

*Massachusetts Department of Revenue Division of Local Services*  
*Alan LeBovidge, Commissioner Gerard D. Perry, Deputy Commissioner*

---



# *Proposition 2½ Ballot Questions*

## *Requirements and Procedures*

---

*Property Tax Bureau*  
*February 2002*

## TABLE OF CONTENTS

### PROPOSITION 2½ BALLOT QUESTIONS REQUIREMENTS AND PROCEDURES

<b>I.</b>	<b>INTRODUCTION</b>	Page 1
<b>II.</b>	<b>TYPES OF BALLOT QUESTIONS</b>	1
	A. Overrides	1
	B. Exclusions	1
	1. Debt Exclusions	2
	a. Pre-Proposition 2½ Debt Exclusions	2
	b. Post-Proposition 2½ Debt Exclusions	2
	2. Capital Expenditure Exclusions	3
	C. Underrides	3
<b>III.</b>	<b>REFERENDUM PROCEDURE</b>	3
	A. Placing Questions Before Voters	3
	1. Overrides and Underrides	3
	2. Exclusions	3
	B. Election Procedure	4
	C. Form of Questions	4
	1. Statement of Purpose	4
	a. Specificity of Purpose	4
	b. Definition of Purpose	5
	2. Other Information	6
	D. Approval of Questions	6
	E. Approval of Multiple Questions on Same Ballot	7
	1. Overrides	7
	a. Pyramid Overrides	7
	b. Menu Overrides	7
	2. Exclusions	7
	F. Voter Information	8
	G. Campaign Activities	8
	H. Revocation of Questions	8
<b>IV.</b>	<b>RELATIONSHIP TO APPROPRIATIONS</b>	9
	A. Use of Additional Taxing Authority (Earmarking)	9
	1. Overrides	9
	2. Debt Exclusions	9
	a. Total Exclusion	9
	b. Annual Exclusion	10
	3. Capital Expenditure Exclusions	10
	B. Appropriation - Referendum Sequence	11
	C. Contingent Appropriations	11
<b>V.</b>	<b>ROLE OF DEPARTMENT OF REVENUE</b>	12
<b>APPENDICES</b>		
	A. Proposition 2½ Ballot Question Forms	13
	B. Levy Limit Override Purposes	15
	C. Levy Limit Override Approaches	17
	D. Sequencing Options	21
	E. Division of Local Services Staff Contacts	23

# PROPOSITION 2½ BALLOT QUESTIONS REQUIREMENTS AND PROCEDURES

## General Laws Chapter 59 §21C

### I. INTRODUCTION

Proposition 2½ limits the amount of revenue a city or town may raise from local property taxes each year to fund municipal operations. This amount is known as the annual levy limit. However, the law allows a city or town to increase tax revenues above that limit with voter approval. It also requires a city or town to reduce its levy limit as specified by the voters. General Laws Chapter 59, Section 21C.

This summary explains the referendum procedure established by Proposition 2½ and the different types of referenda questions communities may ask voters to approve.

### II. TYPES OF BALLOT QUESTIONS

Proposition 2½ establishes two types of voter approved increases in taxing authority. It also allows voters to mandate a reduction in taxing authority.

#### A. OVERRIDES

A levy limit override increases the amount of property tax revenue a community may raise in the year specified in the override question and in future years. It increases the community's levy limit and becomes part of the base for calculating future years' levy limits. The result is a permanent increase in taxing authority. G.L. Ch. 59 §21C(g).

The purpose of the override is to provide funding for municipal expenses likely to recur or continue into the future, such as annual operating and fixed costs, although it may be used for any municipal spending purpose.

The only limitation on the amount of the override is that the new levy limit, including the override, cannot exceed the overall Proposition 2½ levy ceiling of 2½ percent of the community's full and fair cash value.

#### B. EXCLUSIONS

An exclusion increases the amount of property tax revenue a community may raise for a limited or temporary period of time in order to fund specific projects. The amount of an exclusion may be raised in addition to the community's levy limit. It does not increase the community's levy limit nor becomes part of the base for calculating future years' levy limits.

The exclusion may be used to raise additional funds only for a capital purpose, which is defined as any purpose for which a city or town is authorized to borrow under G.L. Ch. 44 §7 and 8. This would include most public building and public works projects, as well as land and equipment acquisitions.

There is no limitation on the number or dollar amount of exclusions.

1. Debt Exclusions

If a capital project is being funded by debt, approval of a debt exclusion permits the community to raise the amount of the annual debt service payment for that project each year until the debt is retired. See Section IV-A-2 below.

A debt exclusion may be used by a community to exclude municipal debt or to exclude its proportionate share of debt issued by a regional governmental unit of which it is a member.

