

Testimony from Brian M. Daniels, Executive Director
H 8015 – Emergency Financial Town Meetings and Referenda
House Committee on Municipal Government – June 15, 2020

Thank you, Mr. Chairman and members of the committee, for the opportunity to testify, especially under these unusual circumstances. On behalf of the League of Cities and Towns, I would like to thank Whip Edwards for sponsoring this urgently needed legislation and to the House Leadership for scheduling a hearing so quickly. This legislation was developed in collaboration with all of the communities that pass their budgets by financial town meetings or referenda. We have submitted several letters and council resolutions in support, and we know additional councils are taking action this week.

As you may know, seventeen towns approve their annual budgets through a financial town meeting (FTM) or a financial referendum – an in-person vote by residents, whether in a public meeting or by ballot. According to local charter requirements, most FTMs and referenda are scheduled for May and June but have been unable to meet in the traditional manner because of social distancing requirements. Most communities have delayed their budget approval dates and are now developing alternative approaches to conduct FTMs and referenda and pass their budgets.

In some communities, delaying a FTM or referendum can cause problems with local finances and for residents and businesses. Under current state law, if cities and towns do not pass an expenditure plan by the end of the fiscal year (June 30 for most), they may continue operating at the expenditure levels from the prior fiscal year ([RI General Laws § 45-2-3.2](#)). However, state law is silent on whether the local tax levy would also continue to support those expenditures. In the municipal budget process, the approval of the tax levy and the expenditures are two separate votes; state law allows one to be extended but not the other. Without this authority, towns would not be able to issue first quarter tax bills in FY 2021 (normally issued in June or July), which could cause cash flow problems or force them to tap into reserves. Numerous communities have also noted that the lack of a first quarter tax bill would be problematic for residents and businesses, as the eventual tax payments would need to be made over two or three installments instead of four.

This legislation provides several tools for local elected officials to adjust their budget processes in emergency conditions. It is important to note that the threshold to trigger these emergency powers is very high. The triggering event is a declaration of state and municipal emergency by the Governor and the chief executive officer of each city or town. The bill then would provide additional tools to assist local officials with their budget processes.

First, it clearly authorizes local officials to change the date of a FTM or referendum during a state of emergency. Local officials have that implicit authority under their current emergency powers, but this

legislation would clearly give them that authority. [[RIGL § 30-15-12 \(b\)](#) states that the “chief executive officer of each city or town has powers and duties with respect to emergency management within his or her city or town similar to those of the governor on the state level, not inconsistent with other provisions of law.]

Second, in recognition of the current crisis, the legislation allows local officials to conduct a town meeting by electronic, virtual, or other means if convening an in-person town meeting would jeopardize the health or safety of participants. The RI Department of Health has allowed communities to conduct FTMs and referenda as part of its Phase 2 reopening guidance but with social distancing and public health requirements. Some communities are pursuing innovative approaches to FTMs and referenda, including meetings on virtual platforms, mail ballots and “drive-in” meetings, none of which are contemplated in local charters. These new procedures take additional time and planning, and we expect many to occur in late June into the summer.

Finally, the legislation provides two alternatives for communities to prepare for FY 2021. First, for communities that must conduct their FTMs/referenda in the next fiscal year, the legislation grants towns the authority to enact an interim tax levy until the final levy is approved. The interim tax levy could not exceed the levy approved the prior year and could last for up to one year. This provision would allow local officials to issue interim tax bills, subject to later revision. The limited tax levy authority would also require public notice and hearing. Tiverton, for example, issued an executive order extending the deadline for its Financial Town Referendum to 65 days after completion of the state budget. If the General Assembly finished its work in the summer, Tiverton could feasibly run its referendum in the fall, demonstrating the need for an interim tax levy.

