



STEPHEN W. STUDER
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September 11, 2020

PLEASE REPLY TO
MILFORD OFFICE
WWW.BERCHEMPOSES.COM

Mr. Thomas Pratt, Chairman
Beacon Falls Board of Finance
10 Maple Avenue
Beacon Falls, CT 06403

Dear Chairman Pratt,

Gerry Smith has referred your request to me for a response. As you correctly note, Chapter 106 of the Connecticut General Statutes does govern boards of finance. I concur with your suggestion that every member of the Beacon Falls Board of Finance ("BOF") should be generally familiar with its terms and that, at a minimum, it should be referenced in the Town's financial policy manual ("Manual"). It might be convenient to include a copy of Chapter 106 in the Manual given to BOF members with the caveat that if and when the General Assembly amends Chapter 106, the copy in the manual must be updated. I note for your information that the provisions and processes for budget transfers set forth in the Manual are consistent with Chapter 106.

I have reviewed the minutes of the August 11, 2020 meeting of the BOF. It is my opinion that its action to approve two transfers from the "Wage Salary Adjustment" account, one for the First Selectman's secretary and one for the Assistant Tax Collector, is fully consistent with the applicable provisions of Chapter 106 and the authority given to the BOF. Further, such action is fully consistent with section 7 of Executive Order 7S as well as the Manual. Accordingly, I know of no basis under applicable state law or in the Manual which would support statements in the meeting minutes to the effect that the requested transfers were either inconsistent with applicable state law or failed to follow appropriate budgetary policies and procedures as set forth in the Manual.

In closing, I note that each member of the BOF is an elected official and is entitled to his or her opinion with regard to Town matters, even if mistaken. I note also that public officials have a responsibility to act in good faith, in a nonpartisan manner, and in the interests of the public he or she serves.

Should you have any questions regarding this letter, please do not hesitate to contact me.

Very truly yours,



Stephen W. Studer

c: G. Smith

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RE: BOF re Chapter 106.

Steve Studer <sstuder@berchemmoses.com>

Mon 9/14/2020 2:21 PM

To:

- Tom Pratt <tpratt@beaconfallsct.org>

Cc:

- Gerard Smith <gsmith@beaconfallsct.org>;
- Natasha Nau <nnau@beaconfallsct.org>

Tom, I looked quickly at 7-148 and Chapter 106. The BOF has no authority to enact ordinances. The authority to pass ordinances is derived from the general power given municipalities under 148 to pass ordinances to "[c]reat[e] a permanent local law of general applicability," and, specifically with regard to "Finances and Appropriations" see subsection (c)(2). So any ordinance would require action by the BOS and the town meeting, both to enact as well as to amend. So there may be some benefit to placing some aspects of the financial policy manual; i.e. procurement, in an ordinance because the town could simultaneously establish enforceable penalties for violations. On the other hand, a policy is much easier to modify as time and experience dictate than an ordinance. Such a decision, one way or the other, is up to the BOS and other town officials and eventually, is up to the town meeting. I hope this is helpful. Steve

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From: Tom Pratt <tpratt@beaconfallsct.org>

Sent: Sunday, September 13, 2020 8:02 AM

To: Steve Studer <sstuder@berchemmoses.com>

Cc: Gerard Smith <gsmith@beaconfallsct.org>; Natasha Nau <nnau@beaconfallsct.org>

Subject: Re: BOF re Chapter 106.

Morning Steve,

In talking to Natasha last week, she had indicated that you had mentioned to her, that the Finance Policy Manual should be an "ordinance" rather than just a "policy manual". I am thinking the reason is that as an "ordinance" it holds more as "legislation and is enforceable". Unlike a policy manual which is to provide "principles and policies purposes for internal controls, guidance to help a uniform process by all, which may be "difficult to enforce".

I would appreciate your direction in the best interest for the town along with the plus and minus of both as being a "Finance Policy Manual" or an "Ordinance".

Thank you,

Thomas Pratt
Chair
Board of Finance
Town of Beacon Falls

CHAPTER 106*

TOWN BOARDS OF FINANCE

*Cited. 103 C. 424. Board of finance does not have power, by refusing to make an estimate, to disable town or officers from performing statutory duty or exercising discretion. 115 C. 151. Cited. 121 C. 239. Respective powers of town board of finance and board of education. 127 C. 345. Cited. 138 C. 524.

