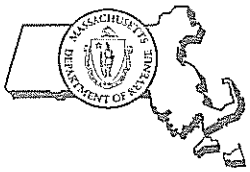
Massachusetts Department of Revenue *Division of Local Services*
Navjeet K. Bal, Commissioner *Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs*



Bulletin

2010-02B

FY2011 BUDGET ISSUES AND PROCEDURES

TO: Mayors and Selectmen
Boards of Assessors
Auditors and Accountants
Collectors
Treasurers
City and Town Managers
Executive Secretaries and Finance Directors
City Solicitors and Town Counsels
Regional School District Committees
Regional School District Superintendents

FROM: Gerard D. Perry, Director of Accounts

DATE: March 2010

SUBJECT: FY2011 Budget Issues

This *Bulletin* addresses several issues that cities, towns, regional school and other districts should consider for FY2011 revenue and expenditure budgeting and for accounting purposes.

An Act Relative to Municipal Relief

The February 25, 2010 edition of the Division of Local Services' City and Town publication includes the proposed Municipal Relief Act (H. 4526) as well as highlights from it. The proposed act is a collection of ideas drawn up over the past 18 months by the administration, the legislature, local officials, municipal advocacy groups and private citizens. Its goal is to provide cities and towns with the tools needed to operate efficiently and cost-effectively. It also includes several provisions for regional school districts. As of the e-mailing of this *Bulletin*, it has been reported favorably by the Joint Committee on Municipalities and is Regional Governments and is pending in the legislature.

Community Preservation Fund

During FY2010, 142 cities and towns collected the local Community Preservation Act (CPA) surcharge and are eligible for state matching grants in FY2011. As a result of recent positive trends in the collection of Registry of Deeds fees that provide state funding for the CPA program, and given the relatively slow

increase in the number of cities and towns participating in the program, the Division of Local Services (DLS) estimates that the balance in the state trust fund will be sufficient to provide a first round match of between 31 and 32 percent of the surcharge levied by each city and town. This will trigger a second round or equity distribution for those cities and towns that have adopted the maximum three percent surcharge. With the equity distribution, the total state reimbursement for qualifying cities and towns will increase, depending on their quartile and total surcharge amount (see www.mass.gov/dls for applicable quartile). Please note that these estimates are subject to change depending on Registry collections between now and September.

Transfer of Overlay to Overlay Surplus

By law, the overlay account for a particular fiscal year remains open until exhausted or surplus overlay is transferred by vote of the board of assessors to overlay surplus in accordance with G.L. c. 59, § 25. Surplus is defined in the statute as the amount in the overlay account that exceeds:

(1) the amount needed for abatements and exemptions that may still be granted for that fiscal year;

plus

(2) the total real and personal property taxes still outstanding against the collector's warrant (including omitted and revised assessments) for that fiscal year. Real estate taxes secured by a tax title may, but need not, be reserved against the overlay, except to the extent the assessors believe these taxes may be abated.

Overlay surplus is an available fund that may be appropriated for any lawful purpose until June 30, after which it must be closed to the General Fund.

Converting from a Special Revenue Fund to an Enterprise Fund

When converting from a special revenue fund to an enterprise fund, the fund balance in the special revenue fund may be transferred to the fund balance of the enterprise fund by vote of the city or town legislative body. Any fund balance not so transferred must close to the General Fund on June 30. Any fund balance transferred will become retained earnings only after certification by the Bureau of Accounts.

Use of Sale of Real Estate

Proceeds from the sale of real estate acquired by other than tax title foreclosure are not allowed as an estimated receipt on page 3 of the Tax Rate Recap without special legislation. These proceeds must be placed into an available fund for appropriation toward certain restricted purposes indicated in G.L. c. 44, § 63.

Levy Limits on the Website

FY2011 preliminary levy limits for budget planning purposes and instructions will be available soon on the DLS website. The levy limit calculation is the same as in FY2010 unless otherwise noted in the instructions' cover letter.

GASB 54

The Bureau of Accounts in cooperation with the Massachusetts Society of Certified Public Accountants' Governmental Accounting and Auditing Committee has been reviewing the provisions of GASB 54 and their effect on the Uniform Massachusetts Accounting System (UMAS). GASB 54 attempts to enhance the usefulness of fund balance information and clarify existing governmental fund type definitions. When the review is complete, the Bureau will promptly advise.

Dealing with a FY2010 Revenue Deficit

During these difficult financial times, the Bureau reminds that a revenue deficit occurs when actual revenues and expenditures (exclusive of legal appropriation deficits) compare unfavorably to budgeted non-property tax revenues and appropriations. If appropriation turn-backs are insufficient to cover the non-property tax revenue shortfall, a revenue deficit exists that must be provided for in the following fiscal year, no later than the setting of that fiscal year's tax rate.

