



Bulletin

BUL-2020-02

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

TO: Local Officials
FROM: Patricia Hunt, Chief, Bureau of Municipal Finance Law
DATE: April 3, 2020
SUBJECT: **An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19**

This Bulletin provides guidance to local officials regarding changes in municipal finance laws included in [An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19, Chapter 53 of the Acts of 2020](#), (the Act). Unless otherwise noted below, these changes became effective on April 3, 2020, upon Governor Baker's signing the Act into law.

I. Town Meeting Delays

A. Power of Boards of Selectmen and Town Councils to Delay Annual Town Meeting

Section 1 of the Act - Before its amendment, [G.L. c. 39, § 9](#) provided that an annual town meeting must take place during the months of February, March, April, May or June; however, a board of selectmen or town council, by vote, could delay the annual town meeting as long as the town meeting completed its business on or before June 30th. Section 1 adds the following exception to the June 30th deadline "in the event of an emergency that poses an immediate threat to the health or safety of persons or property that prevents the completion of the business of the delayed town meeting on or before June 30 if the governor has declared a state of emergency with respect to such emergency."

This exception is available, if necessary, to towns that must delay their town meetings beyond June 30, 2020 due to the COVID-19 outbreak and the declaration of a state of emergency by the governor. Towns are advised to consult with their local counsel regarding the form of vote. See Section I-B of this Bulletin for recess and continuation of town meetings by a town moderator where the town meeting warrant has already been issued.

B. Power of Moderator to Continue Scheduled Town Meetings in Event of Public Health Emergency (Application to Districts)

Sections 2 through 4 of the Act - These sections amend [G.L. c. 39, § 10A](#) by adding “public health” emergencies as a reason for a moderator to recess and continue town meetings already scheduled by warrant. Prior to the amendment, section 10A applied to weather-related and public safety emergencies. Under the amended section 10A, during and for a period of five days after a weather-related, public safety or public health emergency, a town moderator may, in consultation with public safety or public health officials and the board of selectmen, declare a recess and continuance of the town meeting to another time, date and place certain; however, the continuance is limited to a period of 30 days. There are notice, posting and other requirements regarding the time, date and place of the recessed and continued meeting. Additionally, within 10 days after the initial declaration by the moderator of recess and continuance, a local public safety or public health official designated by the board of selectmen must submit a report to the Attorney General providing the justification for the moderation’s continuance.

These amendments also clarify that a moderator may invoke section 10A more than once to recess and continue a town meeting during the same emergency; however, each continuance period must not exceed 30 days and the moderator may not continue the meeting more than 30 days after the rescission of the declaration of emergency by the governor. Additionally, if a town does not have a moderator, the board of selectmen may recess and continue the town meeting under the amended section 10A.

Under [G.L. c. 41, § 119](#) and [c. 48, § 66](#) (fire districts only), the moderator of a district meeting has the powers of a moderator of a town meeting. As a result, a district moderator may recess and continue scheduled district meetings under [G.L. c. 39, § 10A](#). For purposes of section 119, a district means a fire, water, sewer, water pollution abatement, refuse disposal, light, or improvement district, or any other district formed for the purpose of carrying out any of these functions, whether established under general law or special act. [G.L. c. 41, § 1A](#).

Because several town moderators had already invoked Section 10A to recess and continue a scheduled town meeting due to the outbreak of COVID-19, the amendments to section 10A were made retroactive to March 10, 2020. (See Section 19 of the Act.)

II. Emergency Liabilities in Excess of Appropriation if the COVID-19 Emergency Prevents the Adoption of an Annual Budget

Section 5 of the Act - Under [G.L. c. 44, § 31](#), no department financed by municipal revenue, or in whole or in part by taxation, of any city, town or special purpose district, except Boston, may incur liabilities in excess of appropriation “except in cases of major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an immediate threat to the health or safety of persons or property, and then only upon a declaration by the governor of a state of emergency with respect to the disaster” On March 10, 2020, the Governor declared a state of emergency regarding COVID-19. As a result, cities, towns and special purpose districts may, with the approval of the Director of Accounts (director) of the Division of Local Services (DLS), expend from any available funds in the treasury in relation to the emergency without an appropriation by following the procedure described in [Bulletin 2020-1](#).

