

# Statutes and Ordinances Governing Boston's Operating and Capital Budgets

## OVERVIEW

This section summarizes key Massachusetts laws and City ordinances affecting Boston's operating budget development and its subsequent expenditure. It also covers significant laws and ordinances governing general obligation loan authorization. Although the material is not all-inclusive, it covers the more important laws guiding the budget process.

In addition to the statutes and ordinances, other budget-related directives are set out in various mayoral Executive Orders and in the policies and administrative guidelines issued by the Office of Budget Management.

Two pieces of legislation important to understanding the City of Boston's operating budget are Chapter 190 of the Acts of 1982, commonly referred to as the Tregor legislation, and Chapter 701 of the Acts of 1986, known as the Tregor Amendments.

### Annual Appropriation Process

Section 15 of Chapter 190 of the Acts of 1982, as amended by Section 2 of Chapter 701 of the Acts of 1986, states that "all appropriations, excepting those for school purposes, to be met from taxes, revenue or any source other than loans, shall originate with the mayor. The mayor, not later than the second Wednesday in April of each year, shall submit to the city council the annual budget of the current expenses of the city and county for the forthcoming fiscal year.

"The city council may reduce or reject any item but, except upon the recommendation of the mayor, shall not increase any item in, nor the total of, a budget nor add any item thereto, nor shall it originate a budget.

"Not later than the second Wednesday in June, the city council shall take definite action on the annual budget by adopting, reducing or rejecting it, and in the event of their failure to do so, the items and the appropriation orders in the budget as recommended by the mayor shall be in effect as if formally adopted by the city council.

"The city council shall take definite action on any supplementary appropriation order and any order for a transfer of appropriations by adopting, reducing or rejecting it within sixty days after it is filed with the city clerk..."

### School Department Budget Process

Section 6 of Chapter 70 of the Massachusetts General Laws states that "in addition to amounts appropriated for long-term debt service, school lunches, adult education, student transportation, and tuition revenue, each municipality in the commonwealth shall annually appropriate for the support of public schools in the municipality and in any regional school district to which the municipality belongs an amount equal to not less than the sum of the minimum required local contribution, federal impact aid, and all state school aid and grants for education but not including equity aid, for the fiscal year...the commissioner (of the Department of Elementary and Secondary Education) shall

estimate and report such amounts to each municipality and regional school district as early as possible, but no later than March first for the following fiscal year...”.

Section 2 of Chapter 224 of the Acts of 1936, as amended by Chapter 613 of the Acts of 1987, further states that “(a) ...In acting on appropriations for educational costs, the city council shall vote on the total amount of the appropriations requested by the mayor, but neither the mayor nor the city council shall allocate appropriations among accounts or place any restriction on such appropriations. The appropriation of said city shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation; provided, however, that if the city auditor determines that school department expenditures in any fiscal year are projected to be in excess of total budgeted expenditures for that fiscal year, as supported by appropriation and other available funding, then the school committee shall not reallocate or transfer funds from any item in the budget for that fiscal year to fund any such projected additional expenditures.

<b>Key Budget</b>	<b>Dates/Requirements</b>
Action Required	City Charter (FY19 Budget)
Departments proposed budgets to Office of Budget Management	No Requirement (1/16/2018)
School Superintendent's proposed budget to School Committee on or before 1st Wednesday in February	Ch. 613 Acts of 1987 (2/7/2018)
Meetings with Departments to discuss funding, policy, and performance	No Requirement (January – March)
School Committee action taken on budget on or before 4th Wednesday in March	Ch. 613 Acts of 1987 (3/28/2018)
Mayor's budget submitted to City Council on or before 2nd	Ch. 190 Acts of 1982, as amended by Ch. 701 Acts

Wednesday in April	of 1986 (4/11/2018)
Public Hearings held prior to budget adoption	No Requirement (April-June)
City Council action on budget on or before 2nd Wednesday in June	Ch. 190 Acts of 1982, as amended by Ch. 701 Acts of 1986 (6/13/2018)
Mayor's approval of FY19 budget adopted by City Council on or before July 1, 2018	No Requirement (6/27/2018)

“(b) After the fourth Wednesday of March of any fiscal year, the school committee shall not initiate or authorize any new or additional programs or categories of expenditures requiring additional unbudgeted expenditures unless such programs or categories have been incorporated or fully funded in the budget for the subsequent fiscal year. If such programs or categories have not been incorporated and fully funded in the budget for the subsequent fiscal year, they shall not be initiated or authorized until the school committee shall have amended its budget submission for the subsequent fiscal year to reduce or eliminate other costs, programs or categories in amounts equal to the projected annualized costs of the new or additional programs or categories of expenditures.

