



DLS

DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

“What’s New in Municipal Law”

2016

Recent Legislation

Local Taxes

FY2016 State Supplemental Budget

Chapter 70 of the Acts of 2016

Effective 4/1/2016 [1:1]

- **§§ 3-4 - *Farmland Valuation Advisory Commission (FVAC)***
- **Amend G.L. c. 61A, § 11**
- **Make April 1 date for FVAC to annually establish range of values for categories of classified forest and farm land uses**

HOME Act

Housing, Operations, Military Service & Enrichment

Chapter 141 of the Acts of 2016

Effective 7/14/2016 unless noted [1:2]

- **§§ 9, 25 - *Surviving Spouses Tax Exemption***
- **Amend G.L. c. 59, § 5, Clause 22D full exemption for real estate taxes on domiciles of surviving spouses of members of military or national guard killed in combat or who died from combat injury or disease**
- **Expressly applies exemption to surviving spouses of veterans whose service-connected injury or disease was proximate cause of death**
- **Removes requirement for combat injury or disease**
- **Makes Veterans Administration or service branch decision on proximate cause of death determinative**
- **Begins in Fiscal Year 2018**

HOME Act (continued)

- **§ 10 - *Blind Veterans Tax Exemption***
- **Amends G.L. c. 59, § 5, Clause 22F exemption for real estate taxes on domiciles of paraplegic veterans**
 - **Clause 22F also exempts spouses who own the domicile and surviving spouses**
- **Extends Clause 22F exemption to veterans with 100% disability rating due to service-connected blindness**
- **Begins in Fiscal Year 2018**

HOME Act (continued)

- **§ 13 - *Motor Vehicle Excise Exemption***
- **Amends local acceptance exemption in G.L. c. 60A, § 1 for Massachusetts residents on active duty and deployed outside state**
- **Eliminates local acceptance requirement**
- **Lengthens period of deployment outside Massachusetts from 45 to 180 continuous days during excise year**
- **Begins in Excise Calendar Year 2017**

HOME Act (continued)

- **§ 31 - *Exemption Study***
- **Requires Department of Veteran Services (DVS) study sliding scale for property tax exemptions based on disability rating**
- **Directs DVS to:**
 - **Consult with Department of Revenue**
 - **Submit report and proposed legislation to legislature by March 17, 2017**

Economic Development Act

Chapter 219 of the Acts of 2016

Effective 8/11/2016 [1:73]

- **§§ 7, 21-22 - *Economic Development Incentive Program (EDIP) Property Tax Exemptions***
- **Amend G.L. c. 23A, §§ 3A-3G and G.L. c. 40, § 59**
- **Streamline projects eligible for state and local tax incentives and clarify application and termination procedures**
 - **Local tax incentives available for projects to:**
 - **Create or retain permanent full-time jobs**
 - **Construct, rehabilitate, improve building so assessed valuation increases at least 100%**

Economic Development Act (continued)

- **Local Special Tax Assessment (STA) may be given for 5-20 years and reduce assessed valuation by:**
 - **At least 50% in Year 1**
 - **At least 25% in Years 2 and 3**
 - **At least 5% in Years 4 and 5**
- **Local Tax Increment Financing (TIF) exemption may be given for up to 20 years to projects in areas the Economic Assistance Coordinating Council (EACC) designates as:**
 - **Economic target areas (ETAs)**
 - **TIF eligible areas**

Economic Development Act (continued)

- **STA or TIF for EACC decertified project terminates in year noncompliance occurred unless agreement says otherwise**
 - **Municipality may “claw back” foregone taxes by making special assessment**
- **If STA or TIF terminates, municipality may amend agreement to change economic goals and continue exemption**
 - **To amend, municipality must have:**
 - **Legislative body approve amended agreement**
 - **EACC approve executed amendment**

Economic Development Act (continued)

