

## 1995 LEGISLATIVE ENACTMENTS

TO: Local Officials

FROM: Robert H. Marsh, Deputy Commissioner  
Division of Local Services

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SUBJECT: Summary of 1995 Municipal Finance Law Changes

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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 **final** edition of the **1995 LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 - 307 of the Acts of 1995. Summaries of legislation enacted since the August 25, 1995 edition was issued begin on page 6 with Chapter 126. Any changes in or additions to the previously issued material are underscored.

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

## 1995 LEGISLATIVE ENACTMENTS

### Ch. 20 CITY BUDGETS

#### **An Act Relative to Procedures for City Budgets.**

Effective April 28, 1995.

Extends the deadline set forth in G.L. Ch. 44 §32 for the executive officer (mayor or city manager) of all cities, except Boston, to submit the annual budget to the city council from 120 to 170 days after the annual organization of the city government. Also permits the use of a "continuing" budget for no more than three months if the city budget is not approved by July first of any year.

### Ch. 29 COUNTY DEBT

#### **An Act Authorizing Counties to Issue Refunding Bonds and Notes.**

Effective August 24, 1995.

Allows counties to refund debt issued for capital purposes. Since all county debt for capital purposes has to be authorized by a special act of the legislature, this legislation permits counties to refund capital purpose debt even if the special act authorizing that debt does not expressly provide for refunding bonds.

### Ch. 38 FY96 STATE BUDGET

#### **An Act Making Appropriations for the Fiscal Year 1996 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, 1995.

**§8 Advance Local Aid.** Authorizes the State Treasurer to advance payments of FY96 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. **Informational Guideline Release (IGR) No. 95-101 issued August 1995.**

**§§57 and 59 Joint Governmental Services.** Authorizes a water and sewer commission established under the provisions of G.L. Ch. 40N, or a special act, to enter into agreements to provide services jointly with other governmental units under G.L. Ch. 40 §4A.

**§60 Solid Waste Disposal Facilities Debt.** Increases from twenty to twenty-five years the maximum term found in G.L. Ch. 44 §8(22) for which cities and towns may borrow to construct solid waste disposal facilities, other than landfills.

**§61 Refunded School Construction Debt.** Amends G.L. Ch. 44 §21A, which governs the refunding of local debt issues, to require that cities, towns and districts notify the Department of Education whenever debt for an approved school building assistance project is refunded and to provide for an adjustment in the school construction grant for projects approved after July 1, 1995 where there is a decrease in the interest payable on the refunding bonds or notes.

**§63 Exemption for Septic System Owners.** Establishes a local option exemption, G.L. Ch. 59 §5(53), for homeowners with septic systems in those cities and towns that also adopt G.L. Ch. 59 §21C(n), which permits an increase in property taxes outside the levy limits of Proposition 2½ to pay for water and sewer debt services charges. The amount exempted will be the difference between the increased property taxes due to the acceptance of G.L. Ch. 59 §21C(n) and the amount the homeowner's water bill would be higher if that amount were recovered in water charges. The maximum exemption is \$300. Applications must be filed by December fifteenth, or three months after the mailing of the tax bills, whichever is later. Homeowners may receive this exemption in addition to any other exemption for which they may qualify. There is no state reimbursement to cities and towns for this exemption.

**§87 School Budget Information.** Amends G.L. Ch. 69 §1A, which sets out the basic duties and responsibilities of the Department of Education, to require the Commissioner of Education to distribute to the chief executive officer(s) of a municipality copies of all information provided to its local or regional school committee or superintendent relating to the school budget.

**§§92, 94, 96, 97, 265, 291 Education Reform.** Make various changes in §2 of G.L. Ch. 70, which establishes the definitions used in the foundation budget formula under the Education Reform Act, as well as in §§3 and 12 of Ch. 70, which govern the calculation of various inflation factors, as follows:

(1) For FY96, 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.

(2) "Preliminary local contribution" will now be defined as the product of the prior year's minimum contribution and the municipal revenue growth factor, increased by the excess debt service amount of the prior year. This change codifies the approach the Department of Education has used in calculating the preliminary local contribution.

(3) The "foundation budget" and "new" state school aid inflation factor calculations will now compare the state and local government price deflators for the first quarter of the prior fiscal year to the first quarter of 1993. Previously, the third quarter of the prior year was compared to the third quarter of 1992. The "base" state school aid inflation factor will now also be based on comparing the deflators in first quarter of the prior fiscal year, rather than the third quarter, to one year earlier.

