



Bulletin

1996 LEGISLATIVE ENACTMENTS

TO: Local Officials

FROM: Harry M. Grossman, Acting Deputy Commissioner
Division of Local Services *H. Grossman*

DATE: September 1996

SUBJECT: Summary of 1996 Municipal Finance Law Changes

To keep you informed of legislative developments during the year, the Division of Local Services publishes on a periodic basis a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued or will issue any further implementation guidelines.

Attached is the first edition of the 1996 **LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 - 376 of the Acts of 1996.

Copies of these new laws can be obtained from the State Bookstore located in Room 116 of the State House.

Ch. 66 STUDENT ACTIVITY FUNDS AND CHECKING ACCOUNTS

An Act Relative to Certain Student Activity Accounts.
Effective July 17, 1996.

Amends G.L. Ch. 71 §47, which governs the receipt, custody and expenditure of student athletic and extracurricular activity fees, to permit the establishment of a special account for each school, the Student Activity Agency Account, for the deposit of all activity fees and charges collected from students. The funds are to be deposited by the treasurer into a separate interest bearing account, with all interest earned to be credited to the account. Monies in the account may be spent without appropriation for various athletic, club and extracurricular activities. The school committee may also establish a Student Activity Checking Account for use by each school's principal. The committee must establish a maximum balance for each account, after which the treasurer is authorized to deposit cash advances from the Agency Account into the Checking Account for use by the principal, as needed, to support student activities. The principal must obtain a bond in an amount established by the treasurer. In addition, an annual audit of the account must be prepared. An Informational Guideline Release (IGR) will be issued on this legislation.

Ch. 71 RETIREMENT CREDIT FOR VETERANS

An Act Authorizing Certain Public Employees Creditable Retirement Service Time for Active Service in the Armed Forces.
Effective July 24, 1996.

Adds a local acceptance provision to G.L. Ch. 32 §4(1)(h) which permits public employees who are veterans to purchase up to four years of creditable service toward their retirement if their military service predated their public employment. Previously, the additional creditable service was limited to those employees who took leaves of absences to serve in the armed forces. In addition, it extends a limited benefit of additional creditable service to those who formerly were or currently are members of the National Guard or Active Reserves on a five year service to one year creditable service rate. Acceptance is by majority vote of the local retirement board and legislative body of the political subdivision. Legislative body for purposes of this acceptance is defined as town meeting, the city council subject to charter provisions, the county commissioners, the district members for a district or the governing body of an authority.

1996 LEGISLATIVE ENACTMENTS

Ch. 15 SOLID WASTE DISPOSAL DEBT

An Act Providing for an Environmental Enhancement and Protection Program for the Commonwealth.

February 12, 1996.

§21 Landfill Debt. Extends the maximum term a city or town may borrow under G.L. Ch. 44 §8(24) to close a landfill, open a new landfill or make improvements to an existing landfill from fifteen to twenty-five years.

Ch. 39 LAW ENFORCEMENT PERSONNEL RECORDS

An Act Prohibiting the Disclosure of the Names and Telephone Numbers of Certain Law Enforcement Personnel and Others.

Effective June 12, 1996.

Provides that the home address or home telephone number of certain state and local law enforcement personnel, or their family members, are not public records in the custody of their employers and are not to be disclosed to the public under G.L. Ch. 66 §10. The information can be disclosed to an employee organization under collective bargaining law and to a criminal justice agency.

See Supervisor of Public Records Opinion 96-282, issued on August 26, 1996, for further information on the applicability of this amendment to municipal records generally.

Ch. 45 FY96 SUPPLEMENTAL BUDGET

An Act Making Appropriations for the Fiscal Year 1996 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.

Effective March 21, 1996.

§4 Snow and Ice Reporting. Amends G.L. Ch. 44 §31D, which permits spending in excess of appropriation for snow and ice removal, to require that cities and towns file a report by September 15 of each year with the Division of Local Services of the total amounts appropriated and spent for snow and ice removal in the prior fiscal year.