Section 5 amends [G.L. c. 44, § 31](#) by inserting the following:

If the declared emergency prevents the adoption of an annual budget by a town or district by the June 30 preceding the start of the fiscal year, the board of selectmen, town council or district commissioners shall notify the director and the director may approve expenditures, from any appropriate fund or account, of an amount sufficient for the operations of the town or district during the month of July not less than 1/12 of the total budget approved by the town or district in the most recent fiscal year pursuant to a plan approved by the board of selectmen, town council or district commissioners and such authority shall continue for each successive month while the emergency continues to prevent the adoption of a budget. The director may promulgate and revise rules or regulations regarding the approval of emergency expenditures described in this section and accounting with regard to such expenditures.

This amendment will allow deficit spending, with the approval of the director, on a month-to-month basis in fiscal year 2021 if the town or district was prevented from adopting a budget for fiscal year 2021 due to Governor Baker's Declaration of Emergency issued on March 10, 2020. Additional guidance will be issued by the director, like that contained in [Bulletin 2020-01](#), that will explain the procedure to follow to obtain the director's approval to deficit spend under this provision.

III. Director's Authority to Allow Appropriations after June 30, 2020 from Free Cash Certified as of July 1, 2019

Section 6 of the Act provides:

"...[I]f the adoption of an annual budget in a city, town or district is delayed beyond June 30, 2020, as a result of the governor's March 10, 2020 declaration of a state of emergency or the outbreak of the 2019 novel coronavirus, also known as COVID-19, the director of accounts of the department of revenue may authorize the appropriation from the available balance of the city's, town's or district's undesignated fund balance or "free cash" certified by the director under section 23 of chapter 59 of the General Laws as of July 1, 2019, as a funding source for the city's, town's or district's fiscal year 2021 expenditures, including, but not limited to any such undesignated fund balance in an enterprise fund or special revenue account..."

Ordinarily, under [G.L. c. 59, § 23](#), appropriations from certified free cash may only be made until the June 30th following its July 1 certification date. As a result, free cash certified by the director as of July 1, 2019 is available for appropriation only up to and including June 30, 2020. This section allows the director to authorize the appropriation from free cash certified as of July 1, 2019 after June 30, 2020 where the city, town or district has been prevented from adopting its FY 2021 annual budget by June 30, 2020 due to the Governor's March 10, 2020 declaration of a state of emergency or the outbreak of the 2019 novel coronavirus. Once a city, town or district can meet and adopt its FY 2021 budget, this section will allow the director to permit appropriations from free cash certified as of July 1, 2019 as a funding source for its FY 2021 expenditures. Pursuant to Section 6, the director will issue additional guidance regarding the implementation of this provision.

IV. Amortization of Deficit Resulting from COVID-19 Over a Three-year Period

Section 7 of the Act - Under [G.L. c. 44, § 31](#), deficit expenditures not otherwise provided for must be funded in full when setting the tax rate for the next fiscal year. Section 7 of the Act permits the amortization over a three-year period of the amount of a city, town or district's fiscal year 2020 deficit resulting from the outbreak of the 2019 novel coronavirus also known as COVID-19, as described in the governor's March 10, 2020 declaration of a state of emergency. This applies to both expenditure deficits and revenue deficits related to the emergency. Examples of revenue deficits that could result from the emergency are reduced meals tax and room occupancy revenues. This legislation is similar to [St. 2015, c. 10, § 58](#) which, due to the extreme snow removal costs incurred the previous winter, permitted amortization of snow and ice expenditure deficits over three years. Again, the director will issue additional guidance on the implementation of this section.

V. Continuation of Expenditure Authorization for Departmental Revolving Funds under [G.L. c. 44, § 53 E ½](#) in FY 2021

Section 8 of the Act - Under [G.L. c. 44, § 53 E ½](#), a city or town may authorize by bylaw or ordinance one or more revolving funds and must annually before July 1 vote the limit on the total amount that may be expended from each revolving account. Section 8 of the Act allows the continued expenditure in FY 2021 from these departmental revolving funds at the same level of expenditure authorized by the city or town for FY 2020 until the city or town adopts its FY 2021 annual budget at which time the legislative body of the city or town must adopt the FY 2021 expenditure limits for each departmental revolving fund.

