

# Statutes and Ordinances Governing Boston's Operating and Capital Budgets

## OVERVIEW

This section summarizes key Massachusetts laws and City ordinances affecting Boston's operating budget development and its subsequent expenditure. It also covers significant laws and ordinances governing general obligation loan authorization. Although the material is not all-inclusive, it covers the more important laws guiding the budget process.

In addition to the statutes and ordinances, other budget-related directives are set out in various mayoral Executive Orders and in the policies and administrative guidelines issued by the Office of Budget Management.

Two pieces of legislation important to understanding the City of Boston's operating budget are Chapter 190 of the Acts of 1982, commonly referred to as the Tregor legislation, and Chapter 701 of the Acts of 1986, known as the Tregor Amendments.

### **Annual Operating Budget Appropriation Process**

On November 2<sup>nd</sup> 2021, 68% of Boston voters approved Ballot Question 1 which amended the City of Boston's existing budgetary process from the City Council having power to adopt or reject a Mayoral budget to the Mayor and the City Council

holding budgetary powers together, with the power to modify and amend appropriation orders.

Under the newly amended process the Mayor still originates "all appropriations, excepting those for school purposes, to be met from taxes, revenue or any source other than loans" in accordance with Section 15 of Chapter 190 of the Acts of 1982, as amended by Section 2 of Chapter 701 of the Acts of 1986. The Mayor is still required to submit to the City Council the annual budget of the current expenses of the City for the forthcoming fiscal year, not later than the second Wednesday in April of each year

The City Council now has the ability to amend the budget by reallocating funds among existing or new line items for existing departmental appropriations on the tax order; however, the total budget as amended by the City Council may not be greater than the total budget proposed by the Mayor. In addition, the approved amendment to the budget process did not alter the required date for action on the budget. The City Council must still act on the budget by the second Wednesday in June. The Mayor may return the City Council's amended version of the budget to the City Council with further amendments within a seven-day. The City Council can override the Mayor's amendments in whole or in part by a two-thirds vote.

## Key Budget Dates/Requirements

Ballot Question 1 also required the Mayor and the City Council to create by ordinance an Office of Participatory Budgeting, including an external oversight board to further public engagement with public spending. An ordinance establishing the Office of Participatory Budgeting was finalized in February 2023.

### School Department Budget Process

Section 6 of Chapter 70 of the Massachusetts General Laws states that “in addition to the amounts appropriated for long-term debt service, school meals, adult education, student transportation, and tuition revenue, each municipality shall annually appropriate for the support of public schools in the municipality an amount not less than the (municipality’s) net school spending requirement (the sum of its Chapter 70 education aid and its required local contribution)...The commissioner (of the Department of Elementary and Secondary Education) shall estimate and report such amounts to each municipality and regional school district as early as possible, but no later than March first for the following fiscal year and shall revise such estimates within thirty days following the enactment of the general appropriations act (the state’s next fiscal year’s budget)...”.

Section 2 of Chapter 224 of the Acts of 1936, as amended by Chapter 613 of the Acts of 1987, further states that “(a) .... In acting on appropriations for educational costs, the city council shall vote on the total amount of the appropriations requested by the mayor, but neither the mayor nor the city council shall allocate appropriations among accounts or place any restriction on such appropriations. The appropriation of said city shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school

Action Required	City Charter (FY25 Budget)
Departments proposed budgets to Office of Budget Management	No Requirement (1/12/2024)
School Superintendent’s proposed budget to School Committee on or before 1st Wednesday in February	Ch. 613 Acts of 1987 (2/7/2024)
Meetings with Departments to discuss funding, policy, and performance	No Requirement (January - March)
School Committee action taken on budget on or before 4th Wednesday in March	Ch. 613 Acts of 1987 (3/27/2024)
Mayor’s budget submitted to City Council on or before 2nd Wednesday in April	Ch. 190 Acts of 1982, as amended by Ch. 701 Acts of 1986 (4/10/2024)
Public Hearings held prior to budget adoption	No Requirement (April-June)
City Council action on budget on or before 2nd Wednesday in June	Ch. 190 Acts of 1982, as amended by Ch. 701 Acts of 1986 (6/12/2024)
FY25 finalized annual operating budget before July 1, 2024	No Requirement (6/30/2024)

committee to determine expenditures within the total appropriation; provided, however, that if the city auditor determines that school department expenditures in any

fiscal year are projected to be in excess of total budgeted expenditures for that fiscal year, as supported by appropriation and other available funding, then the school committee shall not reallocate or transfer funds from any item in the budget for that fiscal year to fund any such projected additional expenditures.

“(b) After the fourth Wednesday of March of any fiscal year, the school committee shall not initiate or authorize any new or additional programs or categories of expenditures requiring additional unbudgeted expenditures unless such

programs or categories have been incorporated or fully funded in the budget for the subsequent fiscal year. If such programs or categories have not been incorporated and fully funded in the budget for the subsequent fiscal year, they shall not be initiated or authorized until the school committee shall have amended its budget submission for the subsequent fiscal year to reduce or eliminate other costs, programs or categories in amounts equal to the projected annualized costs of the new or additional programs or categories of expenditures.