- A revenue deficit is not finalized until the fiscal year's books are closed. Therefore, action to avert a forecasted deficit such as reducing FY2010 operating and/or special purpose appropriations or increasing local fees and charges must occur as soon as possible.

- Boards of Selectmen with the agreement of the Finance Committee may consider their appropriations transfer option pursuant to G.L. c. 44, § 33B (see Informational Guideline Release (IGR) 06-2009) in this case. If this option is considered, the Bureau recommends that the Board transfer a sufficient amount of unspent appropriations to a budget line item which will continue to go unspent through the end of the fiscal year.

- Free cash certified as of July 1, 2010, the tax levy or other legal funding source may be appropriated after June 30, 2010 to extinguish this deficit. If not extinguished by appropriation, the deficit must be raised on the FY2011 Tax Rate Recap on page 2, Part IIB, line 3.

Revenue Budgeting for FY2011

- Because of economic conditions and until further notice, the Bureau of Accounts **will require** that any FY2011 estimated receipt above its FY2010 actual amount (except for rounding) be supported by reasonable documentation. The Bureau cautions against unreasonable FY2011 estimates that may be rejected by the Bureau for tax rate setting purposes.

- *Massachusetts School Building Authority (MSBA)*: As in prior years, FY2011 estimated payments will be allowed on the Tax Rate Recap provided (1) the amount is reported on MSBA's website, or (2) an additional amount is indicated in separate correspondence from MSBA apart from the website amount. See IGR 08-102 for instructions on receipt of payments. Payments for any project for which a debt exclusion is applicable require reservation and annual amortization. See levy limit instructions for further details.

- *Mitigation Funds*: Mitigation payments are often characterized as grants or gifts, but are generally unrestricted general receipts. (see *City and Town*, Focus, January 2006) They can be substantial in amount and may be used as an estimated receipt on page 3 of the Recap provided there is strong supporting documentation. The Bureau will not generally approve an FY2011 mitigation estimated receipt from a private party where (1) FY2011 is the first year of the payment and (2) the payment is not received by the time the FY2011 Tax Rate Recap is submitted to the Bureau of Accounts. Mitigation payments from another governmental entity included as an FY2011 estimated receipt must be corroborated by that entity to the Bureau before that amount will be accepted for tax rate setting purposes. Once received, however, mitigation payments not included as estimated receipts on the FY2011 Tax Rate Recap may become part of a free cash update request (see **Free Cash Update and Non-Recurrent Distributions to Cities and Towns** below).

- *Pension Reserve Transfers and PERAC Approval:* Any city or town with a Pension Reserve Fund pursuant to G.L. c. 40, § 5D and considering a transfer from this fund pursuant to G.L. c. 32, § 22 part 6A(b) must first receive permission in writing to do so from the Massachusetts Public Employee Retirement Administration Commission (PERAC).

- *Meals Excise Taxes:* According to DLS' Municipal Data Bank, 73 cities and towns have adopted the local option meals excise tax effective for FY2010. Cities and towns expecting to adopt this local option effective at the beginning of FY2011 must vote to accept by May 31.

- *Rooms Excise Taxes*: According to DLS' Municipal Data Bank, 72 cities and towns have voted to increase their local option rooms excise tax rate effective for FY2010. Cities and towns expecting to adopt this local option effective at the beginning of FY2011 must vote to accept by May 31.

- *Meals/Rooms Estimated Receipts*: For cities and towns that adopted either or both these local options effective in FY2010, revenue estimates for FY2011 should be based upon actual amounts received in FY2010 and if applicable extrapolated to 11 months. For cities and towns adopting either or both local option for the first time in FY2011, revenue estimates issued by the Department of Revenue cannot be exceeded.

- *Enterprise Revenues and Retained Earnings:* Cities and towns with enterprise funds are reminded the Bureau will not allow FY2011 estimated revenue for user charges based upon the government's intent alone to raise these charges in the future. These charges must be raised before the Tax Rate Recap is submitted for tax rate certification to the Bureau. In addition, appropriations from retained earnings may only be made after the earnings are certified by the Bureau and in no greater in amount than so certified.

Expenditure Budgeting for FY2011

- *Other Amounts to be Raised:* During the FY2010 tax rate approval process, the Bureau noted several communities attempting to raise on the Tax Rate Recap certain amounts without appropriation. State law allows for only certain items to be raised in that manner. Any other amounts being so raised must be supported by special legislation.

- *School lunch deficit*: The Bureau will not require a school lunch account deficit to be provided for on the next Tax Rate Recap if the deficit is deemed to be due to timing of receipt of funds. Otherwise, a structural deficit must be raised, subject to approval of the Director, on the Tax Rate Recap without appropriation if not otherwise provided for.

