



Town Finance FAQs Related to COVID-19

In response to questions posed by our members concerning the financial toll wrought by a global health pandemic on local communities, the Municipal Assistance Center (MAC) has assembled the following information related to municipal efforts to potentially lessen the severity of COVID-19.

For additional information about municipal emergency planning assistance and coordination, please visit our Coronavirus Resources and Recommendations webpage, www.vlct.org/coronavirus.

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How can we process payroll and other bills if the selectboard is not meeting?

Individual members may not merely show up at the town office and sign payment orders at their convenience. Doing so would be a violation of the Open Meeting Law, which requires that whenever a majority of the members take an action or make a decision (e.g., sign an order approving payment), they must do so within the context of a duly warned open meeting. 1 V.S.A. § 172. There are two exceptions to the above general rule. Unfortunately, both exceptions require the selectboard to meet at least once, though such a meeting could occur by electronic means (see “Open Meeting Law and COVID-19 Response FAQs” at: <https://www.vlct.org/resource/open-meeting-law-and-covid-19-response-faqs>)

- First, the selectboard can vote at a duly warned meeting to approve certain payments in advance so that there is no need for members to actually sign orders. Such a vote must identify the person(s) to whom payment is to be made and the purpose(s) for that payment. The treasurer may then use a certified copy of the minutes of the meeting as full authority to make the approved payment. 24 V.S.A. § 1623(a)(2).
- The second exception allows the selectboard to authorize one or more members to review and approve orders on behalf of the entire board. A vote to give such authorization must take place at a duly warned selectboard meeting and must be reflected in the meeting minutes. A motion to give such

authorization might be phrased as, “I move that we appoint [insert name(s) of legislative body member(s)] to approve and sign orders for [insert types of claims that the person has authorization to approve such as “payroll,” “operating expenses,” etc.] for [insert period of time].” Any orders that are approved under this authority must state definitely the purpose for which they are drawn. The full selectboard must later be provided with a record of all the orders approved. 24 V.S.A. § 1623(a)(1).

Relatedly, in the event that there are so many vacancies on the selectboard that a quorum cannot be achieved, the remaining member(s) have the authority to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled. 24 V.S.A. § 961(b).

Can we change when taxes are due without voter approval?

No. There is no specific law to allow selectboards to explicitly change tax payment due dates, as those dates are voted by the town at town meeting. However, there are several actions the town can take that affect taxes and tax payments:

- Tax due date: Taxes are due on the date and by the method the town voted for at town meeting. However, State law requires that tax bill notices still be sent to taxpayers at least 30 days before they are due. Therefore, the tax collector in consultation with the selectboard can decide to wait until a later date to send out tax bills. In this scenario, taxes would be due 30 days from the date the notice is sent. 32 V.S.A. §§ 4772, 4792. If tax bills will be sent out late then the town should be very clear as to when they will be sent and when taxes will be due.
- Tax abatements: Anyone can request an abatement of taxes, penalties, or interest under 24 V.S.A. § 1535 so long as one of the statutory criteria has been satisfied. One such criteria a person can request an abatement under is for inability to pay their taxes or charges, interest, and collection fees. 24 V.S.A. § 1535(a)(3).
 - Although the ability to abate exists, it must be requested, it is up to the discretion of the board of abatement (selectboard, town clerk, justices of the peace, listers, town treasurer), and it is not required that the Board abate taxes/fees/interest, even if the person requesting an abatement meets one of the criteria under 24 V.S.A. § 1535. It is important to note that if the board of abatement is anticipating hearing many abatement requests and considering abating a large portion of taxes, the selectboard should consider how it will cover any associated budget shortfall and otherwise meet its existing financial obligations. See “Can the Selectboard Borrow Money Without Voter Approval?” at <https://www.vlct.org/can-selectboard-borrow-money-without-voter-approval-0>
- Penalty (delinquent tax collector’s commission on late payment) and interest: Interest that is voted by the town cannot be waived. The commission/penalty of the delinquent tax collector (DTC) can be waived by the DTC, unless the town has voted to set that commission to a certain percentage. Both interest and penalty can be abated (see above).

- Tax sale policy: The DTC and selectboard together could come up with a COVID-19 related temporary policy to address tax sales. Such a policy could for example modify the DTC's typical policy on how and when the DTC will proceed to tax sale.

How do we continue to fund existing service levels and pay our bills without any incoming tax revenue? The COVID-19 pandemic is taking a financial toll on everyone, not the least of which includes municipalities. As people experience a loss of income due to unemployment and decreased revenues as a result of social distancing, towns will see a corresponding decline in timely tax payments, an increase in requests for tax abatement, and lower local tax revenues. Despite reducing service levels and staff hours, towns will still have their own outstanding financial obligations to meet including payroll, matching funds for state and federal grants, bond and lease payments, etc. The combination of these circumstances raises the likelihood that towns will need to borrow in order to get by, at least in the short term.