Cited. 10 CS 252.

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Sec. 7-340. Towns may establish. Any town may, at any annual or special meeting, warned and held for that purpose, vote to establish a board of finance. If such vote is in the affirmative, a certificate of such approval shall be recorded in the office of the clerk of such town and a certified copy thereof shall be filed by such clerk in the office of the Secretary of the State, who shall record the same. Within ten days after such affirmative vote has been passed by any town, its selectmen shall appoint six electors and taxpayers of such town as members of such board, each of whom shall serve from the date of his appointment to the date of the election and qualification of his successor in accordance with the provisions of section 9-202. All rights and powers conferred and duties and obligations imposed by the general statutes upon boards of finance shall be held to be conferred or imposed upon each board of finance as soon as it is established under the provisions of this chapter. No town shall vote to abolish a board of finance until after the expiration of two years from the date of its establishment.

(1949 Rev., S. 772.)

Cited. 137 C. 337; 241 C. 310.

Cited. 10 CS 252.

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Sec. 7-340a. Alternate members of boards of finance. Appointment or election provided for by ordinance. Any town, in addition to such powers as it has under the provisions of the general statutes, any special act or municipal charter, shall have the power to provide by ordinance for the appointment or election of not more than three alternate members to its board of finance, subject to the provisions of section 9-167a concerning minority representation of political parties. Such alternate members shall, when seated as herein provided, have all the powers and duties set forth in the general statutes, any special act or municipal charter relating to such town for such board of finance and its members. Such alternate members shall be electors and taxpayers of such town. If a regular member of such board is absent or is disqualified, such absent or disqualified member shall designate an alternate to so act. In the event that an absent or disqualified regular member shall fail or refuse to designate an alternate to so act, the majority of the regular members of the board of finance not absent and not disqualified may designate an alternate subject to the provisions of section 9-167a, to so act for such absent or disqualified regular member.

(P.A. 75-440, S. 1, 2; P.A. 76-72, S. 1, 2.)

History: P.A. 76-72 provided for appointment of alternate by majority vote of those present when not designated by regular member he is to replace.

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Sec. 7-341. Oath. Expenses. The members of the board of finance shall be sworn to a faithful performance of their duties. No member shall receive compensation for his services as such, but the necessary expenses of the board, when approved, shall be paid by the town.

(1949 Rev., S. 773; 1953, S. 354d.)

What constitutes office within purview of statute. 121 C. 242.

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Sec. 7-342. Officers. Meetings. Filing of minutes and records. Polling of members. Such board shall choose one of its members to be chairman thereof and shall choose a clerk. If such officers are not chosen within one month after the appointment or election of the board because of a tie vote of the members, the board of selectmen or chief executive authority of such town shall choose such officers from the membership of the board. At all meetings of the board four members shall constitute a quorum and the concurrence of three votes shall be necessary for the transaction of business. The board may hold such regular and special meetings as may be advisable at any time upon giving at least twenty-four hours' notice to each member before the time of such meeting, provided, except where otherwise provided by special act or charter, in any case involving a vote of the board on an appropriation, or a transfer within an existing appropriation, of an amount not exceeding one thousand dollars, the chairman or, in his absence, the clerk or any two members, may, in lieu of calling a meeting of the board, poll the members thereof; and the clerk shall cause to be prepared and filed with the town clerk, within two weeks, a statement of the result of such poll. Four polled members shall constitute a quorum for such purpose and a concurring vote of three such members shall be sufficient for the transaction of business. Every member so polled shall deliver, by mail or otherwise, to said clerk, within twenty-four hours after the poll, a written statement signed by him stating how he voted on the question. The clerk of the board shall issue a call for a special meeting either at the direction of the chairman of the board or upon a written request of any two members thereof. The clerk shall cause to be prepared and filed with the town clerk a copy of the minutes and records of each regular and special meeting held, within two weeks from the date of such meeting.

(1949 Rev., S. 775; 1949, S. 356d; 1957, P.A. 216, S. 1; 1961, P.A. 54; 1967, P.A. 791.)

