Association of Town Finance Committees

Proposition $2\frac{1}{2}$

Ballot Questions

October 19, 2013
AGENDA

- Basic referendum procedures
- Town meeting & election sequencing
- Contingent appropriations
- Debt exclusion scope & budgeting
- Campaign activities
BALLOT QUESTIONS

Resources

- DOR/DLS web site [www.mass.gov/dls](http://www.mass.gov/dls)
  - Publications
    - DLS Legal Staff Attorney of the Day (617-626-2400)
      - DLSLAW@dor.state.ma.us

- AFTC Handbook - Proposition 2½ Chapter 6

- Elections Division - Office of Secretary of State

- Municipal Counsel
REFERENDUM PROCEDURE

Question Types

- Levy limit override or underride
  - Operating or other purposes
  - Permanent increase

- Exclusion
  - Capital purposes only
  - Temporary increase
    - Debt (until debt retired)
    - Capital (1 year)
REFERENDUM PROCEDURE

Question Presentation

- Voted by selectboard
- Must vote the actual question
  - Majority for overrides
  - 2/3 for exclusions
REFERENDUM PROCEDURE
Question Form

- Specified by statute
  - Spending or borrowing purpose
  - All questions
  - Dollar amount
  - Overrides and capital exclusions
- Fiscal year effective
  - Overrides and capital exclusions
REFERENCES

Municipal Elections

- May present at regular or special
  - Written notice to town clerk at least 35 days in advance of scheduled election date
  - Unlimited number of questions
REFERENDUM PROCEDURE
State Elections

- May present at state biennial
  - Certification to State Secretary by 1st Wednesday in August
  - Limited to 3 questions
REFERENDUM PROCEDURE

Question Approval

- Majority voting on question
  - Single or menu questions
    - Each approved question counts
  - Pyramid or tiered questions
    - Approved question with highest dollar amount counts
REFERENDUM PROCEDURE
Question Revocation

- Override
  - Underride

- Exclusions
  - Project not funded
RELATED SPENDING

- All spending and borrowing approved by town meeting
  - May vote before or after election
  - May vote even if ballot question fails
    - Spending is within levy limit
  - May not vote even if ballot question approved
CONTINGENT APPROPRIATIONS

- Town meeting can vote any appropriation or borrowing contingent on ballot question

- Contingent appropriation not valid unless related ballot question approved by deadline
  - Approved ballot question for same purpose always valid
CONTINGENT APPROPRIATIONS

- Contingent appropriation vote does not place question on ballot
  - Selectboard can place, decline to place, place lower amount

- Can use single, menu or pyramid approach for ballot question
  - Purpose must be substantially same as appropriation
SEQUENCING
Contingent Appropriation First

ELECTION DEADLINES

- May hold 1 or more elections
  - ATM appropriations
    - September 15
  - STM appropriations
    - 90 days after STM dissolves
SEQUENCING
Contingent Appropriation First

REFERENDUM PASSES

- No action required
- Related appropriation valid and tax increase available to cover
SEQUENCING
Contingent Appropriation First

REFERENDUM FAILS

- No action required
- Related appropriation null and void
SEQUENCING
Contingent Appropriation First

REFERENDUM
NOT HELD

- No action required
- Related appropriation null and void
SEQUENCING
Election First

REFERENDUM
PASSES
&
APPROPRIATION
THEN FAILS

- Referendum valid
- If override/capital exclusion, have until tax rate set to vote related appropriations
- If debt exclusion, have reasonable time to authorize related debt
SEQUENCING
Election First

REFERENDUM
FAILS &
APPROPRIATION
THEN PASSES

- Appropriation valid
- Referendum may be presented again
- Budget must be adjusted within levy limit before tax rate set
SEQUENCING
Election First

- BOTH PASS OR BOTH FAIL
  - No action required
SEQUENCING
Appropriation First

APPROPRIATION PASSES & REFERENDUM THEN FAILS

- Appropriation valid
- Referendum may be presented again
- Budget must be adjusted within levy limit before tax rate set
SEQUENCING

Appropriation First

APPROPRIATION FAILS & REFERENDUM THEN PASSES

- Referendum valid
- If override/capital exclusion, have until tax rate set to vote related appropriations
- If debt exclusion, have reasonable time to authorize related debt
SEQUENCING
Appropriation First

BOTH PASS
OR
BOTH FAIL

- No action required
BUDGETING EXCLUDED DEBT

Exclusion Scope

- Exclusion covers borrowing amount authorized/contemplated at election, plus interest on temporary and permanent debt

- See *IGR 02-201* on DOR standards for allowing additional amount
  - Modest dollar increases for inflation or minor project changes
Principal and interest due in year net of state/federal reimbursements

Netting of local receipts depends on receipt

See *Annual Levy Limit Instructions*

Offsetting of premiums required

See *Bulletin 2013-01B*
See *IGR 02-201* for DOR standards for adjusted debt exclusion schedule

- Total cannot exceed amount to be excluded under regular schedule
- Excluded amount above debt service paid in any year reserved to pay debt service in future years
ELECTION ACTIVITIES

Resources

- Office of Campaign & Political Finance (OCPF) [http://ocpf.cloudapp.net/](http://ocpf.cloudapp.net/)
  - Interpretive Bulletin (IB) 91-01 *Use of Governmental Resources* (6/5/2012)
  - IB 92-02 *Activities of Public Officials* (6/5/2012)

- State Ethics Commission

- Municipal counsel
ELECTION ACTIVITIES

General Guidance

- May take position on question
- May serve on or work for ballot committee in individual capacity
- May contribute personal funds to ballot committee
ELECTION ACTIVITIES

General Guidance

- NO use of public resources
- Preparation and distribution of information limited
- Use of public facilities by groups allowed if have equal access
- NO advocacy during business hours
ELECTION ACTIVITIES
General Guidance

- NO fundraising for ballot committee
- NO fundraising in public buildings
- NO compelled contributions or work