The difficulty with borrowing during a public health pandemic is that it requires voter approval at an annual or special town meeting and mass gatherings are not a luxury that we can presently afford. 24 V.S.A. § 1786a. The President has released guidelines that call for people to avoid gathering in groups of as small as ten (10) or more people. Even if a meeting were called, people would correctly be reluctant to attend and participate which could undermine and even skew the results of such a vote.

Fortunately, the law recognizes nine situations in which a selectboard may borrow funds without voter approval.

A public vote to borrow is not required in the following instances:

1. *Borrowing to paying current expenses* so long as the term is one year or less. 24 V.S.A. § 1786. There is no statutory definition or explanation of a “current expense.” Our rule of thumb is that a current expense is one that will be paid for in a year or less. A current expense could arise from provision of a service or from the acquisition of a public improvement or asset. In our opinion, simply because something is an asset or a public improvement does not mean that it cannot be considered a current expense under 24 V.S.A. § 1786. We view the term of the note (one year or less/more than one year) as the defining characteristic.
2. *Borrowing in anticipation of taxes* so long as the term is one year or less and the amount borrowed does not exceed 90% of the municipal taxes assessed for that year. 24 V.S.A. § 1786.
3. *Borrowing in anticipation of the sale of bonds* as long as the term is one year or less. 24 V.S.A. § 1773(a).
4. *Borrowing in anticipation of grants* as long as the term is one year or less. 24 V.S.A. § 1773(c).
5. *Borrowing for the purchase of tools, equipment and materials necessary for the construction, maintenance or repair of highways and bridges* for a term of five years or less. 19 V.S.A. § 304(a)(3); 24 V.S.A. § 1786a(b).

6. *Borrowing from the State Municipal Equipment Loan Fund for the purchase of construction, fire, emergency or heavy equipment or vehicles.* 19 V.S.A. § 304(a)(3); 24 V.S.A. § 1786a(b); 29 V.S.A. § 1601.
7. *Alternative financing of personal property, fixtures, technology and intellectual property.* 24 V.S.A. § 1789. The selectboard may enter into leases, lease-purchase agreements, installment sales agreements, and similar agreements to acquire assets for the municipality either singly or as a participant in an interlocal contract. Such an agreement, however, must contain a “non-appropriation clause” that states that the annual payments by the municipality must be approved by the voters.
8. *Borrowing to retire a deficit with “refunding bonds.”* The selectboard may opt to convert a deficit into debt by issuing municipal refunding bonds for an amount equaling the deficit. 24 V.S.A. § 1771. This bond creates a replacement debt which will be paid off over a period of years.
9. *Borrowing for the preparation of engineering studies or plans for public water/wastewater supply systems/facilities provided such debt is included in any subsequent public authorization of municipal indebtedness to construct the project for which the planning loans were used.* 24 V.S.A. § 4756(e).

Are there any reimbursements available to towns for expenses incurred in response to the COVID-19 outbreak?

Yes. On March 13, President Trump issued an emergency declaration authorizing FEMA to reimburse states, tribes, and territories of the United States for “eligible emergency protective measures taken to respond to the COVID-19 emergency” at the 75 percent federal cost share. See:

<https://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration>

Towns are encouraged to track all costs related to responding to COVID-19. Please visit Vermont Emergency Management’s Coronavirus Information for Local Officials for the latest updates and contact Kimberly Canarecci, State Public Assistance Officer at kim.canarecci@vermont.gov or (802) 585-4209 with any FEMA reimbursement related questions.

Are there any financial resources for local businesses?

Yes. The federal Small Business Administration (SBA) is making emergency loans available to businesses in most of the state. Business located in the 10 declared counties (Addison, Bennington, Caledonia, Chittenden, Essex, Grand Isle, Orange, Rutland, Windham, and Windsor) can immediately apply for assistance online at: <https://disasterloan.sba.gov/ela/> The VT Agency of Commerce and Community Development (ACCD) anticipates the 4 remaining counties (Franklin, Lamoille, Orleans, and Washington) to receive a designation shortly. For more information, call the SBA disaster assistance customer service center at 1-800-659-2955 (TTY: 1-800-877-8339) or e-mail disastercustomerservice@sba.gov. For local SBA information, call 802-828-4422.



The Vermont Small Business Development Center (VtSBDC) is providing technical assistance to help guide small businesses through the COVID-19 crisis. Requests for assistance can be directed to: <https://www.vtsbdc.org/coronavirus/>.

ACCD is interested in hearing from all Vermont businesses affected by COVID-19 so that it may assess its full impact. The Agency has developed an Agency Business Impact Form available at: <https://www.surveymonkey.com/r/vtcovid19> to aid this process. It also has a dedicated hotline for businesses to report impacts and inquire about available resources: (802) 461-5143. The hotline will be staffed from Monday to Friday, 7:45 a.m. to 4:30 p.m. Business related COVID-19 questions should be e-mailed to the Agency at: commerce.covid19@vermont.gov.