**§99 Approval of Regional School Debt.** Amends G.L. Ch. 71 §14D, which governs the approval of regional school district debt, to allow a district, by two-thirds vote of its members, to require that approval of any particular debt issue be subject to approval by the voters of the member communities according to the procedures found in G.L. Ch. 71 §16(n). Previously, all debt would be approved by vote of town meeting under G.L. Ch. 71 §16(d) unless the regional school agreement expressly provided for use of the referendum procedure.

**§102 Charter School Funding.** Amend the provisions of G.L. Ch. 71 §89 that address the funding of charter schools by tuition payments from the cities and towns in which the students reside, or the regional school district they formerly attended. The tuition payments will now be deducted from the Ch. 70 school aid distributions to the city, town or district and paid by the Commonwealth to the charter school.

**§104 School Committee Reports.** Requires, under a new provision, G.L. Ch. 72 §9, that various reports filed annually by local and regional school committees and school superintendents with the Department of Education on student populations, school budgets and school conditions also be filed, at the same time, with the chief executive officer(s) of the city or town, and in the case of a regional school district, with the chief executive officer(s) of all of the member cities and towns.

**§108 School Choice Reimbursements.** Amends the definition of the "above foundation reimbursement amount" found in G.L. Ch. 76 §12B, which governs the school choice program. For FY96 and subsequent years, the amount will continue to be twenty-five per cent of the net losses due to the school choice program.

**§203 School Building Assistance Program.** Extends the expiration date of the school building assistance program to June 30, 1996. Previously, no new projects could be approved under the program after June 30, 1995.

**§204 Taxation of Turnpike Lessees.** Authorizes municipalities to assess taxes on Turnpike Authority property leased, occupied or used in connection with a business conducted for profit to the lessee, occupant or user.

**§238 Highway Funds.** Requires the Commissioner of Highways to certify the second year's apportionment of the 1994 State Transportation Bond Issue (Ch. 85) funds to cities and towns by July 15, 1995 and to issue memoranda of agreement by August 15, 1995.

**§§240 and 264 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 FY96 at seventy-five dollars per pupil. Also provides that beginning in FY97, 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.

**§271 Education Reform Waivers.** Permits cities, towns and regional school districts to apply for various adjustments in their FY96 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY95 operating budgets and those revenues are not available in FY96, (2) they have extraordinary non-school related expenses in FY96, or (3) their FY96 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 FY95 that are unavailable for FY96, or (2) received regional incentive aid in FY95 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 95-302 issued July 1995.**

**§275 Sewer Rate Relief Fund.** Continues program to mitigate sewer rate increases in the MWRA service area and elsewhere due to debt service costs for water pollution abatement and wastewater treatment projects. The amount appropriated for FY96 is \$40 million. In addition, eligible debt issues will now be those issued after January 1, 1990, with a term over five years. All funds are to be distributed by March 31, 1996 under guidelines developed by the Division of Local Services in consultation with the Department of Environmental Protection. **BULLETIN issued August 3, 1995.**

**Ch. 42**      **MUNICIPAL FEES**

**An Act Relative to the Setting of Municipal Licensing Fees.**  
Effective September 21, 1995.

Amends G.L. Ch. 40 §22F, a local acceptance statute, that allows municipal boards and officers that issue permits, certificates or, or perform work or services, for individuals to set reasonable fees for those activities. Under the amendment, any fees set by a board or officer appointed by an elected board are subject to review and approval by that board.

**Ch. 70**      **AMBULANCE CHARGES**

**An Act Relative to Ambulance Services Provided to Medicare Beneficiaries.**  
Effective October 15, 1995.

Prohibits cities and towns that provide residents with ambulance service on a contractual basis from charging Medicare beneficiaries any more than the rate approved by the U.S. Department of Health and Human Services for the particular services rendered.

**Ch. 98            EDUCATIONAL COLLABORATIVES**

**An Act Relative to the Authority of Education Collaboratives.**

Effective November 8, 1995.

Amends G.L. Ch. 40 §4E, which permits two or more cities, towns or regional school districts to establish educational collaboratives to offer certain educational programs and services on a joint basis. The legislation empowers an educational collaborative, acting through its board of directors, to purchase real estate or equipment. Previously, the collaborative could only lease such real property or equipment.

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**Ch. 126          AFFIDAVIT OF MAILING**

**An Act Requiring Certain Information from Property Owners**

Effective December 11, 1995.

Adds a new local option provision, G.L. Ch. 59 §57D, which if accepted, would require that every preliminary (not actual) tax bill issued by the city or town include an affidavit of address to be signed and sworn to by the owner of record of the property. The affidavit is to include the name of the owner, a street number and street name, city, state, zip code and telephone number. Post office boxes cannot be listed even if that is where the owner gets his or her mail. If the affidavit is not submitted to the assessors within 30 days, the city or town is to issue a warning to the owner. Unless the property owner responds within the next 30 days, a \$100 fine is imposed, which if not paid within another 30 day period may become a lien on the property.