VI. Suspension of Time Period for Cities and Towns to Exercise Right of First Refusal to Purchase Lands Classified under G.L. c. 61, 61A and 61B

Section 9 of the Act - Section 9 suspends the time periods that require a city or town to "act, respond, effectuate or exercise an option to purchase" under [G.L. c. 61, § 8](#), [c. 61A, § 14](#) and [c. 61 B, § 9](#). The suspension is during and for a period of 90 days after the termination of the governor's March 10, 2020 declaration of a state of emergency. If a city or town receives notice of intent to convert or sell classified land during this period, we advise that local counsel be contacted for advice.

VII. Due Dates of Real and Personal Property Tax Bills and Applications for Exemptions and Waiver of Interest on Certain Late Payments

Sections 10 and 11 of the Act include several provisions regarding local tax bills.

A. Local Option to extend the Due Dates of Property Tax Bills

Sections 10(a)(i-iii) include a local option to extend the due dates of property tax bills under [G.L. c. 59, §§ 57](#) and [57C](#) from April 1, 2020 (for semi-annual billing communities with annual

preliminary bills) or May 1, 2020 to a date not later than June 1, 2020. This local option applies to semi-annual tax billing communities and quarterly tax billing communities. The local option is exercised by the chief executive officer of a city, town or district. The chief executive officer is a mayor in a city and the board of selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter. In a district, the chief executive officer is the prudential committee or commissioners.

B. Local Option to Extend the Due Date for Exemption and Deferral Applications

Section 10(a)(iv) includes a local option to extend the due date under [G.L. c. 59, § 59](#) for applications for exemptions from April 1, 2020 to a date not later than June 1, 2020. This due date extension, if exercised, will automatically apply to deferrals under [G.L. c. 59, § 5\[18A\] and \[41A\]](#), residential exemptions under [G.L. c. 59, § 5C](#) and small commercial exemptions under [G.L. c. 59, § 5I](#). This second local option is exercised in the same manner described in Section VII-A of this Bulletin.

C. Local Option to Waive Interest on Certain Payments Made After Due Dates

Section 11 includes a local option to waive interest and other penalty for late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 where payment is made after its respective due date but before June 30, 2020. This third local option is also exercised in the same manner described in Section VII-A of this Bulletin.

This section allows the waiver of interest and penalties regarding late payments of bills with a due date of March 10, 2020 or after, when such bills are paid late but paid on or before June 30, 2020. This section does not permit waiver of interest and penalties regarding bills with due dates before March 10, 2020 or if the bill is not paid by June 30, 2020.

Section 11 also provides that a city or town shall not terminate an essential service of a resident, including but not limited to, water, trash collection or electricity, for nonpayment of taxes or fees with due dates on or after March 10, 2020 if paid on or before June 30, 2020, if the inability to pay resulted from circumstances related to the outbreak of COVID-19 or the governor's March 10, 2020 declaration of a state of emergency.

D. Clarification of Due Dates When Municipal Office is Closed Due to COVID-19

Section 10(b) - Under [G.L. c. 59, §§ 57, 57C](#) and [59](#), there is an automatic extension of due dates for tax payments and applications for exemptions when a municipal office is closed for a weather-related or other public safety emergency until the next day that the municipal office is open. Section 10(b) of the Act clarifies that these automatic extensions do not apply if municipal offices are closed as a result of the outbreak of the 2019 novel coronavirus or the declaration of a state of emergency issued by the governor on March 10, 2020 and that due dates shall only be extended by the exercise of the local options described in Sections VII- A and B of this Bulletin.

E. Notice to Taxpayers

Tax bills (with due dates of April 1, 2020 or May 1, 2020) should have already been mailed in the formats described in [IGR 2019-1](#), [IGR 2019-2](#), [IGR 2019-3](#) or [IGR 2019-4](#), as applicable. Where

tax bills have been mailed, the attached Notice must be sent to taxpayers by separate mailing if any of the local options described above are exercised. If a city or town has not adopted all three local options or June 1, 2020 due dates, the attached Notice must be amended, as appropriate, by the city or town to reflect its exercised options.