Ch. 74 USE OF PERMIT/LICENSE SUSPENSIONS/DENIALS/REVOCATIONS

An Act Relative to Building Permits.

Effective July 25, 1996.

Amends G.L. Ch. 40 §57, which is a local option statute that permits cities and towns to deny, suspend or revoke licenses or permits to anyone who owes municipal taxes or charges. The bill specifically provides that building permits are subject to denial, suspension or revocation under this section. In addition, it makes it clear that fines assessed under G.L. Ch. 40 §21D for the non-criminal disposition of violations of local ordinances or bylaws are among the charges for which denial, suspension or revocation of licenses or permits may be imposed.

Ch. 140 REGIONAL SCHOOL BUDGETS

An Act Relative to the Budgets of Regional School Districts.

Effective September 26, 1996.

Amends G.L. Ch. 71 §16(m), which governs the time frame under which regional school committees must adopt an annual budget for the next fiscal year, to permit regional school superintendents, with the approval of a majority of the member communities to defer submission of the budget for approval until after the Cherry Sheets are issued.

Ch. 142 ARCHITECTURAL AND ENGINEERING DEBT

An Act Relative to the Maximum Term of Certain Serial Loans Issued by Cities, Towns and Districts.

Effective June 28, 1996.

Increases the maximum term a city, town or district may borrow for (1) architectural work in connection with the construction of, or addition to, a public building under G.L. Ch. 44 §7(21), and (2) architectural or engineering work in connection with other projects under G.L. Ch. 44 §7(22). Municipalities and districts that borrow separately for such work will now be able to merge that debt into the longer term debt for the project if the borrowing for the project is authorized before permanent debt is issued for the architectural or engineering work. Previously, separately authorized borrowings for such preliminary work were limited to a five year term.

Also amends G.L. Ch. 44 §7(21) to enable cities, towns and districts that make separate borrowings for architectural work on new buildings or additions to defer acquisition of any land for the project until permanent debt is issued for the plans. Previously, they had to own the land before borrowing for the plans was authorized.

IGR No. 96-102 issued August 1996.

Ch. 151

FY97 STATE BUDGET

An Act Making Appropriations for the Fiscal Year 1997 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements. Effective July 1, 1996, but sections not related to appropriations and subject to referendum cannot take effect for at least 90 days, *i.e.*, until October 1, 1996.

§6 Advance Local Aid. Authorizes the State Treasurer to advance payments of FY97 quarterly local aid distributions to a city, town or regional school district that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance. IGR No. 96-101 issued July 1996.

§165 County Corrections Overspending. Subjects sheriffs to fines and imprisonment if they overspend their budgets, as approved by the county government finance review board under G.L. Ch. 64D §12.

§176 Pension Contribution Rate. Amends G.L. Ch. 32 §22(1)(b) regarding the pension contribution rate of new members. All public employees who are members of the retirement system under G.L. Ch. 32 for service beginning on or after July 1, 1996 must now have nine percent of their regular compensation deducted and paid into the retirement fund.

§§197 and 198 Water and Sewer Commission Liens. Amends G.L. Ch. 40N §9 to clarify the relationship between liens for water and sewer charges assessed by an independent water and sewer commission established under Ch. 40N and the municipal tax lien. Under the amendment, the municipality's tax lien is superior to the commission's lien. This means that foreclosure of the municipality's lien will extinguish the commission's lien.

Also clarifies that the starting point for calculating the duration of water and sewer liens for water and sewer commissions is the date of the demand for payment, provided the demand is made within the time limits for the duration of water and sewer liens in cities and towns under G.L. Ch. 40 §§42B and Ch. 83 §16B. This gives commissions a longer-lasting lien than municipalities have for water and sewer charges.

§220 Regional School Members Local Contributions. Allows member communities of regional school districts, including vocational districts, at local option, to assess total local contributions based on their regional agreements. This requires unanimous approval by member communities through majority vote at town meeting or city council.

§259 Septic, Lead Paint, Underground Fuel Tank Betterments. Amends G.L. Ch. 111 §127B½ to provide that municipal betterment liens for septic system upgrades, and for the removal of lead paint and underground fuel storage tanks, take effect only if and to the extent that an apportioned annual payment is overdue. Previously, the lien took effect when the betterment was assessed.

