

# Municipal Budgeting and Borrowing – Legal Requirements and Best Practices

September 30, 2015  
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## Agenda

- Budget concepts
- Budget practices and policies
- Budget preparation
- Budget approval
- Budget implementation
- Reserve Funds
- Borrowing and Bonding
- Managing Deficits and Surpluses

## Budget Concepts

- Government environment
  - Provide necessary services to residents
  - Raise enough revenues during the current year to pay projected expenditures during the current year
  - Spend taxpayer funds efficiently and effectively
  - No goal to make a profit

## Budget Concepts

- Fund accounting basics
  - Different funds provide different services, oftentimes to different residents
  - Resources raised to support activities of one fund should not be used to support activities of another fund
  - Governmental activities
  - Business-type activities

## Budget Concepts

- Objectives of financial reporting for governments
  - To aggregate and summarize detailed data so that the data can be put to practical use for decision-making
  - Compare actual results with the adopted budget
  - Assess the financial condition and results of operations for the year
  - Use this assessment to assist in preparation of subsequent budgets

## Budget Practices

- Prepare annual budgets for all governmental funds
- Base revenue projections for each revenue source on past trends and include adjustments for current conditions
- Base expenditure projections on past trends and include adjustments for inflation, workload increases and decreases, and other changes

## Budget Practices

- Determine if current budget proposals have funding sources in future years
- Create reserves to fund especially large purchases
- Prepare regular financial reports to monitor actual results against budget



## Budget Policies

- Accounting, Auditing and Financial Reporting Policy
- Balanced Budget Policy
- Fund Balance Policy
- Capital Program and Budget Policy



## Accounting, Auditing and Financial Reporting Policy

- Accounting standards used
  - GAAP
  - Modified accrual basis of accounting
- Auditing practices
- Financial reporting practices



## Balanced Budget Policy

- Budget development and approval
  - Avoid overestimating revenues
  - Avoid deferred maintenance of capital assets
  - Avoid use of one time revenues for ongoing expenditures
  - Avoid rolling over short-term debt
- Budget administration
  - Timely and useful financial reports
- Line item transfers
- Budget closing plan



## Fund Balance Policy

- Establish appropriate level of fund balance
- Mitigates the impact of revenue shortfalls or unforeseen expenses
- Use of other (capital) reserve funds

## Capital Program and Budget Policy

- Multi-year plan
- Outlines capital needs and available resources
- Establishes reserve funds for more expensive purchases
- Determines appropriate use of debt

## Budget Preparation

- Budget calendar
  - Establish budget guidelines
  - Estimate revenues
  - Develop expenditure budgets
  - Review of draft budget by select board
  - Public hearings
  - Approval at town meeting

## Budget Preparation

- Establish budget guidelines
  - Where are you at? Surplus or deficit?
  - What pressures/opportunities exist for revenue streams?
  - What demands are being placed on services?

## Budget Preparation

- Estimate revenues
  - Tax revenues
    - Estimated changes in the grand list
    - How flexible is the tax rate?
    - Don't neglect collection of delinquent amounts
  - Charges for services
    - Nominal charge, or set rates to fully cover costs?
    - Consider scholarships for needy users
    - Review all fees annually

## Budget Preparation

- Analyze expenditures
  - Department or program – general government, public safety, public works, etc.
  - Activity – administrative management, patrol services, summer highway maintenance, etc.
  - Object – salaries and benefits, professional services, property services, etc.

## Budget Preparation

- Department presentations
  - Administrator review and modification
  - Select board review and public hearings
  - Adoption of budget by board
  - Presentation and adoption at town meeting
- 

## Budget Preparation

- Multiple columns
    - Prior year budget and actual
    - Current year budget and year-to-date actual
    - Proposed budget
    - Explanatory text
  - Use of subtotals
    - Revenues by source
    - Expenditures by department or program
    - Watch formulas!
  - Calculation of estimated tax rate
- 

## Questions



## Budget Implementation

- Transfers between line items
- Adjust expenditures if revenues are lagging
- Expenditures may increase if there are unexpected revenues
- As year-end draws near, need to craft a budget closing plan