- **§§ 23-28 - *Urban Center Housing Tax Increment Financing (UCH-TIF) Property Tax Exemption***
- **Amend G.L. c. 40, § 60 allowing for property tax incentive to encourage affordable housing in urban centers**
- **Broadens area UCH-TIFs may be offered**
- **Clarifies calculation of inflation factors for TIFs in mostly residential and mixed use areas**
- **Eliminates state's right of first refusal**
- **Establishes procedures including lien to ensure compliance with affordability requirements**

Municipal Modernization Act

Chapter 218 of the Acts of 2016

Effective 11/7/2016 unless noted [1:12]

- **§§ 39, 123 - *Workforce Housing TIF***
- **Add new G.L. c. 40, § 60B and Clause 58 to G.L. c. 59, § 5 to create 5 year property tax incentive to build middle income housing**
- **Special tax assessment may exempt real estate tax up to:**
 - **100% for two years during construction of housing**
 - **75% in the third year**
 - **50% in the fourth year**
 - **25% in the fifth and last year**
- **Municipality must designate areas for housing, promulgate implementation policies and regulations and impose affordability restrictions on housing**

Municipal Modernization Act (continued)

- **§§ 35-36, 250 – *Certification of Assessments***
- **Amend G.L. c. 40, § 56 which requires periodic certification of local assessments by DOR/DLS and annual allocation of tax levy by municipalities**
- **Requires certification review of local assessing practices every 5 instead of every 3 years**
- **Effective for certifications beginning in Fiscal Year 2018**

Municipal Modernization Act (continued)

- **§§ 108-109, 252 – *Valuation of State Owned Land***
- **Amend G.L. c. 58, §§ 13-17**
- **Change from reappraisal of land every 4 years to formula to determine value of state-owned land used to distribute annual state budget appropriation**
 - **Formula based on scheduled 2017 reappraisal and per-acre value derived from those valuations**
 - **Per-acre value used to increase or decrease base value for land acquisitions and dispositions**
 - **Base value and per-acre value updated every 2 years based on municipality's equalized valuation (EQV)**
- **Effective January 1, 2018**

Recent Legislation

Local Collection

HOME Act (continued)

- **§ 11 – *Assignments of Delinquent Taxes***
- **Amends G.L. c. 60, § 2C regarding bulk assignment or sale of property tax receivables to third party**
- **Prohibits collector or treasurer from assigning or selling delinquent taxes owed by veteran if:**
 - **Collector or treasurer receives notice taxes owed by veteran before assignment or sale**

HOME Act (continued)

- **§ 12 - *Veteran Assistance Fund Check-off***
- **Adds local acceptance G.L. c. 60, § 3F for property tax or motor vehicle excise bill check-off for donations to veteran assistance fund**
- **Fund used to assist veterans and dependents with immediate needs for food, transportation, heat**
- **Veteran Service Officer establishes application process and eligibility criteria and approves applications**

Municipal Modernization Act (continued)

- **§§ 37-38 – *License/Permit Denial to Delinquents***
- **Amend local acceptance G.L. c. 40, § 57, which allows denial, suspension, revocation or non-renewal of licenses or permits for applicants not in “good standing” on local taxes or charges**
- **Lets municipality establish own “good standing” requirement**
 - **Collector may provide delinquency lists to departments as often as specified in implementation bylaw or ordinance**
 - **Eliminates requirement applicant be delinquent at least 12 months**

Municipal Modernization Act (continued)

- **§§ 232-233 – *Collection Actions***
- **Amend G.L. c. 218, § 21 regarding jurisdiction of small claims court**
- **Expand jurisdiction to include:**
 - **Actions by cities or towns to collect personal property taxes under G.L. c. 60, § 35 regardless of amount**
 - **Other actions by cities or towns with claims of \$15,000 or less**
- **Prior jurisdictional limit was \$7,000**

Recent Legislation

Municipal Finance

Municipal Modernization Act (continued)

