each question stands on its own merits. Therefore, if the voters approve more than one question, the community's levy limit will be increased in the fiscal year specified in each approved question by the amount in the question.

The following is an example of a "multi-year" override

1A Shall the Town of Yourtown be allowed to assess an additional $1,000,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, 0001?

1B Shall the Town of Yourtown be allowed to assess an additional $500,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, 0002?

C. "PYRAMID" OR "TIER" OVERRIDE

The "pyramid" or "tier" approach provides voters with a choice of two or more different funding levels for general spending purposes or for specific services or programs. A separate question is presented for each funding level. The funding levels are presented as alternative, not independent, proposals, which means a higher funding level proposed in a question also includes all lower ones. Therefore, if the voters approve more than one question, the approved question stating the highest dollar amount prevails and the community's levy limit is increased by that amount.

The following are examples of "pyramid" or "tier" overrides:

Example 1. General Purpose

1A Shall the Town of Yourtown be allowed to assess an additional $1,000,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, ____?

1B Shall the Town of Yourtown be allowed to assess an additional $500,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, ____?

1C Shall the Town of Yourtown be allowed to assess an additional $250,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, ____?

Example 2. Multiple Purposes with Allocation

1A Shall the Town of Yourtown be allowed to assess an additional $1,000,000 in real estate and personal property taxes for the purposes of funding the school ($500,000), police ($250,000) and fire ($250,000) departments for the fiscal year beginning July 1, ____?

1B Shall the Town of Yourtown be allowed to assess an additional $500,000 in real estate and personal property taxes for the purposes of funding the school ($250,000), police ($125,000) and fire ($125,000) departments for the fiscal year beginning July 1, ____?

1C Shall the Town of Yourtown be allowed to assess an additional $250,000 in real estate and personal property taxes for the purposes of funding the school ($125,000), police ($62,500) and fire ($62,500) departments for the fiscal year beginning July 1, ____?

Example 3. Multiple "Pyramids"

1A Shall the Town of Yourtown be allowed to assess an additional $500,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, ____?

1B Shall the Town of Yourtown be allowed to assess an additional $250,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, ____?

1C Shall the Town of Yourtown be allowed to assess an additional $125,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, ____?

2A Shall the Town of Yourtown be allowed to assess an additional $300,000 in real estate and personal property taxes for the purposes of operating the Police Department for the fiscal year beginning July 1, ____?

2B Shall the Town of Yourtown be allowed to assess an additional $200,000 in real estate and personal property taxes for the purposes of operating the Police Department for the fiscal year beginning July 1, ____?

2C Shall the Town of Yourtown be allowed to assess an additional $100,000 in real estate and personal property taxes for the purposes of operating the Police Department for the fiscal year beginning July 1, ____?

Example 4. Specific Positions/Programs

1A Shall the Town of Yourtown be allowed to assess an additional $400,000 in real estate and personal property taxes for the purposes of funding 8 firefighter positions for the fiscal year beginning July 1, ____?

1B Shall the Town of Yourtown be allowed to assess an additional $200,000 in real estate and personal property taxes for the purposes of funding 4 firefighter positions for the fiscal year beginning July 1, ____?

1C Shall the Town of Yourtown be allowed to assess an additional $100,000 in real estate and personal property taxes for the purposes of funding 2 firefighter positions for the fiscal year beginning July 1, ____?

Example 5. "Tiered" Pyramid

1A Shall the Town of Yourtown be allowed to assess an additional $2,000,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools and to fund instructional staff (8 positions), textbooks, technology support (including 1 position) and equipment for Yourtown High School and to fund instructional staff (14 positions), textbooks and technology support and equipment for the other schools for the fiscal year beginning July 1, ____?

1B Shall the Town of Yourtown be allowed to assess an additional $1,000,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools and to fund instructional staff (8 positions), textbooks, technology support (including 1 position) and equipment for Yourtown High School for the fiscal year beginning July 1, ____?

1C Shall the Town of Yourtown be allowed to assess an additional $500,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, ____?

