



Informational Guideline Release

Bureau of Municipal Finance Law
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Supersedes IGR 02-101 and Inconsistent Prior Written Statements

PROPOSITION 2½ DEBT EXCLUSIONS

([G.L. c. 59, §§21C\(k\)](#) and [21D](#))

This Informational Guideline Release explains the policies of the Commissioner of Revenue regarding the borrowing amount covered by an approved Proposition 2½ debt service exclusion. It also includes new procedures and forms to be used by cities and towns with approved debt exclusions for obtaining a determination about the inclusion of cost increases.

Topical Index Key:

Borrowing
Proposition 2½

Distribution:

Assessors
Treasurers
Accountants/Auditors
Mayors/Selectmen
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels
Municipal/Regional School Superintendents
Regional School Treasurers

Supersedes IGR 02-101 and Inconsistent Prior Written Statements

PROPOSITION 2½ DEBT EXCLUSIONS

(G.L. c. 59, §§21C(k) and 21D)

SUMMARY:

Under Proposition 2½, a city or town may present a debt exclusion referendum to voters. An approved debt exclusion provides a temporary increase in the amount the community can levy to fund the payment of debt service costs. Each year until the described debt is retired, the amount of the debt service payment due for that year is added to the levy limit to establish the maximum amount the community can levy.

Debt exclusions are usually for major construction projects and often the details and costs change as the projects progress. Even though a dollar amount is not included in the referendum question approved by the voters for these projects, the exclusion is not unlimited and does not necessarily cover all cost increases. An exclusion covers the debt service costs on the borrowing amount authorized or contemplated for the described purpose or purposes at the time of the referendum vote. Debt service on any borrowing above that fixed amount is not excluded unless (1) it is a modest amount attributable to inflation, new regulatory requirements or minor project changes, or (2) another exclusion is approved by the voters.

To that end, the Director of Accounts will determine the borrowing amount covered by a debt exclusion using the standards and procedures set forth in these guidelines.

I. GUIDELINES

A. Determination Policy

A city or town that increases the amount borrowed for a purpose described in a debt exclusion above the amount fixed at the time the exclusion referendum was approved may apply to the Director of Accounts for a determination regarding the borrowing amount covered by that particular exclusion.

B. Application Procedure

1. Applicant

The mayor, city/town manager or selectboard must submit the community's application for a determination regarding the scope of a particular exclusion.

2. Format

All applications must be made using Form DE-2 (attached). The form must be signed by the city council president and mayor or city manager, if applicable, or majority of the selectboard. There must also be submitted a certified copy of a vote taken by the city council or selectboard in public session indicating acceptance of the architect's, cost estimator's or owner's project manager's (OPM) report. Said report must be submitted with the DE-2 application.

This form will also be used to notify the community of the action taken by the Director on the request.

3. Content

The architect's, cost estimator's or OPM's report must provide the following:

- a) A letter from the architect, cost estimator or OPM detailing the circumstances for the cost increase;
- b) A report showing original project costs by major category at the time of the original debt exclusion vote with revised costs by major category (the variance should approximate the requested increase amount);
- c) An analysis of inflationary circumstances currently impacting the project cost;
- d) A statement from the architect, cost estimator or OPM indicating that the cost increase is not related to a change in scope from the project originally approved by the electorate at the time the debt exclusion was approved; and
- e) A statement from the architect, cost estimator or OPM detailing any changes made since the project was originally approved to reduce the cost of the same.

Applications must include a specific dollar amount of additional borrowing the community has or is planning to authorize for the purpose or purposes described in the debt exclusion. The Director will not act on requests for indefinite amounts nor pre-authorize an amount. All determinations will be based on a fixed dollar amount specifically provided by the community.

4. Submission

Applications must be emailed to the Director at the email address on Form DE-2.

C. Determination Decisions

1. Standards

Additional borrowing the community has or is planning to authorize for the purpose or purposes described in the debt exclusion will be covered by the exclusion only if:

- a) The new borrowing is within the scope of the relevant debt exclusion. A debt exclusion includes only the debt service costs attributable to the

amount of debt authorized for the specified project at or about the time the voters approved the exclusion, as well as any modest and reasonably foreseeable increases in such debt service intended to account for inflation, regulatory requirements or minor project changes. Other increases in debt service costs for the project are not covered by the exclusion;

- b) The city council and mayor or city manager, if applicable, or selectboard accepts the architect's, cost estimator's or OPM's report, as described above, by a majority vote in public session, and the community requests a determination by the Director of Accounts regarding the scope of the particular exclusion; and
- c) The architect's, cost estimator's or OPM's report contains the information in I. B. 3. noted above.

No additional exclusion amount will be approved related to voluntary changes or expansions in the fundamental specifications of the project as represented to the voters. Examples of such material project changes would include (1) adding new components or amenities, such as air-conditioning, (2) expanding significantly the size or use of a facility or structure, or (3) replacing rather than repairing a major structural component, such as a roof, or demolishing and rebuilding, rather than renovating, a structure.

The community must request a determination if all or part of the borrowing will cover extra work or expenses resulting from involuntary circumstances.