- **§§ 61, 63-64, 178, 180 - *Borrowing Purposes and Terms***
- **Amend G.L. c. 44, §§ 7 and 8 (and make conforming amendments)**
- **§ 7 and § 8 borrowing purposes updated and consolidated**
- **G.L. c. 44, § 10 debt limit retained**
 - **§ 7 borrowings subject to debt limit**
 - **§ 8 borrowings outside debt limit**

Municipal Modernization Act (continued)

- **§ 7 – 34 borrowing purposes consolidated into 11**
 - **§ 7(1) - Broad purposes regarding land, assets and other capital projects, including demolition or removal of public facilities or assets**
 - **§ 7(5) - Improve private ways open to public under G.L. c. 40, § 6N**
 - **§ 7(3) - Court judgments may borrow over 1 year with Municipal Finance Oversight Board (MFOB) approval**
 - **Maximum term is:**
 - **Specified year or**
 - **Term less than or equal to 30 years consistent with guidelines issued by Director of Accounts under G.L. c. 44, § 38 on maximum useful life of asset**

Municipal Modernization Act (continued)

- **§ 8 – Borrowing purposes**
 - **§§ 8(8), 8(8A) – Installation of municipally-owned broadband without municipal light plant**
 - **Maximum term is:**
 - **Specified year or**
 - **Longer term less than or equal to 30 years as determined by the Director of Accounts to be maximum useful life of assets under G.L. c. 44, § 38 guidelines**

Municipal Modernization Act (continued)

- **§ 67 - *Treatment of bond proceeds***
- **Amends G.L. c. 44, § 20**
- **Premiums (net of issuance costs) no longer general fund revenue and are instead:**
 - **Applied to reduce amount borrowed if borrowing vote authorizes or**
 - **Placed in separate fund for appropriation for capital projects**
 - **Purpose must be one for which loan may be issued for equal or longer period than loan for which premiums received**

Municipal Modernization Act (continued)

- **Broadens use of surplus bond proceeds**
 - **Surplus of up to \$50,000 when project complete may be applied without appropriation to pay debt service**
 - **Chief executive officer approval required**
 - **Still may appropriate surplus proceeds for purpose for which loan may be incurred for equal or longer period than original loan**

Municipal Modernization Act (continued)

- **§ 69 – *Tax Exempt Lease-Purchase (TELP) Agreements***
- **Adds new G.L. c. 44, § 21C**
- **Establishes procedure to authorize TELP financing agreements by departments when acquiring equipment that could be financed by debt**
 - **TELP authorized by 2/3 legislative body vote on recommendation of chief executive officer**
 - **Term of lease cannot be more than useful life of property**
 - **Appropriation for 1st fiscal year of lease makes TELP binding obligation as if debt issued**
 - **May refinance and pay off a “§ 21C TELP” with refunding bonds under G.L. c. 44, § 21A**

Municipal Modernization Act (continued)

- **§§ 15, 238 - *Other Post-employment Benefits (OPEB) Trust Fund***
- **Amend local acceptance G.L. c. 32B, § 20**
- **Enables creation of OPEB trust compliant with IRS and GASB requirements**
- **Expands local government units that can establish OPEB fund**
- **Clarifies custody, investment, appropriations in and out of OPEB fund**
- **Grandfathers funds created before effective date (as originally established)**
 - **New terms can apply if unit re-accepts or unit with special act fund accepts after effective date**

Municipal Modernization Act (continued)

- **§ 22 – *Stabilization Funds***
- **Amends G.L. c. 40, § 5B**
- **Eliminates caps on balances**
- **Appropriations into fund now by majority vote, 2/3 vote still required for appropriations out and to create fund/change purpose**
- **May now dedicate certain revenue streams (not locally assessed taxes, excises or surcharges) by 2/3 vote**
 - **May dedicate all or % not less than 25%**

Municipal Modernization Act (continued)