“(c) The superintendent of schools shall prepare and submit to the school committee, the city auditor and the city office of budget and program evaluation (d/b/a Office of Budget Management), a monthly budget update report which shall detail and itemize year-to-date and projected school department expenditures and budget transfers...”.

**School Department Financial Affairs**

Section 1B of Chapter 231 of the Acts of 1906, as amended by Chapter 613 of the Acts of 1987, notes that “(a) the school committee may delegate, in whole or in part, to the superintendent of schools the authority to approve for the school department the acceptance and expenditure of grants or gifts of funds from the federal government, charitable foundations, private corporations, individuals,

or from the commonwealth, its counties, municipalities or an agency thereof, the provisions of Section 53A of Chapter 44 of the General Laws notwithstanding.

“(b) The superintendent of schools shall provide to the school committee, the city auditor and the office of budget and program evaluation (d/b/a Office of Budget Management) of the City of Boston a report, detailing the source, purpose and balance on hand of all funds received or expended pursuant to subsection (a), quarterly.”

Section 2 of Chapter 231 of the Acts of 1906, as amended by Chapter 613 of the Acts of 1987, states that “subject to appropriations therefore, the superintendent of schools shall have the exclusive authority to make on behalf of the school committee contracts, or amendments to contracts, for the purchase or rental of equipment, materials, goods or supplies, leases of property, alterations and repairs of school property, and for professional or other services, with the exception of collective bargaining agreements and contracts for the transportation of students. All school department contracts or amendments to contracts shall otherwise conform to the requirements of the city charter of the city of Boston.

“(b) With respect to all contracts, agreements or amendments thereto made or entered into by the school department, the superintendent shall be responsible for establishing procedures for auditing and monitoring the compliance of the parties with the terms and obligations of such contracts, agreements or amendments thereto.”

#### **Reserve Fund**

Section 7 of Chapter 701 of the Acts of 1986, requires the creation of an operating budget Reserve Fund to deal with “extraordinary and unforeseen expenditures.” This section requires that “prior to the date when the tax rate for a fiscal year is fixed, [the City must] include in the appropriations for such a fiscal year as a segregated reserve fund a sum not less than 2 1/2 percent of the preceding year’s

appropriations for city and county departments, excepting the school department.

“The mayor, with the approval of the city council, may make direct drafts or transfers against such fund before the close of the fiscal year, provided that no such drafts or transfers be made before June first in any fiscal year.

“Each transfer recommended by the mayor to the city council shall be accompanied by written documentation detailing the amount of such transfers and an explanation of the reason for the transfer...”

Prior to fiscal year 2018 the school department was required to establish a segregated reserve fund of not less than two and one-half percent of the current fiscal year’s school department appropriation, but Chapter 166 of the Acts of 2016 eliminated the requirement going forward.

#### **Budget Allotment Process and Reallocations**

Section 18 of Chapter 190 of the Acts of 1982, as amended by Sections 8 and 9 of Chapter 701 of the Acts of 1986, requires that “on or before August first of each year, or within ten days of the annual appropriation order for such fiscal year, whichever shall occur later, the city or county officials in charge of departments or agencies, including, the school department, shall submit to the city auditor, with a copy to the city clerk...an allotment schedule of the appropriations of all personnel categories included in said budget, indicating the amounts to be expended by the department or agency for such purposes during each of the fiscal quarters of said fiscal year.”

The school department’s allotment may not be greater than 20 percent for the first quarter and 30 percent in each of the remaining three quarters. Allotments for city and county agencies may not exceed 30 percent for first or second quarters or be less than 21 percent for the third and fourth quarters.

In addition, “whenever the city auditor determines that any department or agency, including the school department, will exhaust or has exhausted its quarterly allotment and any amounts unexpended in previous quarters,

he shall give notice in writing to such effect to the department head, the mayor and the city clerk, who shall transmit the same to city council.