§525 Charter School Reimbursements. Amends the reimbursement for above foundation charter school to be 50% for the first year of the school's operation, 40% in the second year and 30% in the third year. This slightly changes reimbursement which had previously been tied to fiscal year (*i.e.*, 50% in FY96 and 40% in FY97) rather than the first year of operation of the charter school.

§553 School Debt. Allows municipalities and regional school districts with School Building Assistance priority projects to roll over their temporary borrowing for the projects for up to five years without paying down principal. It also lets municipalities and districts extend the total term of borrowing for such school projects by the length of time they had temporary debt outstanding. IGR No. 96-102 issued August 1996.

§589 Education Reform Waivers. Permits cities, towns and regional school districts to apply for various adjustments in their FY97 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY96 operating budgets and those revenues are not available in FY97, (2) they have extraordinary non-school related expenses in FY97, or (3) their FY97 municipal revenue growth factor is 1.5 times the statewide average and is deemed to be excessive. Regional school districts that (1) used non-recurring revenues in FY96 that are unavailable for FY97, or (2) received

regional incentive aid in FY96 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. In addition, both municipalities and districts that are in the first year of receiving School Building Assistance aid for a new project may have their minimum contribution recalculated to exclude the aid from the excess debt calculation. Requests for waivers by municipalities may be made by the selectmen in town, the city council in a Plan E city or the mayor in all other cities. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Regional school district waivers for regional incentive aid will be determined by the Department of Education. The other waiver programs will be administered by the Department of Revenue. IGR No. 96-301 issued August 1996.

§591 Retirees Health Insurance as Net School Spending. For FY97, the costs of health insurance for retired teachers will be included as part of net school spending only in those districts where the costs were included as net school spending in FY94.

§§602 and 651 Minimum School Aid. Establishes the minimum amount of school aid to be distributed to each city, town or regional school district under G.L. Ch. 70 for FY97 at seventy-five dollars per pupil. Also provides that beginning in FY98, the minimum aid will be twenty-five dollars per pupil and an apportionment of the amount by which the statewide foundation gap, overburden obligation and equity gap is reduced by an increase in lottery fund distributions for that year.

Ch. 182

EMPLOYMENT CONTRACTS OF AUDITORS/ACCOUNTANTS

An Act Authorizing Employment Contracts for Municipal Auditors and Accountants.

Effective October 22, 1996.

Allows a city or town to enter into employment contracts with its city auditor or town accountant under G.L. Ch. 41 §108N. That section, which currently applies to city or town managers, town administrators or executive secretaries, authorizes employment contracts that may provide for benefits such as severance pay, relocation expenses, liability insurance and leaves of absence, in addition to salary and term of employment.

Ch. 191

ASSESSMENT OF HISTORICAL HOUSES

An Act Authorizing the Conveyance of a Certain Parcel of Land in the Brighton District of the City of Boston and Other Matters.
Effective July 26, 1996.

§1 Assessment of Historical Houses. Adds a new provision to the general laws, Ch. 59 §5J, which permits cities and towns by adoption of an ordinance or bylaw to establish a special policy for the assessment of certain rehabilitated owner - occupied residential buildings listed in the state register of historic places. Under this policy, any increased value attributable to the rehabilitation will be assessed for local tax purposes on a phased in basis over five years, rather than when it occurs. In order to be eligible for this tax break, the rehabilitation must conform to standards of the Massachusetts historical commission. The secretary of state is given authority to promulgate regulations to carry out this new provision.

Ch. 204

FY96 SUPPLEMENTAL APPROPRIATION

An Act Making Appropriations for the Fiscal Year 1996 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.

§§24 and 167 Municipal Revenue Growth Factor. Effective July 1, 1997. Amends the definition of municipal revenue growth factor (MRGF) under G.L. Ch. 70 §2. The MRGF estimates the increase in local general purpose revenues and is used to determine communities' spending requirements under the Education Reform Act. The local receipt component of the MRGF will now be based on a comparison of the previous year's budgeted receipts to those budgeted for the current year. Currently, it is estimated by comparing the rate of change between actual receipts and budgeted receipts.