Appendix D

SEQUENCING OPTIONS

Number 1 **Election - Appropriation**	Number 2 **Appropriation - Election**	Number 3 **Contingent Appropriation - Election Towns Only**
Election held • Annual or special municipal • State biennial	**Appropriation made by town meeting or city/town council** • Annual or special	**Appropriation made by town meeting** • Annual or special

Appropriation made by town meeting or city/town council
• Annual or special
	Election held
	• Annual or special municipal
	• State biennial
		Election held
		• Annual or special municipal, state biennial
		• Election deadline:
		  • September 15 for appropriations made at annual town meeting
		  • 90 days after special town meeting dissolves for appropriations made at that meeting

If question passes and appropriation fails • Question is valid • If override/capital exclusion, have until tax rate set to appropriate for same purpose • If debt exclusion, have reasonable time to authorize debt for same project	**If question passes and appropriation fails** • Question is valid • If override/capital exclusion, have until tax rate set to appropriate for same purpose • If debt exclusion, have reasonable time to authorize debt for same project	**If question passes** • No further action required - appropriation validated and tax increase approved to cover expenditure

If appropriation passes and question fails
• Appropriation is valid
• Budget must be adjusted within levy limit by time tax rate set (to balance budget, town meeting or city/town council may cut any budget item, not just question purpose, and/or community may raise non-tax revenues)
• Question may be presented again
	If appropriation passes and question fails
	• Appropriation is valid
	• Budget must be adjusted within levy limit by time tax rate set (to balance budget, town meeting or city/town council may cut any budget item, not just question purpose, and/or community may raise non-tax revenues)
	• Question may be presented again
		If question fails
		• No further action required - appropriation null and void
		• Question may be presented at other elections, but must be approved by:
		  • September 15 for appropriations made at annual town meeting
		  • 90 days after special town meeting dissolves for appropriations made at that meeting

If question and appropriation both pass or both fail • No further action required	**If question and appropriation both pass or both fail** • No further action required	**If election not held by deadline** • Appropriation null and void

Appendix E

EXAMPLES
CONTINGENT APPROPRIATION ARTICLES AND MOTIONS

OMNIBUS BUDGET ARTICLES

APPROACH 1: SINGLE MOTION FOR CONTINGENT AND NON-CONTINGENT AMOUNTS

ARTICLE __: TO ACT ON THE REPORT OF THE FINANCE COMMITTEE ON THE FISCAL YEAR ___ BUDGET AND TO RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS MONEY FOR THE OPERATION OF THE TOWN'S DEPARTMENTS AND THE PAYMENT OF DEBT SERVICE AND ALL OTHER NECESSARY AND PROPER EXPENSES FOR THE YEAR, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town vote to raise and appropriate or transfer from available funds the amounts recommended by the Finance Committee for departmental operating purposes, debt service and other town expenses in fiscal year ____, with each item to be considered a separate appropriation and the amounts shown in the column captioned "Contingent Appropriations" to be appropriated contingent upon passage of a Proposition 2½ ballot question under General Laws Chapter 59, § 21C.

PROPOSED FISCAL YEAR ____ BUDGET

THE FINANCE COMMITTEE RECOMMENDS THAT THE AMOUNTS SHOWN IN THE COLUMN CAPTIONED "NON-CONTINGENT APPROPRIATIONS" BE APPROPRIATED FROM THE TAX LEVY, UNLESS OTHERWISE SPECIFIED, FOR FISCAL YEAR ____ DEPARTMENTAL OPERATING PURPOSES, DEBT SERVICE AND OTHER TOWN EXPENSES, AND THAT THE AMOUNTS SHOWN IN THE COLUMN CAPTIONED "CONTINGENT APPROPRIATIONS" BE APPROPRIATED FROM THE TAX LEVY CONTINGENT UPON THE PASSAGE OF A PROPOSITION 2½ BALLOT QUESTION UNDER GENERAL LAWS CHAPTER 59, § 21C.