“(c) The superintendent of schools shall prepare and submit to the school committee, the city auditor and the city office of budget and program evaluation (d/b/a Office of Budget Management), a monthly budget update report which shall detail and itemize year-to-date and projected school department expenditures and budget transfers...”

### **School Department Financial Affairs**

Section 1B of Chapter 231 of the Acts of 1906, as amended by Chapter 613 of the Acts of 1987, notes that “(a) the school committee may delegate, in whole or in part, to the superintendent of schools the authority to approve for the school department the acceptance and expenditure of grants or gifts of funds from the federal government, charitable foundations, private corporations, individuals, or from the commonwealth, its counties, municipalities or an agency thereof, the provisions of Section 53A of Chapter 44 of the General Laws notwithstanding.

“(b) The superintendent of schools shall provide to the school committee, the city auditor and the office of budget and program evaluation (d/b/a Office of Budget Management) of the City of Boston a report, detailing the source, purpose and balance on hand of all funds received or

expended pursuant to subsection (a), quarterly.”

Section 2 of Chapter 231 of the Acts of 1906, as amended by Chapter 613 of the Acts of 1987, states that “subject to appropriations therefore, the superintendent of schools shall have the exclusive authority to make on behalf of the school committee contracts, or amendments to contracts, for the purchase or rental of equipment, materials, goods or supplies, leases of property, alterations and repairs of school property, and for professional or other services, with the exception of collective bargaining agreements and contracts for the transportation of students. All school department contracts or amendments to contracts shall otherwise conform to the requirements of the city charter of the city of Boston.

“(b) With respect to all contracts, agreements or amendments thereto made or entered into by the school department, the superintendent shall be responsible for establishing procedures for auditing and monitoring the compliance of the parties with the terms and obligations of such contracts, agreements or amendments thereto.”

### **Reserve Fund**

Section 7 of Chapter 701 of the Acts of 1986, requires the creation of an operating budget Reserve Fund to deal with “extraordinary and unforeseen expenditures.” This section requires that “prior to the date when the tax rate for a fiscal year is fixed, [the City must] include in the appropriations for such a fiscal year as a segregated reserve fund a sum not less than 2 1/2 percent of the preceding year’s appropriations for city and county departments, excepting the school department.

“The mayor, with the approval of the city council, may make direct drafts or transfers against such fund before the close of the

fiscal year, provided that no such drafts or transfers be made before June first in any fiscal year.

“Each transfer recommended by the mayor to the city council shall be accompanied by written documentation detailing the amount of such transfers and an explanation of the reason for the transfer...”

Prior to fiscal year 2018 the school department was required to establish a segregated reserve fund of not less than two and one-half percent of the current fiscal year’s school department appropriation, but Chapter 166 of the Acts of 2016 eliminated the requirement going forward.

### **Budget Allotment Process and Reallocations**

Section 18 of Chapter 190 of the Acts of 1982, as amended by Sections 8 and 9 of Chapter 701 of the Acts of 1986, requires that “on or before August first of each year, or within ten days of the annual appropriation order for such fiscal year, whichever shall occur later, the city or county officials in charge of departments or agencies, including the school department, shall submit to the city auditor, with a copy to the city clerk...an allotment schedule of the appropriations of all personnel categories included in said budget, indicating the amounts to be expended by the department or agency for such purposes during each of the fiscal quarters of said fiscal year.”

The school department’s allotment may not be greater than 20 percent for the first quarter and 30 percent in each of the remaining three quarters. Allotments for city and county agencies may not exceed 30 percent for first or second quarters or be less than 21 percent for the third and fourth quarters.

In addition, “whenever the city auditor determines that any department or agency, including the school department, will

exhaust or has exhausted its quarterly allotment and any amounts unexpended in previous quarters, he shall give notice in writing to such effect to the department head, the mayor and the city clerk, who shall transmit the same to city council.

“The mayor, within seven days after receiving such notice, shall determine whether to waive or enforce such allotment. If the allotment is waived or not enforced the department or agency head shall reduce the subsequent quarter’s allotments appropriately and the director of administrative services, within seven days, shall state in writing to the city council and the city clerk what reductions in each subsequent quarter’s allotment will be taken or what reallocations or transfers will be made to support the spending level in each subsequent quarter’s allotment. If the allotment for such quarter is enforced and not waived, thereafter the department shall terminate all personnel expenses for the remainder of such quarter.

No personal expenses earned or accrued, within any department, shall be charged to or paid from such department’s or agency’s allotment of a subsequent quarter without approval by the mayor, except for subsequently determined retroactive compensation adjustments.

“Approval of a payroll for payment of wages, or salaries or other personnel expenses which would result in an expenditure in excess of the allotment shall be a violation by the department or agency head.

“To insure that the overall city and county spending program remains in balance, the mayor may reallocate no more than three million dollars of non-personnel appropriations other than school appropriations during a fiscal year to other departmental purposes provided that in no department from which appropriations have been reallocated in accordance with this section shall any transfers be made

from personal services to non-personal services, except with the approval of a two-thirds vote of city council, if such transfer would require the layoff of departmental personnel, who have been permanently appointed to a position in the department.