- *Court Judgments and Settlements for Judgment:* Any final court judgment or settlement for judgment rendered between July 1 and the time the next tax rate is set must be raised on the Tax Rate Recap without appropriation on page 2, Part IIB, line 3 if not otherwise provided for. Any judgment or settlement for judgment rendered (1) after the setting of the tax rate through June 30, and (2) in an amount greater than $10,000, may with the written approval of the Director of Accounts be paid from available funds in the treasury and be raised on the next fiscal year's Tax Rate Recap.

- *Budgeting in Full Prior to Tax Rate Certification:* In the Bureau's opinion, although events may occur after tax rate certification that require additional budget action, the city or town budget as reported on the Tax Rate Recap should represent final spending authority as budgeted and appropriated. Cities and towns should not submit the form for tax rate certification with the intention of funding the remainder of the budget as funds become available.

- *Self-Insurance Plans for Employee Health Insurance:* If the June 30, 2010 Claims Trust Fund balance is in deficit for cities, towns or regional school districts with a Claims Trust Fund, 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 and (2) in a regional school district by providing for it in the FY2011 regional school district budget. Any deficit is also a reduction to a city or town's certified free cash or to a regional school district's certified excess and deficiency amount.

- *Pension Appropriations*: The Bureau is aware that current market situations have caused certain pension assessments to rise dramatically in FY2011. Please be reminded that the assessment must be provided for in the FY2011 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.

Certification of City, Town, District and Regional School District Notes and Receipt of Audit Reports

Audit reports of cities, towns and districts are required if expenditure of federal funds exceed threshold amounts promulgated by the federal Office of Management and Budget. Audits of

regional school districts are required under provisions of G.L. c. 71, § 16A. For FY2011, the Bureau of Accounts will not certify revenue notes of a city, town, district or regional school district if a required audit for the period ended June 30, 2009 has not been submitted to the Bureau.

Regional School District Balance Sheet Required

Regional school districts must submit a Balance Sheet to the Bureau for certification of excess and deficiency as of June 30. The Board of the Department of Elementary and Secondary Education (DESE) regulations indicates that if a Balance Sheet is not filed timely, the Commissioner of DESE may request of the Commissioner of Revenue to withhold all or some part of the quarterly distribution of state aid for that school district until a Balance Sheet is submitted.

State law and the Board's regulation require a Balance Sheet to be submitted to the Bureau on or before October 31 of each year. Annual Bureau instructions indicate the submission requirements. Audited Balance Sheets are not required, but the submission must be in a format that will allow the Bureau to calculate an excess and deficiency amount.

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

The Bureau will continue its policy to allow cities and towns an opportunity to request from the Director authority to reserve and appropriate non-recurrent distributions over a certain period of time through the free cash update process.

For cities and towns, state law permits inclusion of receipts attributable to prior years, principally collection of property taxes, up to March 31. G.L. c. 59, § 23. This update to the amount previously certified provides additional spending authority based on those items, but must first be certified by the Director prior to appropriation. The Director will not certify an additional amount if use of those funds could, in the Director's opinion, result in a 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 a negative free cash as of the following June 30 results, the city or town may not request a similar update for the following fiscal year.

Gateway: FY2011 Tax Rates and FY2010 Schedule A's

For Tax Rate and Schedule A form completion during FY2011, forms will be on-line for direct data entry, review, retrieval, signing and submission by authorized local officials. The data may then be entered once with immediate feedback on potential problems. At the same time, *Gateway* has an internal tracking system to more efficiently move workflow through the people involved in form approval.

For FY2010, 97% of cities and towns submitted all Tax Rate Recap forms directly on *Gateway* while 75% submitted FY2009 Schedule A's. The Excel-based Tax Rate Recap and Schedule A programs will remain available, but local officials should realize that they are uploaded to the *Gateway* database and their status is visible to authorized local users.

End of year accounting forms or upload links are also available on *Gateway* under Misc Forms for CP1, CP2, Snow & Ice, Cash Reconciliation, Statement of Indebtedness, Outstanding Receivables, Quarterly Cash Report, and Balance Sheet Checklist.

DLS expanded and refined automatic notifications of Bureau approvals in FY2009, including immediate E-mail notifications of Free Cash certification. These notifications are sent to e-mail addresses in the Local Officials Directory which local finance officials should check for accuracy. In some cases, local network firewall settings have resulted in non-delivery of these e-mail messages. Local officials should work with their computer staff to ensure that messages sent by DLS are not blocked or considered SPAM since DLS now relies on e-mail to deliver legally required notifications.

Pro Forma Recap and Preliminary Real and Personal Property Tax Bills

Semi-annual and quarterly tax billing city, town and special purpose taxing districts continue to have the option to issue preliminary tax bills (first half for semi-annuals and 3rd quarter for quarterlies) if a reassessment or the final determination of assessed valuations has been delayed. Although the purpose and procedure for issuance have not changed, it should be noted that pro forma approval is at the discretion of the Director, subject to a recommendation from the Chief of the Bureau of Local Assessment.