“The mayor, within seven days after receiving such notice, shall determine whether to waive or enforce such allotment. If the allotment is waived or not enforced the department or agency head shall reduce the subsequent quarter’s allotments appropriately and the director of administrative services, within seven days, shall state in writing to the city council and the city clerk what reductions in each subsequent quarter’s allotment will be taken or what reallocations or transfers will be made to support the spending level in each subsequent quarter’s allotment. If the allotment for such quarter is enforced and not waived, thereafter the department shall terminate all personnel expenses for the remainder of such quarter.

No personal expenses earned or accrued, within any department, shall be charged to or paid from such department’s or agency’s allotment of a subsequent quarter without approval by the mayor, except for subsequently determined retroactive compensation adjustments.

“Approval of a payroll for payment of wages, or salaries or other personnel expenses which would result in an expenditure in excess of the allotment shall be a violation by the department or agency head.

“To insure that the overall city and county spending program remains in balance, the mayor may reallocate no more than three million dollars of non-personnel appropriations other than school appropriations during a fiscal year to other departmental purposes provided that in no department from which appropriations have been reallocated in accordance with this section shall any transfers be made from personal services to non-personal services, except with the approval of a two-thirds vote of city council, if such transfer would require the layoff of departmental personnel, who have been permanently appointed to a position in the department.

“No reallocation may be made under this section after April fifteenth in any fiscal year.

“A list of each reallocation made by the mayor shall be transmitted to the city council and the city clerk by the city auditor by April thirtieth in any fiscal year. In each case, the report shall state the accounts from which the transferred funds were taken and the accounts to which the funds were reallocated, and the reasons therefore.”

### **Transfer of Appropriations**

Section 23 of Chapter 190 of the Acts of 1982, as amended by Section 3 of Chapter 701 of the Acts of 1986, states that “after an appropriation of money has been made...no transfer of any part of the money thus appropriated, between such department or office and another department or office, shall be made, except in accordance with and after the written recommendation of the mayor to the city council, approved by a vote of two-thirds of all the members of the city council, provided that the city auditor, with the approval in each instance of the mayor, may make transfers, other than for personal services, from any item to any other item within the appropriations for a department, division of a department or county office.

“After the close of the fiscal year, the city auditor may, with the approval of the mayor in each instance, apply any income, taxes and funds not disposed of and make transfers from any appropriation to any other appropriation for the purpose only of closing the accounts of such fiscal year, provided further that the city auditor within seventy days after the close of the fiscal year, shall transmit to city council and the city clerk a report listing what income, taxes, or funds were applied and what transfers were made and the reasons therefore.”

### **Penalty for Overspending Budget**

Section 17 of Chapter 190 of the Acts of 1982 (Tregor) states that “no official of the city or county except in the case of extreme emergency involving the health and safety of the people or their property, shall expend intentionally in any

fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the city in any contract for the future payment of money in excess of such appropriations...

“Any official who violates the provisions of this section shall be personally liable to the city for any amounts expended intentionally in excess of an appropriation to the extent the city does not recover such amounts from the person to whom paid...”

### **Appropriation Restrictions**

Section 10 of Chapter 701 of the Acts of 1986, requires that “the mayor and city council shall appropriate for the hospitalization and insurance account an amount not less than the average of the past three years actual expenditures from those accounts. The city auditor shall certify, in writing to the board of assessors that adequate funds are provided in the operating budget for existing collective bargaining contracts...”

Restrictions on the Use of Proceeds from the Disposition Of Surplus Property - Section 24 of Chapter 190 of the Acts of 1982, as amended by Section 4 of Chapter 701 of the Acts of 1986, requires that “proceeds from the disposition of any surplus property shall be deposited in a separate fund which shall be known as the Surplus Property Disposition Fund, and shall be used only as follows: (1) the amount equivalent to the debt incurred, and interest paid or payable thereon, as a result of the acquisition or improvement from time to time of the property shall be used only for purposes for which the city is authorized to incur debt for a period of ten years or more and (2) all proceeds in excess of such amount shall be credited to the capital fund of the city unless the city council by a majority vote determines with the approval of the mayor to credit such proceeds to the general fund of the city.”

### **Duties of Supervisor of Budgets**

City of Boston Code Ordinance 5, section 5 states that “the supervisor of budgets shall, under the direction of the mayor and in

consultation with the director of administrative services, prepare in segregated form the annual and all supplementary budgets and shall report to the mayor on all subsequent revisions of the items in any budget.

“The supervisor of budgets shall also prepare all transfer orders.

“The supervisor of budgets shall further prepare the form of estimate sheets to be used by each officer, board and department, and each division of a department for which the city appropriates money, and the form of monthly report of such officer, board and department, and each division thereof, showing expenditures to date of all appropriations by item.