PURPOSE	NON-CONTINGENT APPROPRIATIONS	CONTINGENT APPROPRIATIONS
Selectmen's Office		
Salaries	$ 45,000	$ 6,000
Expenses	18,000	4,000
School Department	2,800,000	300,000
Town Planner		
Salary	0	35,000
Expenses	0	12,000
Cemetery Commission		
Salaries	8,000	
Expenses	10,000 (Includes $8,000 transfer from Sale of Lots Fund)	
…	…	…
TOTAL	$ 8,000,000	$ 890,000

APPROACH 2: SEPARATE MOTIONS FOR CONTINGENT AND NON-CONTINGENT AMOUNTS

MOTION: I move that the town vote to raise and appropriate or transfer from available funds the amounts recommended by the Finance Committee for departmental operating purposes, debt service and other town expenses in fiscal year ____, with each item to be considered a separate appropriation.

PROPOSED FISCAL YEAR ____ BUDGET

THE FINANCE COMMITTEE RECOMMENDS THAT THE FOLLOWING AMOUNTS BE APPROPRIATED FROM THE TAX LEVY, UNLESS OTHERWISE SPECIFIED, FOR FISCAL YEAR ____ DEPARTMENTAL OPERATING PURPOSES, DEBT SERVICE AND OTHER TOWN EXPENSES:

PURPOSE	RECOMMENDED
Selectboard's Office	
Salaries	$ 45,000
Expenses	18,000
School Department	2,800,000
Town Planner	
Salary	0
Expenses	0
Cemetery Commission	
Salaries	8,000
Expenses	10,000 (Includes $8,000 transfer from Sale of Lots Fund)
…	…
TOTAL	$ 8,000,000

MOTION: I move that the town vote to raise and appropriate any additional amounts recommended by the Finance Committee for the departmental operating purposes and other town expenses in fiscal year ____, contingent upon passage of a Proposition 2½ ballot question under General Laws Chapter 59, § 21C.

PROPOSED FISCAL YEAR ____ CONTINGENT BUDGET

THE FINANCE COMMITTEE RECOMMENDS THAT THE FOLLOWING AMOUNTS BE APPROPRIATED FROM THE TAX LEVY FOR FISCAL YEAR ____ DEPARTMENTAL OPERATING PURPOSES AND OTHER TOWN EXPENSES CONTINGENT UPON PASSAGE OF A PROPOSITION 2½ BALLOT QUESTION UNDER GENERAL LAWS CHAPTER 59, § 21C.

PURPOSE	RECOMMENDED
Selectboard's Office	
Salaries	$ 6,000
Expenses	4,000
School Department	300,000
Town Planner	
Salary	35,000
Expenses	12,000
…	…
TOTAL CONTINGENT APPROPRIATIONS	$ 890,000

BALLOT QUESTIONS

Under either approach, the town has the choice whether to bundle all the contingent appropriations for operating expenditures for the fiscal year into a single override question for the $890,000 in this example, or to put separate questions on the ballot for different departments or groups of departments: for instance, one question for $300,000 for school department operating expenses and another question for $590,000 for operating expenses of all other town departments. The choice of how to structure the ballot questions is within the discretion of the selectboard. If the selectboard decides to include more than one contingent appropriation in a question, the purpose of each appropriation the question is intended to fund would have to be stated in the question.

OTHER APPROPRIATION ARTICLES

REGIONAL SCHOOL BUDGET ARTICLE - (Levy Limit Override)

ARTICLE __: TO SEE IF THE TOWN WILL APPROVE THE _____ REGIONAL SCHOOL DISTRICT BUDGET FOR FISCAL YEAR ____ AND RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS $(FULL ASSESSMENT) TO PAY ITS ASSESSED SHARE OF THAT BUDGET, OR TO TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town raise and appropriate $(non-contingent portion) to pay its assessed share of the _____ Regional School District Budget for fiscal year ____ and that it raise and appropriate the additional $(contingent portion) required to fully fund the assessment and thereby approve the district's budget for the year, provided that this additional appropriation be contingent on the approval of a Proposition 2½ levy limit override under General Laws Chapter 59, § 21C(g).

