

Municipal Finance Law Updates

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This eUpdate focuses on the recently passed Chapter 77 of the Acts of 2023 (the “Act”), which includes several legislative changes affecting municipal finance law. These important changes address the use of monies received by municipalities in specific circumstance as outlined below.

- I. Section 8 of the Act amends G.L. c. 40, §5B, which governs the establishment and administration of stabilization funds. General purpose stabilization funds are established and used to broadly support any lawful purpose while special purpose stabilization funds are established for specified purposes. Prior to being amended by the Act, Chapter 40, §5B required a two-thirds quantum of vote to appropriate funds from both special and general stabilization funds, and to either create or change the purpose of stabilization funds.
 - The quantum of vote to appropriate funds from special purpose stabilization funds is now a simple majority.
 - The quantum of vote remains two-thirds to appropriate money from a general purpose stabilization fund and to either create or change the purpose of stabilization funds.
- II. Section 9 of the Act amends G.L. c. 44, §53, which governs municipal receipts, in the following two ways:
 1. Clause (2) of the statute has been amended. Prior to this amendment, a municipal or district department in charge of damaged property and for which the municipality or district has received insurance proceeds of \$150,000 or less could spend the monies, without appropriation and with approval from the chief executive officer, to make repairs or replace the damaged property.
 - A municipality may now spend anticipated insurance proceeds or restitution of \$150,000 or less.
 - If such proceeds are not received by the close of the fiscal year after the fiscal year in which the damage occurred, the municipality must include the amount in the determination of the next annual tax rate or otherwise make provision therefor.
 2. New clauses (4) and (5) have been added to the statute. The general statutory rule is that all money received or collected by a city, town or district shall be placed in the general fund, and can only be spent after appropriation, unless otherwise provided by general or special law. This general rule may present municipalities with accounting issues when receipts are received for a particular purpose, since expenditure of such funds would be subject to appropriation.

- Now, certain one-time receipts received by multiple municipalities may be reserved in a special revenue fund and expended by the municipality's chief executive officer, with the approval of the Director of Accounts, thereby remaining available for the purpose for which the funds were received and not closing to free cash at the end of the fiscal year.
- Monies reserved in such a fund that were received for one specific purpose can be spent without further appropriation.
- Monies reserved in such a fund that were received for multiple purposes require appropriation prior to expenditure.

Importantly, the Act also provides that opioid settlement funds received pursuant to settlement agreements entered into by the Commonwealth with opioid manufacturers and distributors may be placed into a special revenue fund. The proceeds can then be expended, without further appropriation, at the direction of the municipality's chief executive officer only for the purposes identified in the opioid settlement agreements. The Act further allows municipalities to revoke the acceptance of the statute providing for the creation of special opioid settlement stabilization funds.

- III. The Act inserts a new section 53K into G.L. c. 44 pertaining to municipal impact fees received when municipalities enter into host community agreements or mitigation agreements with developers or other entities to who pay fees to address the impacts of operations or locations, or new developments, upon municipal resources. These fees may arise when a municipality enters into a host agreement with a cannabis establishment or host or surrounding communities agreements with a casino, or as a condition of a permit or license. The general rule has previously been that such monies be placed in the general fund and are subject to appropriation for expenditure.
- Host community or mitigation payments may now be accounted for separately in a special revenue fund upon the approval of the municipality's chief executive officer and can be spent for the dedicated purposes without further appropriation.

For further information, please contact your KP Law attorney at 617.556.0007 with questions or contact Attorneys Lauren F. Goldberg (lgoldberg@k-plaw.com) or Mark R. Reich (mreich@k-plaw.com).

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