“The supervisor of budgets shall, in addition, have the powers and perform the duties conferred or imposed on the budget commissioner by any statute other than Section 56 of Chapter 35 of the General Laws.”

### **Convention Center Legislation**

Chapter 152 of the Acts of 1997, the Convention Center Legislation, authorized the development and construction of a convention center in Boston.

Under this legislation and through the joint efforts of the Boston Redevelopment Authority (BRA) d/b/a Boston Planning and Development Agency) and Massachusetts Convention Center Authority (MCCA), the new Boston Convention and Exhibition Center (BCEC) has been developed and constructed on a 60-acre site in South Boston. The facility, which opened in June 2004, includes 516,000 square feet of contiguous exhibition space, has made Boston a major competitor for larger international and national convention and exhibition business.

The City's share of the BCEC development expense was \$181 million for site acquisition and preparation. (The Commonwealth paid for all of construction, and for a small portion of site acquisition and preparation.) The city's BCEC expense was financed by means of dedicated revenue sources. On April 1, 2011, the city's BCEC related long-term debt was restructured. The remaining principal for the

prior bonds was paid down by a combination of available cash in the convention center fund and new general obligation debt at a lower interest rate. The impact on annual debt service is significant: an annual savings of approximately \$5 million per year through FY27.

### **Contracting Procedures**

Chapter 196 of the Acts of 2011, as amended, brought the City's bid requirements in line with Chapter 30B of the General Laws. It requires that documents are in writing and have approval of the mayor. Following passage of Chapter 218 of the Acts of 2016, An Act Modernizing Finance and Government, current procurement thresholds for goods and services were increased. The City has elected to implement the increase to its current Chapter 30B threshold requirement for competitive sealed bidding and competitive sealed proposals from \$35 thousand to \$50 thousand in FY17.

### **Pension Funding COLAs**

To aid municipalities dealing with property tax reduction due to Proposition 2 ½, the state began assuming the cost for local pension COLAs as of 1981. During the FY97 budget process, the state clearly stated it would not fund local pension COLAs in subsequent years. Local systems, including the Boston Retirement System, have had retiree COLAs funded at the municipal level since FY99. The state, however, remains obligated to pay for local pension COLAs awarded between FY81 and FY97. The COLA is set each year at the CPI or an amount up to, but not greater than 3% on the first \$14,000 of a retiree's annual payment.

### **Boston Public Health Act of 1995**

The Boston Public Health Act of 1995 (Chapter 147) established a new, comprehensive health care system to meet the challenges of a rapidly changing health care environment. Chapter 147 abolished the Department of Health & Hospitals and established the Boston Public Health Commission (BPHC) in its place. With City Council approval, the legislation allowed the City to merge or consolidate the operations and

assets of the hospitals with the Boston University Medical Center Hospital.

The law requires the City to set the budget equal to the amount, if any, by which the projected expenditures exceed revenues, the net cost of public health services. If there is a net cost of public health services, the budget is subject to mayoral review and approval. The mayor may approve or reject and return the budget to the BPHC. If the budget is accepted, the mayor shall include the net cost of public services in the City's annual budget and may submit supplementary appropriations as needed. The BPHC must adopt its budget no later than the second Wednesday in June.

### **An Act Transferring the Sheriffs of 2009**

Although Suffolk County remains as a legal entity in state law the passage of Chapter 61 of the Acts of 2009, "An Act Transferring Sheriffs to the Commonwealth", as amended by Chapter 102 of the Acts of 2009, "An Act Relative to Sheriffs", and again amended by section 39 of Chapter 166 of the Acts of 2009, "An Act Establishing Fiscal Stability Measures for Fiscal Year 2010", completes the transfer of the offices and functions of Suffolk County to the Commonwealth.

Chapter 61 transfers the offices, responsibilities and duties of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk County sheriffs to the Commonwealth. These were the remaining sheriffs not yet transferred previously to the Commonwealth. The Act includes provisions for transfer of county employees, properties, disposition of current lawsuits and reallocation of the Deeds Excise Tax. It provides that retired employees shall remain members of the county retirement system and in the case of Suffolk County the Boston Retirement System, and the City of Boston shall be assessed by the State for the remainder of the amortization of the unfunded portion of this liability. In accordance with the BRS January 1, 2010 valuation, that annual amount shall be \$3.875M for the years through FY 2025. Active employees have been transferred to the state retirement system along

with their annuity saving funds. Their pension liability is now a liability of the state retirement system.

