

MAXIMUM LEVY

**Standards and Procedures for Certification
of an Emergency Situation**

**In Accordance With General Laws Section 44-5-2 (as amended)
for Rhode Island Cities and Towns**

Adopted February 1986

As Amended April 1987

[User Note: The 2006 amendments contained herein are adopted on an emergency basis under section 45-35-3(b) of the Administrative Procedures Act based on amendments to Rhode General Law 44-5-2 enacted in the 2006 Legislative Session]

State of Rhode Island

Office of the Auditor General

86 Weybosset Street

Providence, Rhode Island 02903-2800

STANDARDS AND PROCEDURES FOR CERTIFICATION OF AN EMERGENCY

SITUATION IN ACCORDANCE WITH GENERAL LAWS SECTION 44-5-2

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 an annual statutory property tax cap on local property tax levies. This section of the law was further amended on April 25, 1986 and again in June 2006.

Under the provisions of the law, as amended, a city or town may make a levy that exceeds the annual statutory property tax 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 (as amended) 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 means 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 total unrestricted education budget if not already included in the general fund, provided however that exceptions to this definition shall apply to municipalities that appropriate a municipal share to school districts.

2.03 Statutory property tax cap means the maximum municipal percentage tax levy increase available to a municipality without an approved exemption. The statutory cap changes each year from a maximum 5.25% increase in the fiscal year ending in 2008 to a maximum 4% increase in the fiscal year ending in 2013.

2.04 Maximum property tax levy means the maximum dollar value of the tax levy on real estate, tangible personal property, and motor vehicles available by application of the statutory cap percentage increase limitation applicable to the specified fiscal year.

2.05 Emergency Situation is an event where the municipality incurred or expects to incur in the upcoming fiscal year expenditures of a emergency nature which caused or will cause the tax levy to increase by an amount which exceeds the percentage increase as specified in subsection (a) or (b) of RI General Law 44-5-2, as amended. The municipality shall request that the Auditor General certify the emergency and approve its request to exceed the specified cap on the tax levy based on said emergency. 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 \$100,000, 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. Expenditures in the nature of an emergency are those extraordinary in nature, and/or not reasonably foreseeable. The municipality shall be required to certify that no other line items in the budget can be reduced, thereby avoiding the need to exceed the specified cap.

The finance director shall provide a written certification as to the financial facts in support of the request to the Auditor General. This certification shall be in a form prescribed by the Auditor General.

Pursuant to RI General Law 44-5-2 as amended, an emergency shall be deemed to exist when the city or town experiences or anticipates health insurance costs, retirement contributions or utility expenditures which exceed the prior fiscal year's health insurance costs, retirement contributions or utility expenditures by a percentage greater than three (3) times the percentage increase as specified in subsection (a) or (b) of RI General Law 44-5-2. In these cases the amount of the budget item expenditure to be considered as an emergency is the amount of the increase which exceeds three times the amount of the statutory cap. [Example: For the fiscal 2008 budget year an increase in health insurance costs in excess of 15.75% of the amount in the fiscal year 2007 budget would categorically qualify for emergency approval.]

The following is a non-exhaustive list 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 which are not the result of managerial decisions but are rather beyond the control of management. similar to those listed. The events must be 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, as amended, prior year levy plus statutory cap; any levy in excess of the statutory 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 statutory 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".