History: 1961 act extended filing period from one to two weeks; 1967 act provided for polling in lieu of vote in matters concerning appropriations of \$1,000 or less.

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Sec. 7-343. Filling of vacancies. In case of a vacancy in the membership of the board of finance, unless otherwise provided by charter or special act, the remaining members of the board shall, at a special meeting called by the chairman for that purpose, by a majority vote, appoint a successor, who shall serve until the next town election and until his successor is elected and has qualified. At the next town election following the occurrence of such vacancy, the electors shall elect a successor to fill the vacancy for the unexpired portion of the term and the office to be filled shall be designated on the official ballot by the words "To fill vacancy for ...", followed by the duration of the unexpired term.

(1949 Rev., S. 776; 1953, 1955, S. 357d; 1967, P.A. 122.)

History: 1967 act added phrase providing exception to procedure for filling vacancy detailed in section if other provisions made by charter or special act.

See Sec. 9-1 for applicable definitions.

Cited. 41 CS 267.

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Sec. 7-344. Appropriations. Laying of tax. Not less than two weeks before the annual town meeting, the board shall hold a public hearing, at which itemized estimates of the expenditures of the town for the ensuing fiscal year shall be presented and at which all persons shall be heard in regard to any appropriation which they are desirous that the board should recommend or reject. The board shall, after such public hearing, hold a public meeting at which it shall consider the estimates so presented and any other matters brought to its attention and shall thereupon prepare and cause to be published in a newspaper in such town, if any, otherwise in a newspaper having a substantial circulation in such town, a report in a form prescribed by the Secretary of the Office of Policy and Management containing: (1) An itemized statement of all actual receipts from all sources of such town during its last fiscal year; (2) an itemized statement by classification of all actual expenditures during the same year; (3) an itemized estimate of anticipated revenues during the ensuing fiscal year from each source other than from local property taxes and an estimate of the amount which should be raised by local property taxation for such ensuing fiscal year; (4) an itemized estimate of expenditures of such town for such ensuing fiscal year; and (5) the amount of revenue surplus or deficit of the town at the beginning of the fiscal year for which estimates are being prepared; provided any town which, according to the most recent federal census, has a population of less than five thousand may, by ordinance, waive such publication requirement, in which case the board shall provide for the printing or mimeographing of copies of such report in a number equal to ten per cent of the population of such town according to such federal census, which copies shall be available for distribution five days before the annual budget meeting of such town. The board shall submit such estimate with its recommendations to the annual town meeting next ensuing, and such meeting shall take action upon such estimate and recommendations, and make such specific appropriations as appear advisable, but no appropriation shall be made exceeding in amount that for the same purpose recommended by the board and no appropriation shall be made for any purpose not recommended by the board. Such estimate and recommendations may include, if submitted to a vote by voting tabulator, questions to indicate whether the budget is too high or too low. The vote on such questions shall be for advisory purposes only, and not binding upon the board. Immediately after the board of assessment appeals has finished its duties and the grand list has been completed, the board of finance shall meet and, with due provision for estimated uncollectible taxes, abatements and corrections, shall lay such tax on such list as shall be sufficient, in addition to the other estimated yearly income of such town and in addition to such revenue surplus, if any, as may be appropriated, not only to pay the

expenses of the town for such current year, but also to absorb the revenue deficit of such town, if any, at the beginning of such current year. The board shall prescribe the method by which and the place where all records and books of accounts of the town, or of any department or subdivision thereof, shall be kept. The provisions of this section shall not be construed as preventing a town from making further appropriations upon the recommendation of its board of finance at a special town meeting held after the annual town meeting and prior to the laying of the tax for the current year, and any appropriations made at such special town meeting shall be included in the amount to be raised by the tax laid by the board of finance under the provisions of this section.

(1949 Rev., S. 777; 1953, 1955, S. 359d; P.A. 77-614, S. 139, 610; P.A. 79-101; P.A. 80-483, S. 177, 186; P.A. 83-484; P.A. 95-283, S. 26, 68; P.A. 11-20, S. 1.)