## Budget Implementation

- The town budget is the voters' plan for spending their money
- The select board has some inherent authority to deviate from the plan, and may even be legally required to deviate from the plan in some instances
- In some instances the select board's authority is either limited by law or more often by town politics and traditions



## Budget Implementation

- Transparency should always be favored
- If the select board feels uncomfortable deviating from the budget, they can seek voter approval



## Budget Implementation

- Municipal budget as a plan
  - Tropical storm hits
  - Property tax delinquencies increase
  - Fuel prices increase
  - Winter is less severe than normal
  - Investment returns decrease



## Budget Implementation

- Authority may be limited by law
  - Highway funds
  - Impact fees
  - Enterprise funds
  - Reserve funds
  - Intergovernmental revenues



## Budget Implementation

- Financial statement examples
  - Revenues
  - Expenditures



## Questions



## 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

More than **half a billion dollars** is appropriated by Vermont local government each year on the basis of these words.

**“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.”**

## Crafting the Warning: The Budget Article

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## 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

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17 V.S.A. § 2664

## Crafting the Warning: The Budget Article

If the town votes specific amounts in its budget, then the selectboard sets the tax rate.

**“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

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

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.

**“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.”**

## What if a Town Fails to Pass a Budget?

At the annual municipal meeting, the voters must:

- ✓ Elect town officers.

17 V.S.A. § 2640(a)

- ✓ Adopt a budget.

17 V.S.A. § 2664

The voters can vote to table or pass over (i.e., postpone indefinitely) any other item of business on the warning.

## What if a Town Fails to Pass a Budget?

If the budget is voted from the **floor**, statute assumes that the budget will be **amended** until the voters approve it.

The meeting can be **recessed** to a date and time certain when the article will be taken up again.

If the meeting is closed without an approved budget, **a special meeting will have to be called.**

## What if a Town Fails to Pass a Budget?

If the budget was voted by **Australian ballot**, the selectboard must:

- Prepare a revised budget.
- Establish a date for the vote on the revised budget.
- Take “appropriate steps to warn a public informational meeting on the budget and the vote.”
- The public informational meeting must occur at least five days following the public notice.
- The vote must occur at least seven days following the public notice.

If the revised budget is rejected, the process must be repeated until a budget is adopted.

17 V.S.A. § 2680(c)

## What if a Town Fails to Pass a Budget?

- Towns operating on a calendar year have operated without a budget since January 1 .
- Towns operating on a July 1 to June 30 fiscal year don't need a new budget until July 1.
- In the interim, the town would probably still be required to provide **statutorily required services** until a budget passes.
- The selectboard would **borrow to meet current expenses**.

24 V.S.A. § 1786

## Questions



## Five Principles of Municipal Budget Administration for the Selectboard

1. The town budget is the voters' plan for spending their money.
2. The selectboard has some inherent authority to deviate from the plan and may even be legally required to deviate from the plan in some instances.
3. In some instances, the selectboard's authority to deviate from the plan is **limited by law**, but more often the selectboard's authority is **limited by the town's politics and traditions**.

## Where is the Selectboard's "Inherent Authority" to Deviate From the Plan?

### The General Supervision Statute

**The selectmen shall have the general supervision of the affairs of the town** and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.

24 V.S.A. § 872

## Where is the Selectboard's "Inherent Authority" to Deviate From the Plan?

### The Deficit Statute

**When a town at the end of the fiscal year . . . has a deficit,** unless the voters of said town have voted a special tax to make up said deficit or unless said deficit shall have been refunded pursuant to [chapter 53 of title 24], the selectboard, when making up the next annual tax bill, shall add thereto a tax of five percent or such multiple of five in addition to the tax vote already authorized by law, to be levied upon the grand list of such town as will provide sufficient revenue to liquidate such deficit.

24 V.S.A. 1523(a)

## When Would the Selectboard be “Legally Required” to Deviate From the Plan?

### Example: Town Highways

A town shall keep its class 1,2 and 3 highways and bridges in good and sufficient repair during all seasons of the year...