§§33 and 169 Fishing and Hunting Licenses. Effective January 1, 1997. Establishes an additional one dollar "municipal processing fee" for sporting, hunting, trapping and fishing licenses issued by city or town clerks under G.L. Ch. 131 §11, unless there is no initial charge for the license. The processing fee will be retained along with fifty cents of each license fee. The balance will continue to be paid over to the director of wildlife and fisheries.

In addition, clerks will no longer be obligated to issue licenses. However, they must give notice of their intention not to sell licenses annually to the director on a form prescribed by him. The notice must be received by July thirty-first each year to be effective.

Ch. 273 BAD CHECKS

An Act Relative to the Penalty for Insufficient Funds Checks Paid to Municipalities.

Effective November 6, 1996.

Amends G.L. Ch. 44 §69 to allow district treasurers to impose a penalty on individuals who pay for district services by a check returned for insufficient funds. The penalty is \$25 (or 1% for checks of \$1,500 or more). Previously, this penalty only applied to checks tendered to municipal treasurers for municipal services.

Ch. 284 PRELIMINARY TAX BILLS

An Act Relative to Preliminary Tax Bills in Cities and Towns.

Effective August 8, 1996. From DOR Legislative Package.

Makes various changes in the semiannual and quarterly preliminary tax statutes, G.L. Ch. 59 §23D and §57C.

First, semiannual and quarterly preliminary taxes may now include up to one-half of both the automatic 2.5 percent annual increase in the tax levy allowed under Proposition 2½ and any increase in the tax levy for approved overrides and exclusions. Previously, communities issuing preliminary tax bills could not bill more than one-half of the prior year's tax levy. As a result, taxpayers had to pay the entire current year's tax increase in the actual tax bills they received in the second half of the year. This change allows communities to spread annual tax increases more evenly over the entire year's bills.

Communities issuing preliminary tax bills under the quarterly tax system may now also add current year's betterments and unpaid charges to the preliminary tax and adjust the tax in cases where a parcel has been subdivided since the prior year. Previously, those additions and adjustments could be made only to preliminary tax bills issued in communities still using the semiannual payment system.

In addition, communities issuing preliminary tax bills under the quarterly system may now issue bills after July first. However, they must obtain prior approval from the Commissioner of Revenue, who may require submission and approval of a pro forma tax recapitulation as a condition of such approval. If the bills are issued on or before August first, the first installment will be due thirty days after the bills are mailed and the second

installment on November first. All other late issued bills will be due in one installment only, on November first, or thirty days after the date of mailing if later. Under prior law, the bills had to be mailed by July first, as the due dates for the first and second quarter installments were fixed, and it was not clear if late mailed bills were enforceable.

Finally, cities and towns that issue preliminary tax bills in the fall under a semiannual payment system may now increase their tax levy when they set their tax rates in the spring by any Proposition 2½ overrides or exclusions approved by voters since the issuance of the preliminary tax bills. Previously, the tax levy was fixed at the time the preliminary tax bills were issued, which meant that any overrides or exclusions approved by the voters after that time could not be used in the current year.

Ch. 288

INSURANCE BENEFITS

An Act Relative to Insurance Coverage for Employees of Political Subdivisions.

Effective November 6, 1996.

Adds to G.L. Ch. 32B §15 a new paragraph 9(a). This is a local acceptance provision that enables political subdivisions to offer employees group long-term disability, dental or vision care coverage without making any mandatory contribution toward the premiums for such coverage. Employees may now be required to pay all, or any part, of the premium as determined by the governmental unit, subject to collective bargaining.

Ch. 299

CLASSIFICATION OF BED AND BREAKFASTS

An Act Relative to the Taxation of Bed and Breakfast Establishments.

Effective November 7, 1996.