“No reallocation may be made under this section after April fifteenth in any fiscal year.

“A list of each reallocation made by the mayor shall be transmitted to the city council and the city clerk by the city auditor by April thirtieth in any fiscal year. In each case, the report shall state the accounts from which the transferred funds were taken and the accounts to which the funds were reallocated, and the reasons therefore.”

### **Transfer of Appropriations**

Section 23 of Chapter 190 of the Acts of 1982, as amended by Section 3 of Chapter 701 of the Acts of 1986, states that “after an appropriation of money has been made...no transfer of any part of the money thus appropriated, between such department or office and another department or office, shall be made, except in accordance with and after the written recommendation of the mayor to the city council, approved by a vote of two-thirds of all the members of the city council, provided that the city auditor, with the approval in each instance of the mayor, may make transfers, other than for personal services, from any item to any other item within the appropriations for a department, division of a department or county office.

“After the close of the fiscal year, the city auditor may, with the approval of the mayor in each instance, apply any income, taxes and funds not disposed of and make transfers from any appropriation to any other appropriation for the purpose only of closing the accounts of such fiscal year, provided further that the city auditor within seventy days after the close of the

fiscal year, shall transmit to city council and the city clerk a report listing what income, taxes, or funds were applied and what transfers were made and the reasons therefore.”

### **Penalty for Overspending Budget**

Section 17 of Chapter 190 of the Acts of 1982 states that “no official of the city or county except in the case of extreme emergency involving the health and safety of the people or their property, shall expend intentionally in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the city in any contract for the future payment of money in excess of such appropriations...

“Any official who violates the provisions of this section shall be personally liable to the city for any amounts expended intentionally in excess of an appropriation to the extent the city does not recover such amounts from the person to whom paid...”

### **Appropriation Restrictions**

Section 10 of Chapter 701 of the Acts of 1986, requires that “the mayor and city council shall appropriate for the hospitalization and insurance account an amount not less than the average of the past three years actual expenditures from those accounts. The city auditor shall certify, in writing to the board of assessors that adequate funds are provided in the operating budget for existing collective bargaining contracts...”

Restrictions on the Use of Proceeds from the Disposition Of Surplus Property - Section 24 of Chapter 190 of the Acts of 1982, as amended by Section 4 of Chapter 701 of the Acts of 1986, requires that “proceeds from the disposition of any surplus property shall be deposited in a separate fund which shall be known as the Surplus Property Disposition Fund, and shall be used only as follows: (1) the amount equivalent to the debt incurred, and

interest paid or payable thereon, as a result of the acquisition or improvement from time to time of the property shall be used only for purposes for which the city is authorized to incur debt for a period of ten years or more and (2) all proceeds in excess of such amount shall be credited to the capital fund of the city unless the city council by a majority vote determines with the approval of the mayor to credit such proceeds to the general fund of the city.”

### **Duties of Supervisor of Budgets**

City of Boston Code Ordinance 5, section 5 states that “the supervisor of budgets shall, under the direction of the mayor and in consultation with the director of administrative services, prepare in segregated form the annual and all supplementary budgets and shall report to the mayor on all subsequent revisions of the items in any budget.

“The supervisor of budgets shall also prepare all transfer orders.

“The supervisor of budgets shall further prepare the form of estimate sheets to be used by each officer, board and department, and each division of a department for which the city appropriates money, and the form of monthly report of such officer, board and department, and each division thereof, showing expenditures to date of all appropriations by item.

“The supervisor of budgets shall, in addition, have the powers and perform the duties conferred or imposed on the budget commissioner by any statute other than Section 56 of Chapter 35 of the General Laws.”

### **Convention Center Legislation**

Chapter 152 of the Acts of 1997, the Convention Center Legislation, authorized the development and construction of a convention center in Boston.

Under this legislation and through the joint efforts of the Boston Redevelopment Authority (BRA) (d/b/a Boston Planning and Development Agency) and Massachusetts Convention Center Authority (MCCA), the new Boston Convention and Exhibition Center (BCEC) has been developed and constructed on a 60-acre site in South Boston. The facility, which opened in June 2004, includes 516,000 square feet of contiguous exhibition space and has made Boston a major competitor for larger international and national convention and exhibition business.

The City’s share of the BCEC development expense was \$181 million for site acquisition and preparation (the State paid for construction) and was financed by certain travel-related revenue sources dedicated to a special convention center fund. In 2011, this special obligation debt was paid down by a combination of available cash in the convention center fund and the issuance of new general obligation debt at a lower interest rate. The bonds are scheduled to be paid off in 2027.

### **Contracting Procedures**

Chapter 196 of the Acts of 2011, as amended, brought the City’s bid requirements in line with Chapter 30B of the General Laws. It requires that documents are in writing and have approval of the mayor. Following passage of Chapter 218 of the Acts of 2016, An Act Modernizing Finance and Government, current procurement thresholds for goods and services were increased. The City elected to implement the increase to its current Chapter 30B threshold requirement for competitive sealed bidding and competitive sealed proposals from \$35 thousand to \$50 thousand in FY17. In 2022, the mayor filed a home rule petition “A Petition for a Special Law Re: An Act Relative to 30B” which was approved by the Legislature to raise the written quote contract threshold for

certified disadvantaged businesses from \$50 thousand to \$250 thousand. Also in, 2022 the Governor signed into laws Chapter 198, An Act Relative to School Operational Efficiency, increasing the current threshold requirement for competitive sealed bidding and competitive sealed proposals to \$100 thousand for school districts only.