REGIONAL SCHOOL BUDGET ARTICLE - (Capital Outlay Expenditure Exclusion)

ARTICLE __: TO SEE IF THE TOWN WILL APPROVE THE _____ REGIONAL SCHOOL DISTRICT BUDGET FOR FISCAL YEAR ____ AND RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS $(FULL ASSESSMENT) TO PAY ITS ASSESSED SHARE OF THAT BUDGET, OR TO TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town raise and appropriate $(non-contingent portion) to pay its assessed share of the _____ Regional School District Budget for fiscal year ____ and that it raise and appropriate the additional $(contingent portion) attributable to its share of the budget for capital spending not funded by debt so as to fully fund the assessment and thereby approve the district's budget for the year, provided that this additional appropriation be contingent on the approval of a Proposition 2½ capital outlay expenditure exclusion under General Laws Chapter 59, § 21C(i½).

SEPARATE DEPARTMENTAL "CONTINGENT BUDGET" ARTICLE

ARTICLE __: TO SEE IF THE TOWN WILL RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS A SUM TO SUPPLEMENT THE FIRE DEPARTMENT'S OPERATING BUDGET FOR FISCAL YEAR ____ CONTINGENT UPON THE PASSAGE OF A PROPOSITION 2½ BALLOT QUESTION, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town raise and appropriate an additional $_____ for the Fire Department's fiscal year ____ operating budget to be allocated as follows: $_____ for salaries and $_____ for expenses, provided that such additional appropriations be contingent on the passage of a Proposition 2½ ballot question.

BORROWING ARTICLE

ARTICLE __: TO SEE IF THE TOWN WILL APPROPRIATE A SUM OF MONEY BY BORROWING TO DESIGN AND CONSTRUCT A SENIOR CENTER AND TO AUTHORIZE THE TREASURER, WITH THE APPROVAL OF THE SELECTMEN, TO ISSUE ANY BONDS OR NOTES THAT MAY BE NECESSARY FOR THAT PURPOSE, AND TO APPLY THE PREMIUM RECEIVED BY THE TOWN UPON THE SALE OF ANY BONDS OR NOTES THEREUNDER, LESS ANY SUCH PREMIUM APPLIED TO THE PAYMENT OF THE COSTS OF ISSUANCE OF SUCH BOND OR NOTES, TO PAY PROJECT COSTS AND REDUCE THE AMOUNT AUTHORIZED TO BE BORROWED BY THE AMOUNT OF THE PREMIUM SO APPLIED, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town appropriate and borrow $5,000,000 for the design and construction of a senior center and authorize the treasurer with the approval of the selectboard, to issue any bonds or notes that may be necessary for that purpose, as authorized by General Laws Chapter 44, § 7(1), or any other general or special law, for a period not to exceed 10 years, provided, however, that this appropriation and debt authorization be contingent upon passage of a Proposition 2½ debt exclusion question General Laws Chapter 59, § 21C(k). Any premium received by the town from the sale of any bonds or notes authorized by this vote, less the costs of issuance of the bonds or notes paid from the premium, and any accrued interest may be applied to pay project costs in accordance with General Laws Chapter 44, Section 20 and the amount authorized to be borrowed to pay those costs shall be reduced by the same amount applied.

Appendix F

ADDITIONAL RESOURCES AND CONTACT INFORMATION

Division of Local Services (DLS), MA Department of Revenue
Website: www.mass.gov/dls

DLS publications and Proposition 2½ data are published on the DLS website.

For our on-line tutorial and additional information on Proposition 2½, please visit the DLS Training Programs page on the DLS website.

For questions about Proposition 2½ election or other data:

- Contact the Municipal Data Bank staff at databank@dor.state.ma.us

For questions about a community's levy limit calculation:

- Local officials should contact the Bureau of Accounts Representative assigned to their community.

For questions about Proposition 2½ ballot questions, or municipal tax or finance law generally:

- Local officials may contact the DLS legal staff at dlslaw@dor.state.ma.us.