DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

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Bulletin

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FY2020 BUDGET ISSUES AND OTHER RELATED MATTERS

TO: City/Town/District/Regional School District Officials

FROM: Mary Jane Handy, Director of Accounts

DATE: March 2019

SUBJECT: FY2020 Budget Issues and Other Related Matters

This *Bulletin* addresses several issues that cities, towns, regional school and other districts should consider for FY2020 revenue and expenditure budgeting and other related matters.

New information in this year's Bulletin:

Host Agreement Funds Received from Marijuana Establishments and Medical Marijuana Treatment Centers and Local Option Excise on Retail Sales of Marijuana for Adult Use

In September 2018, Local Finance Opinion (LFO) 2018-3 was issued that explained the accounting treatment of local option excises on retail sales of marijuana for adult use and impact fees and any other payments required or received from marijuana establishments and medical marijuana treatments centers in connection with their operation.

It is the Bureau of Accounts' (Bureau) position that forecasts for property taxes, local receipts (page 3 of the tax recap), and state aid should be conservatively based on historical trend analyses and that municipalities use generally accepted forecasting techniques and appropriate data. Under G.L. c. 59, § 23, estimated receipts "shall not exceed the aggregate amount of actual receipts received during the preceding fiscal year from the same source, except with the written approval of the commissioner…." Since marijuana and short-term rental revenue (see below) are new and there is no historical information available to help with forecasting future revenue, we will be requiring written documentation for any estimated marijuana and short-term rental revenue.

Short-term Rentals

Legislation was recently signed into law that subjects short-term property rentals to the room occupancy excise, G.L. c. 64G, as of July 1, 2019. St. 2018, c. 337. Additional guidance can be found on the Department of Revenue's Short-term rentals frequently asked questions page. There is a separate FAQ section for Municipal Officials.

As stated above, since marijuana and short-term rental revenue are new and there is no historical information available to help with forecasting future revenue, we will be requiring written documentation for any estimated marijuana and short-term rental revenue.

Special Accounting Treatment for Intended FEMA Reimbursement

On June 25, 2018 the Commonwealth received a Major Disaster Declaration (FEMA-4372-DR-MA) for the counties of Barnstable, Bristol, Essex, Nantucket, Norfolk, and Plymouth for the March 2-3, 2018 Nor'easter.

On July 19, 2018 the Commonwealth received a Major Disaster Declaration (FEMA-4379-DR-MA) for the counties of Essex, Middlesex, Norfolk, Suffolk and Worcester for the March 13-14, 2018 Nor'easter.

These Declarations have activated the Federal Emergency Management Agency (FEMA)'s Public Assistance Program for these counties making federal funding available to local governments, state agencies, and eligible private non-profit organizations for eligible disaster-related costs such as emergency work and permanent repair and replacement of facilities damaged as a direct result of the storm.

For June 30, 2019 balance sheet purposes, the Bureau will allow city and town accounting officials in Barnstable, Bristol, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties a transfer of qualifying expenditures incurred during the applicable time period into a separate special revenue fund account. We recommend separate special revenue fund accounts be established for each storm (if applicable).

The deficit in this account is to be offset as reimbursements are received. After the community receives final reimbursements from FEMA, any remaining deficit in this account must be raised or otherwise funded on the next Tax Rate Recap, or any remaining surplus must be closed to the General Fund on the next June 30. The Bureau will not reduce free cash due to the deficit in this special account if properly recorded.

Modified information from last year's Bulletin:

Balance Sheets as of 6/30/2019 and Revenue Recognition

The Bureau historically has allowed revenue recognition of State aid payments including MSBA and other quasi state agencies as well as other reimbursements on the balance sheet as of June 30. For free cash certification purposes, receipts from July 1 thru September 30 can be applied to offset expenditures that resulted in a deficit fund balance as of June 30. The Bureau will allow revenue recognition for expected reimbursements not received by September 30 from MassDOT for Chapter 90 expenditures, provided:

- the community can document that the request for reimbursement has been filed with MassDOT by September 30, 2019; and
- the Bureau must be satisfied that payment will be made.

Community Preservation Fund

During FY2019, 173 cities and towns collected the local Community Preservation Act (CPA) surcharge and are eligible for state matching grants in FY2020. DLS estimates that the balance in the state trust fund will be sufficient to provide a first round match of 11.57% of the surcharge levied by each city and town.

In FY2020, there will be equity and surplus distributions for those cities and towns that have adopted the maximum 3% surcharge. With these additional distributions, the total state reimbursement for qualifying cities and towns will increase, depending on their decile and total surcharge amount. The above estimates are subject to change depending on Registry of Deeds collections between now and October.