### **Pension Funding COLAs**

The annual Cost of Living Adjustment (COLA) pension increase for retirees is set each year at the Consumer Price Index (CPI) or an amount up to, but not greater than 3% on the first \$15,000 also known as the COLA base of a retiree's annual payment.

To aid municipalities dealing with property tax reduction due to Proposition 2 ½ in the early 1980s, the state began assuming the cost for local pension COLAs starting in 1981. However, during the FY97 state budget process, responsibility for funding future COLA increases was return to local pension systems. Since FY99 local systems, including the Boston Retirement System, have had to pay for retiree COLAs. The state, however, still remains obligated to pay for outstanding pension costs related to local pension COLAs granted between FY81 and FY97 for former employees that retired prior to July 1, 1998. The number of these retirees with older COLA increases along with the state's funding obligation will diminish over time.

### **Boston Public Health Act of 1995**

The Boston Public Health Act of 1995 (Chapter 147) established a new, comprehensive health care system to meet the challenges of a rapidly changing health care environment. Chapter 147 abolished the Department of Health & Hospitals and established the Boston Public Health Commission (BPHC) in its place. With City Council approval, the legislation allowed the City to merge or consolidate the

operations and assets of the hospitals with the Boston University Medical Center Hospital.

The law requires the City to set the budget equal to the amount, if any, by which the projected expenditures exceed revenues, the net cost of public health services. If there is a net cost of public health services, the budget is subject to mayoral review and approval. The mayor may approve or reject and return the budget to the BPHC. If the budget is accepted, the mayor shall include the net cost of public health services in the City's annual budget and may submit supplementary appropriations as needed. The BPHC must adopt its budget no later than the second Wednesday in June.

### **An Act Transferring the Sheriffs of 2009**

Although Suffolk County remains as a legal entity in state law the passage of Chapter 61 of the Acts of 2009, "An Act Transferring Sheriffs to the Commonwealth", as amended by Chapter 102 of the Acts of 2009, "An Act Relative to Sheriffs", and again amended by section 39 of Chapter 166 of the Acts of 2009, "An Act Establishing Fiscal Stability Measures for Fiscal Year 2010", completed the transfer of the offices and functions of Suffolk County to the Commonwealth.

Sheriff employees that retired prior to January 1, 2010, shall remain members of the county retirement system and in the case of Suffolk County, the Boston Retirement System (BRS). The City of Boston shall be assessed by the State for the remainder of the amortization of the unfunded portion of this pension liability. In accordance with the BRS January 1, 2022 valuation, that annual amount shall be \$2.9M for the years through FY 2027.

## **An Act Related to the Funding of Boston Teacher's Pensions**

Chapter 112 of the Acts of 2010 provides for a change to the funding mechanism for Boston Teacher's Pensions. Sections 7 through 18, 48 and 50 adjust sections of Chapter 32 with regard to the City of Boston's role in the funding and reimbursement by the Commonwealth of Teacher's Pension liability. Those sections of Chapter 112 remove the City as a "middleman" and establish a relationship directly between the Commonwealth and BRS Board for the financing of Boston teacher pensions. Consequently, the City will no longer show a revenue reimbursement for this item, and its annual pension funding cost will be significantly downsized. Meanwhile, Boston teacher's pension assets are to be managed by the state. However, the administration of Boston teachers' contributions and pension payments, as well as their membership, will remain with the BRS.

## **Local Option Meals Tax of 2009**

In August 2009, effective October 1, 2009, the City adopted a local option offered under sections 60 and 156 of Chapter 27 of the Acts of 2009 to accept the provisions of Massachusetts General Laws Chapter 64L section 2(a) which allows municipalities to increase the excise tax on meals sold locally by 0.75% in addition to the state excise tax of 6.25% on the same purchase. The revenue generated by the .75% local tax and collected by the State's Department of Revenue is returned to the municipality of sale origin.

## **An Act Relative to Municipal Health Insurance**

In 2011, Chapter 69, An Act Relative to Municipal Health was enacted, allowing cities and towns to either make health insurance plan design changes or transfer into the State's Group Insurance Commission (GIC). The Act lays out

between a municipality and public employee committee strict notice, negotiations, and plan saving requirements. Chapter 69 allows cities and towns to include changes to copayments, deductibles, tiered provider network copayments, and other cost-sharing features up to the dollar amounts of those same or similar features in the most enrolled GIC plan for their proposed plan design changes. It also allows cities and towns to transfer to the GIC if savings for the first year is 5% or more than those achievable under planned design. The Act is clear it is not a vehicle for contribution ratio changes. The Act also requires that all eligible retirees be enrolled in a Medicare health plan.

