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Guidelines on FY2021 Regional School District Interim or 1/12th Budget Process

Due to the COVID-19 outbreak and the ensuing Governor's declaration of a state of emergency, many cities and towns may be unable to hold the city council and town meetings required to pass municipal budgets for FY2021 before the end of Fiscal Year 2020 (FY2020). Accordingly, these municipalities will be unable to vote on the proposed FY2021 budgets for the regional school districts of which they are members.

In order to address this and other challenges resulting from the current COVID-19 public health emergency, on April 10, 2020 the Governor signed Chapter 56 of the Acts of 2020: *AN ACT TO FURTHER ADDRESS CHALLENGES FACED BY MUNICIPALITIES, SCHOOL DISTRICTS AND STATE AUTHORITIES RESULTING FROM COVID-19* (the Act).¹ The Act addresses, among other matters, the regional school district budget process. The Department of Elementary and Secondary Education (Department) issues this initial guidance to inform regional school committees (committees), district administrators, municipal officials and other interested parties of the steps needed to secure an interim monthly budget (1/12th budget) by July 1, 2020, so that the regional school district may expend funds and continue operations until a local budget is approved by the member municipalities (members).

M.G.L. c. 71, §16B and 603 CMR 41.05 allow the Commissioner of Elementary and Secondary Education, or his designee, (Commissioner) to set a 1/12th budget for a regional school district if a local budget is not approved by July 1. Existing law and regulations did not contemplate a situation such as this, however, and required committees to follow the steps outlined in M.G.L. c. 71, §16 and §16B to ensure a regional school district budget for an upcoming fiscal year is adopted. Under M.G.L. c. 71, §16 and §16B, the Commissioner had no authority to intervene and set a 1/12th budget until after a regional school committee and its members had followed some of these steps. Section 8 of the Act allows the Commissioner to intervene regardless of whether all these steps have been followed, so that the regional school district (district) can function and expend funds in FY2021 though a budget has not yet been locally approved.

¹ The relevant language of the Act is Section 8, which states that:

"SECTION 8. Notwithstanding section 16B of chapter 71 of the General Laws or any other general or special law to the contrary, if a vote on the approval of a fiscal year 2021 regional school district budget by a town or city is delayed beyond June 30, 2020 as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and the declaration of a state of emergency issued by the governor on March 10, 2020, the budget approval process described in said section 16B shall be suspended and the district shall notify the department of elementary and secondary education of a lack of a budget and the commissioner, or a designee, shall certify an amount sufficient for the operation of the district commencing July 1, 2020 in an amount not less than 1/12 of the total budget approved for the district in the most recent fiscal year. Similar sums shall be certified for each successive month to ensure the continued provision of services by the district until such time as a budget is adopted and approved by the regional committee and member towns or cities in the manner otherwise provided in said section 16B. The department may issue guidelines or regulations for the implementation of this section." St. 2020, c. 56.

Typical Regional School District Budget Process

Most regional school committees have already held public hearings, pursuant to M.G.L. c. 71, §38N, and have approved their FY2021 budgets, pursuant to M.G.L. c. 71, §16 and §16B.² In those cases, the committee should proceed according to the law, as it typically would: Within 30 days from the date on which the FY2021 budget is adopted by a two-thirds vote of the committee, but not later than April 30, the amounts apportioned for each member shall be certified by the treasurer to the treasurers of the member municipalities. The district treasurer shall provide a copy of the adopted budget to the chairmen of the boards of selectmen, chairmen of the finance committees, mayors, presidents of the city councils and the treasurers of the members. The next step would, under normal procedures, be for the member municipalities to vote on the budget.

Under the Act, if a member vote or votes are delayed beyond June 30, 2020 due to the COVID-19 outbreak, then the requirements of M.G.L. c. 71, §16B shall be suspended. The district must notify the Department of the lack of a budget, and the Commissioner, or his designee, shall certify an amount sufficient for the operation of the district in FY2021 commencing July 1, 2020.

