



Bulletin

2009-22B

2009 LEGISLATION

TO: Local Officials

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: September 2009

SUBJECT: Summary of 2009 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 **2009 LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 – 82 of the Acts of 2009.

Copies of these new laws can be obtained from the web site of the State Legislature: www.mass.gov/legis or the State Bookstore located in Room 116 of the State House.

2009 LEGISLATION

Ch. 1 **FISCAL YEAR 2009 STATE BUDGET REDUCTIONS**

An Act Expanding the Governor's Authority to Address Deficiencies in Revenue.
Effective January 22, 2009.

Expands the Governor's power to make budget cuts under G.L. c. 29, § 9C for the purpose of addressing revenue shortfalls during Fiscal Year 2009. The power ordinarily extends only to appropriations made for executive branch agencies under the Governor's control. For FY09, the power includes appropriations made for certain local aid distributions to cities, towns and regional school districts. [Bulletin 2009-04B, Fiscal Year 2009 Local Aid Cuts.](#)

Ch. 5 **FISCAL YEAR 2009 SUPPLEMENTAL BUDGET**

An Act Making Appropriations for Fiscal Year 2009 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.
Effective March 19, 2009, unless otherwise noted.

§ 20 Extended Unemployment Benefits. Allows the Governor to use funds from the federal Emergency Unemployment Compensation (EUC) Act of 2008 to cover up to 13 additional weeks of benefits for laid off employees before providing state extended benefits. During the period federal EUC funds are used, municipal employers on the reimbursable plan would not be charged for benefits of laid-off employees. However, once federal EUC coverage ends, they would become responsible for 100 percent of any further state paid extended benefits. Contact the [Division of Unemployment Assistance](#) for additional information about this section and the extended benefits programs.

Ch. 21 **PENSION REFORM**

An Act Providing Responsible Reforms in the Pension System. *Effective June 16, 2009.*

Makes several changes to public employee pension systems that are applicable to members who retire after July 1, 2009. Changes include a new definition of regular compensation that excludes housing allowances and certain other indirect payments. Housing and other allowances allowed under a collective bargaining agreement or employment contract may continue until the contracts expire, or June 30, 2012, if earlier. Accidental disability retirement benefits for someone in a temporary or acting position when the injury occurred will now be based on the person's annual rate of regular compensation during the prior 12 months. If the person was working in his or her permanent position, the benefits will be based on the annual rate of compensation on the date the injury occurred.

The “one-day, one year” provision is eliminated and elected officials will be given creditable service based on actual time served rather than a full year service for working one day in a calendar year. The “termination allowance” for elected officials who are not nominated or reelected is eliminated and elected officials must now have 10 years of creditable service at age 55 to retire. Previously, they needed six years.

Those serving in uncompensated positions will no longer be able to purchase creditable service for that position. Officers and employees who earn \$5,000 or less in compensation will no longer qualify for creditable service after their current terms expire, or July 1, 2012, if earlier. Retirees who return to work as consultants or independent contractors can no longer receive a full salary in addition to their pension benefits. The amount they may earn is limited.

Individuals who are members of more than one retirement system will now have to retire from each system separately. They can no longer combine their compensation and increase their pensions unless they retire before January 1, 2010.

Several changes are made to improve administrative efficiency. They include allowing retirement boards to require direct deposit of pension payments and requiring boards to notify employers when pension payments do not cover a retiree’s health insurance premium.

Retirement systems may extend their full funding schedules for two years – until 2030. A special commission on public pensions was reestablished with additional members and additional areas to study and report on by September 1, 2009.

See [Public Employee Retirement Administration Commission \(PERAC\) Memorandum No. 24 \(June 22, 2009\)](#) for a summary of these changes.

Ch. 26 FISCAL YEAR 2009 SUPPLEMENTAL BUDGET
An Act Making Appropriations for Fiscal Year 2009 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.
Effective June 29, 2009, unless otherwise noted.

