

Are there any general guidelines about how much discretion selectboards have over the budget?

Generally speaking, a town may only spend funds for which it has voter approval. The primary statute of reference here is 17 V.S.A. § 2664, which provides, “A town shall vote such sums of money as it deems necessary for the interest of its inhabitants...”

However, once the voters have approved the budget, the selectboard has the responsibility to manage the budget, which sometimes requires it to transfer money between line items. This is usually permissible so long as they stay within the overall spending limits authorized by the voters.

Note that the statutes provide procedures for retiring a deficit (24 V.S.A. § 1523) and there is no requirement that towns maintain a positive fund balance. Thus the general rule can be summarized as follows: selectboards need voter approval for all spending; after obtaining approval, the board has authority to manage spending on individual line items within the overall amount approved by the voters; if a particular line item goes over budget, this is permissible, though introduction of a new line item or program is not unless it is approved by the voters. Be aware that there are some special provisions that limit discretion over the salaries of independent officers.

Another caveat concerns highway spending. Highway funds shall not be used for any purpose other than that for which the tax was voted and any surplus must be applied for the same purpose the following year. 19 V.S.A. § 312. Note also that towns are required to keep their class 1, 2, and 3 highways and bridges in good and sufficient repair during all seasons of the year. 19 V.S.A. § 310. Thus, the rule here can be summarized as follows: highway funds can only be spent on highways; any surplus must be carried forward; and the requirement to keep roads and bridges in sufficient repair during all seasons grants additional discretion to do whatever necessary to meet that standard.

At the end of the day, perhaps the best question to determine if the board has the authority to authorize a highway expenditure is whether it passes “the straight face test.” If the board can reasonably justify that an expenditure is necessary to fulfill its statutory obligation to keep roads passable, it is likely on solid ground.

- Dominic Cloud, Manager, VLCT Municipal Assistance Center