

- When annual appropriations have not been made, the disbursing officers may make necessary expenditures during the period of ninety days after the beginning of such year on proper warrants for purposes and **in amounts authorized by the appropriating body.**
- At the end of such ninety-day period, the disbursing officers may make necessary expenditures during successive monthly periods in such year on proper warrants for purposes and **in amounts authorized by the appropriating body within the limits of appropriations specified in budgetary line items for the previous fiscal year.**

Per Atty Thomas Mooney, "For this purpose, the entire board of education budget is one "line item."

Sec. 7-405. Expenditures by municipalities and regional school districts before adoption of budgets. (a) When annual appropriations have not been made by a municipality before the beginning of any fiscal year, the disbursing officers may make necessary expenditures during the period of ninety days after the beginning of such year on proper warrants for purposes and in amounts authorized by the appropriating body or by the board of finance or other budget-making authority. When annual appropriations have not been made by such municipality before the end of such ninety-day period, the disbursing officers may make necessary expenditures during successive monthly periods in such year on proper warrants for purposes and in amounts authorized by the appropriating body or by the board of finance or other budget-making authority within the limits of appropriations specified in budgetary line items for the previous fiscal year. For this purpose, necessary borrowing may be authorized by resolution of the budget-making authority, provided all such borrowing shall mature and be payable not later than the end of the fiscal year for which such borrowings are made. Any notes so authorized may be issued and sold in the manner provided by such resolution. Such expenditures authorized by this section and interest costs and other expenses incidental to any such borrowing shall constitute the first charges against appropriations for the fiscal year in which they are made.

(b) Notwithstanding the provisions of subsection (a) of this section, when an annual budget of a regional school district is not approved by a majority of voters of the member towns of such district before the beginning of any fiscal year, the disbursing officer for each member town of the regional school district shall make necessary expenditures to such district in an amount equal to the total of the town's appropriation to the district for the previous fiscal year and the town's proportionate share in any increment in debt service over the previous fiscal year, until the regional school district budget is approved pursuant to section 10-51. Each such town shall receive credit for such expenditures once the budget is approved for the fiscal year.

(1949 Rev., S. 834; P.A. 77-384, S. 1, 2; P.A. 04-117, S. 2.)

History: P.A. 77-384 provided for expenditures when appropriations have not been made before end of ninety-day extension period; P.A. 04-117 designated existing provisions as Subsec. (a) and added Subsec. (b) re authorization to make necessary expenditures when an annual budget of a regional school district is not approved before the beginning of any fiscal year, effective July 1, 2004.

education. Alternatively, the board of education could maintain and use such donations through a school activity fund, as described in Section E(4) below.

Acceptance of gifts can raise policy issues, particularly if such gifts have strings attached or if the gift benefits a single school. If a gift is to be used to benefit a specific sports team, there may even be a legal issue, because the amount of such a gift will be considered an "expenditure" on behalf of that team for purposes of evaluating equal educational opportunity under Title IX. See Chapter Four, Section G(6). Boards are well-advised therefore to adopt policies concerning the acceptance of gifts. Also, donors are sometimes interested in getting a tax deduction. While it is not the board's concern, gifts may not be tax-deductible if they are given only for a specified purpose that serves the donor's personal interests. Boards of education, therefore, must be cautious about making any representation as to whether gifts will or will not be taxable.

e. Expenditures before budget adoption

On occasion, it is impossible for a municipality to approve a budget before the start of the fiscal year. Towns may borrow money in anticipation of taxes, and life goes on while the budget wars rage. However, this situation poses problems for boards of education because they can generally spend only those funds that are appropriated to them. The General Assembly addressed this problem in the statutes governing municipal finance without specific reference to boards of education. Conn. Gen. Stat. § 7-405 provides that, if no budget has been adopted at the beginning of a specific fiscal year, necessary expenditures may be made for the first ninety days as authorized by the budget-making body. If no budget has been adopted at the end of that ninety-day period, the budget-making body may authorize payment of expenses in successive monthly periods within the limits of line-item appropriations from the prior fiscal year. This procedure does not expressly state how board of education expenses should be handled, and the law is especially unclear with regard to the first ninety days. However, a reasonable approach most consistent with the statute is that the board of education will be authorized to expend amounts monthly equal to the pro rata appropriation from the prior year. For this purpose, the entire board of education budget is one "line item."

2. Regional boards of education

The budget process for regional boards of education is different from that of local boards. A regional board of education has fiscal autonomy. The



OLR RESEARCH REPORT

July 27, 2004

2004-R-0587

PROCESS FOR SETTING MILL RATES

By: Kevin E. McCarthy, Principal Analyst

You asked for information on setting property tax mill rates. You wanted to know: (1) whether there is a statutory limit to mill rates; (2) how the law has changed since 1987; and (3) whether the Coventry town council could increase the mill rate from the prior year when the town meeting had not approved the current year's budget. The Office of Legislative Research is not authorized to issue legal opinions and this memo should not be considered one.

The process for setting the mill rate is part of the process for adopting a budget. The mill rate is a municipality's net grand levy divided by its net taxable grand list. The net grand levy is the amount a municipality must raise in a fiscal year from property taxes, i.e., the total budget minus state and federal funds, fees, and charges, and other sources of revenues. The process for adopting a budget is primarily set out in municipal charters rather than the statutes. CGS § 12-122 does require selectmen in town meeting towns to include an itemized estimate of current expenses of town departments for the next fiscal year for approval at the town meeting. Once the board of assessment appeals completes its work and the final assessment is completed, the town must levy taxes on the property on the list. Under CGS § 12-123, if a town fails to lay necessary taxes or to lay a tax, when taken with other town revenues, is sufficient to pay the town's expenses, the selectmen must make a rate bill on its last list for the amount of money that is needed.

There is no statutory limit on mill rates. The state supreme court has held that CGS Sec. 12-123 gives boards of selectmen broad authority to set tax rates for their towns when the defeat of a town budget has created a fiscal vacuum *Mosher v. Goodnow* 217 Conn. 303 (1991). In this case, the Old Saybrook board of selectmen set the FY 1990-91 mill rate based on estimated unreimbursed expenses for that year, after four proposed budgets had been defeated at referenda. Mosher, a taxpayer in the town, argued that CGS Sec. 7-405 required that the selectmen base the 1990-91 budget on the previous year's expenditures, which would have

resulted in a decrease in the mill rate. The court held that CGS Sec. 7-405 dealt with the authority of disbursing officers, rather than the taxing powers of boards of selectmen. It held that the legislature had created a mechanism in CGS Sec. 12-123 by which accruing town bills could be met absent an approved budget, even if they exceeded a prior year's budgetary line item. This would imply that if expenses increased and the grand list remained constant, a board of selectmen could increase the mill rate even though the town meeting had not approved the budget.

While there have been many changes to the property tax law since 1987, e.g., changes in property tax exemptions, none of them have affected the process for setting the mill rate. There has been no change to CGS Sec. 12-123 in more than 50 years.

KM:ro