

MAXIMUM LEVY

Standards and Procedures for Certification
of an Emergency Situation
In Accordance With General Laws Section 44-5-2
for Rhode Island Cities and Towns

Adopted February 1986

As Amended April 1987

State of Rhode Island
Office of the Auditor General
1145 Main Street
Pawtucket, Rhode Island 02860

OFFICE OF THE AUDITOR GENERAL

STANDARDS AND PROCEDURES FOR CERTIFICATION OF AN EMERGENCY
SITUATION IN ACCORDANCE WITH GENERAL LAWS SECTION 44-5-2

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1.00 GENERAL

Section 44-5-2 of the General Laws entitled "Maximum Levy" was amended by the Omnibus Property Tax Relief and Replacement Act of 1985 placing a five and one-half percent (5.5%) annual cap on local property tax levies. This section of the law was further amended on April 25, 1986.

Under the provisions of the law, as amended, a city or town may make a levy that exceeds the five and one-half (5.5%) cap if it qualifies under one or more defined conditions. Some conditions require certification by the Department of Administration. One condition, i.e., a city or town that experiences or anticipates an emergency situation which causes the levy to exceed the cap, requires certification by the Auditor General.

The Department of Administration has adopted standards and procedures for monitoring city and town compliance with the levy cap and for certifying such conditions as require its certification, under the law.

In accordance with General Laws Section 44-5-2 and the Administrative Procedures Act, the Auditor General adopts the following standards and procedures for the certification of an emergency situation.

2.00 DEFINITIONS

2.01 General - definitions adopted by the Department of Administration in its Standards and Procedures for Property Tax Levy Cap are incorporated herein, and specifically the following definition of "General Fund Budget."

2.02 General Fund Budget shall mean those amounts appropriated by each city or town for the annual financial operations of a municipality, including debt service. For purposes of this definition, the general fund budget shall include the education budget and the federal revenue sharing

budget if not already included in the general fund.

2.03 Emergency Situation is an event which a town experiences or anticipates which causes or will cause the levy to exceed five and one-half (5.5%). To qualify as an emergency, the financial impact of the event on the proposed property tax levy shall be equal to or greater than one quarter of one percent (1/4%) of the general fund budget or \$25,000, whichever is lower, and must require financing from that general fund budget. The decision as to whether an event is an emergency situation should be based on a consideration and evaluation of all relevant and pertinent facts, including the legislative intent of General Laws Section 44-5-2, as amended, and the standards and procedures set forth herein.

Following is a listing of the type of events which could be considered as an emergency situation:

1. Extraordinary judgment on a claim against the municipality.
2. Natural disaster (e.g., flood, fire, blizzard) or vandalism causing loss beyond insured amounts.
3. Regulatory order requiring improvement of deficiencies in violation of safety, health standards, etc. (e.g., toxic wastes found in water, asbestos in schools).
4. Court order.
5. Unforeseen significant increase in budgeted cost of widely used product due to national or regional price increase (e.g., oil), requiring supplemental tax levy.
6. Requirement that municipality undertake a new state or federally mandated program not funded by the state or federal government.
7. Change in requirements of Generally Accepted Accounting Principles which would result in an accumulated deficit in excess of state statute (e.g., pension funding, property tax revenue recognition, etc.).
8. Sudden demographic shifts which would require a change in required services rendered by a municipality (e.g., due to reopening of naval base).
9. Other unforeseen or unexpected events similar to those listed identified as emergencies by the city or town and

certified as such by the Auditor General.

3.00 NOTIFICATION OF AN EMERGENCY SITUATION

3.01 The city or town shall notify the Auditor General if it experiences or anticipates an emergency situation or situations.

3.02 The notification shall be given at least sixty (60) days prior to the date for approval of the budget, or upon occurrence if less than sixty (60) days.

3.03 The notification shall be in writing and signed by the city or town official.

3.04 The notification shall identify each emergency situation.

3.05 The notification shall be suitably documented with the facts considered by the city or town; the amount of the general fund budget; the amount of the maximum property tax levy allowed under Section 44-5-2, prior year levy plus five and one-half percent (5.5%) cap; any levy in excess of the five and one-half percent (5.5%) cap resulting from a loss of federal or state revenue sharing funds or other non-property tax revenue, or an increase in debt service expenditures, which has been certified by the Department of Administration; the dollar impact on the general fund budget of each emergency situation; availability of other revenue sources; and amount by which the five and one-half (5.5%) cap would be exceeded.

4.00 CERTIFICATION BY THE AUDITOR GENERAL

The Auditor General will respond in writing, no later than thirty (30) days after receipt of the notification by the city or town. He shall either certify the existence of the emergency situation to the Department of Administration or deny certification. If he denies certification, he shall state his reasons.

5.00 APPEALS

5.01 Appeals to Rules - Any person may petition the Auditor General, requesting the amendment or repeal of any rule herein adopted.

5.02 Appeals to Decisions - Any official may petition the Auditor General for review of his decision on any request filed in accordance with the rules herein adopted.

5.03 Filing of Appeals - All appeals to rules or decisions shall be made in writing to the Auditor General stating the nature and reason for said appeal.

5.04 Hearings - Within five (5) calendar days of the receipt of an appeal, the Auditor General shall notify the petitioner of a date upon which said appeal shall be heard.

5.05 Administrative Procedures - All hearings and procedures shall comply with the requirements of Chapter 42-35 entitled "Administrative Procedures".