If the tax bills have not been mailed and any of the above local options are exercised, the format and content of the tax bills themselves should not be changed. Instead, tax bills should be issued in the form described in [IGR 2019-1](#), [IGR 2019-2](#), [IGR 2019-3](#) and [IGR 2019-4](#), as applicable, and the mailing must include the attached Notice (worded to reflect the local options and due dates approved by the city/town) in the same mailing as the tax bill. (See Sections IV-B-1 of [IGR 2019-1](#), [IGR 2019-2](#) and [IGR 2019-3](#) and Section V-B-1 of [IGR 2019-4](#) for insertion by collector of tax billing information in same envelope as a tax bill.)

VIII. Waiver for Hours Worked and Earnings Received During State of Emergency Regarding Services Performed by Certain Retirees Under [G.L. c. 32](#)

Section 14 of the Act includes a waiver for hours worked and earnings received by certain retirees during the state of emergency. Cities and towns are advised to contact the Public Employee Retirement Administration Commission (PERAC) for more information regarding this section.

IX. Other Provisions of the Act

The Act also includes other non-finance provisions related to cities and towns, including **Section 17** regarding the suspension of certain deadlines affecting local permits and local permitting authorities. Cities and towns are advised to review the Act with their local counsel.

SAMPLE NOTICE TO TAXPAYERS
TO BE INCLUDED WITH TAX BILL OR SEPARATELY MAILED
(Samples should not be used without the advice of municipal counsel.)

Town/City of _____

Important information Regarding Your Tax Bill

Under “An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19,” Chapter 53 of the Acts of 2020, the town/city has adopted local options to extend due dates for real and personal property tax payments and applications for exemptions and a waiver of interest on certain municipal tax and other bills paid by June 30, 2020. See below.

1. **The due date of your real and personal property tax bill has been extended to June 1, 2020.** June 1, 2020 is the new due date even if the due date for payment on your enclosed or previously mailed tax bill is April 1, 2020 or May 1, 2020.
2. **The due date for applications for property tax exemptions has also been extended to June 1, 2020.** June 1, 2020 is the new due date even if the due date for applications on your enclosed or previously mailed tax bill is April 1, 2020.

This extension applies to applications for the exemptions listed in the third paragraph of G.L. c. 59, § 59, including exemptions under clauses 17, 17C, 17C1/2 and 17D (seniors, surviving spouses, minor children of deceased parent); 18 (financial hardship – activated military, age and infirmity); 22, 22A, 22B, 22C, 22D, 22E, 22F and 22H (veterans, surviving spouses and surviving parents); 37 and 37A (blind persons); 41, 41B, 41C and 41C1/2 (seniors); 42 and 43 (surviving spouse and minor children of firefighter/police officer killed in line of duty); 52 (certain eligible seniors); 53 (certain eligible properties with septic systems); 56 (National Guard and reservists on active duty in foreign countries); and 57 (local option tax rebates). This extension also automatically applies to applications for residential exemptions under G.L. c. 59, § 5C, for small commercial exemptions under G.L. c. 59, § 5I and for deferrals under G.L. c. 59, § 5, clauses 41A (seniors) and 18A (poverty or financial hardship due to change to active military).

3. The town/city has also voted to waive interest and other penalty for late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 where payment is made late but before June 30, 2020. This applies to late payments of bills that have a due date of March 10, 2020 or after, when such bills are paid late but paid on or before June 30. This waiver of interest does not apply to bills with due dates before March 10, 2020 or if the bill is not paid by June 30.

NOTE - If the municipal offices are closed on the June 1, 2020 extended due date for tax payments or filing of exemption applications as a result of the outbreak of the 2019 novel coronavirus or the declaration of a state of emergency issued by the governor on March 10, 2020, the due dates for tax payments and applications for exemptions are not extended – they will be due on June 1, 2020 even if the municipal offices are closed. (See section 10(b) of the Act.)

[City/town should add information on how/where to make tax payments and file applications for exemptions, for example, by mail, through an on-line payment system or dropping payment into a lockbox (with the location). The city/town should also provide a telephone number where questions to local officials can be directed and the address of any relevant website information.]