

TOWN OF TIVERTON

RESOLUTION

Establishing Policy for Exceeding Budget Cap

WHEREAS, the State of Rhode Island has mandated certain requirements for the levy and assessment of local taxes posting, as set forth in the R.I.G.L. 44-5-2 (the "Act"); and

WHEREAS, Subsection (d) of the Act has created some ambiguity as to the process of applying to the State for approval to exceed the cap, stating:

“ (d) The amount levied by a city or town may exceed the percentage increase as specified in subsection (a) or (b) of this section if the city or town qualifies under one or more of the following provisions:

(1) The city or town forecasts or experiences a loss in total non-property tax revenues and the loss is certified by the department of revenue.

(2) The city or town experiences or anticipates an emergency situation, which causes or will cause the levy to exceed the percentage increase as specified in subsection (a) or (b) of this section. In the event of an emergency or an anticipated emergency, the city or town shall notify the auditor general who shall certify the existence or anticipated existence of the emergency. Without limiting the generality of the foregoing, an emergency shall be deemed to exist when the city or town experiences or anticipates health insurance costs, retirement contributions or utility expenditures which exceed the prior fiscal year's health insurance costs, retirement contributions or utility expenditures by a percentage greater than three (3) times the percentage increase as specified in subsection (a) or (b) of this section.

(3) A city or town forecasts or experiences debt services expenditures which exceed the prior year's debt service expenditures by an amount greater than the percentage increase as specified in subsection (a) or (b) of this section and which are the result of bonded debt issued in a manner consistent with general law or a special act. In the event of the debt service increase, the city or town shall notify the department of revenue which shall certify the debt service increase above the percentage increase as specified in subsection (a) or (b) of this section the prior year's debt service. No action approving or disapproving exceeding a levy cap under the provisions of this section affects the requirement to pay obligations as described in subsection (d) of this section.

(4) The city or town experiences substantial growth in its tax base as the result of major new construction which necessitates either significant infrastructure or school housing expenditures by the city or town or a significant increase in the need for essential municipal services and such increase in expenditures or demand for services is certified by the department of revenue;" (*Emphasis added.*) and

WHEREAS, Subsection (e) of the Act has created some ambiguity as to the process of voting to exceed the mandated levy cap, stating:

"(e) Any levy pursuant to subsection (d) of this section in excess of the percentage increase specified in subsection (a) of this section shall be approved by the affirmative vote of at least four-fifths (4/5) of the full membership of the governing body of the city or town or in the case of a city or town having a financial town meeting, the majority of the electors present and voting at the town financial meeting shall also approve the excess levy;" (*Emphasis added.*) and

WHEREAS, the Town of Tiverton desires to establish a policy to meet the spirit of the Act and clarify the ambiguity for future tax levies;

IT IS HEREBY DECLARED, by the Town Council of Tiverton, to be the policy of the Town of Tiverton:

1. The Town Administrator, in consultation with the Chairman of the Budget Committee and the Treasurer, shall be deemed to act for the "city or town" as set forth in Subsection (d) of the Act, with regard to "forecasting," "anticipating," or "experiencing" any of the conditions necessitating exceeding the cap.
2. The Town Council shall be required to approve by at least a four-fifths (4/5) vote, being 6 of the 7 members of the Town Council, any "notification" to the auditor general or the state department of revenue (as set forth in Subsection (d) of the Act), of possible intent to submit a budget to the Financial Town Meeting that exceeds the cap set forth in the Act.
3. Notwithstanding anything herein to the contrary, nothing in this policy shall be deemed to impair the authority of the Financial Town Meeting to exceed the cap set forth in the Act, under Article XIII (Home Rule) of the Rhode Island Constitution, or Chapter 3 (Town Meetings) of Title 45 of the General Laws of Rhode Island.

Adopted by the Town Council on the ___ day of _____, 2010.

Nancy Mello, Town Clerk