

Budget-Related Town Meeting Articles

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Crafting the Warning: The Budget Article

While it is probably the most important article considered at town meeting, there is more variation in the budget article than any other.

<p style="text-align: center;">•Warning</p> <p style="text-align: center;">•Town of _____, Vermont</p> <p style="text-align: center;">•20_ Annual Meeting</p> <p style="text-align: center;">•</p> <p>•The legal voters of the Town of _____ are hereby warned and notified to meet at the _____ in said Town on _____, to transact the following business:</p> <p><u>•Article 4: Shall the voters approve total general fund expenditures of \$ _____, of which \$ _____ shall be raised by taxes and \$ _____ by non-tax revenues?</u></p>

Crafting the Warning: The Budget Article

At its annual meeting, a town shall vote such sums of money as it deems necessary for the interest of its inhabitants and for the prosecution and defense of the common rights. It shall express in its vote the specific amounts, or the rate on a dollar of the grand list, to be appropriated for laying out and repairing highways and for other necessary town expenses. If a town votes specific amounts in lieu of a rate on a dollar of the grand list, the selectboard shall, after the grand list book has been computed and lodged in the office of the town clerk, set the tax rate necessary to raise the specific amounts voted. The selectboard may apply for grants and may accept and expend grants or gifts above those which are approved in the town budget. The selectboard shall include, in its annual report, a description of all grants or gifts accepted during the year and associated expenditures.

17 V.S.A. § 2664

Crafting the Warning: The Budget Article

There are two ways to vote a budget: “specific amounts” or a “rate on a dollar of the grand list.”

Nobody votes a tax rate anymore.

“It shall express in its vote the specific amounts, or the rate on a dollar of the grand list, to be appropriated for laying out and repairing highways and for other necessary town expenses.”

Crafting the Warning: The Budget Article

On the basis of these two categories, some towns vote separate general fund and highway budgets.

We don't think two separate budget articles are necessary, but might be helpful because of statutory restrictions on the use of highway funds.

“It shall express in its vote the specific amounts, or the rate on a dollar of the grand list, **to be appropriated for laying out and repairing highways and for other necessary town expenses.**”

Crafting the Warning: The Budget Article

Budget article with combined general fund and highway expenditures:

Article __: Shall the voters approve total fund expenditures of \$_____, of which \$_____ shall be raised by taxes and \$_____ by non-tax revenues?

Crafting the Warning: The Budget Article

Recommended budget articles when general fund and highway are voted separately:

Article __: Shall the voters approve total general fund expenditures of \$_____, of which \$_____ shall be raised by taxes and \$_____ by non-tax revenues?

Article __: Shall the voters approve total highway fund expenditures of \$_____ of which \$_____ shall be raised by taxes and \$_____ by non-tax revenues?

Amending The Budget Article

If budget is voted from the floor, the budget article MAY be AMENDED up or down.

The voters may amend the total budget figure or line items.

The motion to amend must be GERMANE.

Crafting the Warning: The Budget Article

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17 V.S.A. § 2664

Crafting the Warning: The Budget Article

The selectboard's duty to set the tax rate is ministerial.

"If a town votes specific amounts in lieu of a rate on a dollar of the grand list, **the selectboard shall**, after the grand list book has been computed and lodged in the office of the town clerk, **set the tax rate necessary to raise the specific amounts voted.**"

Crafting the Warning: The Budget Article

~~**Article __:** Shall the town vote to instruct the selectboard to set the tax rate necessary to raise the specific amounts voted?~~

This article is not necessary and should not be included in the warning.

If the voters vote this down, the selectboard will still be required to set a tax rate.

Crafting the Warning: The Budget Article

There is no authority to set a tax rate higher or lower than the amount necessary to raise the specific amounts approved by the taxpayers.

Crafting the Warning: The Budget Article

The selectboard may apply for grants and may accept and expend grants or gifts above those which are approved in the town budget. The selectboard shall include, in its annual report, a description of all grants or gifts accepted during the year and associated expenditures.

17 V.S.A. §2664

Crafting the Warning: The Budget Article

~~**Article __:** Shall the voters authorize the expenditure of revenue received from unanticipated grants and gifts?~~

This article is not necessary and should not be included in the warning.