Debt exclusion questions may be presented to and approved by the voters before or after the related debt is authorized or issued. An exclusion approved after repayment of the debt had begun applies prospectively, *i.e.*, to the remaining debt service payments owed on the obligation.

a. Pre-Proposition 2½ Debt Exclusions

A community may fund its remaining debt service payments on obligations issued and outstanding on November 4, 1980 by presenting a single "Pre-Proposition 2½" debt exclusion question to the voters. If approved, the community may exclude the remaining debt service payments on all of those obligations until the debts are retired. An approved "Pre-Proposition 2½" debt exclusion also covers the community's apportioned share of the debt service on any bonds that were issued by a regional governmental unit of which it is a member and were outstanding on November 4, 1980. G.L. Ch. 59 §21C(j).

b. Post-Proposition 2½ Debt Exclusions

A community may fund debt service payments on obligations issued after November 4, 1980 by presenting a "Post-Proposition 2½" debt exclusion question to the voters for municipal or regional governmental unit borrowings it wishes to exclude. G.L. Ch. 59 §21C(k). A separate question may be presented for each borrowing or multiple borrowings may be included within a single question.

2. Capital Expenditure Exclusions

If the capital project is being funded by an appropriation, voter approval of a capital expenditure exclusion question permits the community to raise the amount of the project costs up to the amount stated in the question. This additional taxing authority is available only for the one fiscal year specified in the question. G.L. Ch. 59 §21C(i½).

C. UNDERRIDES

A levy limit override decreases the amount of property tax revenue a community may raise in the year specified in the override question and in future years. It decreases the community's levy limit and becomes part of the base for calculating future years' levy limits. The result is a permanent decrease in taxing authority. G.L. Ch. 59 §21C(h).

III. REFERENDUM PROCEDURE

A. PLACING QUESTIONS BEFORE VOTERS

Proposition 2½ referenda questions are placed on an election ballot by vote of the "local appropriating body," which is defined in towns as the board of selectmen, not town meeting. In towns without selectmen, a vote of the town council is required to present a referendum question to the electorate. In cities, a vote of the city council, with the mayor's approval where required by law, is needed. G.L. Ch. 59 §21C(a).

This is the only way an override or exclusion question may be placed on the ballot. They may not be placed on the ballot by vote of town meeting or through use of a local initiative referendum procedure. A local referendum procedure, if authorized by law, may be used as an alternative method of placing an override question on the ballot, however.

The board or council must vote the question exactly as it will appear on the ballot.

1. Overrides and Overrides

A majority vote of the entire board or council is needed to place an override or override question on the ballot. G.L. Ch. 59 §21C(g), (h).

2. Exclusions

A two-thirds vote of the entire board or council is needed to place an exclusion question on the ballot. G.L. Ch. 59 §21C(i½), (j), (k).

## **B. ELECTION PROCEDURE**

Proposition 2½ referenda questions may be placed on a regular or special municipal election ballot. Questions may also be placed on the state biennial election ballot. However, those questions must be submitted to the Secretary of State for certification by the first Wednesday in August preceding the election. G.L. Ch. 59 §21C(i).

The usual laws and procedures relating to municipal elections apply. The municipal clerk must receive written notice of the referendum at least 35 days before the date of the election. G.L. Ch. 54 §42C. The vote to place a question on the ballot must take place in sufficient time to meet this advance notice requirement.

A city or town may present Proposition 2½ questions to the voters as many times during the year as it chooses. The only constraint on the interval between these elections is the time needed to call and hold each election.

The Office of the Secretary of State is responsible for administering and enforcing municipal election laws. Specific questions about the application of these laws to the Proposition 2½ referendum procedure should be referred to the Elections Division of that agency at 617-727-2828.

## **C. FORM OF QUESTIONS**

Proposition 2½ specifies the form of each type of ballot question. This exact language must be used to properly place a question before the voters. The question forms are found in **Appendix A**.

### **1. Statement of Purpose**

All override and exclusion questions require a statement of the purpose or purposes for which the monies from the tax "assessment" or debt "issue" will be used.

#### **a. Specificity of Purpose**

The purpose must be described in a manner that enables voters to determine the appropriation(s) or debt obligation(s) covered by the question. The degree of specificity required to do this will depend on the type of question.

(1) Overrides

Override questions are designed to increase the amount of revenue generally available for appropriation. As a result, the spending purpose in an override question may be broad in scope such as general or departmental operating purposes. More specific spending purposes may also be stated such as where a service will be reduced or eliminated without the override. Examples of acceptable spending purposes are found in **Appendix B**.

