Massachusetts Department of Revenue

Division of Local Services

BULLETIN

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## 1992 LEGISLATIVE ENACTMENTS

TO: Local Officials

FROM: Leslie A. Kirwan, Deputy Commissioner
Division of Local Services

Leslie A. Kirwan

DATE: November 20, 1992

SUBJECT: Summary of 1992 Municipal Law Changes



As you know, at the end of each legislative session, the Division of Local Service publishes a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and tax assessment, administration and collection.

In order to keep you informed of legislative developments as they occur during the year, we will now issue this **BULLETIN** on a quarterly basis in the spring, at mid-year after the state budget has been enacted, in the fall, and at year's end. Each issue will contain a cumulative summary of session laws enacted to that time and will indicate whether the Division has issued or will issue any further implementation guidelines.

Attached is the first quarterly edition of the **BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1-221 of the Acts of 1992. Copies of these new laws can be obtained from the State Bookstore located in Room 116 of the State House.

revolving funds to pay wages and salaries of part-time and seasonal employees and to purchase equipment. In addition, the fund may now exceed $10,000 during the fiscal year, but if the year end balance exceeds that amount, the excess closes to the general fund. A city or town may also adopt an ordinance or bylaw requiring annual authorization of the revolving fund by annual town meeting or city council.

## Ch. 50 CONSOLIDATED MUNICIPAL FINANCE DEPARTMENTS

**An Act Relative to Consolidated Departments of Municipal Finance.**
Effective August 30, 1992.

Authorizes the director of a municipal finance department consolidated under G.L. Ch. 43C to serve ex-officio as the treasurer, collector or treasurer-collector. However, the director cannot serve ex-officio as both the treasurer, collector or treasurer-collector and as the accounting officer (town accountant, city auditor or comptroller).

## Ch. 62 INSURANCE PROCEEDS

**An Act Further Regulating the Use by Municipalities of Certain Sums Received as Payment for Damages.**
Effective September 8, 1992.

Increases from $10,000 to $20,000 the amount received by a city, town or district in insurance proceeds or restitution for damaged property that may be spent to restore or replace the property without appropriation under G.L. Ch. 44 §53.

## Ch. 128 FARM PLATES

**An Act Further Defining a Farmer.**
Effective October 15, 1992.

Expands the definition of "farmer" for the purpose of obtaining special plates under the motor vehicle registration law, G.L. Ch. 90. Vehicles operated with farm plates are exempt from the motor vehicle excise if an exemption application is timely filed and the vehicle is used exclusively for farm related activities.

# 1992 LEGISLATIVE ENACTMENTS

## Ch. 8 CONDOMINIUM COMMON EXPENSE LIENS

An Act Relative to the Priority Status of Common Expense Liens in Condominiums.
Effective March 18, 1992.

Amends G.L. Ch. 183A §6 to provide expressly that municipal liens on condominium units have priority over liens for unpaid common expenses. Changes made in the statute in 1991 had only given priority to municipal liens secured by a tax title.

## Ch. 23 FY92 SUPPLEMENTAL BUDGET

An Act Making Appropriations for the Fiscal Year 1992 to Provide for Supplementing Certain Existing Appropriations and for other Activities and Projects.
Effective April 24, 1992.

§9 Street Lists. Makes a technical correction in a 1991 amendment of G.L. Ch. 151 §4 to prohibit public disclosure of the names of children age 3 to 16 appearing on the annual municipal census.

§§70-72 City "1/12" Budgets. Extends for FY93 the deadline set forth in G.L. Ch. 44 §32 for the mayor in all cities, except Boston, to submit the annual budget to the city council. Also permits the use of so-called 1/12th budgets for a limited period of time until the FY93 budget is approved.

## Ch. 36 WATERSHED LANDS

An Act Relative to the Protection of the Metropolitan Water Supply.
Effective August 18, 1992.

Regulates development within the Quabbin, Wachusett or Ware watershed areas for the protection of the Metropolitan Boston water supply. Provides a new state reimbursement, G.L. Ch. 59 §5H, for cities and towns with land subject to these development restrictions.

## Ch. 42 PARKS AND RECREATION REVOLVING FUND

An Act Relative to Recreation and Park Self-Supporting Service Revolving Funds.
Effective June 30, 1992.

Amends G.L. Ch. 44 §53D, which authorizes cities and towns accepting its provisions to establish a revolving fund for park and recreation programs. Municipalities may now use

**§369 Joint Services.** Amends G.L. Ch. 40 §4A, which permits cities, towns, and various districts to enter into agreements to jointly provide public services. Joint agreements may now be entered into by the municipality's chief executive officer, or a board, commission or officer upon authorization by the city council and mayor in a city, or by town or district meeting in a town or district. Joint agreements may not exceed 25 years and must include certain financial safeguards.