## **Municipal Modernization Act**

Chapter 218 of the Acts of 2016, An Act Modernizing Finance and Government, was enacted in 2016, building upon previous acts that increased flexibility for municipalities. The Act eliminates and updates obsolete laws, promotes local independence where possible, and provides municipalities' greater flexibility to do their day-to-day jobs.

Since the enactment of the Municipal Modernization Act, Boston has moved forward on several reforms. The City established a default speed limit of 25 miles per hour, enacted an ordinance that will authorize its revolving funds, increased the residential property tax exemption to 35%, the maximum rate established under the Act (in concert with the provisions of Chapter 326 of the Acts of 2016), and increased the current goods and services procurement thresholds under Chapter 30B. In 2017, the City implemented a single overlay reserve. In addition, the Act streamlined and consolidated the clauses in Chapter 44 Section 7 and Section 8 that detail the purposes for which municipalities may borrow.



## **Departmental Revolving Funds**

In accordance with amendments made to the statute governing revolving funds in the 2016 Municipal Modernization Act the City in 2017 authorized and established departmental revolving funds for use by City departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of these programs or activities. No appropriation is required to expend money from a fund but City Council approval is required to establish an amount that can be spent from the funds before July 1<sup>st</sup> of year one and requires that interest credited to revolving fund be deposited in the general fund. Funds established include: Public Art Revolving Fund, Strand Theatre Total Revolving Fund, City Hall Child Care Revolving Fund, Boston Public School (BPS) Transportation Revolving Fund, BPS Facilities Revolving Fund, BPS Technology Revolving Fund, Solar Renewable Energy Certificates Revolving Fund, Third Party Property Damages Revolving Fund, City Hall Plaza Rent Revolving Fund, Police Academy Revolving Fund, Canine Revolving Fund, Fitness Center Operations Revolving Fund and the Environment Conservation Commission Revolving Fund.

## **An Act to Ensure Safe Access to Medical and Adult-use of Marijuana**

In July 2017 the State enacted An Act to Ensure Safe Access to Medical and Adult-use of Marijuana in the Commonwealth. The Act was a complete and comprehensive rewrite of both the 2016 initiative petition that legalized recreational marijuana and the 2012 initiative petition that legalized medical marijuana.

The legislation includes an increase in the total tax on recreational marijuana purchases to a maximum of 20% (including 6.25% in sales tax, 10.75% in marijuana

excise tax and 3% in local sales tax), up from a maximum of 12% (combined sales tax and marijuana tax), that was approved in the recreational marijuana ballot law. The legislation also merges oversight of the recreational and medical marijuana industries into a five-person Cannabis Control Commission and details the rights of adults 21 and older to grow, buy, possess, and use limited quantities of marijuana. It establishes that in order to ban or severely limit recreational marijuana establishments in a city or town that voted 'yes' on the ballot initiative a voter referendum is required but in cities and towns that voted 'no' local elected officials can make that decision. In addition, the Act also details that a host community agreement can include an impact fee for the host community that shall be reasonably related to the costs imposed upon a community by operation of a marijuana establishment, shall not amount to more than 3% of the gross sales, and will be effective no longer than five years. Chapter 180 of the Acts of 2022 eliminated the inclusion of community impact fees in host community agreements after the first eight years of a licensee's operation. The Act also strengthened the Cannabis Control Commission's oversight and regulatory authority over host community agreements.

## **Establishing Equitable Regulation of the Cannabis Industry in the City of Boston**

In order to ensure that communities disproportionately impacted by the prohibition on cannabis benefit from this new emerging industry, the City of Boston enacted an ordinance in November 2019 to ensure equity in the City's cannabis industry. It provides that there will be an equal or greater number of equity licensees to non-equity licensees. Equity designation will only be given to license applicants with 51% of its ownership meeting at least three criteria including a place of residence in a disproportionately impacted community, a

marijuana arrest or conviction between 1971 and 2016, and an annual household income at or below 100% of the area median income. The ordinance, also, establishes a Boston Cannabis Equity Program to provide services to equity applicants and establishes the Boston Cannabis Board which oversees designation of applicants as equity license applicants.

In August 2021, the City of Boston amended the Ordinance Establishing Equitable Regulation of the Cannabis Industry. It adds and expands the criteria that allows applicants for a cannabis license to meet equity applicant status, further quantifies the minimum number of equity licenses, sets out additional application requirement for applicants located within a half mile of a licensed retail marijuana establishment, amends application evaluation criteria for applicants who received conditional approval for a cannabis license and provides for future changes in the zoning code.

### **An Act Relative to Equity in the Cannabis Industry**

Chapter 180 of the Acts of 2022 also provides that one percent of sales tax revenue from social equity marijuana businesses be directed back to municipalities to bolster municipal support for social equity marijuana businesses. Further, the Act provides for an opportunity through local initiative or ordinance for cities and towns to allow marijuana to be consumed on premises of marijuana retail businesses.

### **An Act Regulating Transportation Network Companies**

An Act was approved in 2016 that establishes oversight and regulates transportation network companies. As part of its oversight, it establishes a Transportation Infrastructure Enhancement Fund. Annually each transportation network company is

required to submit a per-ride assessment of \$.20 based on number of rides in previous year. Half of the assessment will be proportionately distributed to cities and towns based on the number of rides that originated within the city or town with the funding used to address the impact of the transportation network services on municipal roads, bridges and other transportation infrastructure. The fee will be discontinued as of January 1, 2027.