19 V.S.A § 310

It shall be the duty and responsibility of the selectboard of the town to... see that town highways and bridges are properly laid out, constructed, maintained, altered, widened, vacated, discontinued and operated....

19 V.S.A § 304

A state, county, town, village, fire district or school district officer who willfully neglects to perform the duties imposed upon him by law, either express or implied, shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

13 V.S.A § 3006

## When is the the Selectboard’s Authority to Deviate From the Plan “Limited by Law”?

### Highway Funds

**The funds raised from town highway taxes shall not be used for any purpose other than that for which the tax was voted, subject to the provisions of this chapter.** If in any year money so voted is not expended, it shall be applied for the same purpose the following year.

19 V.S.A. § 312

## When is the the Selectboard's Authority to Deviate From the Plan "Limited by Law"?

### State Highway Aid

**Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance.** These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the state, in a civil action brought by the attorney general, for making any unauthorized expenditures from money apportioned to the town under this section.

19 V.S.A. § 306(a)(5)

## When is the the Selectboard's Authority to Deviate From the Plan "Limited by Law"?

### State Highway Aid

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19 V.S.A. § 306(a)(5)

## When is the the Selectboard’s Authority to Deviate From the Plan “Limited by Law”?

### Impact Fees

The municipality shall provide an annual accounting for each impact fee showing the source, amount of each fee collected and project that was funded with the fee. **The municipality must spend the fee on the capital project, for which the fee was intended, within six years of when the fee was paid.** If it fails to do this, the owner of the property at the expiration of the six-year period may apply for and receive a refund of his or her proportionate share of that fee during the year following the date on which the right to claim the refund began.

24 V.S.A. § 5203(e)

## When is the the Selectboard’s Authority to Deviate From the Plan “Limited by Law”?

### Water and Sewer Funds

**...The receipts derived by the municipal corporation from its waterworks shall only be used and applied to pay the principal and interest upon the water bonds of such municipal corporation, the expense of repairs and management of the water department, and payment into the dedicated fund created under subsection (b) of this section.**

24 V.S.A. § 3313

... The charges and receipts of such [sewer] department shall only be used and applied to pay the interest and principal of the sewage disposal bonds of such municipal corporation as well as the expense of maintenance and operation of the sewage disposal department or other expenses of the sewage system.

24 V.S.A. § 3616

## When is the the Selectboard’s Authority to Deviate From the Plan “Limited by Law”?

### Water and Sewer Funds

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24 V.S.A. § 3616

## When is the the Selectboard’s Authority to Deviate From the Plan “Limited by Law”?

### Reserve Funds

**At an annual or special meeting duly warned, a municipality may establish a reserve fund to be under the control and direction of the legislative branch of the municipality.** The reserve fund shall be kept in a separate account and invested as are other public funds and may be expended for such purposes for which established, or when authorized by a majority of the voters present and voting at an annual or special meeting duly warned, for other purposes.

24 V.S.A. § 2804(a)

## When is the the Selectboard’s Authority to Deviate From the Plan “Limited by Law”?

### Reserve Funds

At an annual or special meeting duly warned, a municipality may establish a reserve fund to be under the control and direction of the legislative branch of the municipality. **The reserve fund** shall be kept in a separate account and invested as are other public funds and **may be expended for such purposes for which established, or when authorized by a majority of the voters present and voting at an annual or special meeting duly warned, for other purposes.**

24 V.S.A. § 2804(a)

## Five Principles of Municipal Budget Administration for the Selectboard

4. **Transparency** should always be favored.
5. If the selectboard feels uncomfortable deviating from the budget, it can seek voter approval.

## Why is Transparency So Important?

Transparency is crucial to the functioning of democratic government. We must have transparency in order to choose among our representatives and make policy choices.

Without the ability to evaluate the performance of elected officials, there is no way for voters to reward (or punish) elected officials for their performance.



*And then there's...*

**THE VOTERS**



## Why Should the Selectboard Ever Seek Voter Approval?

- Because the Selectboard can.