- **§ 86 - *Departmental Revolving Funds***
- **Amends G.L. c. 44, § 53E $\frac{1}{2}$**
- **Establishes departmental revolving funds by by-law or ordinance instead of annual vote**
- **Requires annual vote to set FY spending cap**
- **Eliminates per fund and all fund spending authorization caps**
- **Clarifies funds for fees, charges or revenues program or activity supported by fund generates**
 - **Revenues dedicated by other statutes cannot be credited to fund**

Municipal Modernization Act (continued)

- **§ 91 - *Consultant Fee Funds***
- **Amends G.L. c. 44, § 53G, which allows revolving funds for consultant fees charged applicants for permits or approvals by planning boards, zoning boards of appeal, boards of health and conservation commissions**
- **Extends use to all departments or boards that require consultant fees from applicants for permits or licenses in order to finance professional services needed by the department or board to review applications**

Municipal Modernization Act (continued)

- **§§ 131, 133, 152, 249 – *Overlay Reserve for Abatements and Exemptions***
- **Amend G.L. c. 59, §§ 23, 25, 70A**
- **Creates single overlay account on municipality's books and records**
 - **Currently, there is a separate overlay reserve for each fiscal year**
- **Merges existing overlay balances into single account when Act takes effect**

Municipal Modernization Act (continued)

- **§ 58 - *Departmental Approval of Bills***
- **Amends G.L. c. 41, § 56**
- **Allows department head that is multi-member board or committee to designate 1 member to review and approve departmental bills**
 - **Member must report to full board at next meeting**
 - **Mirrors G.L. c. 41, § 41 which allows multi-member board or committee to designate 1 member to approve departmental payrolls**

Municipal Modernization Act (continued)

- **§ 57 - *Approval of Treasury Warrants***
- **Amends G.L. c. 41, § 52 regarding approval of treasury warrants authorizing payment of bills and payrolls**
- **Allows selectboard to designate 1 member to approve treasury warrants in towns**
 - **Member must report to full board at next meeting**

Municipal Modernization Act (continued)

- **§§ 75-76 – *Year-end Transfers (May 1 – July 15)***
- **Amend G.L. c. 44, § 33B allowing year-end transfers from departmental line items by selectboard and finance committee and city council upon mayor's recommendation**
- **Eliminates 3% cap on transfers from department's line items**
- **Allows transfers from non-departmental items**
 - **Still cannot use to transfer from school and light department line items**

Recent Legislation

Employment

An Act to Establish Pay Equity

Chapter 177 of the Acts of 2016

Effective 7/1/2018 [1:5]

- **Amends G.L. c. 149, § 105A**
- **Prohibits discrimination on basis of gender in payment of wages for comparable work**
- **Makes it unlawful for employers to seek prior salary information from applicants**
- **Requires Attorney General to issue implementation regulations**
- **Applies to cities, towns, districts**

Recent Legislation

Miscellaneous

Energy Diversity Act

Chapter 188 of the Acts of 2016

Effective 11/6/2016 [1:8]

- **§ 1 – *Property Assessed Clean Energy (PACE)***
- **Adds G.L. c. 23M, which establishes Mass Development and Department of Energy Resources loan program to assist commercial property owners install clean energy**
- **Allows municipalities to assess betterments to collect loan repayments**
 - **Payments added to real estate tax bills and collected by municipality**
 - **Municipal tax liens have priority over liens securing assessments**
 - **Municipal collection rights assigned to Mass Development**

Recent Cases

Property Taxes

West Beit Olam Cemetery Corp. v.
Assessors of Wayland

89 Mass. App. Ct. 677 (2016) [2:30]

- **Appeals Court upholds Appellate Tax Board (ATB) decision**
- **Cemetery corporation is not eligible for total exemption under G.L. c. 59, § 5, Clause 12**
- **Court agreed most of parcel was contractually restricted to residential use**

**The Sterling and Francine Clark Art Institute,
Inc. v. Assessors of Williamstown**

ATB 2015-581 (October 28, 2015) (2A:56)