Early Voting Law

We have been informed by the Office of State Mandates that communities were reimbursed recently for their clerks' costs in implementing the Early Voting Law for the November 2018 election. These receipts are classified as general fund revenues under G.L. c. 44, § 53. These funds cannot be separately appropriated as available funds.

PEG Access

After the passage of Chapter 352 of the Acts of 2014 regarding options for special fund accounting for Cable Television PEG Access revenues and the issuance of IGR 16-102 explaining them, the Bureau received numerous calls and e-mails from communities as to their current accounting treatment of these funds. In response, the Bureau extended the date announced in IGR 16-102 twice in order to facilitate local decisions about the most appropriate accounting treatment for these revenues to provide for completion of any transition from a community's current accounting treatment to the new treatment.

The Bureau will give communities until the close of fiscal year 2019 or June 30, 2019 to consider the available accounting options and take all necessary actions to implement it. However, no further extension will be authorized. All unobligated funds in accounts treated otherwise at the end of fiscal year 2019 will be closed to the General Fund as part of the June 30, 2019 free cash certification. Any inconsistent statements in Section I of IGR 16-101 or other prior written publications or statements are superseded.

911 Reimbursements

The Bureau has been informed by the State 911 Department that reimbursements for all fiscal years FY2018 and prior have been completed. Any community with a deficit in this account for fiscal year FY2018 and any prior year must provide for that deficit in the FY2020 tax rate. Once the State 911 Department has completed reimbursements for fiscal years FY2019 and after, any grant deficits reported on the balance must be raised if not otherwise funded.

Please be aware that the contracted amount must be less than the apportioned amount and is the limit of the reimbursement. Also be aware that the contracted amount may not be reimbursed if non-eligible costs are included. If already paid, these non-eligible costs must be funded.

Additional matters of concern:

Appropriating Enterprise Retained Earnings

Appropriation from retained earnings may only be made after the earnings are certified by the Bureau and in no greater amount than so certified.

Betterment Reserve

The Municipal Modernization Act added G.L. c. 44, § 53J, which requires that betterment and special assessment payments must be reserved for appropriation to pay debt service on any bonds issued to finance the improvements for which betterments were assessed. This reserve is required when a city, town or district authorizes a borrowing on or after November 7, 2016, the effective date of the Municipal Modernization Act, to pay for improvements for which betterments or special assessments are assessed.

Borrowing Purposes and Terms

In August 2017, Informational Guideline Release (IGR) 17-21 was issued to explain amendments made by the Municipal Modernization Act regarding city, town and district borrowing. The Act makes changes to the purposes for which cities and towns may borrow under G.L. c. 44, §§ 7 and 8, as well as the terms for those loans. These changes also apply to the purposes for which districts, as defined in G.L. c. 44, § 1, may borrow. See G.L. c. 44, § 9. There was no change to the debt limit for city, town and district borrowings. See G.L. c. 44, § 10.

For a listing of the changes to the borrowing purposes under G.L. c. 44, §§ 7 and 8, please refer to the "*Borrowing Purposes Table Before and After the Municipal Modernization Act.*" Please also refer to the *Director of Accounts Guidelines – Asset Useful Life Schedules and Maximum Borrowing Terms* that establish the maximum term that cities, towns, improvement districts and regional school districts may borrow to finance certain capital projects based on the useful life of the asset. These guidelines include (1) all borrowing purposes authorized by those statutes, (2) their maximum statutory terms, and (3) their maximum terms, if any, established by the Director.

The Director's *Guidelines* and the *Borrowing Purpose Table* are published on the DLS website under Borrowing Guidelines on the Accounting Guidance, Oversight and Financial Management Publications page of our website. The term established in the Director's Guidelines is the maximum borrowing term allowed by law for that purpose and may be used for debt issued on or after the effective date shown.

Borrowing - Premiums, Surplus Proceeds and Debt Exclusions

In August 2017, IGR 17-21 was issued to explain to local officials the procedures and requirements regarding: (1) the application of premiums received in connection with the sale of bonds or notes; and (2) the allowable disposition of surplus loan proceeds remaining after the completion of a project. G.L. c. 44, § 20. IGR 17-22 addresses the treatment of premiums and surplus proceeds on borrowings for which debt exclusions have been approved under G.L. c. 59, § 21C(k).

Certification of Notes and Receipt of Audit Reports

For FY2020, the Bureau will not certify revenue notes of a city, town, district or regional school district if a required audit for the period ended June 30, 2018 has not been submitted to the Bureau.

Court Judgments

The Municipal Modernization Act amended G.L. c. 44, § 31 to allow payments without appropriation for final judgments, awards or payments ordered or approved by a state or federal court or adjudicatory agency with municipal counsel certification. However, these payments must be funded before the next fiscal year's tax rate is set or the amount will be included in the determination of the next subsequent annual tax rate.