(2) Exclusions

Exclusion questions are designed to fund specific capital projects. Therefore, the borrowing or spending purpose in an exclusion question must describe the particular project(s) being funded by the question.

b. Definition of Purpose

The purpose used in an override or exclusion question must be a spending or borrowing purpose. This means a purpose for which a community's appropriating body could vote to appropriate money or authorize debt. The purpose cannot be used to provide voters with information on the impact of an unsuccessful vote on the question, on the underlying events or circumstances that may cause budget difficulties or to otherwise promote or advocate for the override or exclusion.

For example, language that does not meet the definition of spending purpose would be questions with the stated purpose of "restoring monies lost due to local aid reductions" or "increasing free cash." These questions do not state a spending purpose because communities do not appropriate funds for these purposes.

In addition, language that explains the impact of voter action on the question and is intended to promote the override or exclusion does not meet the definition of spending purpose. For example, "preventing substantial reductions in town services, programs and personnel and further deferral of vital capital projects," "preventing a reduction in the police department budget," "preventing the layoff of 4 police officers," "maintaining current municipal and educational services" or "restoring school athletic programs" would be inappropriate. The question must simply specify the personnel, services or programs for which the additional funds will be used. Thus, appropriate purposes for the examples would be "funding the town's operating and capital expenses," "funding the police department operating budget," "funding the salaries of 4 police officers," "funding municipal and educational services," or funding school athletic programs."

Finally, the spending purposes should not be characterized in a manner intended to promote the question by including financial information usually provided during the budget process. Examples would be "funding uncontrollable increases in employee health insurance costs" or "funding a 28% increase in the town's regional school district assessment." Again, the question should just state the spending purpose: "funding employee health insurance costs" or "funding the town's regional school district assessment."

## 2. Other Information

Override and capital expenditure exclusion questions must also include the total amount of additional taxing authority being requested and the fiscal year in which it will be used. This information is not included in debt exclusion questions.

Any additional information about the requested amount, the services and programs to be funded by the requested amount, and the impact the vote will have on those services cannot be included in the question or on the ballot. That type of information should be provided in the course of a balanced, comprehensive, public information effort. Public information efforts undertaken by local officials must be consistent with election and campaign finance laws. See Sections III-F and G below.

## D. APPROVAL OF QUESTIONS

A question is approved if a majority of the people voting on that question vote "yes."

**E. APPROVAL OF MULTIPLE QUESTIONS ON SAME BALLOT**

A community may place as many questions on a regular or special municipal election ballot as it chooses. However, if the community decides to place questions on the state biennial election ballot, it is limited to three questions. G.L. Ch. 59 §21C(i).

1. Overrides

a. Pyramid Overrides

A community may present a "pyramid" override to the voters. A pyramid override asks voters to determine which, if any, of two or more funding levels they are willing to approve. A separate override question would be placed on the ballot for each funding level, with each question stating the same purpose. Any question is approved if a majority of the persons voting on that question voted "yes." If more than one question is approved, the question specifying the highest dollar amount governs. This rule also applies where the questions are presented as alternative proposals to the voters.

The Elections Division of the Secretary of State's Office advises communities presenting "pyramid" overrides to include voting instructions on the ballot. The following language is recommended:

Questions 1a, 1b and 1c are separate questions. You may vote for or against each question independently. Each question requires a majority of those voting on that question to pass. If more than one question passes, the question with the highest dollar amount will prevail.

b. "Menu" Overrides

A community may place several override questions each of which will fund different services or programs on the same ballot. If voters approve more than one override question stating different purposes, the community's levy limit may be increased by the total of the amounts specified in all approved questions.

**Appendix C** provides examples of single, pyramid and menu override approaches.

2. Exclusions

A community may place several exclusion questions for different capital projects on the same ballot. The community may raise the additional amounts excluded by each question approved by the voters.

**F. VOTER INFORMATION**

Local officials may not publish and provide voter information materials at public expense unless specifically authorized by statute. See Chapter 274 of the Acts of 1987, Chapter 630 of the Acts of 1989, Chapter 180 of the Acts of 1996 and Chapter 89 of the Acts of 1998, which authorize the preparation and distribution of voter information on municipal referenda questions by the Newton Election Commission, Cambridge Election Commission, Sudbury Board of Selectmen and Burlington Board of Selectmen respectively. In addition, a community may not include any explanatory information on the ballot, such as a summary of the impact a "yes" and "no" vote will have on local services.

**G. CAMPAIGN ACTIVITIES**

General Laws Chapter 55 governs the raising and spending of money for referenda questions as well as political candidates. The law also regulates the conduct of public officials and employees undertaking campaign finance activities.

In general, the law regulates conduct not speech. Thus, while local officials can take a position on an override or exclusion question and speak in favor of or in opposition to it, they cannot spend public funds or use public resources, such as personnel, supplies and facilities, to promote or oppose the question. Anderson v. City of Boston, 376 Mass. 178 (1978). Public employees may work on an override or exclusion campaign on a volunteer basis, on their own time, in any capacity other than fundraising. They may also make personal contributions to political committees established for the purpose of promoting or opposing the ballot question.