Crafting the Warning: The Budget Article

The budget article should include only those amounts included in the proposed town budget.

There is no need for a summation article - each approved "money" article stands on its own.

In setting the tax rate, the selectboard will total the approved money articles and set the tax rate based on this total.

Voting the Budget by Australian Ballot

Article __: Shall [*insert name of municipality*] adopt its budget [*insert "article" or "articles"*] by Australian ballot pursuant to 17 V.S.A. § 2680(c)?

- May vote at annual or special meeting.
- May not use the Australian ballot system unless vote to adopt.
- Continues in effect until rescinded.
- Requires the use of informational meetings.

Questions



Reserve Funds

Need voter authorization to create the reserve fund and to move money into the reserve fund.

Reserve Funds

ESTABLISH:

Article ____: Shall the voters establish a reserve fund, [*add limiting language if desired such as “in an amount not to exceed 5% of the general and highway fund budget”*] for [*insert purpose such as “to cover unanticipated revenue shortfalls and to pay non-recurring and unanticipated general and highway fund expenses”*] in accordance with 24 V.S.A. § 2804(a)?

Reserve Funds

FUND:

Article ____: Shall the [*insert language to identify existing municipal funds*] be deposited into the [*insert name*] Reserve Fund, in accordance with 24 V.S.A. § 2804(a)?

OR

Article ____: Shall the town raise and appropriate the sum of \$[*insert amount*] for deposit into the [*insert name*] Reserve Fund, in accordance with 24 V.S.A. § 2804(a)?

Reserve Funds

CREATE AND FUND

Article__: Shall the town establish a reserve fund to be called the [*insert name of reserve fund*] to be used for [*insert purpose of reserve fund*] in accordance with 24 V.S.A. § 2804 to be funded with [*insert funding mechanism such as "a two cent levy on the tax rate" and insert period of time such as "for the fiscal year commencing July 1, 2016"*] to fund that reserve fund?

Reserve Funds

Money in an established reserve fund can be expended by the selectboard without further vote of the electorate.

BUT the money in the reserve fund may only be used for such purposes for which the reserve fund was established.

Reserve Funds

If there is a desire to use the money for a purpose other than the original purpose there must be a subsequent vote.

Article __: Shall the money in the [*insert name*] Reserve Fund be used for [*insert purpose*]?

Questions



Borrowing Articles

Borrowing for public improvements or capital assets
for a term of 5 years or less:

Article __. Shall the voters authorize [*insert the public improvement or acquisition*] in an amount not to exceed \$ [*insert dollar amount*] to be financed over a period not to exceed [*insert time period of five years or less*]?

- May be done at an annual or special meeting.

Borrowing Articles

Voting to borrow for public improvements or capital assets
for a term of MORE THAN 5 years:

Article __. Shall the voters authorize [*insert the public improvement or acquisition*] in an amount not to exceed \$ [*insert dollar amount*] to be financed over a period not to exceed [*insert time period*]?

- May occur at annual or special meeting.
- MUST OCCUR BY AUSTRALIAN BALLOT.
- MUST ALSO follow procedural requirements of 24 V.S.A. §§ 1755, 1756, 1757.

Borrowing Articles

~~Article __. Shall the voters authorize the selectboard to borrow in anticipation of taxes?~~

Every selectboard has the legal authority to borrow in anticipation of taxes for the purpose of paying current expenses for a period of up to one year for the payment of current expenses pursuant to 24 V.S.A. § 1786.

Questions



Social Service Appropriations

24 V.S.A. § 2691. Aid to social services for town residents.

At a meeting duly warned for that purpose, a town or incorporated village may appropriate such sums of money as it deems necessary for the support of social service programs and facilities within that town for its residents... The authority herein granted is not in derogation of other local powers to allocate funds.

SEPTEMBER 2015

Social Service Appropriations

Social service programs include:

transportation, nutrition, medical, child care, and other rehabilitative services for persons with low incomes, senior citizens, children, disabled persons, drug and alcohol abusers, and persons requiring employment to eliminate their need for public assistance.