Departmental Revolving Funds

The revolving funds statute, G.L. c. 44, § 53E½, was amended by the Municipal Modernization Act to provide more flexibility by allowing revolving funds to be established once by by-law or ordinance rather than on an annual basis and eliminating the departmental per fund and total fund caps. These changes were effective beginning in FY2018. Note, however, that before July 1 of each year, your legislative body must vote to set the spending limit for the upcoming fiscal year for each fund so established. This spending limit can be increased, as needed, during the fiscal year with approval of the selectboard and finance committee in a town and city council and mayor in a city.

Please see the *"Model Departmental Revolving Fund By-law/Ordinance and Sample Spending Cap Vote"* we have issued to assist cities and towns in establishing departmental revolving funds and voting spending limits for FY2018 and future years. The model is found on the Accounting Guidance, Oversight and Financial Management Publications page of our website.

Emergency Expenditures

Emergency expenditures made in FY2019 after the setting of the FY2019 tax rate and through June 30, 2019 under G.L. c. 44, § 31 must be reported to the assessors for inclusion in the FY2020 tax rate unless otherwise funded. Emergency expenditures made in FY2020 before the setting of the tax rate may be included in the FY2020 tax rate, but must be included in the FY2021 tax rate unless otherwise funded. The Municipal Modernization Act amended G.L. c. 44, § 31 to eliminate the need for the selectboard or city council to declare an emergency when the Governor has declared one for the particular emergency or disaster. Communities must still obtain the written approval of the Director to pay liabilities incurred under G.L. c. 44, § 31 without appropriation.

Energy Generating Facilities Enterprise Fund

Cities and towns that own and operate energy generating facilities subject to the accounting, finance and reporting provisions of G.L. Chapter 44 rather than Chapter 164 may establish an enterprise fund under G.L. c. 44, § 53F½ using the same method as for any other utility. Any funds received as energy credits by the city or town that would otherwise close to the General Fund under G.L. c. 44, § 53 would now close to the enterprise fund.

Energy PILOTs

Communities receiving "payment in lieu of taxes" (PILOTs) under G.L. c. 59, § 38H(b) must follow the requirements discussed in IGR 17-26 for tax agreements regarding power plants of generation and wholesale generation companies, which include solar generation facilities that provide electricity to the grid. Note Section III-C which states:

> Agreements should fix values or formulas for determining values (rather than fixing tax payments). Values should be representative of the future full and fair cash values of the plant or facility for the term of the agreement. If formulas are used to determine values, the formula must permit the determination of value before the tax rate is set for the fiscal year because agreement values must be used to calculate the municipality's levy ceiling and minimum residential factor and to set the tax rate for the fiscal year. Payments resulting from the values at the applicable tax rate for the fiscal years are treated as property taxes for Proposition 2½ and tax classification purposes. The payments are subject to the municipality's levy limit.

This payment cannot be reported on page 3 of the Tax Rate Recap (or Pro Forma Recap) as general fund estimated receipts. The negotiated payments must be translated into assessed value and applied as indicated in IGR 17-26.

For more detailed information on the matter, please contact your Field Advisor at the Bureau of Local Assessment.

Estimating FY2020 Enterprise Revenues

If a community intends upon increasing FY2020 enterprise fund revenue estimates based on increases in user rates, the charges must be increased before the Tax Rate Recap is submitted for tax rate certification to the Bureau. When revenues are estimated based upon consumption alone, the Bureau will continue to require reasonable supporting documentation for this claim. Note that a structural deficit in enterprise fund retained earnings, not due to timing, must be provided for in the next tax rate.

Estimating FY2020 Medicaid Receipts

The Bureau continues to urge caution when estimating these receipts as the amount due the community may not be consistent from year to year.

Expenditure Budgeting for FY2020

- Pension Appropriations: Pension assessments must be fully funded in the FY2020 tax rate. If the amount appropriated is less than the assessment, the amount needed to fully fund the assessment must be raised on the Tax Rate Recap, (page 2, part IIB, line 10) per G.L. c. 32, § 22.

- Self-Insurance Plans for Employee Health Insurance: If the June 30, 2019 claims trust fund balance is in deficit, the deficit must be provided for (1) in a city or town by appropriation or by raising it on the Tax Rate Recap as an Other Amount to be Raised or (2) in a regional school district by providing for it in the FY2020 regional school district budget. The Bureau will notify DESE of any regional school district deficit. Any deficit will result in a reduction to a city or town's certified free cash or to a regional school district's certified excess and deficiency amount.