The Office of Campaign and Political Finance is responsible for administering and enforcing campaign finance laws. Specific questions about the application of these laws to the conduct of local officials and employees in the Proposition 2½ referendum procedure should be referred to that agency at 617-727-8352.

**H. REVOCATION OF QUESTIONS**

Proposition 2½ does not provide for the revocation or rescission of an approved referendum question. An override can be negated, however, by voter approval of an underride. An exclusion can be negated by not funding the related borrowing or appropriation.

#### **IV. RELATIONSHIP TO APPROPRIATIONS**

Proposition 2½ establishes a limit on the annual property tax levy and approval of an override or exclusion question only increases the amount a community may raise in taxes. It does not authorize or require spending for the purpose of the question. Similarly, an underwrite only decreases the amount a community may raise in taxes. The legal power to make spending decisions is still vested in the community's appropriating body (town meeting/town council/city council).

##### **A. USE OF ADDITIONAL TAXING AUTHORITY (EARMARKING)**

Approval of an override or exclusion question establishes the maximum amount of additional taxing authority available to the community. The spending decisions made by the community's appropriating body determine if any or all of this additional taxing authority is actually used. Thus, while the additional dollars are still part of the community's general unrestricted revenues (levy) and are not a separate financing source for the purpose of making appropriations, those dollars are considered "earmarked" because they cannot be raised in the tax levy unless the community appropriates them for the purpose stated in the question.

###### **1. Overrides**

A community's levy limit is increased by the amount stated in the override question so long as appropriations for the stated purpose and fiscal year equal or exceed that amount. All appropriations made for that purpose for the year are considered in that determination. If total appropriations are less than the stated amount, however, then the community may only increase its levy limit by the amount actually appropriated.

The additional funds raised by the override are "earmarked" for the stated spending purpose only in the first fiscal year.

###### **2. Debt Exclusions**

###### **a. Total Exclusion**

A debt exclusion covers debt service on the amount of borrowing authorized or contemplated for the stated purpose at the time of the referendum. Debt service includes payments of principal on permanent debt and interest on permanent and temporary debt.

The debt service on any additional borrowing above the amount fixed at the time of referendum is not covered unless (1) it is a modest amount attributable to inflation, new regulatory requirements or minor project changes, or (2) another debt exclusion is approved by the voters.

b. Annual Exclusion

The additional taxing authority available to a community each fiscal year until the debt covered by the exclusion is retired is the total principal and interest payment due net of any reimbursement received from the state or federal government for the project. This amount represents the community's share of the project's debt service for that year. If user fees, betterments or other local revenues are being used to fund all or part of the debt service, a community may exclude the principal and interest net of the local revenue, but it is not required to do so.

If an additional borrowing for the project is not covered by the exclusion, the additional taxing authority for each year is calculated by applying the percentage the borrowing amount fixed at the time of the referendum bears to the total debt issued for the project.

The annual exclusion amount may be adjusted from year to year in order to moderate the impact on taxpayers, provided that (1) in any year in which the exclusion raised is more than the actual local share of the debt service due for that year, the accounting officer reserves the excess for appropriation to pay debt service costs for future years, and (2) the total amount excluded during the adjusted schedule does not exceed the amount that would be excluded otherwise.

3. Capital Expenditure Exclusions

A community may use all of the additional taxing authority provided by an approved capital expenditure exclusion question so long as the amount appropriated for the specified capital project for the fiscal year, net of any reimbursement received from the state or federal for the project, equals or exceeds the amount stated in the question. This amount represents the community's share of the project cost for that year. If the community's share is less than the amount stated in the question, then the community may only increase its taxing authority by its share. If user fees, betterments or other local revenues are being used to fund all or part of the project, a community may net out the local revenue, but it is not required to do so.

**B. APPROPRIATION - REFERENDUM SEQUENCE**

A community should adopt a budget process that will result in a balanced budget by July first, but in any event it must have a balanced budget within the limits of Proposition 2½ by the time it sets a tax rate for the year. It may establish its expenditure and revenue budgets in any order it chooses. It could first seek voter approval of an override or exclusion question and then make appropriations for the year within a fixed revenue estimate. Alternatively, the community could choose to first adopt its expenditure budget and if that budget requires additional revenue to fully fund it, then seek voter approval of an override or exclusion question. If the question is successful, the budget will be balanced and a tax rate may be set without further action. If the question is not successful, then the community will have to reduce appropriations and/or increase non-tax revenues in order to establish a balanced budget and set a tax rate. The chart in **Appendix D** summarizes the sequencing options explained in this section and Section IV-C below.