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Social Service Appropriations

Limits of these appropriations:

- Support of social service programs and facilities that:
 - serve a public municipal purpose;
 - do not promote a private end;
- Are for town residents; and
- Within the town.

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Social Service Appropriations

“Within the town” does not refer to the physical location of the buildings or staff.

“The basis for determining where the service is provided is the resident’s demonstrated need, not the local of the agency.”

~ *Addison County Community Action Group v. City of Vergennes*, 152 Vt. 161 (1989).

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Social Service Appropriations

Two ways for a social service appropriation article to appear on the warning:

1. Voter-backed petition submitted in accordance with 17 V.S.A. § 2642; or
2. Selectboard decision.

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Voter-Backed Petitions

A petition that covers a subject over which the voters have been given authority by statute must be warned (and is a binding vote).

A petition that covers any other subject may be rejected by the selectboard or warned as an advisory / nonbinding article.

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Voter-Backed Petitions

A selectboard cannot be compelled to present a petitioned article if it does not “set forth a clear right which is within the province of the town meeting to grant or refuse through its vote.”

~ Clift v. City of South Burlington, 2007 VT 3, §6

A municipality is under no obligation to warn an article for town meeting which is requested by a petition if the petition is for a matter that is “frivolous, useless or unlawful” and not “within the province of the town meeting to grant or refuse through its vote.”

~ Royalton Taxpayers v. Wassmandsdorf, 260 A.2d. 203 (1969).

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Voter-Backed Petitions

BEWARE: Articles that are not legally binding may nevertheless be politically binding.

“Post hoc nullification, and outright avoidance of what is otherwise the clearly expressed will of the voters, however valid as a matter of law, inevitably appears unseemly, and is best avoided to the extent possible.”

~ Mooney v. Town of Stowe, 110-5-06 Lecv (2006)

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Voter-Backed Petitions

New rules:

- Deadline for filing petitions is 47 days before town meeting (was previously 45 days)
- The petition language must appear on each page on which signatures are collected;
- The petition must contain the printed name, signature, and street address of each voter who signed the petition; and
- Petitions may contain more than one proposed article.

17 V.S.A. §2642(a)

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Voter-Backed Petitions

When ANY petition is received by the Clerk:

- If a petition contains fewer signatures than required (5% of voters) the clerk must state in writing why it cannot be accepted and return the petition to the petitioners within 24 hours after receipt by the clerk.
- Clerk is not statutorily required to return petition if it fails to meet other requirements of the statute (contains petition language on every page on which there are signatures and contains printed names and addresses of all signatories) but VLCT recommends it.
- The petitioners may file supplementary petitions containing additional signatures not later than 48 hours after receipt from the clerk or the filing deadline, whichever is later.
- Supplementary petitions "shall not be accepted if petitions with signatures of different persons totaling at least [five percent of the voters] were not filed by the filing deadline [47 days before the meeting]."

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Social Service Appropriations

Social Service Agency Appropriation Policy

Examples:

Level funding => on the ballot

Appropriation above last year => must petition

VLCT Model Policy

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Social Service Appropriations

Options:

1. Include appropriations within the general fund budget.
2. List appropriations outside of the general fund budget.
3. Lump appropriations together.
4. List appropriations separately.

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Social Service Appropriations

DON'T:

Include appropriations within the general fund budget AND list appropriations outside of the general fund budget.

This may lead to a double appropriation.

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Social Service Appropriations

Article __: Shall the voters appropriate \$*[insert amount requested]* to *[insert name of organization]* for *[insert purpose]*?

OR

Article __: Shall the voters appropriate a total of *[\$]* to the following social service agencies, pursuant to 24 V.S.A. § 2691?

[insert dollar amount] to *[insert name of agency]* for *[insert purpose]*
[insert dollar amount] to *[insert name of agency]* for *[insert purpose]*

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Social Service Appropriations

If it is not clear from the name of the organization, there must be a description of the purpose of the appropriation.

But do not include language that indicates the necessity or worthiness of the appropriation.

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Social Service Appropriations

17 VSA § 2666. Improper influence

Neither the warning, the notice, the official voter information cards, nor the ballot itself shall include any opinion or comment by any town body or officer or other person on any matter to be voted on.