### **An Act Related to the Funding of Boston Teacher's Pensions**

Chapter 112 of the Acts of 2010 provides for a change to the funding mechanism for Boston Teacher's Pensions. Sections 7 through 18, 48 and 50 adjust sections of Chapter 32 with regard to the City of Boston's role in the funding and reimbursement by the Commonwealth of Teacher's Pension liability. Those sections of Chapter 112 remove the City as a "middleman" and establish a relationship directly between the Commonwealth and the Boston Retirement System(BRS) Board for the financing of Boston teacher pensions. Consequently, the City will no longer show a revenue reimbursement for this item, and its annual pension funding cost will be significantly downsized. Meanwhile, Boston teacher's pension assets are to be managed by the state. However, the administration of Boston teachers' contributions and pension payments, as well as their membership, will remain with the BRS.

### **Local Option Meals Tax of 2009**

In August 2009, effective October 1, 2009, the City adopted a local option offered under sections 60 and 156 of Chapter 27 of the Acts of 2009 to accept the provisions of Massachusetts General Laws Chapter 64L section 2(a) which allows municipalities to increase the excise tax on meals sold locally by .75% in addition to the state excise tax of 6.25% on the same purchase. The revenue generated by the .75% local tax and collected by the state Department of Revenue is returned to the municipality of sale origin.

### **An Act Relative to Municipal Health Insurance**

Governor Patrick signed Chapter 69, An Act Relative to Municipal Health Insurance, on July 12, 2011. The Act allows cities and towns to either make health insurance plan design changes or transfer into the State's Group Insurance Commission (GIC). The Act lays out between a municipality and public employee

committee strict notice, negotiations, and plan saving requirements. Chapter 69 allows cities and towns to include changes to copayments, deductibles, tiered provider network copayments, and other cost-sharing features up to the dollar amounts of those same or similar features in the most enrolled GIC plan for their proposed plan design changes. It also allows cities and towns to transfer to the GIC if savings for the first year is 5% or more than those achievable under planned design. The Act is clear it is not a vehicle for contribution ratio changes. The Act also requires that all eligible retirees be enrolled in a Medicare health plan.

### **Municipal Modernization Act**

Chapter 218 of the Acts of 2016, An Act Modernizing Finance and Government, was approved on August 9, 2016, building upon previous acts that increased flexibility for municipalities. The Act eliminates and updates obsolete laws, promotes local independence where possible, and provides municipalities greater flexibility to do their day-to-day jobs.

Since the enactment of the Municipal Modernization Act, Boston has moved forward on several reforms. The City established a default speed limit of 25 miles per hour, filed an ordinance that will authorize its revolving funds, increased the residential property tax exemption to 35%, the maximum rate established under the Act (in concert with the provisions of Chapter 326 of the Acts of 2016), and increased the current goods and services procurement thresholds under Chapter 30B. Beginning in 2017, the City will implement a single overlay reserve. In addition, the Act streamlined and consolidated the clauses in Chapter 44 Section 7 and Section 8 that detail the purposes for which municipalities may borrow.

### **Departmental Revolving Funds**

In accordance with amendments made to the statute governing revolving funds in the 2016 Municipal Modernization Act the City in 2017 authorized and established departmental revolving funds for use by City departments, boards, committees, agencies or officers in

connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of these programs or activities. No appropriation is required to expend money from a fund but City Council approval is required to establish an amount that can be spent from the funds before July 1<sup>st</sup> of year one and requires that interest credited to revolving fund be deposited in the general fund. Funds established include: Public Art Revolving Fund, Strand Theatre Revolving Fund, City Hall Child Care Revolving Fund, Boston Public School (BPS) Transportation Revolving Fund, BPS Facilities Revolving Fund, BPS Technology Revolving Fund, Solar Renewable Energy Certificates Revolving Fund, Animal Control Revolving Fund, Third Party Property Damage Revolving Fund, City Hall Plaza Revolving Fund, Police Academy Revolving Fund, Canine Revolving Fund, Fitness Center Revolving Fund and Hackney Revolving Fund.