**C. CONTINGENT APPROPRIATIONS**

A third budgeting approach available to towns only is to adopt a balanced budget and then appropriate additional amounts to supplement that budget expressly contingent on the subsequent approval of an override or exclusion question. G.L. Ch. 59 §21C(m). A contingent appropriation vote does not place a question on the ballot, however. The decision whether or not to present any Proposition 2½ referendum question to the voters is still made by the selectmen. See Section III-A above.

Contingent appropriations may be made from the tax levy, available funds or borrowing and are subject to the following requirements:

- A contingent appropriation is not effective until the override or exclusion question is approved. This means that until the question is approved, a town cannot spend from the contingent appropriation.
- The statement of purpose in the override or exclusion question must be substantially the same purpose as the contingent appropriation. This means the question need not be worded in exactly the same way as the appropriation. However, it must describe the purpose in a sufficiently similar manner that the voters can identify the particular appropriation the question is intended to fund. In addition, each contingent appropriation need not be the subject of a separate question. The selectmen retain the power to decide the content of all questions and may include several contingent appropriations within a single override or exclusion question. In that case, the question must state the purpose of each appropriation it is intended to fund.

- The deadline for obtaining voter approval of override or exclusion questions for contingent appropriations made at an annual town meeting is September 15. More than one election may be held, but the contingent appropriation is null and void if the related question is not approved by September 15.
- The deadline for obtaining voter approval of override or exclusion questions for contingent appropriations made at any other town meeting is 90 days after the close of the town meeting at which the contingent appropriation vote was taken. More than one election may be held, but the contingent appropriation is null and void if the related question is not approved by the end of the 90 day period.
- If the contingent appropriation was made from the tax levy, the tax rate cannot be submitted to the Department of Revenue for approval until the override or exclusion question has been voted upon, or the applicable deadline for holding an election has passed, whichever occurs first.

## **V. ROLE OF DEPARTMENT OF REVENUE**

The Division of Local Services in the Department of Revenue has general supervisory authority over local property tax administration and financial practices. It issues guidelines to assist local financial officials in the performance of their duties, renders legal opinions on local tax and finance issues, conducts training programs and approves revaluations and tax rates.

The Division is also responsible under Proposition 2½ for calculating a community's levy limit and for ensuring that a community does not set a tax rate that results in a tax levy exceeding the amount allowed by the law. G.L. Ch. 59 §21D.

The Division's legal staff is available to answer general questions about the use of the Proposition 2½ referendum procedure. Other Division staff members can provide data on the number of communities using the procedures and specific information on a community's levy limit. **Appendix E** contains the Division's address and telephone number as well as contacts for additional information.

**Appendix A**

**PROPOSITION 2½ BALLOT QUESTION FORMS**

The form of each type of Proposition 2½ referendum question is prescribed by G.L. Ch. 59 §21C. To properly present a question to the voters, the following statutory language must be used:

**Levy Limit Override (G.L. Ch. 59 §21C(g)):**

Shall the (city/town) of \_\_\_\_\_ be allowed to assess an additional \$\_\_\_\_\_ in real estate and personal property taxes for the purposes of (state the purposes(s) for which the monies from this assessment will be used) for the fiscal year beginning July first nineteen hundred and \_\_\_\_\_?

Yes \_\_\_\_ No \_\_\_\_

**Levy Limit Underride (G.L. Ch. 59 §21C(h)):**

Shall the (city/town) of \_\_\_\_\_ be required to reduce the amount of real estate and personal property taxes to be assessed for the fiscal year beginning July first nineteen hundred and \_\_\_\_\_ by an amount equal to \$\_\_\_\_\_?

Yes \_\_\_\_ No \_\_\_\_

**Capital Expenditure Exclusion (G.L. Ch. 59 §21C(i½)):**

Shall the (city/town) of \_\_\_\_\_ be allowed to assess an additional \$\_\_\_\_\_ in real estate and personal property taxes for the purposes of (state the purposes(s) for which the monies from this assessment will be used) for the fiscal year beginning July first nineteen hundred and \_\_\_\_\_?

Yes \_\_\_\_ No \_\_\_\_

**Pre-Proposition 2½ Debt Exclusion (G.L. Ch. 59 §21C(j)):**

Shall the (city/town) of \_\_\_\_\_ be allowed to exempt the total amounts required to pay for bonded indebtedness incurred prior to the passage of proposition two and one-half, so-called, from the city's/town's limit?

Yes \_\_\_\_ No \_\_\_\_

**Post-Proposition 2½ Debt Exclusion (G.L. Ch. 59 §21C(k)):**

Shall the (city/town) of \_\_\_\_\_ be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to (state the purpose or purposes for which the monies from the local issue will be used)?