Amends the definition of residential property for usage classification purposes under G.L. Ch. 59 §2A to specifically include bed and breakfast homes with no more than three rooms for rent. Residences used to operate bed and breakfasts with more than three guest rooms will continue to be treated as mixed use, with the portions used primarily for guests classified as commercial property.

Ch. 306

DISABILITY RETIREMENT REFORM

An Act Further Regulating the Disability Retirement System.
Effective November 7, 1996.

Makes substantial reforms in the disability retirement system under G.L. Ch. 32. A new seven member Public Employee Retirement Administration Commission (PERAC) is established to oversee disability retirements. PERAC may select an executive director. The bill also creates new five member retirement boards for state, county and municipal systems.

To limit the system's liability for disability benefits, early intervention plans are established under a new provision, G.L. Ch 32 §5B. The plans are intended to coordinate employee assistance programs, provide educational programs for workplace safety and identify workplace hazards. Upon notification that an employee has been out of work for 30 or more days due to a work related injury, the retirement board is to assemble an early intervention team to make recommendations to the board about the disability retirement prospects and any potential for rehabilitation or retraining of the employee. The employee must participate in the evaluation by the team and the recommended rehabilitation or be subject to loss of benefits. The team also monitors the implementation of the plan. The employee has the right to appeal any determination to the Contributory Retirement Appeals Board (CRAB). The early intervention programs authorized by the bill do not supersede any rights expressly provided for under any collective bargaining agreement in effect on the effective date of the act (November 7, 1996) without bargaining to agreement.

The bill also changes the standard of disability retirement under G.L. Ch. 32 §§6 and 7. The employee must now be unable to perform the essential duties of the job and that inability must likely be permanent. Previously, the employee had to become totally and permanently incapacitated for duty. PERAC may require retirement boards to reevaluate retired members for possible return to work or pension reduction. The evaluations are to take place annually in the first two years after retirement and at least once every three years thereafter. The evaluations may be waived if the disability was the result of catastrophic injury or illness. The failure of a retiree to participate may result in termination of benefits, subject to appeal to CRAB. The board is also authorized to provide rehabilitation services at its cost. Upon completion of rehabilitation, another evaluation is to be performed to determine whether the employee is fit to return to work in the same or lesser capacity.

An annual income reporting requirement is also established under G.L. Ch. 32 §91A. Retirees must certify their income from the prior year and provide supporting documentation. If the earnings, plus retirement benefits, are more than the regular salary the retiree would be receiving from the position in which he retired, plus \$5,000, he must repay the excess to the retirement board. PERAC is given authority under G.L. Ch. 32 §91B to develop a wage reporting system and computer match file and enter into an agreement with the Department of Revenue to provide income information.

Retirement board expenses, including the new intervention and evaluation requirements, can no longer be automatically assessed to the municipality. They are now to be paid from the retirement board's investments.

The bill also gives PERAC access to criminal offender record information (CORI) and establishes an insurance and pension fraud bureau to locate and prosecute fraud in the pension and insurance systems.

Ch. 314

INVESTMENT OF PUBLIC FUNDS

An Act Relative to the Investment of Public Funds.
Effective November 7, 1996.

Amends G.L. Ch. 44 §55 to broaden the permissible investments for municipal funds. It allows city, town, district and regional school district treasurers to invest money in commercial money market funds that have received the highest rating from at least one financial rating organization, such as Moody's or Standard & Poors. The purchase price for investments in money market funds cannot include any commission charges.

Ch. 340

RETIREMENT SYSTEM INVESTMENTS

An Act Relative to Investment Reporting for Retirement Systems.
Effective November 7, 1996.

Makes certain accounting changes in the treatment of retirement system investments under G.L. Ch. 32 §22(3)(c). The profit and loss on the sale of investments, and the increase and decrease in the market value of equities, will now be closed out at year end to the pension reserve fund. Previously, they were closed to the pension fund. In addition, adjustments to the market value of equities will no longer be made on September 30, but when the market value is determined. See PERA memorandum issued August 20, 1996 for further information.

Ch. 373

TAXATION OF LIMITED LIABILITY CORPORATIONS

An Act Relative to Limited Liability Companies and Certain Other Matters.