#### **Act to Ensure Safe Access to Medical and Adult-use of Marijuana**

On July 28, 2017 the State enacted An Act to ensure safe access to medical and adult-use of marijuana in the Commonwealth. The Act was a complete and comprehensive rewrite of both the 2016 initiative petition that legalized recreational marijuana and the 2012 initiative petition that legalized medical marijuana.

The legislation includes an increase in the total tax on recreational marijuana purchases to a maximum of 20% (including 6.25% in sales tax, 10.75% in marijuana excise tax and 3% in local sales tax), up from a maximum of 12% (combined sales tax and marijuana tax), that was approved in the recreational marijuana ballot law. The legislation also merges oversight of the recreational and medical marijuana industries into a five-person Cannabis Control Commission and details the rights of adults 21 and older to grow, buy, possess, and use limited quantities of marijuana. It establishes that in order to ban or severely limit recreational marijuana establishments in a city or town that voted ‘yes’ on the ballot initiative a voter referendum is required but in cities and towns

that voted ‘no’ local elected officials can make that decision. In addition the Act also details that a host community agreement can include a community impact fee for the host community that shall be reasonably related to the costs imposed upon a community by operation of a marijuana establishment or treatment center and shall not amount to more than 3% of the gross sales of the marijuana establishment or treatment center and will be effective no longer than five years.

#### **An Act Regulating Transportation Network Companies**

An Act was approved in August of 2016 that establishes oversight and regulates transportation network companies. As part of its oversight it establishes a Transportation Infrastructure Enhancement Fund. Annually each transportation network company is required to submit a per-ride assessment of \$.20 based on number of rides in previous year and half of the assessment will be proportionately distributed to cities and towns based on the number of rides that originated within the city or towns with the funding used to address the impact of the transportation network services on municipal roads, bridges and other transportation infrastructure. The fee will be discontinued as of January 1, 2027.

#### **Community Preservation Act**

Boston voters approved the adoption of the Community Preservation Act (CPA) on November 8, 2016. Almost one year later the Boston City Council on August 2, 2017 voted to amend the City of Boston Code to create a Community Preservation Act Committee to make recommendations on preservation needs and use of the funds generated by the 1% surcharge on residential and business property taxes allowed under the CPA.

The Committee will produce a Community Preservation Plan and make recommendations to the Mayor for transmittal to City Council for the acquisition, creation, preservation, rehabilitation, restoration and support of open space, historic resources, affordable housing, recreation land, and community housing with



CPA funding supplementing not supplanting existing operating funds.

### **Classification of City Debt**

Pursuant to the Bond Procedure Act of 1983, all indebtedness of the City, other than certain special obligation bonds, constitutes general obligation indebtedness of the City for which its full faith and credit are pledged and for the payment of which all taxable property in the City is subject to ad valorem taxation without limit as to rate or amount. Pursuant to the 1982 Funding Loan Act and the Bond Procedure Act of 1983, general obligation bonds of the City may also be secured by a pledge of specific City revenues pursuant to covenants or other arrangements established under a trust or other security agreement.

Special obligation bonds of the City may be issued and be payable from and secured solely by a pledge of specific revenues derived from a revenue-producing facility of the City.

Indebtedness of the City may also be classified by the nature of the City's obligation for the payment of debt service, depending on whether such debt is a direct obligation of the City or is an obligation of another governmental entity for the payment that the City is indirectly obligated.

### **Direct Debt**

Direct debt of the City consists principally of the City's outstanding general obligation bonds for which the City's full faith and credit are pledged and for the payment of which all taxable property in the City is subject to ad valorem taxation without limit as to rate or amount.

The City's direct indebtedness does not include special obligation debt which may be secured solely by a pledge of specific revenues derived from a revenue-producing facility of the City or for which the payment of which the City's obligation is subject to annual appropriation. As of the current date, the City has no Special Obligation debt.

### **Secured Indebtedness**

In addition to authorizing the City to secure its indebtedness with letters of credit, the Funding Loan Act of 1982, and the Bond Procedure Act of 1983, empower the City to secure any of its indebtedness issued under any general or special law by a pledge of all or any part of any revenues that the City received from or on account of the exercise of its powers. Examples include taxes (such as real property taxes), fees payable to or for the account of the City, and receipts, distributions, and reimbursements held or to be received by the City from the Commonwealth that are not restricted by law for specific purposes. Currently, the City does not have any outstanding bonds secured by such a pledge. The City, however, reserves the right in the future to issue bonds, notes or other obligations secured by various revenues of the City or by letters of credit.