Yes \_\_\_\_ No \_\_\_\_

## Appendix B

### LEVY LIMIT OVERRIDE PURPOSES

Voter approval of a levy limit override under G.L. Ch. 59 §21C(g) increases the amount of revenue a community may raise from the property tax on a permanent basis. An override is designed to provide a community with the ability to generate sufficient revenues to fund costs that are likely to continue into the future, such as annual operating and fixed expenses, although it may be used to provide funds for any valid municipal spending purpose.

All override questions require a statement of the purpose or purposes for which the additional monies will be used. The purpose used in the question must be a spending purpose. This means a purpose for which a community's appropriating body could vote to appropriate money. The spending purpose may be broad in scope, such as general or departmental operating purposes, or may be stated as a specific program or service.

If the override is to fund personnel costs and other expenses normally appropriated as part of departmental operating budgets, the spending purpose may be broadly stated as in the following examples:

- Funding the Town's operating budget
- Funding operating expenses and capital expenditures
- Providing for the general administrative cost of operating the schools, police department, fire department and other town departments
- Funding the operating budget of the Public Schools and the Municipal Government
- Defraying school operating expenses
- Funding the Town's Regional School District assessment.

Specific positions, programs and services ordinarily funded within a departmental budget may be the subject of an override question when the additional funds will be used to prevent the reduction or elimination of those services or to permit their commencement or expansion. For example, if two firefighter positions within the fire department operating budget were being eliminated, an override for the purpose of "funding two firefighter positions" would be acceptable.

A more specific spending purpose may also be used if the override is to fund a particular purpose or program that is the subject of a separate line item or special article appropriation as in the following examples:

- Defraying the costs of retirement contributions and health, life and unemployment insurance premiums
- Funding the contractual costs of trash collection and disposal
- Funding the Stabilization Fund.

While local officials have flexibility in describing the purposes of an override generally, less flexibility exists in describing the purposes of an override where it is being presented to fund one or more contingent appropriations because the purpose of the question must state substantially the same purpose(s) as the appropriation(s). Therefore, if, for example, an additional appropriation is made for the school department operating budget contingent on an override, local officials would be limited to using "funding school operating expenses," "funding the school department operating budget" or similar language to describe the purpose of the override. They could not be as specific about the positions, programs or services that the school committee intends to eliminate from the budget if the override is unsuccessful as they might be if a contingent appropriation had not been used.

Moreover, local officials cannot use the question to provide voters with information on the underlying events or circumstances that are causing budget difficulties or to promote or otherwise advocate for the question. For example, "preventing the layoff of 4 firefighters" would be inappropriate because it explains the impact of voter action on the question and is intended to advocate for the override. The question should simply state the personnel, services or programs the additional amounts will be used to fund, which in this case would be "funding 4 firefighter positions."

Other examples of purposes in override questions that include advocacy language or would otherwise be inappropriate are the following:

- Restoring monies lost due to local aid reductions
- Funding uncontrollable increases in employee health insurance costs
- Preventing substantial reductions in public safety, education and other municipal services
- Maintaining an adequate level of municipal services
- Funding current positions
- Restoring school athletic programs.

## Appendix C

### LEVY LIMIT OVERRIDE APPROACHES

#### I. SINGLE QUESTION OVERRIDE

Presents voters with a single choice of additional funding for general or specific spending purposes. The following are examples of single question overrides:

##### Example 1. General Purposes

Shall the Town of Yourtown be allowed to assess an additional \$2,000,000 in real estate and personal property taxes for the purposes of funding the operating budgets of the Town and the Public Schools for the fiscal year beginning July 1, \_\_\_\_?

##### Example 2. General Categories

Shall the Town of Yourtown be allowed to assess an additional \$2,000,000 in real estate and personal property taxes for the purposes of local and regional school, public safety, library, highway, parks and recreation and general government expenses for the fiscal year beginning July 1, \_\_\_\_?

##### Example 3. Multiple Departmental Purposes with Allocation

Shall the Town of Yourtown be allowed to assess an additional \$2,000,000 in real estate and personal property taxes for the purposes of funding the following departmental expenses: School Department (\$750,000), Police Department (\$250,000), Fire Department (\$250,000), Public Works Department (\$250,000), Public Library (\$250,000), Parks and Recreation Department (\$150,000), Council on Aging (\$25,000) and Financial Offices, including Assessors, Collector-Treasurer, Accountant, (\$75,000) for the fiscal year beginning July 1, \_\_\_\_?

##### Example 4. Single Departmental Budget

Shall the Town of Yourtown be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding the Fire Department for the fiscal year beginning July 1, \_\_\_\_?

**Example 5. Specific Positions/Programs/Services**

Shall the Town of Yourtown be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding four full-time firefighter positions for the fiscal year beginning July 1, \_\_\_\_?

