

Post-TMD: Budget Re-Votes and Annual Meetings/Initial Budget Votes

From: Donna Russo-Savage

To: [all superintendents responsible for at least one post -TMD annual meeting or budget re-vote]

April 3, 2020

Hello all -

The Agency is sending the following information broadly into the field, but we are also sending it directly to you as superintendents responsible for at least one pending annual meeting or budget re-vote.

For any district that expected to schedule a vote – or revote – of its budget after town meeting day, the information below and attached includes important guidance from both the Secretary of State’s Office and the Agency of Education.

I. From Will Senning, the Director of Elections and Campaign Finance at the Secretary of State’s Office, to Clerks of Towns and of School Districts:

Good Morning Clerks,

I hope you all are hanging in there and starting to adapt to this very challenging situation. I have spoken with many of you individually over the past few weeks, but wanted to take this opportunity to communicate some general guidance, notify you about emergency legislation that was signed on Monday evening by the Governor, and inform you about an agreement we reached with the Governor yesterday to allow the cancellation of municipal elections mandated to be held on or before a certain date.

Please find my summary of the elections-related provisions in the bill attached to this email. I won’t go into specifics about those here, as the attached memo describes those provisions in detail. In general, the bill removes the signature gathering requirements for candidates to be placed on the ballot, allows the legislative body of a municipality to adopt Australian balloting for an upcoming vote, and grants the Secretary of State authority, with the Governor’s agreement, to order or permit appropriate procedures as necessary in light of the Covid-19 virus.

For those of you that have upcoming elections in the next two months (April and May), my guidance is to cancel those meetings if at all possible. It simply is not safe, given the current state of the spread of the virus in Vermont, to conduct elections at this time. Whether they are votes from the floor, or Australian ballot votes that require ballot processing and counting, the processes required at this time to conduct the election put your voters and election workers at too much of a risk from this highly contagious virus. The question, of course, is how does that work. Let me address the most common scenarios:

1. Budget Revotes and other votes not required to be held on or before a certain date

If you are facing a revote of your budget, there is no timeframe in the election law in which the budget revote must be held. You can cancel those warned budget revotes and wait to rewarn them (or simply wait to warn them if you have not yet). This is the case for any scheduled vote that is not required to be held on or before a certain

date. You should post notice of the cancellation wherever the Warnings had been posted and otherwise take as many steps as possible to get the word out (website, Front Porch Forum, newspaper, etc.). You do not have to announce a date when the election will be held at the time you cancel – but I would advise communicating to your voters that it is your intent to hold the election as soon as possible.

Cancelling the votes now will provide time for two things. One, we see if the spread of the virus eases, the Governor's Orders are lifted, and the votes can be conducted safely in the late spring or early summer. Let's all hope so. Two, if the situation is not improving, our office in consultation with you all will have time to devise and implement appropriate procedures to allow these local elections to take place more safely. We don't know the exact nature of what, if any, those new procedures will be or what will be necessary, but this will allow us time to thoughtfully proceed.

2. Votes that By Charter, By Article of Agreement, or by law relating to petitions are required to be held on or before a certain date

Many Villages and some school districts have Annual Meetings that are mandated to be held on a specific upcoming date under their charter or articles of agreement. Other municipalities have received or may still receive petitions for reconsideration, or petitions to hold special meetings, for which a meeting must be held within a certain time. Those of you facing these mandated votes have expressed your desire to cancel them, for all the reasons I explained above. Yesterday, we received agreement from the Governor, under the authority granted to the Secretary of State in Section 3 of the bill, to allow those of you with these mandated elections to cancel them as well, and proceed as advised above. We greatly appreciate the very quick turnaround from the Governor's office in agreeing to permit these elections to be cancelled.

As soon as possible, we will formally announce this new directive, but I wanted to make you aware of it now. The language agreed to by the Governor is as follows:

“ Waiver of Mandated Upcoming Municipal Election Dates in 2020

Pursuant to the authority granted in Act 92, §3 (2020), and in agreement with the Governor:

The Secretary of State hereby permits any municipality that has an upcoming annual meeting or other election that is mandated to be held on or by a certain date, either by charter, article of agreement, other governing document, or by the provisions of 17 V.S.A. §2643 or §2661, may cancel that election and hold it on a different date in the year 2020 as determined by the municipality.

Any such cancelled election shall be held as soon as possible when it may be safely done so as deemed by the municipality, and the rights of any petitioners shall be preserved until such time as the election is held.”

For most of you, whether it is a budget revote or an annual meeting where the budget will be voted the first time, I know that you face practical and statutory deadlines to have a budget in

place. This is a calculation you will need to make on an individual basis – how long in the calendar year you can wait to adopt a budget. I urge you to be creative when making that determination and be cognizant that it is the health and safety of your community against which you are balancing the requirements to have a budget in place by a certain time. I urge any school districts to consult with the Agency of Education, VSBA, and your district attorneys regarding the requirement to have a budget in place prior to July 1. Please remember that all of government is adjusting to this crisis, and deadlines that may be driving your decision about the need to adopt a budget, or take other action, may also be relaxed.

Finally, for those of you who would have been electing your local officials at these scheduled annual meetings, under the election law your incumbent officers retain their position until their successors are chosen (see 17 VSA 2646), so they will retain their position until the election may be held.

For all these reasons my guidance is to cancel any upcoming elections in the next few months wherever possible. This will give us all time to hopefully get past the height of this virus and also to assess the need for, to devise, and to implement any special procedures to conduct these votes more safely.

I hope that this is helpful and I thank everyone for their service to their communities during this crisis.

Please be well and stay home.

II. From the Agency of Education:

Several current statutes ensure that any district without an approved FY21 budget will have the ability to acquire sufficient funds to take it well into the 2020-2021 school year. If a town school district or a union school district is unable to approve a budget before July 1, then the following applies:

1. The district would be entitled to the following funds, on the dates indicated:
 - a. 25% of the base education amount per equalized pupil – September 10 (16 V.S.A. § 4028)
 - b. Any federal funds owed to the district – varies
 - c. State categorical grants (Small Schools Grant, etc.) – September 10
 - d. Any fund balances and reserve accounts – immediately
2. The district is entitled to have up to 87% of the prior year's budget on hand. After subtracting out the amounts in #1 above, the school board has authority to borrow the remaining amount per 16 V.S.A. § 566 without first obtaining the approval of the voters.
3. The towns within the district would be assigned an interim homestead tax rate of \$1.00 by the Vermont Department of Taxes. The interim tax rate is divided by the CLA and levied by the town. Funds are remitted to the VT Education Fund. Towns may not disburse these funds to the district until the district has a voter-approved budget. (32 V.S.A. § 5402)

Please let us know if you have questions or need clarifications. And please take good care of yourselves and those around you.

With warmest regards and thanks for all you do -