Effective August 15, 1996.

§§1 and 4 Adds a provisions, G.L. Ch. 59 §5(16A), which if accepted, exempts most tangible personal property of certain limited liability companies from local taxation. The limited liability companies must (1) be completely owned by members who are corporations, (2) be engaged in manufacturing in Massachusetts and (3) have been in existence and conducting business in Massachusetts on or before November 15, 1995. If the new provision is accepted, these companies will receive the same property tax treatment as other manufacturing corporations classified by the Commissioner of Revenue, *i.e.*, they will be taxed only on their real estate, poles and underground conduits, wires and pipes. The exemption may be accepted for and applied to taxes assessed for any year beginning in FY97.

Ch. 375

BULK ASSIGNMENT OF MUNICIPAL RECEIVABLES

An Act Relative to the Assignment or Transfer of Municipal Tax Liabilities by Public Sale.

Effective November 20, 1996.

Adds a new provision, G.L. Ch. 60 §2C, that authorizes municipal collectors and treasurers to make bulk assignments of uncollected real and personal property taxes, excises and other receivables secured by a municipal tax lien. Also extends the duration of municipal tax liens under G.L. Ch. 60 §37.

Under the new G.L. Ch. 60 §2C, collectors and treasurers may assign delinquent accounts to third parties. All delinquent accounts for a given class of property (residential, open space commercial, industrial, personal) would have to be assigned in a single transaction, except for parcels with environmental problems, or parcels whose owners were in bankruptcy or were complying with a payment plan. Prior to the assignment, a list of receivables to be assigned must be published. Accounts may be assigned any time after the last payment for the year became due, but the receivables must be advertised at least six months before assignment of residential accounts and at least three months before assignment of other accounts. Taxpayers would have the opportunity to enter into payment plans during that grace period.

The assignment must be by public sale or auction to the highest qualified and responsive bidder. The purchaser must pay at least the amount of the underlying tax or charge, plus any accrued interest, fees, penalties or charges as of the date of sale. Sales at a discount or premium may take place to the extent authorized by guidelines or regulations issued by the commissioner of Revenue. The amount paid to the municipality will satisfy the obligations and if for receivables older than a year, are to be credited to a special fund that may be spent only for capital purposes, *i.e.*, purposes for which the municipality may borrow for five or more years.

The purchaser must notify taxpayers of the assignment and may enter into payment agreements with taxpayers. Purchasers would get the same interest rate as the city or town would have received if it had not assigned the account. Taxpayers may not be required to pay a purchaser more than they would have had to pay the municipality if the assignment had not been made except to the extent permitted under guidelines or regulations issued by the Commissioner of Revenue. Purchasers would have the right to make tax takings in their names if the assignment were made by the collector, or the right to foreclose on the existing tax titles if the assignment were made by the treasurer.

Municipalities would have to continue to accept payments on assigned accounts and to issue lien certificates for those parcels. In addition, their liens for taxes for subsequent years will be superior to the liens for the assigned taxes. Therefore, they may agree to give assignees a right of first purchase with respect to future assignments of receivables on the same parcel.

The legislation also extends the minimum duration of municipal tax liens by fifteen months. Under G.L. Ch. 60 §37, the earliest date municipal tax liens will now expire is three years and six months after the end of the fiscal year to which the tax relates. Previously, the earliest expiration date would have been three years and nine months after the January 1 assessment date of the tax.

As authorized by the legislation, the Commissioner of Revenue will issue implementation guidelines for the new assignment procedures.

Last Act: Chapter 376 enacted on August 15, 1996 and signed by the Governor on August 22, 1996.

Com & Rpts City Off. #3

5-476

A communication was received from D. Margaret Drury, City Clerk, transmitting a memorandum from Harry M. Grossman, Acting Deputy Commissioner, Division of Local Services relative to the Summary of 1996 Municipal Finance Law Changes.

In City Council September 30, 1996

~~Referred to the City Manager~~ *to request
that he inform City
Council of any actions he
would recommend.*