**II. MULTIPLE QUESTION OVERRIDES**

Presents voters with multiple choices of additional funding for general or specific spending purposes. There are two multiple question approaches: "menu" and "pyramid" overrides.

**A. "MENU" OVERRIDE**

The "menu" approach presents two or more questions each of which will fund different services or programs. Each question stands on its own merits. Therefore, if the voters approve more than one question, the community's levy limit can be increased by the total of the amounts specified in all approved questions.

The following is an example of a "menu" override:

Shall the Town of Yourtown be allowed to assess an additional \$1,000,000 in real estate and personal property taxes for the purposes of funding the Yourtown Public and Yourtown Valley Regional High Schools for the fiscal year beginning July 1, \_\_\_\_?

Shall the Town of Yourtown be allowed to assess an additional \$250,000 in real estate and personal property taxes for the purposes of funding the Fire Department for the fiscal year beginning July 1, \_\_\_\_?

Shall the Town of Yourtown be allowed to assess an additional \$250,000 in real estate and personal property taxes for the purposes of funding the Police Department for the fiscal year beginning July 1, \_\_\_\_?

Shall the Town of Yourtown be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding the Public Library for the fiscal year beginning July 1, \_\_\_\_?

**B. "PYRAMID" OVERRIDE**

The "pyramid" approach provides voters with a choice of two or more different funding levels for general spending purposes or for specific services or programs. A separate question is presented for each funding level. The funding levels are presented as alternative, not independent, proposals, which means the highest funding level proposed in a question also includes all lower ones. Therefore, if the voters approve more than one question, the question stating the highest dollar amount prevails and the community's levy limit can be increased by that amount.

The following are examples of "pyramid" overrides:

**Example 1. General Purpose**

- 1A Shall the Town of Yourtown be allowed to assess an additional \$1,000,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, \_\_\_\_?
- 1B Shall the Town of Yourtown be allowed to assess an additional \$500,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, \_\_\_\_?
- 1C Shall the Town of Yourtown be allowed to assess an additional \$250,000 in real estate and personal property taxes for the purposes of operating the Municipal Government and Public Schools for the fiscal year beginning July 1, \_\_\_\_?

**Example 2. Multiple Purposes with Allocation**

- 1A Shall the Town of Yourtown be allowed to assess an additional \$1,000,000 in real estate and personal property taxes for the purposes of funding the school (\$500,000), police (\$250,000) and fire (\$250,000) departments for the fiscal year beginning July 1, \_\_\_\_?
- 1B Shall the Town of Yourtown be allowed to assess an additional \$500,000 in real estate and personal property taxes for the purposes of funding the school (\$250,000), police (\$125,000) and fire (\$125,000) departments for the fiscal year beginning July 1, \_\_\_\_?
- 1C Shall the Town of Yourtown be allowed to assess an additional \$250,000 in real estate and personal property taxes for the purposes of funding the school (\$125,000), police (\$62,500) and fire (\$62,500) departments for the fiscal year beginning July 1, \_\_\_\_?

**Example 3. Multiple "Pyramids"**

- 1A Shall the Town of Yourtown be allowed to assess an additional \$300,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, \_\_\_\_?
- 1B Shall the Town of Yourtown be allowed to assess an additional \$200,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, \_\_\_\_?
- 1C Shall the Town of Yourtown be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of operating the Yourtown Public Schools for the fiscal year beginning July 1, \_\_\_\_?
- 2A Shall the Town of Yourtown be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of operating the Police Department for the fiscal year beginning July 1, \_\_\_\_?
- 2B Shall the Town of Yourtown be allowed to assess an additional \$50,000 in real estate and personal property taxes for the purposes of operating the Police Department for the fiscal year beginning July 1, \_\_\_\_?
- 2C Shall the Town of Yourtown be allowed to assess an additional \$25,000 in real estate and personal property taxes for the purposes of operating the Police Department for the fiscal year beginning July 1, \_\_\_\_?

**Example 4. Specific Positions/Programs**

- 1A Shall the Town of Yourtown be allowed to assess an additional \$200,000 in real estate and personal property taxes for the purposes of funding 8 firefighter positions for the fiscal year beginning July 1, \_\_\_\_?
- 1B Shall the Town of Yourtown be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding 4 firefighter positions for the fiscal year beginning July 1, \_\_\_\_?
- 1C Shall the Town of Yourtown be allowed to assess an additional \$50,000 in real estate and personal property taxes for the purposes of funding 2 firefighter positions for the fiscal year beginning July 1, \_\_\_\_?