History: P.A. 77-614 substituted commissioner of revenue services for tax commissioner, effective January 1, 1979; P.A. 79-101 required that public hearing, rather than public meeting, be held two weeks before town meeting and that consideration of estimates be held in public meeting rather than executive session; P.A. 80-483 substituted secretary of the office of policy and management for commissioner of revenue services; P.A. 83-484 provided for advisory questions on the budget when submitted to a vote by voting machine; P.A. 95-283 replaced board of tax review with board of assessment appeals, effective July 6, 1995; pursuant to P.A. 11-20, "machine" was changed editorially by the Revisors to "tabulator", effective May 24, 2011.

See Sec. 7-388 re annual budget meeting.

See Sec. 7-390 re publication of budget statement.

See Sec. 7-406 re town reports.

Property in city of Stamford is subject to town taxes to meet expenses of services performed outside city and not benefiting property owners in city. 134 C. 65. Board properly exercised its discretion in that salary increase for teachers was beyond amount reasonably necessary. 138 C. 521. Cited. 178 C. 81; 192 C. 426; 217 C. 303. Statute does not preclude town charter from allowing for a bifurcated town budget. 268 C. 295.

Statute precludes charter amendment providing for separate referenda on town operating budget and board of education budget. 70 CA 358.

Board is bound to apply cash surplus in town's general fund to reduction of amount of estimated expenditures. Court cannot direct records of minutes of board be kept in town clerk's office. 11 CS 215. Towns are required to levy such taxes as are sufficient to pay estimated expenses of town for current year. 14 CS 258. If board makes no recommendations for appropriations, only annual town meeting may make appropriations. 16 CS 485. Cited. 20 CS 227; 32 CS 237.

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Sec. 7-345. Information concerning town agencies. Each town agency which has expended any appropriation during the past year or is requesting any appropriation for the ensuing year shall report to the board of finance such information as said board requires for its purposes under section 7-344, and said board shall, for such purposes, have access to the books and records of any such agency.

(1951, S. 361d.)

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Sec. 7-346. Tax may be apportioned over a period of years. Wherever used in this section, the phrase "recurring expenditure" means an expenditure for a purpose for which an appropriation was made in each of the three preceding fiscal years. If any expenditure, other than a recurring expenditure, authorized in the budget or by the

town meeting is of so large an amount that the tax laid to pay it would make the total tax so high as, in the judgment of the board, to be inconsistent with the public welfare, the board may apportion the tax for such expenditure over a period of not more than five years, and the amount apportioned each year shall be thereafter included in the budget as a fixed charge until such time as the total amount of such expenditure has been paid. If the electors of such town, at a legal meeting held for such purpose, vote to issue bonds, the interest on such bonds and an annual appropriation for a sinking fund sufficient to pay the same at maturity shall be included in the budget as a fixed charge. The provisions of this section shall not apply to any expenditure which is to be met by the proceeds of a bond issue and which has been authorized by vote of any town at any meeting thereof. Any charter provision of any municipality authorizing the apportionment of the tax laid for any recurring expenditure over a period of years is repealed. The provisions of this section shall apply to any town having a board of finance created by special act and shall become a part of such special act upon the adoption of the provisions of this section by a town at any annual or special meeting of the electors of such town called for that purpose.

(1949 Rev., S. 778.)

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Sec. 7-347. May transfer unexpended balances. The board may transfer unexpended balances from one appropriation to another, but no amount appropriated for any purpose, whether general or special, shall be used or appropriated for any other purpose unless the same is recommended by the board.

(1949 Rev., S. 779.)