### **Bond Procedure Act of 1983**

In 1983, the City Council passed and the Mayor signed a home rule petition to the state legislature that enacted Chapter 643 of the Acts of 1983 of the Commonwealth. This act, formally entitled the City of Boston Bond and Minibond Procedure Act of 1983, is referred to as the Bond Procedure Act of 1983. In 1984, the legislation modified various procedural restrictions related to the City's issuance of indebtedness. Such modifications provide, among other things, more flexible schedules for repaying debt principal, the issuance of variable rate bonds, term bonds and bonds redeemable at the option of the bondholder, and authorization for the sale of bonds at a discount. The legislation also provides the City with the authority to issue bonds in an amount up to \$5 million in any one fiscal year and notes in an amount outstanding at one time of up to five percent of the prior year's property tax levy. Each bond and note is issued in a denomination less than \$5,000 (known as minibonds and mininotes). In addition, the legislation authorizes the issuance of refunding bonds and grant anticipation notes, as well as restating the investment powers of the City and the extent to

which city bonds are legal investments for certain entities.

The Bond Procedure Act of 1983 also reaffirms provisions of state law, indirectly affected by Proposition 2 ½. This law requires that the City's annual tax levy must include the debt and interest charges that are not otherwise provided for as well as all general obligation indebtedness of the City regardless of the date of issue.

In addition to modifications to the procedures related to the City's general obligation indebtedness, the legislation authorizes the City to finance revenue-producing facilities with special obligation bonds payable from and secured solely by a pledge of facility revenues. Under this act, the City may also issue general obligation bonds secured by the pledge of specific city revenues and finance projects that otherwise could be financed by bonds, lease, lease-purchase or sale-leaseback agreements. The Bond Procedure Act of 1983 was amended in August 1991 to provide, among other things, for increased flexibility in establishing debt principal amortization schedules.

#### **Authorization of Direct Debt; Debt Limits**

All direct debt of the City requires the authorization of the city council and approval of the mayor. If the mayor should veto a loan order passed by the city council, the charter of the City provides that the loan order is void and may not be passed over the mayor's veto.

Authorization of bonds under a loan order of the city council includes, unless otherwise provided in the loan order, the authorization to issue temporary notes in anticipation of such bonds. Under the Bond Procedure Act of 1983, temporary notes in anticipation of bonds, including any renewals thereof, must mature within two years of their issue dates.

The laws of the Commonwealth provide for a statutory debt limit for the City consisting of a debt limit and a double debt limit. The debt limit is 5.0 percent of the assessed valuation of taxable property in the City as last equalized by the state Department of Revenue and the double debt limit is 10.0 percent. The most

recent Equalized Valuation ("EQV") of taxable property in the City approved on January 23, 2017 for use until January 2019 or until a new EQV is established by the state legislature, stands at \$143.58 billion. Based on the current EQV, the City's debt limit is \$7.18 billion and its double debt limit equals \$14.36 billion. The City may authorize debt up to its debt limit without state approval. The City may authorize debt over the debt limit up to the double debt limit with the approval of a state board composed of the State Treasurer and Receiver General, the State Auditor, the Attorney General and the Director of Accounts, or their designees. As of March 1, 2018, the City has outstanding debt of \$1.13 billion subject to the debt limit, and authorized but unissued debt subject to the debt limit of \$1.06 billion. Based on the City's current debt limit of \$7.18 billion, the City has the capacity to authorize an additional \$4.98 billion of debt as of March 1, 2018.

There are many categories of general obligation debt exempt from the general debt limit (although authorization of such debt is subject to various specific debt limits, specific dollar limitations or state approval). Among others, these exempt categories include temporary loans in anticipation of current and in anticipation of reimbursements or other governmental aid, emergency loans, loans exempted by special laws, certain school bonds, and bonds for housing and urban and industrial development. The latter bonds are subject to special debt limits ranging from 5.0% to 10.0% of equalized valuation depending on purpose. On March 1, 2018 the City has \$102.4 million in outstanding debt exempt from the general debt limit and \$78.3 million in authorized but unissued debt exempt from the general debt limit.

#### **Related Authorities and Agencies**

In addition to direct and indirect indebtedness of the City, the City and certain agencies and commissions related to the City are authorized by law to issue obligations that are solely a debt of the agency or commission issuing the obligations or are payable solely from revenues derived from projects financed by such debt.

Except as described below, such obligations are not a debt of the City.