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Social Service Appropriations

Article __: Shall the voters appropriate \$500 to New England Cares for nutrition services for children?

~~**Article __:** Shall the voters appropriate \$500 to New England Cares to feed vulnerable and needy children?~~

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Social Service Appropriations

Once voted, the selectboard may not alter or refuse an appropriation. The appropriation is likely payable on demand. *See e.g. Addison County Community Action Group v. City of Vergennes, 152 Vt. 161 (1989).*

However,

24 V.S.A. § 2692 allows the selectboard to contract with a social service agency concerning the provision of services in the town. May include:

- schedule of installment payments; and/or
- compliance with reporting requirements.

SEPTEMBER 2015

Questions



Other Articles Impacting the Budget

- Grace period for payment of taxes
- Discount for early payment of taxes
- Setting delinquent tax penalty
- Interest on overdue payment of taxes
- Interest on overdue installment payments of taxes
- Interest on water & sewer delinquencies
- Local Options Taxes

Discount for early payment of taxes

Article __: Shall the town direct the collector of current taxes to deduct [*insert number no larger than four*] percent from the taxes of a person who makes his or her tax payment before the [*insert "due date" or "due dates" depending on whether taxes are paid in installments*] established by the town pursuant to 32 V.S.A. § 4774?

- Not otherwise available.
- May be voted at annual or special meeting.
- Continues in effect until voted otherwise.

SEPTEMBER 2015

Setting delinquent tax penalty

Article __: Shall the town limit the amount of the penalty charged by the collector of delinquent taxes for payments made after the established time for payment to [*insert number no larger than eight*] percent of the tax collected pursuant to 32 V.S.A. § 1674?

- Otherwise within discretion of DTC unless DTC is paid a salary in lieu of penalty/commission.
- May be voted at annual or special meeting.
- Continues in effect until voted otherwise.

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Grace period for payment of taxes

Article __: Shall the town allow a grace period of [*insert number*] days after the established time for payment during which the collector of delinquent taxes shall not charge a penalty pursuant to 32 V.S.A. § 1674?

- May be voted at annual or special meeting.
- Continues in effect until voted otherwise.

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Interest on overdue payment of taxes

Article __: Shall the town vote that taxes will bear interest at a rate of [*insert amount not to exceed one*] percent per month or fraction thereof for the first three months and thereafter [*insert amount not to exceed one and one-half*] percent per month or fraction thereof, from the due date of such tax pursuant to 32 V.S.A. § 5136?

- Not in effect until voted.
- May vote at annual or special meeting.
- Continues in effect until voted otherwise.
- No discretion to waive or reduce interest once voted.

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Interest on overdue installment payments of taxes

Article ___: Shall the town vote that taxes payable in installments will bear interest at a rate of *[insert amount not to exceed one]* percent per month or fraction thereof for the first three months and thereafter *[insert amount not to exceed one and one-half]* percent per month or fraction thereof, from *[insert "the due date of the last installment" or "the due date of each installment"]* pursuant to 32 V.S.A. § 4873?

- Not in effect until voted.
- May vote at annual or special meeting.
- Continues in effect until otherwise voted.

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Interest on water & sewer delinquencies

Article ___: Shall the town vote that *[insert "water" and/or "sewer"]* charges will bear interest at a rate of *[insert amount not to exceed one]* percent per month or fraction thereof for the first three months and thereafter *[insert amount not to exceed one and one-half]* percent per month or fraction thereof, from the due date of such charges pursuant to 24 V.S.A. § 5151(c)?

- Not in effect until voted.
- May vote at annual or special meeting.
- Continues in effect until voted otherwise.

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Local Options Tax

ARTICLE __:

Shall the voters approve a 1% local options [*insert "sales tax," "meals and alcoholic beverage tax," and/or "rooms tax"*], pursuant to 24 V.S.A. § 138?

May also add: "the revenue from which will be used for [*insert purpose(s)*]?"

- May be voted only by qualifying municipalities.
- May be voted at annual or special meeting.
- Continues in effect until rescinded.

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Questions



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