In addition, property owners are obligated to update the affidavit and immediately notify the assessors of any changes in their addresses. Out of state owners are also required to appoint an agent in Massachusetts and sign and swear to an affidavit setting out the agent's name, address and telephone in the same detail as the owner's affidavit. Again, a post office box cannot be listed.

Once an affidavit has been submitted to the assessors, mailing to the owner, or agent, at the listed address will be deemed sufficient service for the purpose of instituting any legal action relating to the property.

**Ch. 131      UNIFORM PROCUREMENT ACT**

**An Act Further Regulating Uniform Procurement Practices for Certain Real Property**

Effective September 22, 1995.

Exempts from the procurement requirements of G.L. Ch. 30B contracts for the sale, lease or acquisition of residential, institutional, industrial or commercial real property by a public or quasi public economic development agency or urban renewal agency. Previously, only contracts to sell or lease commercial and industrial property by such agencies were exempt. It also increases the dollar threshold for applying Ch. 30B procedures for the disposal or acquisition of real estate interests from \$5,000 to \$25,000.

**Ch. 181      ELDERLY AND SURVIVING SPOUSES AND MINORS EXEMPTION - PROPERTY TAX DISCOUNT**

**An Act Further Regulating Real Estate Abatements for the Elderly.**

Effective January 24, 1996.

Increases, upon local acceptance, the exemption amount available to certain senior citizens and surviving spouses and minors under G.L. Ch. 59 §5 Cls. 17, 17C, 17C½ and 17D annually by the amount of the Consumer Price Index.

Also adds a new provision, G.L. Ch. 59 §58, which if accepted, grants taxpayers who pay their entire tax bill for a fiscal year by the due date of the first installment payment for the year a 3% discount off their bill. In communities using a quarterly payment system under G.L. Ch. 59 §57C, the taxpayer would have to pay in full by August first. Where a semiannual system is used, full payment would have to be made by November first, or thirty days after the tax bill is mailed, whichever is later.

**Ch. 265      QUARTERLY TAXES**

**An Act Relative to Quarterly Tax Bills in Cities and Towns.**

Effective November 28, 1995.

Permits cities and towns using a quarterly tax payment system under G.L. Ch. 59 §57C to issue, with the approval of the Commissioner of Revenue, a



third quarter preliminary tax bill if they were unable to issue the FY96 tax bills by December 31, 1995. **BULLETIN issued November 30, 1995.**

**Ch. 267      CHARTER SCHOOL REIMBURSEMENTS**

**An Act Providing for a Program of Capital Improvements to the System of Higher Education in the Commonwealth.**

Effective November 22, 1995.

**§19 Charter School Reimbursements.** Establishes a partial state reimbursement of the state aid deductions made to pay charter school tuitions for those cities, towns and districts in which the prior year's net school spending is greater than the current year's foundation budget, i.e., "over foundation" districts. For FY96, 50% of the deductions will be reimbursed. The reimbursement rates will be 40% in FY97 and 30% in FY98. No reimbursements will be made in FY99 or thereafter.

**Ch. 289      EMPLOYMENT CONTRACTS FOR POLICE CHIEFS**

**An Act Relative to Employment Contracts for Police Chiefs.**

Effective March 6, 1996.

Adds G.L. Ch. 40 §108O which permits a city or town acting through its appointing authority to enter into an employment contract for salary, fringe benefits and other conditions of employment with its police chief. The employment contract may also include provisions for severance pay, relocation expenses, reimbursement of expenses incurred in the performance of duties of office, liability insurance, health and retirement benefits in addition to those provided municipal employees under G.L. Ch. 32 and 32B, leaves of absence, conditions of discipline, termination, dismissal, reappointment and performance standards. The agreement would prevail over any conflicting local personnel by-law, ordinance, rule or regulation, but not over any conflicting provisions of G.L. Ch. 31 in those communities where the police chief is subject to that statute.

The agreement will also prevail over any conflicting provisions of the city or town charter upon acceptance of section two of the statute. Acceptance in a city is by a majority vote of the city council and approval of the mayor, or city manager, if any. In a town, acceptance requires approval of the board of selectmen and of a majority of the voters at a town election of the following ballot question: "Shall the town accept subsection 2 of section 108(O) of chapter 41 of the Massachusetts General Laws, which provides that any provision of a police chief's employment contract shall prevail over any conflicting provision of the town charter?"

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Last Act: Chapter 307 enacted on December 21, 1995 and signed by the Governor on December 28, 1995.