The second approach would allow the council to pass the budget without a FTM or referendum. A scenario could arise where a resurgence of COVID-19 cases or other logistical or technological barriers would make an in-person or virtual FTM or referendum inadvisable. In such circumstances, the legislation would provide authority for towns with FTMs/referenda to enact a budget and tax levy by municipal council action. The council-approved budget would require public notice and hearing, and the tax levy could not exceed the 4% tax cap in current law. This approach recognizes the unique dangers of public meetings during a health crisis and has been authorized in Connecticut under Governor Ned Lamont’s executive order ([Section 13 of Executive Order 7I](#)).

Just as the COVID-19 crisis has wreaked havoc on the state budget, we also expect substantial fiscal impacts on cities and towns through the loss of meals and beverage taxes, hotel taxes, local permitting and license fees and possibly lower property tax collection rates. Local officials have a daunting road ahead to balance their budgets, but this legislation addresses one immediate concern and will allow for fiscal stability in the near term as they finalize their budgets for the coming year.

Again, we greatly appreciate Whip Edwards’s sponsorship of this bill and for the committee’s swift action on it. Thank you for your assistance on this urgent matter.

Summary of Legislation for Emergency Flexibility for Financial Town Meetings/Referenda

Overview:

- COVID-19 has disrupted the budget process for 17 communities whose charters require financial town meetings and referenda, most of which normally occur in May and June.
- Financial town meetings host hundreds of residents or more and require citizen involvement for presenting amendments and final votes, and in some cases may require voting by secret ballot.
- Many communities have had to postpone their FTMs and referenda because of COVID-19, and they are now looking into alternative approaches that are not prescribed in their town charters.
- Proposed legislation (H 8015 / S 2864) provides emergency flexibility to towns with financial town meetings and financial referenda.
- RI General Laws allow communities that do not pass expenditure plans by the end of their fiscal year (June 30 for most) to continue spending according to the prior year’s budget. However, state law does not prescribe details or an alternative for establishing a local tax levy to support those expenditures.
 - Similarly, town charters generally do not contain provisions to renew the tax levy automatically.
- If communities cannot conduct their FTMs or referenda until July or later, they may face cash flow problems without first quarter tax revenue.

Legislative Solutions:

1. Authority to Modify FTM/Referenda Dates – Many local officials have applied their own emergency powers to change the date of their FTMs or referenda. The legislation reiterates local authorities’ ability to modify those dates in the event of a state and local emergency.
2. Authority to Modify Location and Operations – Some communities are pursuing innovative approaches to FTMs and referenda, including meetings on virtual platforms, mail ballots and “drive-in” meetings. The legislation allows local officials to modify the format and location of their FTM/referendum in cases of a state and local emergency.
3. Alternative Approach 1 – Interim Tax Levy: For communities that must conduct their FTMs/referenda into the next fiscal year, the legislation grants towns the authority to enact a tax levy – not to exceed the levy approved the prior year – for up to one year. This provision would allow local officials to issue interim tax bills, subject to later revision. The limited tax levy authority would require public notice and hearing.
4. Alternative Approach 2 – Council Passage of Budget – A scenario could arise where a resurgence of COVID-19 cases or other logistical or technological barriers would make an in-person or virtual FTM or referendum inadvisable. In such circumstances, the legislation would provide authority for towns with FTMs/referenda to enact a budget and tax levy by municipal council action. The council-approved budget would require public notice and hearing, and the tax levy could not exceed the 4% tax cap in current law.
 - a. Note: Connecticut’s Governor approved this alternative process due to COVID-19 by executive order ([Section 13 of Executive Order 7I](#))

Emergency Provisions and Public Protections:

- Municipal leaders respect the FTM/referendum process. Therefore, to ensure that the enabling legislation is used properly, the following requirements were included:
 - A declaration of state AND municipal emergency must be in place
 - The legislation *is enabling only* – The elected council can take one of the two options only by ordinance or resolution with public notice and hearing.
 - The bill includes considerations for communities that have completed revaluations, allowing them to use new values when calculating the new tax levy.