§ 49 Pension Charges to Federal Education Grants. Waives for federal grants distributed to municipal and regional schools during FY09 and FY10 through the State Fiscal Stabilization Fund under the American Reinvestment and Recovery Act (ARRA) of 2009, the usual nine percent pension chargeback requirements of G.L. c. 40, § 5D when salaries are funded by the grants. See [Informational Guideline Release \(IGR\) 90-106, Pension Charges to Federal Grants](#). Districts must still make their regular contributions to local retirement systems for personnel not included within the state Teachers’ Retirement System. See [Department of Elementary and Secondary Education \(DESE\) Advisory Memorandum on FY10 ARRA State Fiscal Stabilization Fund \(SFSF\) Grants \(July 15, 2009\)](#).

Ch. 27 FISCAL YEAR 2010 STATE BUDGET

An Act Making Appropriations for the Fiscal Year 2010 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, 2009, unless otherwise noted.*

Item 8000-0040 Police Career Incentive Program Reimbursement. Makes police officers hired on or after July 1, 2009, or employed as of that date, ineligible for police career incentive program (Quinn Bill) benefits if they have not begun to accumulate points.

§ 3 Local Aid Advances. Authorizes the State Treasurer to advance payments of FY10 local aid distributions to a city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance.

§ 24 Senior Work-off Abatements. Allows cities and towns to increase the maximum property tax reduction seniors may earn performing work for their communities under local option G.L. c. 59, § 5K. This amendment increases the maximum reduction to \$1,000. Previously, it was \$750. **An updated Informational Guideline Release (IGR) will be issued on this legislation.**

§§ 25 and 149 Taxation of Telecommunications Corporations Poles and Wires on Public Ways. *Effective as of January 1, 2009 for fiscal years beginning on or after July 1, 2009.* Section 25 amends G.L. c. 59, § 18, Fifth, to eliminate the historical exemption from local taxation for poles and wires owned by telephone and telegraph, cable television, internet, data service and other telecommunications corporations and located on public ways that was based on court decisions. In effect, it makes the 2008 decision of the Appellate Tax Board (ATB) that determined the poles and wires of centrally valued telephone corporations located on public ways are subject to tax applicable to all centrally and locally valued telecommunications corporations beginning in FY10. *Verizon New England, Inc. Consolidated Central Valuation Appeals, ATB Docket No. C273560.* In addition, Section 149 permits assessors who are unable to obtain information from locally valued cable and other telecommunications corporations about these assets and complete valuations before the fiscal year 2010 actual commitment, to use the omitted and revised assessment procedure to make assessments for FY10. [Bulletin 2009-14B, Taxation of Poles and Wires on Public Ways.](#)

§§ 50-52 and 154 Local Room Occupancy Excise. *Effective for occupancies on or after August 1, 2009.* Section 50 amends G.L. c. 64G, § 2, which exempts certain occupancies from the room occupancy excise. Rooms occupied in hotels or motels operated by public or private educational institutions will now be subject to the excise. Sections 51 and 52 amend G.L. c. 64G, § 3A, which allows a city or town, by local acceptance, to impose a local room occupancy excise. The local excise is in addition to

the state excise imposed on room occupancies. Communities may now set a local rate up to six percent (six and one-half for Boston). Previously, the maximum local rate was four percent (four and one-half for Boston). [Bulletin 2009-15B, Local Option Excises](#); [Bulletin 2009-17B, Local Option Excise Revenues](#).

§§ 60 and 156 Local Meals Excise. *Effective for sales of restaurant meals on or after October 1, 2009.* Section 60 adds a new local option tax statute, G.L. c. 64L, which allows a city or town, by local acceptance, to impose an excise of .75 percent on the sales of restaurant meals originating within the municipality. The local excise is in addition to the state tax imposed on the meals. As with the local option room occupancy excise, the Department of Revenue will collect the local option meals excise and distribute the collections to the city or town. [Bulletin 2009-15B, Local Option Excises](#); [Bulletin 2009-17B, Local Option Excise Revenues](#).

§ 62 Borrowing for School Construction Projects. *Effective as of January 1, 2008.* Makes a technical amendment to subsection (d) to G.L. c. 70B, § 6, which relates to approval of school facility grants by the Massachusetts School Building Authority. It adds “regional school committees” to the first sentence of that subsection which authorizes a 25 year borrowing for the local share of school construction projects. Previously, that sentence only referenced cities and towns.