- Communities with a self-insurance fund must record on the balance sheet for the fund both the warrants payable and IBNR amounts as of June 30, 2019. Any undesignated fund balance deficit which may result, after being offset by the working deposit, must be raised on the current year's Tax Rate Recap. If the balance sheet for free cash certification is not submitted to the Division of Local Services before the setting of the tax rate, this deficit must be disclosed on the Accountant's Letter in Lieu of Balance Sheet.

Expenditure of Federal Funds Threshold

The FY2020 threshold under the Federal Single Audit Act of 1984, as amended, requires that there be a financial audit or, a specific program audit, if granted by the appropriate federal oversight or cognizant agency whenever $750,000 or more in federal funds are expended during any one fiscal year.

Free Cash Update and Non-Recurrent Distributions to Cities and Towns

Cities and towns may request from the Director of Accounts an update of free cash to reserve and appropriate non-recurrent distributions over a certain period of time.

Under G.L. c. 59, § 23, collections attributable to prior years, principally collection of property taxes, received up to March 31 may be included in an update of the free cash amount previously certified. This update provides additional spending authority based on those items, but must first be certified by the Director before appropriation. The Director will not certify an additional amount if use of those funds could, in the Director's opinion, result in negative free cash as of the following June 30. Only one request may be made per fiscal year. If an amount is certified by the Director and negative free cash results the following June 30, no similar update may be requested for the following fiscal year.

Internal Borrowing

The Bureau reminds treasurers and other local officials that the internal borrowing statute, G.L. c. 44, § 20A, requires that advances be repaid during the same fiscal year. Communities using internal borrowing especially for capital projects must be aware that funds not externally borrowed by June 30th may result in a significant reduction to free cash.

Minimum Performance Bond – Treasurers, Collectors and Clerks

You will find guidance on how to determine your minimum bond amount using the bond amount schedule on the Accounting Guidance, Oversight and Financial Management Publications page of our website. Please review the requirements to ensure the bond is satisfactory for the faithful performance of your duties.

Year End Transfers

The Municipal Modernization Act amended G.L. c. 44, § 33B to eliminate the limits on types and amounts of appropriation transfers that can be made under the alternative end-of-year procedure from May 1 until July 15. End-of-fiscal-year transfers may now be made from health insurance, debt service or other unclassified or non-departmental line item appropriations. In addition, the amount that may be transferred from any department under this procedure is no longer limited to three percent of the department's budget. The school and light departments remain exempt from this procedure. See IGR 17-13.

School Finance

State Special Education Reimbursement Fund ("Circuit Breaker")

Per DESE regulations, the balance in this fund at the close of FY2019 can be no greater than DESE's FY2019 reimbursement, not including extraordinary assistance. Any excess fund balance must close to the General Fund. Any deficit fund balance must be charged to FY2020's school budget. See 603 CMR 10.07 for additional details.

Regional Transportation Reimbursement Fund

Per DESE regulations, the balance in this fund at the close of FY2019 can be no greater than DESE's FY2019 reimbursement. Any excess fund balance must close to the General Fund. Any deficit fund balance must be charged to FY2020's school budget. See Chapter 233 of the Acts of 2014 and DESE's Advisory for additional details.

Federal and State School Grant Deficits

The Bureau has noted that a number of balance sheet reports reflect deficits in certain federal and state school grants. The Bureau may reduce free cash or excess and deficiency for any federal or state school grants which have been reported in deficit on the balance sheet.

Regional Schools Only

Annual Audit

Per G.L. c. 71, § 16A, the regional school committee must ensure that the district has an annual financial audit and its auditors forward a copy of the audit directly to the Director of Accounts.

Appropriation of Excess and Deficiency (E & D)

If a regional school district plans to use E & D in their FY2020 proposed budget, E & D must be certified prior to the budget adoption by the School Committee and submittal to the local appropriating authority for the assessment vote. If E & D is not certified prior to that vote, the District does not have authority to use E & D as a funding source in the FY2020 budget. If the District plans to use E & D after the vote, the district would have to follow the procedures as defined in statute to amend their budget which may impact local assessments.

The authority to appropriate E & D in the fiscal year expires on June 30.

Balance Sheet

Regional school districts must submit a balance sheet as of June 30 to the Bureau of Accounts for certification of excess and deficiency on or before October 31 of each year. DESE regulations indicate that if a balance sheet is not filed timely, the Commissioner of DESE may request the Commissioner of Revenue to withhold all or some part of the District's State Aid distribution until the balance sheet is submitted. 603 CMR 41.06. The Bureau provides annually instructions on submission requirements. Audited balance sheets are not required, but the submission must be in the required format that will allow the Bureau to calculate an excess and deficiency amount.