Alternatively, the community may choose to bypass the determination procedure altogether and seek voter approval of a supplemental exclusion or fund the additional debt service within the levy limit.

2. Notice

The Director will return the signed DE-2 to municipal officials to notify them of the decision.

3. Decision

a) Additional Borrowing Covered by Exclusion

If the Director determines that the additional borrowing identified by the city or town in its application is covered by the exclusion, that amount will be recorded on the DE-2.

b) Additional Borrowing Not Covered by Exclusion

If the Director determines that the additional borrowing identified by the city or town in its application is not covered by the exclusion, the DE-2 will record the exclusion amount fixed at the time of the referendum.

c) Approval of Supplementary Exclusions

The selectboard, town council or city council with mayoral approval if required by law may ask voters to approve another debt exclusion to cover the additional borrowing even if the Director determines the amount is covered by the original exclusion. The community also retains the option of bypassing the determination procedure entirely and either seeking voter approval of a supplementary exclusion or funding the additional debt service within the levy limit.

Voter action on a supplementary exclusion does not affect the original exclusion. Proposition 2½ does not contain any method for revoking or superseding an approved exclusion. Therefore, the original exclusion continues to cover the debt service costs on the borrowing fixed at the time it was voted.

If a supplementary exclusion required to cover the additional debt is not presented to or approved by the voters, the annual exclusion will be calculated on a percentage basis. For example, if the exclusion covered \$20,000,000 of \$25,000,000 borrowed for the exclusion purposes, the annual exclusion would be 80% of the net debt service due for the year.

4. Recordkeeping

Treasurers must retain the returned application until the debt exclusion ends, i.e., until the debt is retired and all adjustments to the levy limit attributable to the exclusion have been made.

**DETERMINATION OF BORROWING
COVERED BY DEBT EXCLUSION**

G.L. c. 59, §21C(k)

APPLICATION FROM CITY/TOWN OF _____

Application Date _____

Email Form to:
Deborah A. Wagner
Director of Accounts
wagnerd@dor.state.ma.us

INSTRUCTIONS: Provide **ALL** information requested.

A. AUTHORIZED SIGNATURES. Must be signed by city council president and mayor or city manager or majority of the selectboard. Signature certifies that all information is true and correct.

Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date
Name	Title	Date

B. CONTACT. Provide name and telephone number of person to contact if additional information is needed to process this application.

YOU MUST ALSO COMPLETE SECTIONS C, D AND E

DOR USE ONLY

FOR COMMISSIONER OF REVENUE

Base exclusion:

\$ _____

Director of Accounts

Additional debt approved:

\$ _____

Date: _____

Total debt covered by debt exclusion:

\$ _____

C. DEBT EXCLUSION. Answer the following questions and attach a certified copy of the referendum vote.

1. When did voters approve the debt exclusion? ____/____/____
2. At the time of that election, how much did voters expect the project(s) described in the exclusion to cost? If the exclusion covers debt issued by a regional district, state district-wide cost, not city/town share. \$ _____
3. What was the basis for that expectation?
 - ☐ Borrowing voted before election
If yes, was borrowing voted *expressly* contingent upon passage of debt exclusion in accordance with G.L. Ch. 59 §21(m)?
 - ☐ Yes ☐ No
 - ☐ Borrowing scheduled for vote after election
 - ☐ Other. Specify:

D. DEBT AUTHORIZATIONS. List in chronological order all authorized/proposed debt for same purpose(s) as the debt exclusion. If the exclusion covers debt issued by a regional district, list debt authorized/proposed by the district, not city/town share.

	<u>Date Authorized/Proposed</u>	<u>Amount Authorized/Proposed</u>
1.	____/____/____	\$ _____
2.	____/____/____	\$ _____
3.	____/____/____	\$ _____
<u>TOTAL DEBT AUTHORIZED/PROPOSED</u>		\$ _____

Continue list on attachment, in same format, as necessary.

E. EXCLUSION COVERAGE. Please provide a copy of the following documents:

1. The architect's, cost estimator's or OPM's report which details the following:
 - a) A letter from the architect, cost estimator or OPM detailing the circumstances for the cost increase;
 - b) A report showing original project costs by major category at the time of the original debt exclusion voted with revised costs by major category. The variance should approximate the requested increase amount;
 - c) An analysis of inflationary circumstances currently impacting the project cost;
 - d) A statement from the architect, cost estimator or OPM indicating that the cost increase is not related to a change in scope from the project originally approved by the electorate at the time the debt exclusion was approved; and
 - e) A statement from the architect, cost estimator or OPM detailing any changes made since the project was originally approved to reduce the cost of the same.
2. A certified copy attached of the vote taken by the council with mayor or city manager assent, if applicable, or selectboard in public session, indicating acceptance of the architect's, cost estimator's or owner's project manager's (OPM) report.

I attest that we accept the architect, cost estimator or OPM's report detailing the categories and reasons for project cost increases. I further attest that the increased project costs are not related to project scope changes.

Chair, Selectboard/Council President

Date