### **Establishing the Regulation of Shared Mobility Businesses**

In March 2019 an ordinance establishing the City of Boston Transportation Department's authority to license and regulate shared mobility businesses was enacted. Vehicle sharing businesses make available to pre-approved members a network of vehicles in exchange for hourly, daily or weekly rate. The ordinance provides oversight of businesses, who offer ten or more small vehicles, such as electric scooters, for rent or delivery service on a self-service basis. It establishes a five hundred dollar fee for license or renewal for the operation of a small vehicle sharing business and gives the Boston Transportation Department authority to regulate including revoking or suspending the license for such business. The ordinance, also, establishes a Small Vehicle Sharing Business Advisory Committee. It, further, provides the Boston Transportation Department the authority to permit and issue regulations for vehicle sharing businesses.

### **Community Preservation Act**

Boston voters approved the adoption of the Community Preservation Act (CPA) in November, 2016. In August 2017 the Boston City Council voted to create a Community Preservation Act Committee to make recommendations on preservation needs and use of the funds generated by the CPA's

1% surcharge on residential and business property taxes.

The Committee produces a Community Preservation Plan and makes recommendations to the Mayor for transmittal to City Council for the acquisition, creation, preservation, rehabilitation, restoration and support of open space, historic resources, affordable housing, recreation land, and community housing with CPA funding supplementing but not supplanting existing operating funds.

To further support the Community Preservation Act, the State enacted in Chapter 41 of the Acts of 2019, an increase in the surcharge for registering deeds and municipal liens that would be directed to the State's Community Preservation Trust Fund.

### **An Act Regulating and Insuring Short Term Rentals**

In December 2018 the State enacted the Act Regulating and Insuring Short Term Rentals. The Act regulates and taxes short term rental (rentals for thirty-one or less days). It expands the State hotel and motel excise to include short term rentals, including those rented through rental platforms. The Act subjects the rentals to the state hotel/motel excise of 5.7%, local excise by local option of up to 6.5%, a 2.75% excise for the Cape and Islands Water Protection Fund, a 2.75% Convention Center Fee (for transfers in Boston, Worcester, Cambridge, Springfield, West Springfield and Chicopee) and up to a 3% community impact fee on professionally managed units and units in two- or three-family houses with 35% of this fee dedicated to affordable housing or local infrastructure needs. The Act provides for a statewide registry, insurance requirements for the rental units and inspections by cities and towns. The law became effective July 1, 2019.

### **An Act Relative to Educational Opportunity for Students**

An Act Relative to Educational Opportunity for Students, known as the Student Opportunity Act, was enacted in November, 2019. The Act updates the Education Reform Act of 1993 bringing much needed reform to the education funding formula, increasing state support for education reforms by an estimated \$1.5 billion over seven years and establishes a way forward to close the student achievement gap. The Act provides for a historic update of the Chapter 70 formula based on recommendations from the Foundation Budget Review Commission with updates to the formulaic calculation of in-district special education enrollment and increases in foundation budget rates for: out-of-district special education, benefits, guidance, low income and English language learners.

The Act also establishes a Twenty-first Century Trust Fund to provide support to districts in closing the achievement gap, requires evidence-based three year district improvement plans to address disparities in achievements among subgroups, establishes a data advisory commission charged with collecting, analyzing and reporting data on student preparedness, establishes a goal of fully funding charter school reimbursement by FY2023, expands circuit breaker reimbursable claims and establishes a schedule for full reimbursement (75%) for the expanded claims by FY2024, increases funding for school building assistance to \$800 million and provides for policy studies on local contribution, rural schools, counting low income students, recovery high school per pupil costs and the school building assistance program expenses and reimbursement rates.

Implementation of the Student Opportunity Act was delayed one year because of the financial uncertainty surrounding the Covid-19 pandemic but full implementation

of the foundation budget rate increases is on schedule to be fully met by FY27. The FY23 State Budget fully funded years two and three of charter school tuition reimbursement, meeting the Student Opportunity Acts full funding schedule. With the FY24 State Budget the four year full funding schedule for circuit breaker reimbursement has been completed, bringing funding in line with the Student Opportunity Act's goals.

### **Bond Procedure Act of 1983**

In 1983, the City Council passed and the Mayor signed a home rule petition to the state legislature that enacted Chapter 643 of the Acts of 1983 of the Commonwealth. This act, formally entitled the City of Boston Bond and Minibond Procedure Act of 1983, is referred to as the Bond Procedure Act of 1983. In 1984, the legislation modified various procedural restrictions related to the City's issuance of indebtedness. Such modifications provide, among other things, more flexible schedules for repaying debt principal, the issuance of variable rate bonds, term bonds and bonds redeemable at the option of the bondholder, and authorization for the sale of bonds at a discount. The legislation also provides the City with the authority to issue bonds in an amount up to \$5 million in any one fiscal year and notes in an amount outstanding at one time of up to five percent of the prior year's property tax levy. Each bond and note is issued in a denomination less than \$5,000 (known as minibonds). In addition, the legislation authorizes the issuance of refunding bonds and grant anticipation notes, as well as restating the investment powers of the City and the extent to which city bonds are legal investments for certain entities.