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Sec. 7-348. Towns not to contract in excess of appropriations. Town meeting to increase amount. No officer of such town shall expend or enter into any contract by which the town shall become liable for any sum which, with any contract then in force, shall exceed the appropriation for the department, except in cases of necessity connected with the repair of highways, bridges, sidewalks and water and sewer systems and the care of the town poor, and then not more than one thousand dollars. If any occasion arises whereby more money is needed for any department of the town than has been appropriated as provided for in this chapter, the selectmen shall notify the board of finance of such fact, and the chairman of such board shall forthwith call a meeting thereof to consider the appropriation for such department and the board may make the necessary appropriation therefor, after inquiry, but, if, in towns where the grand list is not more than twenty million dollars, the amount required or the amount required, together with the sum of any additional appropriations made by the board for such department within the same fiscal year, exceeds ten thousand dollars, or, in towns where the grand list exceeds twenty million dollars, if the amount required or the amount required, together with the sum of any such additional appropriations, exceeds twenty thousand dollars, such appropriation shall not be made until, upon the recommendation of the board, the same has been voted by the town at a meeting called for such purpose, provided no more than one such additional appropriation for any one department shall be made in one year without town meeting approval, and provided the board may make additional appropriations for the care of town poor without town meeting approval not exceeding, in the aggregate, two thousand dollars in towns where the grand list does not exceed twenty million dollars or four thousand dollars in towns where the grand list exceeds twenty million dollars. The board may call a public hearing prior to the town meeting at which parties in interest and citizens shall have an opportunity to be heard so that the board may obtain information to assist in making its recommendations. The amount required for such appropriation may be drawn either from any cash surplus available or from any contingent fund established as hereinafter provided. If no cash surplus exists and no funds are available in the contingent fund, such appropriation may be financed by borrowing, and the amount of such borrowing shall be included in and made a part of the next tax levied. The estimate of expenditures submitted by the board of finance to the annual town meeting or annual budget meeting may include a recommended appropriation for a contingent fund in an amount not to exceed three per cent of the total estimated expenditures for the current fiscal year. No expenditure or transfer shall be made from the contingent fund until such

expenditure or transfer has been approved by the board of finance. The provisions of this chapter shall not be a limitation upon the town in issuing bonds under the provisions of law or expending the proceeds thereof in accordance with the vote of such town nor shall such provisions be a limitation upon the settlement of claims or judgments against the town under the provisions of law.

(1949 Rev., S. 780; 1953, 1955, S. 360d; 1961, P.A. 409; 1963, P.A. 428; 1967, P.A. 172; P.A. 74-66; P.A. 80-106, S. 1, 2; P.A. 90-23, S. 2, 3.)

History: 1961 act distinguished between towns where the grand list is not more than \$20,000,000 and those in which the grand list exceeds \$20,000,000 and provided no more than one additional appropriation could be made for any one department without town meeting approval; 1963 act provided that, in the consideration of whether the amount required for an additional appropriation exceeds \$1,000 or \$2,000, as the case may be, other additional appropriations must be counted, made special provision for additional appropriations for town poor and made exception for settlement of claims and judgments against the towns; 1967 act raised limit on expenditures for highway and bridge repairs to \$1,000 and extended same limit to sidewalk and water and sewer system repairs; P.A. 74-66 changed limits on expenditures which need not be approved by town meeting for towns with grand list not exceeding \$20,000,000 from \$1,000 to \$2,500 and for towns with grand list over \$20,000,000, from \$2,000 to \$5,000; P.A. 80-106 raised limits for towns with grand list not exceeding \$20,000,000 to \$5,000 and for towns with grand lists exceeding \$20,000,000 to \$10,000; P.A. 90-23 raised limits for towns with grand list not exceeding \$20,000,000 to \$10,000 and for towns with grand list exceeding \$20,000,000 to \$20,000 and raised the amount of any contingent fund from 2% to 3% of current fiscal year expenditures, effective April 26, 1990, and applicable to appropriations for the budget in any town for fiscal years commencing on or after July 1, 1990.

See Sec. 4-100 re penalty for exceeding appropriations.

When town liable under contract though amount exceeds unexpended balance of appropriation. 111 C. 510. Board of finance cannot place funds for school purposes in general government budget to be paid to school board on happening of certain contingencies. 151 C. 1. Cited. 237 C. 135.

Authority of court to grant permanent injunction for restricting an appropriation during fiscal year. 11 CS 215. Where town within borough required to pay borough cost of repairing and maintaining roads within town, fact that no appropriation was made in annual budget of the town for this purpose is not a valid defense. 20 CS 309.

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Sec. 7-349. Penalty. Any officer who, in violation of any provision of this chapter, expends or causes to be expended any money of such town, except for the purpose of paying judgments rendered against such town, shall be liable in a civil action in the name of such town, and the amount so drawn from the treasury of such town shall be liquidated damages in such action against any such officer.

(1949 Rev., S. 781.)

Town, by acting specifically upon a matter, divests its officers or agents of power to contract other than in conformity to vote of town. 111 C. 516.

Cited. 11 CS 215.

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