- **Museum eligible for charitable exemption on residence for visiting scholars under G.L. c. 59, § 5, Clause 3**
- **ATB rules occupancy in Museum**

R.I. Seekonk Holdings, LLC v.
Assessors of Seekonk
ATB 2015-568 (October 27, 2015) (2A:49)

- **ATB upholds separate assessment of 4 structures not yet part of condominium**
- **Language in Master Deed permitted separate assessments**
- **Alternatively, assessment to holder of present interest was legal**

John Cave, Executor v.
Assessors of Wilmington

ATB 2015-594 (December 14, 2015) [2A:10]

- **Taxpayer's land eligible for classification as Chapter 61A farmland status**
- **Land qualified from use to raise cattle, grow crops and perform agricultural composting**
- **ATB finds taxpayer's Chapter 61A applications were not incomplete or fatally flawed**

Garden Langley, LLC; Victory Langley, LLC v.
Assessors of Quincy

ATB 2016-354 (August 11, 2016) (2A:38)

- **ATB upholds assessment of 10 parcels as separate multifamily dwellings**
- **Highest and best use was not as apartment complex due to separate deeds for these registered Land Court properties**
- **Assessment was consistent with zoning**

Recent Cases

Employment

PERAC v. Bettencourt
474 Mass. 60 (2016) [2:7]

- **Retired municipal employee convicted of computer hacking personnel records of colleagues competing for a promotion**
- **G.L. c. 32, § 15(4) provides for forfeiture of pension for conviction of crimes “involving violation of ... laws applicable to [the employee’s] office or position”**
- **Retiree brought claim that pension forfeiture was an unconstitutional “excessive fine” under 8th Amendment**

PERAC v. Bettencourt (continued)

- **SJC ruled that pension forfeiture was a “fine” subject to 8th Amendment scrutiny**
- **Employee had property interest in his retirement benefits**
- **Forfeiture upon conviction of crime was governmental “extraction” as “punishment for some offense”**

PERAC v. Bettencourt (continued)

- Whether fine was excessive turned on proportionality
 - Amount must “bear some relationship” to gravity of offense
 - Relevant factors include:
 - Circumstances of offense
 - Relation to wider criminal activities
 - Aggregate maximum sentence
 - Resulting harm
- SJC held total pension forfeiture not proportional to offense of “snooping”

Recent Cases

Miscellaneous Open Meeting Law

Haar v. Commissioner of Revenue

88 Mass. App. Ct. 1118 (2015)[2:5]

- **Taxpayer failed to pay estimate on income tax extension request electronically as required**
- **ATB ruled that taxpayer's "profound distrust" of online security constituted "reasonable cause" to abate penalty**
- **Appeals Court reversed holding taxpayer's security concerns irrelevant to the filing requirement**

Gobbi v. Town of Norfolk

88 Mass. App. Ct. 1114(2015) [2:3]

- **Plaintiff acquired subdivision property at foreclosure sale following developer's default**
- **Plaintiff claimed town must complete project after security fund exhausted**
- **Appeals Court holds town not required to finish project without an appropriation**
 - **G.L. c. 44, § 31 controlling authority**

Three Registered Voters v.
Board of Selectmen of Lynnfield
90 Mass. App. Ct. 15 (2016) [2:25]

- **Lynnfield residents complained Open Meeting Law (“OML”) violated where selectboard filled position of town administrator in an open meeting**
 - **Notice failed to include filling position as agenda item**
 - **No public discussion of OML complaint before response**
 - **Interview process should have been open**

Three Voters v. Selectmen of Lynnfield **(continued)**

- **Notice need only include topics chair “reasonably anticipates” will come up**
- **Town properly responded to complaint and plaintiffs failed to appeal to Attorney General**
- **Interviews with candidates for town administrator did not constitute “deliberations [of] quorum of public body” subject to OML**