The Bond Procedure Act of 1983 also reaffirms provisions of state law, indirectly affected by Proposition 2 ½. This law requires that the City's annual tax levy must include the debt and interest charges that

are not otherwise provided for as well as all general obligation indebtedness of the City regardless of the date of issue.

In addition to modifications to the procedures related to the City's general obligation indebtedness, the legislation authorizes the City to finance revenue-producing facilities with special obligation bonds payable from and secured solely by a pledge of facility revenues. Under this act, the City may also issue general obligation bonds secured by the pledge of specific city revenues and finance projects that otherwise could be financed by bonds, lease, lease-purchase or sale-leaseback agreements. The Bond Procedure Act of 1983 was amended in August 1991 to provide, among other things, for increased flexibility in establishing debt principal amortization schedules.

### **Classification of City Debt**

Pursuant to the Bond Procedure Act of 1983, all indebtedness of the City, other than certain special obligation bonds, constitutes general obligation indebtedness of the City for which its full faith and credit are pledged and for the payment of which all taxable property in the City is subject to ad valorem taxation without limit as to rate or amount. Pursuant to the 1982 Funding Loan Act and the Bond Procedure Act of 1983, general obligation bonds of the City may also be secured by a pledge of specific City revenues pursuant to covenants or other arrangements established under a trust or other security agreement.

Special obligation bonds of the City may be issued and be payable from and secured solely by a pledge of specific revenues derived from a revenue-producing facility of the City. Indebtedness of the City may also be classified by the nature of the City's obligation for the payment of debt service, depending on whether such debt is a direct obligation of the City or is an obligation of another governmental entity for the

payment that the City is indirectly obligated.

### **Direct Debt**

Direct debt of the City consists principally of the City's outstanding general obligation bonds for which the City's full faith and credit are pledged and for the payment of which all taxable property in the City is subject to ad valorem taxation without limit as to rate or amount.

The City's direct indebtedness does not include special obligation debt which may be secured solely by a pledge of specific revenues derived from a revenue-producing facility of the City or for which the payment of which the City's obligation is subject to annual appropriation. As of the current date, the City has no Special Obligation debt.

### **Secured Indebtedness**

In addition to authorizing the City to secure its indebtedness with letters of credit, the Funding Loan Act of 1982, and the Bond Procedure Act of 1983, empower the City to secure any of its indebtedness issued under any general or special law by a pledge of all or any part of any revenues that the City received from or on account of the exercise of its powers. Examples include taxes (such as real property taxes), fees payable to or for the account of the City, and receipts, distributions, and reimbursements held or to be received by the City from the Commonwealth that are not restricted by law for specific purposes. Currently, the City does not have any outstanding bonds secured by such a pledge. The City, however, reserves the right in the future to issue bonds, notes or other obligations secured by various revenues of the City or by letters of credit.

### **Authorization of Direct Debt; Debt Limits**

All direct debt of the City requires the authorization of the city council and

approval of the mayor. If the mayor should veto a loan order passed by the city council, the charter of the City provides that the loan order is void and may not be passed over the mayor's veto. Authorization of bonds under a loan order of the city council includes, unless otherwise provided in the loan order, the authorization to issue temporary notes in anticipation of such bonds. Under the Bond Procedure Act of 1983, temporary notes in anticipation of bonds, including any renewals thereof, must mature within two years of their issue dates.

The laws of the Commonwealth provide for a statutory debt limit for the City consisting of a debt limit and a double debt limit. The debt limit is 5.0 percent of the assessed valuation of taxable property in the City as last equalized by the state Department of Revenue and the double debt limit is 10.0 percent. The Equalized Valuation ("EQV") of taxable property in the City established by the Commissioner of Revenue in January 2023 equals \$226.4 billion as of January 2022. Based on the current equalized valuation, the City's debt limit equals approximately \$11.3 billion, and its double debt limit equals \$22.6 billion. The City may authorize debt up to its debt limit without state approval. The City may authorize debt over the debt limit up to the double debt limit with the approval of a state board composed of the State Treasurer and Receiver General, the State Auditor, the Attorney General and the Director of Accounts, or their designees.

As of March 1, 2024, the City had outstanding debt of \$1.7 billion subject to the debt limit, and authorized but unissued debt subject to the debt limit of \$2.6 billion. Based on the City's EQV, the City had capacity to authorize an additional \$7.0 billion of debt. There are many categories of general obligation debt exempt from the general debt limit (although authorization of such debt is subject to various specific debt limits, specific dollar limitations or

state approval). Among others, these exempt categories include temporary loans in anticipation of current and in anticipation of reimbursements or other governmental aid, emergency loans, loans exempted by special laws, certain school bonds, and bonds for housing and urban and industrial development. The latter bonds are subject to special debt limits ranging from 5 percent to 10 percent of equalized valuation depending on purpose.