Appendix D

**SEQUENCING OPTIONS**

<p style="text-align: center;"><u>Number 1</u></p> <p style="text-align: center;"><b>Election - Appropriation</b></p>	<p style="text-align: center;"><u>Number 2</u></p> <p style="text-align: center;"><b>Appropriation - Election</b></p>	<p style="text-align: center;"><u>Number 3</u></p> <p style="text-align: center;"><b>Contingent Appropriation - Election Towns Only</b></p>
<p><b>Referendum election held</b></p> <ul style="list-style-type: none"> <li>• Annual or special municipal</li> <li>• State biennial</li> </ul>	<p><b>Appropriation made by town meeting or city/town council</b></p> <ul style="list-style-type: none"> <li>• Annual or special</li> </ul>	<p><b>Appropriation made by town meeting</b></p> <ul style="list-style-type: none"> <li>• Annual or special</li> </ul>
<p><b>Appropriation made by town meeting or city/town council</b></p> <ul style="list-style-type: none"> <li>• Annual or special</li> </ul>	<p><b>Referendum election held</b></p> <ul style="list-style-type: none"> <li>• Annual or special municipal</li> <li>• State biennial</li> </ul>	<p><b>Referendum election held</b></p> <ul style="list-style-type: none"> <li>• Annual or special municipal, state biennial</li> <li>• Referendum deadline:</li> <li>• September 15 for appropriations made at annual town meeting</li> <li>• 90 days after special town meeting dissolves for appropriations made at that meeting</li> </ul>
<p><b>If referendum passes and appropriation fails</b></p> <ul style="list-style-type: none"> <li>• Referendum is valid</li> <li>• If override/capital exclusion, have until tax rate set to appropriate for same purpose</li> <li>• If debt exclusion, have reasonable time to authorize debt for same project</li> </ul>	<p><b>If referendum passes and appropriation fails</b></p> <ul style="list-style-type: none"> <li>• Referendum is valid</li> <li>• If override/capital exclusion, have until tax rate set to appropriate for same purpose</li> <li>• If debt exclusion, have reasonable time to authorize debt for same project</li> </ul>	<p><b>If referendum passes</b></p> <ul style="list-style-type: none"> <li>• No further action required - appropriation validated and tax increase approved to cover expenditure</li> </ul>
<p><b>If appropriation passes and referendum fails</b></p> <ul style="list-style-type: none"> <li>• Appropriation is valid</li> <li>• Budget must be adjusted within levy limit by time tax rate set (to balance budget, town meeting or city/town council may cut any budget item, not just referendum purpose, and/or community may raise non-tax revenues)</li> <li>• Referendum may be presented again</li> </ul>	<p><b>If appropriation passes and referendum fails</b></p> <ul style="list-style-type: none"> <li>• Appropriation is valid</li> <li>• Budget must be adjusted within levy limit by time tax rate set (to balance budget, town meeting or city/town council may cut any budget item, not just referendum purpose, and/or community may raise non-tax revenues)</li> <li>• Referendum may be presented again</li> </ul>	<p><b>If referendum fails</b></p> <ul style="list-style-type: none"> <li>• No further action required - appropriation null and void</li> <li>• Referendum may be presented at other elections, but must be approved by:</li> <li>• September 15 for appropriations made at annual town meeting</li> <li>• 90 days after special town meeting dissolves for appropriations made at that meeting</li> </ul>
<p><b>If referendum and appropriation both pass or both fail</b></p> <ul style="list-style-type: none"> <li>• No further action required</li> </ul>	<p><b>If referendum and appropriation both pass or both fail</b></p> <ul style="list-style-type: none"> <li>• No further action required</li> </ul>	<p><b>If referendum not held by deadline</b></p> <ul style="list-style-type: none"> <li>• Appropriation null and void</li> </ul>

**Appendix E**

**STAFF CONTACTS**

**Division of Local Services  
Department of Revenue  
Boston MA  
(617) 626-2300  
FAX (617) 626-2330**

**MAILING ADDRESS:** P.O. Box 9569, Boston MA 02114-9569

**LOCATION:** 6th Floor, 100 Cambridge Street, Boston

**INTERNET ADDRESS:** <http://www.mass.gov/dls>

40 Southbridge Street - Room 210  
Worcester MA 01608  
(508) 792-7300  
FAX (508) 421-2310

436 Dwight Street - Room 401  
Springfield MA 01103  
(413) 784-1000  
FAX (413) 784-1034

**For further information on Proposition 2½ referendum procedure, or legal opinions on any municipal tax or finance issue, including Proposition 2½:**

- Contact the Division's legal staff (Boston)

**For DOR publications and data on Proposition 2½ election results:**

- Contact Joan Gourke, Executive Assistant to Deputy Commissioner (Boston)

**For information on a community's levy limit:**

- Local officials may contact the Bureau of Accounts Representative assigned to the community (Boston/Worcester/Springfield)
- Others should contact Joan Gourke, Executive Assistant to Deputy Commissioner (Boston)