§ 114 Education Reform Waivers. Permits cities, towns and regional school districts to apply for various adjustments in their FY10 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY09 operating budgets and those revenues are not available in FY10, (2) they have extraordinary non-school related expenses in FY10, (3) their FY10 municipal revenue growth factor is at least 1.5 times the statewide average and is deemed to be excessive, or (4) in calculating one-time adjustments to their FY10 local contributions, the DESE used budgeted FY08 local contributions and their reported FY08 actual spending was less than budgeted or was revised downward. Regional school districts that used non-recurring revenues in FY09 that are unavailable for FY10 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. 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. Requests for waivers must be made by October 1, 2009. [IGR 09-302 issued July 2009](#).

§ 145 Water Infrastructure Commission. Establishes a 17 member special water infrastructure finance commission to develop a comprehensive, long-range water infrastructure finance plan for the Commonwealth and municipalities within two years. Members include the Commissioner of Environmental Protection and State Treasurer, or their designees, two appointees of the Senate President including one Senator, two

appointees of the Speaker of the House including one Representative, one appointee each by the Minority Leaders of the House and Senate, a representative of the Boston Water and Sewer Commission, and nine appointees of the Governor, including representatives from municipal, business, labor and environmental organizations.

Ch. 28 **ETHICS REFORM**

An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying.
Effective September 29, 2009, unless otherwise noted.

Makes a number of changes in the state's lobbying, open meeting, campaign finance and ethics laws that apply to municipal officials.

§§ 17-20 and 106 Open Meeting Law. *Effective July 1, 2010.* Provides for consolidation of the separate Open Meeting Laws for state, county and local governmental bodies into a new single law, G.L. c. 30A, §§ 18 – 25, that will be overseen and enforced by the Attorney General (AG) instead of the local district attorney. The AG is expected to provide training for governmental officials and can issue advisory opinions and regulations. The AG will also investigate alleged violations of the law and after a hearing, determine whether a violation occurred and the appropriate sanction from a number of options listed in the law. The law has also been updated so that the definition of deliberation includes certain communications by email. Electronic posting of meeting notices will also be permitted.

§§ 35, 23-59 and 105 Campaign Finance Law. *Effective January 1, 2010.* Changes some reporting requirements for candidates for municipal offices. Requires candidates for mayor in cities with populations of 40,000 to 100,000 to file electronic campaign finance reports with the Office of Campaign and Political Finance (OCPF) if they raise or spend \$5,000 during an election cycle. Previously, their reports were filed locally. In other cities and towns, city or town clerks are to post the campaign finance reports of candidates who have more than \$1,000 of activity in a reporting period on their municipal web sites (if any) within 30 days of the reporting deadline.

§§ 61-97, 101 and 102 Conflict of Interest Law. Increases civil fines and expands other enforcement tools and sanctions. Also includes requirement that State Ethics Commission (SEC) publish a summary of the Conflict of Interest Law for state, county, and municipal employees on its website and provide it to employees within 30 days of employment and on an annual basis. In addition, all current employees must be given a summary of the revised law no later than 90 days after the Act takes effect. Employees must acknowledge receipt of these summaries. Municipal employees will receive the summary from and return their acknowledgements to the city or town clerk.

The SEC must also provide on-line training for public employees, to be completed within 30 days of employment and every two years thereafter. Within 120 days after the

Act takes effect, each city and town must designate a senior level employee to serve as its liaison to the commission for the purpose of disseminating the required information and training to municipal employees.

See [Summary of Chapter 28](#) for a more detailed explanation of these changes.

Ch. 60 **REGIONALIZATION COMMISSION**

An Act Establishing a Regionalization Advisory Commission. *Effective July 1, 2009.*

Establishes a 19 member regionalization advisory commission to study opportunities for regionalization of services, by April 30, 2010. Members include the Secretaries of Administration and Finance, Health and Human Services, Energy and Environmental Affairs, Public Safety, Transportation, Elder Affairs, Veterans' Affairs, Labor and Workforce Development, Education, Housing and Economic Development or their designees, Senate President and Speaker of the House or their designees, Senate and House Minority Leaders or their designees, three appointees of the Governor and a representative from the Metropolitan Area Planning Council and the Massachusetts Municipal Association.

Last Act: Chapter 82 approved by the Governor on August 31, 2009.