### **Related Authorities and Agencies**

In addition to direct and indirect indebtedness of the City, the City and certain agencies and commissions related to the City are authorized by law to issue obligations that are solely a debt of the agency or commission issuing the obligations or are payable solely from revenues derived from projects financed by such debt. Except as described below, such obligations are not a debt of the City.

The Boston Public Health Commission is an independent corporate and political subdivision of the Commonwealth created in June 1996 as the successor to the City's Department of Health and Hospitals (DHH). Effective July 1, 1996, all powers and functions of DHH and THH (Trustees of Health & Hospitals) were transferred to the commission. In addition, the commission assumed all assets and liabilities of the City allocated to DHH. At its inception, the Commission also assumed responsibility for paying the City an amount equal to current debt service on all outstanding general obligation bonds of the City issued for public health and hospital purposes. All obligations have been paid. The commission has also assumed responsibility for paying the debt service on the City's Special Obligation Refunding Bonds dated August 1, 2002 for Boston City Hospital (BCH), which were issued to refund bonds that first financed the project in 1993. On May 4, 2012, the City issued General Obligation Refunding Bonds to current-refund all of

the outstanding BCH Special Obligation Bonds.

The Boston Water and Sewer Commission (BWSC) is an independent political and corporate subdivision of the Commonwealth created 1977. At its inception, BWSC assumed responsibility for the operation of the City's water and sewer systems and for paying to the City an amount equal to current debt service on all outstanding bonds the City issued for water and sewer purposes. All debt service for such bonds has been paid. The City is not obligated on bonds issued by the Commission.

The Economic Development and Industrial Corporation of Boston (EDIC) is a political and corporate entity of the Commonwealth led by a five-member board who are also appointed as board members of the Boston Redevelopment Authority d/b/a as the Boston Planning and Development Agency (BPDA). EDIC has a variety of powers to assist industrial development projects in the City. EDIC is not authorized to issue debentures in excess of \$5 million secured solely by the credit and properties of EDIC and revenue bonds secured by revenues from the lease or sale of its projects. The City is also authorized to appropriate or borrow monies for EDIC development projects within certain urban renewal debt limitations.

The BPDA is a public political and corporate body that combines the City's redevelopment and planning board authority with certain powers of the state Department of Community Affairs. The BPDA board consists of four members appointed by the Mayor, subject to confirmation by the City Council, and one member appointed by the Governor. The BPDA is an urban planning and economic development agency and is part of the Mayor's Planning Cabinet. Although the BPDA is authorized to issue revenue bonds and notes that are not City debts, the BPDA traditionally finances its projects through a

combination of federal and state grants, proceeds of general obligation bonds issued by the City, and revenues from the lease or sale of land.

In April 2024, the Mayor signed *An Ordinance Creating the Planning Department in the City of Boston*. The Ordinance restores planning and design as a core city function and transfers a large portion of BPDA staff into a new city department. The City of Boston and the BPDA will also establish a financial transfer so that the transition remains budget-neutral. The BPDA will retain a small number of staff and its independent structure continue to fulfill existing legal and financial commitments. These changes were effective as of July 1 2024.

### **Major Debt Statutes and Borrowing Authority**

Chapter 188 of the Acts of 2010, the Municipal Relief Act, passed by the State on July 27, 2010, made several positive changes to the purposes for which cities, towns and districts may borrow as well as to the terms, debt service schedules, and special approvals related to such borrowings. The addition of several new purposes for which the City may borrow as well as extensions to certain useful life determinations gives the City added borrowing flexibility.

Chapter 44, Sections 7 and 8 of the Massachusetts General Laws permits cities and towns in the Commonwealth to incur debt within and outside the statutory limits of indebtedness described previously for various municipal purposes and identifies the maximum maturity period for each purpose. The purposes include, but are not limited to, the acquisition of interests in land or the acquisition of assets, or for the construction, reconstruction, rehabilitation, improvement, or extraordinary repair of public buildings, facilities, assets, works or infrastructure, construction and/or reconstruction of water and sewer mains, improvements to

parks and playgrounds, reconstruction and resurfacing of roads, and equipment acquisitions.

In July 2003, the Municipal Relief Act, Chapter 46 of the Acts of 2003 passed. It amended section 7 of Chapter 44 of the General Laws so that the City would no longer be required to go to the state Emergency Finance Board for approval of debt incurred for remodeling, reconstruction, or extraordinary repairs to public buildings.

The Capital Improvements Act of 1966, as amended, permits the City of Boston to issue debt outside the debt limit for various municipal purposes, including new construction and renovation of existing facilities. The legislation provides a specific limit on the total amount of debt that may be issued under the statute.

Chapter 208 of the Acts of 2004 established the Massachusetts School Building Authority. The program is designed to assist cities and towns in building new schools or in renovating existing ones; however, the state's reimbursement methodology has been modified. Projects for which cities and towns are currently receiving reimbursement approved under the former school building assistance program managed by the Department of Elementary and Secondary Education will continue to receive annual payments. The City of Boston received its final payment under the former school building assistance program in 2020. Chapter 208 also provides for a pay-as-you go system paying cities and towns for school projects in installment grants during construction to save on interest costs.