**§370 & 452 Non-Criminal Disposition of Local Violations. Effective January 1, 1993.** These sections broaden the types of violations a city or town may make subject to the non-criminal disposition procedure and establish a new alternative disposition procedure for those violations. Section 370 amends G.L. Ch. 40 §21D, which will now authorize cities and towns by bylaw or ordinance to permit the non-criminal disposition of any state and local health, building and fire code violation, or any other local violation. The fine set by the bylaw or ordinance for any infraction cannot be more than $300. These violations may be disposed of using a new civil infraction procedure, G.L. Ch. 90G, added by Section 452, which permits the violator to resolve the matter by paying the fine to the Registrar of Motor Vehicles.

**§371 Parking Meter Advertising.** Removes from G.L. Ch. 40 §22A a prohibition on the use of parking meters for advertising purposes or the granting of advertising rights on parking meters by a city or town.

**§373 Consolidated Municipal Departments.** Consolidated municipal departments of finance, community development and inspection under G.L. Ch. 43C may now be adopted, revoked or rescinded by vote of annual town meeting rather than of the electorate as previously required. Consolidated departments are also now expressly permitted to enter into joint service agreements under G.L. Ch. 40 §4A.

**§374 Bond Proceeds.** Provides cities, towns and districts with greater flexibility under G.L. Ch. 44 §20 in the use of surplus bond proceeds to finance other capital projects. They may now appropriate the balance of proceeds remaining after completion or abandonment of a project for any purpose for which debt may be authorized for an equal or longer period of time than that for which the original loan was issued rather than could be authorized by law as was previously the case. In addition, premiums and accrued interest on bonds and notes will now be treated as general revenue instead of being reserved for principal and interest payments. **An Informational Guideline Release (IGR) will be issued on this legislation.**

## Ch. 133 FY93 STATE BUDGET

An Act Making Appropriations for the Fiscal Year 1993 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, 1992 unless otherwise noted.

§44 State Owned Land Reimbursement. Reinstates for FY93 the separate state reimbursement to cities and towns in which the Commonwealth owns land for certain public purposes. Since FY88, the reimbursement had been included in a community's Additional Assistance distribution.

§48 Early Retirement Programs. Authorizes cities and towns that fully fund their retirement systems and accept its provisions to establish early retirement programs for municipal employees, except teachers. Early retirement programs are to be administered by the applicable retirement system. Acceptance requires both legislative (town meeting, city or town council) and executive (board of selectmen, mayor) action.

§64 Housing Authority Procurement. Authorizes housing authorities to purchase materials, supplies and services in FY93 through the consolidated supply program of the U.S. Department of Housing and Urban Development and sets forth notice and other bidding requirements applicable to those purchases.

§112 Equal Opportunity Grants - At Risk Schools. Targets the use of equal opportunity grants by requiring that eligible communities and districts give priority to those schools where student performance does not meet guidelines to be established by the Commissioner of Education.

§169 Public Records. Exempts from the definition of public records under G.L. Ch. 4 §7 Cl. 26 contracts for hospital and hospital care services between state, county and local health care facilities and health maintenance organizations and insurance companies.

§203 Local Cultural Councils. Changes the length and number of terms for members of Local Cultural Councils terms (formerly Local Arts Lottery Councils) established under G.L. Ch. 10 §58.

§366 Employee Health Benefits. Provides local governments with greater flexibility in offering health care coverage for their employees under G.L. Ch. 32B §12 by permitting them to join in cooperative purchasing agreements or trusts as a means of self-insurance.

**§434 Special Needs Costs.** Amends G.L. Ch. 71 §5 to provide that if there is a change in the residence of a special needs child in a day or residential placement after July first, the responsibility for paying the tuition remains with the former community for that year.

**§§462, 494, 499 and 500 Demolition Liens.** These sections establish uniform procedures for municipalities to collect expenses they incur in the removal or abatement of various public health or safety nuisances and hazards under G.L. Ch. 111 §125 (abatement of nuisances by boards of health), Ch. 111 §127B (clean-up of buildings unfit for human habitation by boards of health), Ch. 139 §3A (demolition of unsafe structures by mayor/selectmen), Ch. 143 §9 (demolition or securing of abandoned structures by building inspectors), and Ch. 148 §5 (abatement of fire hazards by state fire marshal or local fire chief). These charges, which constitute liens upon recording a statement of claim at the Registry of Deeds, will all now be added to the real estate tax on the property and collected as part of the tax if they remain unpaid, as is the case for other delinquent municipal charges constituting liens. Previously, communities had to institute separate foreclosure proceedings for some of these charges. **An IGR will be issued on this legislation.**

**§521 Tax Foreclosures.** Expands the powers of the Recorder of Land Court under G.L. Ch. 185 §6 to hear and rule on petitions for tax foreclosure and for redemption from tax titles.