**The legislative body may warn a special municipal meeting when they deem it necessary** and shall call a special meeting on the application of five percent of the voters. A special meeting shall be called within 15 days of receipt of the application by the legislative body.

17 V.S.A § 2643(a)

When dealing with other people's money it is often easier to get approval than ask forgiveness.

## Questions



## Reserve Funds

Like any planning effort, municipal budgeting involves an element of risk.

–A municipal budget must be built on certain assumptions and estimates of revenues and expenditures.

–Revenue shortfalls and unpredicted expenditures can force a municipality to increase taxes, reduce service levels, delay anticipated projects or incur short-term debt to cover a deficit.



## Reserve Funds

VLCT believes that Vermont law does not expressly authorize carrying unencumbered fund balance without voter approval.

Most municipal financial experts agree that a municipality should maintain financial reserves of at least 5 percent of annual operating expenditures.



## Reserve Funds

24 V.S.A. § 2804(a) allows municipalities to establish a reserve fund under the control and direction of the selectboard.

There is no legal authority for the selectboard (or any other officer) to create a reserve fund (a.k.a. “designated fund”) without voter approval but it happens.

## Reserve Funds

Money in the reserve fund can be expended by the selectboard for such purposes for which the reserve fund was established or for other purposes when authorized by a majority of the voters at an annual or special meeting.

24 V.S.A. §2804(a)

## Reserve Funds

A reserve fund balance policy can assist the selectboard in administering such a reserve fund by guiding decisions about how money will be set aside in the reserve fund and the circumstances under which money in the reserve fund will be spent.

A model reserve fund balance policy is available in the VLCT Model Financial Policies Handbook

## Questions



## Borrowing

(a) **The voters of a municipality may authorize specific public improvements and the acquisition of capital assets** and finance the same, temporarily or permanently, **through debt instruments other than bonds for a term not to exceed the reasonably anticipated useful life of the improvements or assets** as provided in this section.

(b) If the improvements or assets are to be **financed for a term of five years or less**, they shall be **approved by the voters at an annual or special meeting** duly warned for the purpose in accordance with the provisions of chapter 55 of Title 17. However, the requirement of this subsection shall not apply to purchases made by selectboards under the provisions of 19 V.S.A. § 304(a)(3).

24 V.S.A. § 1786a

## Borrowing Without Voter Approval

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24 V.S.A. § 1786a

## Borrowing Without Voter Approval

(a) It shall be the duty and responsibility of the selectboard of the town to, or acting as a Board, it shall have the authority to:

(3) purchase tools, equipment, and materials necessary for the construction, maintenance, or repair of highways and bridges, and to incur indebtedness from the municipal equipment loan fund as established in 29 V.S.A. § 1601 for these purchases. It may contract with governmental or private agencies for the use of tools, equipment, road building material, and services;

19 V.S.A. § 304(a)(3)

## Borrowing Without Voter Approval

A municipal corporation, by its legislative branch, **may borrow** money **by the issuance of its notes or orders** for the purpose of **paying current expenses** of the municipal corporation. Such notes or orders, however, **must mature within one year from date**. A municipal corporation may also borrow money in anticipation of taxes in an amount not to exceed ninety percent of the amount of taxes assessed for such year and may issue its notes or orders therefor to mature not more than one year from the date of the note or order. The assistant judges may borrow money in the name of the county in anticipation of taxes.

24 V.S.A. § 1786

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24 V.S.A. § 1786

## Borrowing Without Voter Approval

**If a municipal corporation votes to issue bonds** in accordance with law, the officers authorized to issue the same, **upon resolution of the legislative branch of the municipal corporation, may make a temporary loan**, in the name of such municipal corporation, **for a period of not more than one year in anticipation of the money to be derived from the sale of such bonds and may issue notes therefore**. Temporary notes issued under this subsection for a shorter period than one year may be renewed or refunded by the issue of other notes maturing not more than one year from the date of the original loan except as stated in subsection (b) of this section. The maximum maturity date of the authorized bond issue need not be reduced because of a temporary loan hereunder except as stated in subsection (b) of this section.