Required Notification to the Commissioner

By no later than June 1, 2020 (or earlier, if possible), following a determination by the member municipalities that annual city council or town meetings will not be held before June 30, 2020 to act on the regional school district's FY2021 budget, the superintendent must send a request for a 1/12th budget to the Office of Regional Governance (ORG). The request must include the following information:

- District's proposed FY2021 total budget and proposed assessment for each member.
 - Itemize general fund revenues used to support the FY2021 budget request, including the use of the July 1, 2019 available certified excess and deficiency (E & D) funds.
 - Include all capital and debt obligations in the budget and specify whether these obligations represent a change from FY2020.
 - Include the method used to calculate assessments to the members in FY2021.
 - To the extent the district seeks a 1/12th budget using the alternative assessment, the district must provide:
 - letters of support for using the alternative assessment method for the FY2021 budget from every member's select board and/or mayor; and
 - acknowledgement that the district's budget will be calculated using the statutory method if any member disapproves the FY2021 budget when the members vote.
- District's approved final FY2020 total budget and assessment for each member.
 - Itemize general fund and non-recurring revenues used to support the FY2020 budget, including the use of certified excess and deficiency funds.
 - Include all capital and debt obligations in the budget.
 - Include the method used to calculate assessments to the members in FY2020.

Note: The FY20 budget, assessments and use of E&D must match Schedule 19 of the FY2019 End of Year Financial Report.

² School Committees that have not passed their budget should contact the Office of Regional Governance.

- Anticipated schedule of member town meetings/city council meetings.
- Steps taken to date by the district to secure an approved budget (e.g., public hearing, committee adoption of budget, member votes held to date (if any), reconsidered budgets, etc.)
- Any other steps to be taken by the district to secure an approved budget (e.g., timeline of scheduled school committee meetings to reconsider the budget).
- Any other information the committee and /or superintendent deems relevant to a 1/12th budget determination, such as any large planned expenditures that occur in the month of July.

The Department will also distribute a form for districts to complete and submit with the above information.

All such requests and accompanying documentation must be addressed to the Commissioner, signed by the superintendent, and sent via email to Michelle.L.Griffin@mass.gov and ChristineM.Lynch@mass.gov by June 1, 2020, at the latest.

Setting the Interim or 1/12th Budget

The Department will review the request and accompanying information, and the Commissioner will set a budget in an amount not less than 1/12th of the total budget approved for the district in FY2020. The Commissioner may, in his discretion, consider other factors in setting the 1/12th budget.

A letter will be sent from the Commissioner to the superintendent, establishing the 1/12th budget and the method the district must use to calculate assessments (statutory or alternative/agreement method); a copy will be sent to the member municipalities. See definition of assessment methods in [603 CMR 41.01](#).

Calculation of Assessments Under the Interim or 1/12th Budget

Whenever the Commissioner establishes a 1/12th budget for a regional school district, the treasurer of the district must calculate and certify to the members their respective assessments based on the method indicated in the Commissioner's letter. In doing so, the district treasurer must use the final or most recent state aid amounts, general fund revenues and minimum local contributions for the FY2021 budget year. Since state aid and minimum local contributions for members may change between the time the initial budget is proposed by the committee and the time a 1/12th budget is established by the Commissioner, the final or most recent minimum local contribution and state aid amounts must be used in calculating assessments under the 1/12th budget. **Assessments to members, therefore, will not be the same as the previous year's budget even if the total budget is the same as the previous year.**

Payment by Member Municipalities Under the Commissioner's 1/12th Budget Determination

Each member is required to appropriate and pay to the district the assessments as calculated by the district treasurer for the support of the 1/12th budget. Payment of the assessments shall be due and payable from the members in accordance with the dates or timelines specified in the district's regional agreement. Each member's total payments under the Commissioner's 1/12th budget will be deducted from the total FY2021 assessment that will be charged to that member when the district's final FY2021 budget is approved.

Authority of the School Committee to Expend Funds Under the 1/12th Budget

Under a 1/12th budget the regional school committee has the authority to spend up to the amount authorized in the Commissioner's 1/12th budget in July and in each successive month of FY2021 until a local budget is approved. Funds unexpended by the school committee under the 1/12 budget in one month may be carried forward for use in subsequent months.