The Boston Public Health Commission is an independent corporate and political subdivision of the Commonwealth created in June 1996 as the successor to the City's Department of Health and Hospitals (DHH). Effective July 1, 1996, all powers and functions of DHH and THH (Trustees of Health & Hospitals) were transferred to the commission. In addition, the commission assumed all assets and liabilities of the City allocated to DHH. At its inception, the Commission also assumed responsibility for paying the City an amount equal to current debt service on all outstanding general obligation bonds of the City issued for public health and hospital purposes. All obligations have been paid. The commission has also assumed responsibility for paying the debt service on the City's Special Obligation Refunding Bonds dated August 1, 2002 for Boston City Hospital (BCH), which were issued to refund bonds that first financed the project in 1993. On May 4, 2012, the City issued General Obligation Refunding Bonds to current-refund all of the outstanding BCH Special Obligation Bonds.

The Boston Water and Sewer Commission (BWSC) is an independent political and corporate subdivision of the Commonwealth created 1977. At its inception, BWSC assumed responsibility for the operation of the City's water and sewer systems and for paying to the City an amount equal to current debt service on all outstanding bonds the City issued for water and sewer purposes. All debt service for such bonds has been paid. The City is not obligated on bonds issued by the Commission.

The Economic Development and Industrial Corporation of Boston (EDIC) is a political and corporate entity of the Commonwealth led by a five member board who are also appointed as board members of the Boston Redevelopment Authority d/b/a as the Boston Planning and Development Agency (BPDA). EDIC has a variety of powers to assist industrial development projects in the City. EDIC is not authorized to issue debentures in excess of \$5 million secured solely by the credit and

properties of EDIC and revenue bonds secured by revenues from the lease or sale of its projects. The City is also authorized to appropriate or borrow monies for EDIC development projects within certain urban renewal debt limitations.

The BPDA is a public political and corporate body that combines the City's redevelopment and planning board authority with certain powers of the state Department of Community Affairs. The BPDA board consists of four members appointed by the Mayor, subject to confirmation by the City Council, and one member appointed by the Governor. The BPDA is an urban planning and economic development agency and is part of the Mayor's Economic Development cabinet. Although the BPDA is authorized to issue revenue bonds and notes that are not City debts, the BPDA traditionally finances its projects through a combination of federal and state grants, proceeds of general obligation bonds issued by the City, and revenues from the lease or sale of land.

#### **Major Debt Statutes and Borrowing Authority**

Chapter 188 of the Acts of 2010, the Municipal Relief Act, passed by the State on July 27, 2010, made several positive changes to the purposes for which cities, towns and districts may borrow as well as to the terms, debt service schedules, and special approvals related to such borrowings. The addition of several new purposes for which the City may borrow as well as extensions to certain useful life determinations gives the City added borrowing flexibility.

Chapter 44, Sections 7 and 8 of the Massachusetts General Laws permits cities and towns in the Commonwealth to incur debt within and outside the statutory limits of indebtedness described previously for various municipal purposes and identifies the maximum maturity period for each purpose. The purposes include, but are not limited to, the acquisition of interests in land or the acquisition of assets, or for the construction, reconstruction, rehabilitation, improvement, or extraordinary

repair of public buildings, facilities, assets, works or infrastructure, construction and/or reconstruction of water and sewer mains, improvements to parks and playgrounds, reconstruction and resurfacing of roads, and equipment acquisitions.

On July 31, 2003, the Municipal Relief Act, Chapter 46 of the Acts of 2003 passed. It amended section 7 of Chapter 44 of the General Laws so that the City would no longer be required to go to the state Emergency Finance Board for approval of debt incurred for remodeling, reconstruction, or extraordinary repairs to public buildings.

The Capital Improvements Act of 1966, as amended, permits the City of Boston to issue debt outside the debt limit for various municipal purposes, including new construction and renovation of existing facilities. The legislation provides a specific limit on the total amount of debt that may be issued under the statute.

Chapter 208 of the Acts of 2004 established the Massachusetts School Building Authority. The program is designed to assist cities and towns in building new schools or in renovating existing ones; however, the state's reimbursement methodology has been modified. Projects for which cities and towns are currently receiving reimbursement for projects approved in the former school building assistance program managed by the Department of Elementary and Secondary Education will continue to receive annual payments. Chapter 208 also provides for a pay-as-you go system paying cities and towns for school projects in installment grants during construction so as to save on interest costs.