**Ch. 136 HISTORICAL COMMISSION RECORDS**

**An Act Relative to Certain Records of Local Historical Commissions.**
Effective October 18, 1992.

Amends G.L. 40 §8D, which sets out the powers and duties of local historical commissions, to exempt from public disclosure certain information received by historical commissions relating to the location of historical sites and objects.

**Ch. 143 BORROWING PROCEDURES**

**An Act Relative to Borrowing by Cities, Towns and Districts.**
Effective July 31, 1992.

Extends from two to five years the period of time cities, towns and districts may issue and refund temporary debt in anticipation of permanent, long-term debt for certain

§376 **Insufficient Funds Checks.** Makes the penalty under G.L. Ch. 44 §69 for tendering an insufficient funds check to a local treasurer for payment of a municipal service, fee or charge the same amount as imposed by G.L. Ch. 60 §57A for tendering an insufficient check to a collector. That penalty is currently 1% of the amount of the check or $25, whichever is greater.

§377 **Alternative Revenue Sources.** Allows cities and towns, under new provisions, G.L. Ch. 40 §§70 and 71, to contract with vendors to identify and pursue federal reimbursements for, or other revenues or available resources that may be generated by, municipal programs and services, and to pay for the contracts from those reimbursements or revenues without further appropriation. These contracts may be entered into by the collector, treasurer or other department head, with authorization by town meeting and city council and approval of the board of selectmen, town manager or mayor, and are to be governed by regulations and guidelines issued by the Commissioner of Revenue. The Commissioner is also empowered to negotiate contracts directly with vendors for particular services to be provided, and cities and towns may enter into contracts negotiated by the Commissioner without complying with the G.L. Ch. 30B, Uniform Procurement Act.

§386 **Apportionment of Taxes.** Amends G.L. Ch. 59 §78A, which allows the assessors to apportion taxes when land has been subdivided by a sale, mortgage or other change in ownership. An apportionment may now be made where the subdivision occurs after the January first assessment date. Previously, the division had to occur after the commitment. **IGR 92-207 issued November 1992.**

§388 **Motor Vehicle Excise Marking Fee.** Increases from $10 to $20 the fee imposed under G.L. Ch. 60A §2A when the Registry of Motor Vehicles is requested by a collector to mark a registration and license for non-renewal due to an outstanding motor vehicle excise.

§416 **Local Option Hotel/Motel Excise.** Provides for the quarterly distribution of local option hotel/motel excise receipts collected by the Department of Revenue.

§431 **Consolidated Administration.** Adds a new local option statute, G.L. Ch. 71 §37M, which authorizes cities and towns to consolidate school and municipal administrative functions, such as finances, personnel and maintenance. Any consolidation requires approval of the school committee, town meeting or town council, and the city council and the mayor if required by law.

borrowings under G.L. Ch. 44 §17 and requires the annual payments of principal for temporary debt issued beyond two years. In addition, under a new provision, G.L. Ch. 44 §20A, cities, towns and districts that have authorized debt or have had a federal or state grant approved for a project may now make expenditures from any available funds in anticipation of borrowing or receipt of the grant monies. Previously, it was not clear that monies from one fund could be advanced on a temporary basis to eliminate the need to borrow. Any interfund borrowings are subject to rules, regulations and guidelines issued by the Director of Accounts. This legislation also gives towns and districts the same authority cities now have to secure bonds and notes by insurance or letters of credit. G.L. Ch. 44 §22A. An IGR will be issued on this legislation.

Ch. 153 <u>FY92 SUPPLEMENTAL BUDGET</u>

An Act Making Appropriations for the Fiscal Year 1992 to Provide for Supplementing Certain Existing Appropriations and for other Activities and Projects.
Effective August 7, 1992.

§73 Equal Educational Opportunity Grants. Permits the Commissioner of Revenue to waive FY93 maintenance of effort requirements under the equal educational opportunity grant program for cities and towns that have financial emergencies and agree to implement management reforms.

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Last Act: Chapter 221 enacted on October 26, 1992 and signed by the Governor on November 3, 1992.

S-1038

Comm. from Leslie A. Kirwan, Division of Local Services, Department of Revenue, transmitting the first edition of the BULLETIN to inform the City Council of legislative developments as they occur during the year.

In City Council,

December 14, 1992

Placed on file