Excess and deficiency funds not included in the FY2021 budget approved by the school committee cannot be subsequently added to the Commissioner's 1/12th budget. The committee may continue to expend funds from balances in authorized school choice or revolving accounts and expend grant funds as authorized by state or federal law.

Ongoing Steps to Secure a Local Budget

In order to secure a final FY2021 budget following the establishment of a 1/12th budget by the Commissioner, regional school committees must continue to work with their members consistent with the steps outlined in M.G.L. c. 71, §16B, to the extent these steps have not already been taken.

Initial Budget

The budget, as adopted by the regional school committee, and each member's assessment, as certified by the district treasurer, shall be placed before the local appropriating authority of each member for its consideration. Approval of the budget shall require an affirmative vote of the appropriating authorities of two-thirds of the members under the statutory assessment method.

The use of the alternate assessment method requires the approval of all of the members; such approval may be given by a separate vote of the appropriating authority, or if a separate vote is not taken, approval of a budget or assessment based on the alternate method shall be deemed approval of the method.

Reconsidered Budget

If the initial budget is not approved by at least two-thirds of the members (or, if the alternative assessment was used, if the initial budget is not approved by all members), the regional school committee must, within thirty days, reconsider, amend and resubmit a budget on the basis of the issues raised. The committee must then reapportion the amounts required to be raised between or among the members and provide a copy of the amended budget, not later than seven days from the date the amended budget was adopted by the committee, to the chairs of the boards of selectmen, chairs of the finance committees, mayors, presidents of the city councils and treasurers of the members. With the approval of the Commissioner, a regional school committee may have an additional fifteen days within which to reconsider, amend and reapportion the budget. The new member assessments must be recertified by the district treasurer to the treasurers of the members not later than seven days from the date the amended district budget was adopted by the committee.

Prior to the expiration of forty-five days from the date on which the reconsidered budget was adopted by the committee, each member must hold a meeting of the local appropriating authority to act upon the appropriation of the budget so reapportioned and recertified to it. If the appropriating authorities of at

least two-thirds of the members vote (under the statutory method) or all of the members vote (under the alternative method) to appropriate the amounts so reapportioned and recertified to them, the budget shall be considered approved and shall be apportioned between or among the members and paid by the members, in accordance with the terms of the regional district agreement.

Reconsidered Budget Not Approved

If the reconsidered budget is not approved by the appropriate number of members, the next steps differ depending on the number of members in the regional school district.

In the case of a regional school district having three or more members, the budget shall again be recommitted to the regional school committee for action. The committee must follow the steps above to reconsider the budget, reapportion and recertify it to the members for a vote.

In the case of a two-member regional school district, if the appropriating authority of either member votes not to appropriate the amount so reapportioned and recertified to it, the regional school committee shall convene a special district-wide meeting, consistent with requirements of law.

Additional Considerations

We understand that regional school districts build their budgets based on the Governor's budget recommendation. We expect the House budget, when proposed and passed, could differ from the Governor's budget. As a result, items like minimum local contributions and state aid may differ. Any differences should be reviewed by the school committee and could inform changes to the previously approved school committee budget.

We also understand that many cities and towns are accustomed to voting on their assessments, rather than or in addition to voting on the school committee budget. The Department recommends that each member explicitly vote on the total school committee budget rather than vote to appropriate its assessment share. This will provide flexibility to the members and to the regional school committee and avoid the need to resubmit and revote the assessments if and when the minimum local contributions and/or state aid do change.

Likewise if the school committee desires to add or to increase the amount of excess and deficiency funds originally included in its approved budget to reflect possible decreases in state aid or lessen the impact on members' assessments, the school committee should reconsider its budget to reflect such usage prior to the establishment of a 1/12th budget by the Commissioner and prior to the start of FY2021.

The Department will issue future guidelines to address additional questions and ongoing issues. We will continue to work with the Director of Accounts at the Division of Local Services, Massachusetts Municipal Association and the Massachusetts Association of Regional Schools as we develop additional guidelines.

Questions?

Questions concerning this guidance or the 1/12th budget process should be emailed with "RSD 1/12 questions" in the subject line to Michelle Griffin at Michelle.L.Griffin@mass.gov and Christine Lynch at

ChristineM.Lynch@mass.gov.