24 V.S.A. § 1773(a)

## Borrowing Without Voter Approval

Pending the receipt of revenue in the form of grants-in-aid from any source, **a municipal corporation through its legislative branch, by resolution or ordinance, may issue revenue anticipation notes in anticipation of the grants-in-aid to be received.** The notes may be issued on such terms and conditions and at such times as the legislative branch shall determine. **The proceeds of the notes may be used only for the purpose for which the grants-in-aid are anticipated, and no note may mature more than one year from its date;** provided, however, that a note issued under this subsection may be refunded or renewed from time to time by the issuance of a note or notes dated before the date upon which the total grant-in-aid is received.

24 V.S.A. § 1773(c)

## Borrowing Without Voter Approval

**A municipality, including a fire district, either singly or as a participant in an interlocal contract entered into under sections 4901 and 4902 of this title, may acquire personal property, fixtures, technology, and intellectual property by means of leases, lease-purchase agreements, installment sales agreements, and similar agreements wherein payment and performance on the part of the municipality is conditioned expressly upon the annual approval by the municipality of an appropriation sufficient to pay when next due rents, charges, and other payments accruing under such leases and agreements.**

**The legislative body of the municipality shall enter into leases and agreements identified in subsection (a) of this section on behalf of the municipality** and under such terms as it deems to be in the best interest of the municipality.

The undertaking of a municipality to make payments under a lease or agreement identified in subsection (a) of this section **shall not be a general or special obligation of the municipality, but shall be treated as a current operating expense.** Payments made or to be made under such lease or agreement **shall not be taken into account in calculating the debt limit of a municipality** for any purpose

24 V.S.A. § 1789

## Bonding

**(c) If the improvements or assets are to be financed for a term of more than five years, the procedural provisions of sections 1755, 1756 and 1757 of this title shall apply. A vote on the question shall be held at a duly warned annual or special meeting and shall be by Australian ballot.** The ballot shall be in substantially the following form:

"Shall the voters authorize (describe public improvement or acquisition) in an amount not to exceed (\$ ..... ) to be financed over a period not to exceed (number of years)."

(d) Public improvements or assets approved under subsection (c) of this section may be financed for a period of five years or less.

(e) Debt instruments authorized under this section may be refunded in the manner provided in sections 1771 and 1772 of this title.

24 V.S.A. § 1786a

## Bonding

- **The selectboard must pass a necessity resolution** (or voters can petition with signatures of at least ten percent of the voters). 24 V.S.A. § 1755.
- **The warning must be published** once a week for three consecutive weeks on the same day of the week, the last publication to be not less than five nor more than 10 days before such meeting, **and notice must also be posted** in five public places within the municipality for two weeks immediately preceding such meeting. 24 V.S.A. § 1756.
- **The vote must be by Australian ballot. 24 V.S.A. 1786a(c).** The ballot must be substantially in the form set out at 24 V.S.A. 1786a(c):
  - **"Shall the voters authorize (describe public improvement or acquisition) in an amount not to exceed (\$ ..... ) to be financed over a period not to exceed (number of years)."**

24 V.S.A. § 1786a

## Questions



## Managing Deficits and Surpluses

### The Deficit Statute

**When a town at the end of the fiscal year . . . has a deficit, unless the voters of said town have voted a special tax to make up said deficit** or unless said deficit shall have been refunded pursuant to [chapter 53 of title 24], the selectboard, when making up the next annual tax bill, shall add thereto a tax of five percent or such multiple of five in addition to the tax vote already authorized by law, to be levied upon the grand list of such town as will provide sufficient revenue to liquidate such deficit.

24 V.S.A. 1523(a)

## Managing Deficits and Surpluses

### The Deficit Statute

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24 V.S.A. 1523(a)

## Managing Deficits and Surpluses

### The Deficit Statute

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24 V.S.A. 1523(a)

## Managing Deficits and Surpluses

There is no statutory direction for handling a surplus.

Recommendation:

Effectuate transparency by showing the surplus as revenue in the next proposed budget along with offsetting expenditures (if any) or through a separate article.

## Questions

