Chapter 2
Duties and Responsibilities of the Treasurer

Overview

- The main functions of the municipal treasurer are prescribed in various chapters and sections of State Law. As described in Chapter 1 of this manual, and in the Appendix, treasurers have many resources to research these laws. The main areas of the treasurer’s responsibility have separate chapters in this manual devoted solely to these topics. They are: Chapter 5: Tax Title (60:50,54,61,62,63,76,77,79,80)
- Chapter 6: Trust Funds (44:53A)
- Chapter 7: Payroll and Employee Benefits (149:178B)
- Chapter 8: Retirement (Ch 32)
- Chapter 9: Borrowing and Debt Service (44:4,6,6A,7,8)

Chapter 11: Cash management (41:35) and Investment of Municipal Funds (44:54-55A & B; 29:38A) The remaining chapters provide detail concerning the execution of these main treasurer’s duties and responsibilities as follows:

- Chapter 1: Legal Basis for and Overview of Municipal Finance in Massachusetts
- Chapter 3: Operations of the Treasurer’s Office
- Chapter 4: Reconciliation of Cash
- Chapter 10: Financing Capital Improvements
- Chapter 12: Procuring Banking Services

Responsibilities of and Functions Carried Out by the Treasurer

Following is a brief description of the various treasurers’ responsibilities, intended as an overview and introduction.

The treasurer must take custody of all monies belonging to the city or town and must scrupulously account for those monies. (41:35) In this accounting, the treasurer must utilize and maintain a cash book, containing a breakdown of all receipts, disbursements, and cash balances.

The treasurer must determine the cash needs of a municipality and ensure that sufficient liquid assets are available to pay current obligations. All money not
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required to be kept liquid for purposes of distribution must be invested by the treasurer in such a manner as to require the payment of interest on the money at the highest possible rate reasonably available, taking account of safety, liquidity and yield. (44:55B)

The treasurer's responsibilities also include a major role in the issuance of municipal debt. Issuing debt requires, initially, an affirmative vote by the municipality's legislative authority, the city council or town meeting. Temporary loans require a majority vote and longer-term borrowing, a two-thirds vote. (44:4, 6, 6A, 7) Debt instruments must be signed by the treasurer and countersigned by the mayor, in a city, unless the charter otherwise provides; in a town, the bonds must be countersigned by a majority of the selectmen. Upon the authorization of long-term debt, the treasurer should prepare for the sale by working with the community's financial advisor, bond counsel and other local officials. The treasurer should negotiate borrowings, prepare the necessary documents and notes, and report to the Director of Accounts on all debt issued. (44:16, 23, 24, 28) Town treasurers must report to the town accountant, or to the finance committee, in the absence of a town accountant, the amount of debt and interest due in the next fiscal year at the time they submit their budget estimates. (41:59)

Only the treasurer may pay out public money. Even then, the treasurer may only make payments upon the signature of the board or officer duly authorized to approve the payment of bills. In cities, it is the auditor, or officer invested with similar duties, who must approve all bills and payrolls before the treasurer may pay them. In towns, it is the town accountant and a majority of the board of selectmen who must give the approval. In some towns, approval responsibility has been given to the town manager, instead of to the selectmen. (41:52, 56) In the case of payrolls, the department head, or designee, must attest to their accuracy before the treasurer may make payment. (41:41)

The treasurer possesses a number of specific responsibilities relating to payment of and accounting for salaries and wages. These include:

- Receiving, accounting for, and disbursing all payroll and personnel deduction amounts (taxes, retirement, insurance, annuities, etc.).

- Maintaining all payroll and personnel records and acting as liaison between employees and the retirement board, insurance vendors, etc. (149:178B; 175:138A)

- Acting as custodian and administrator, if so appointed, of the unemployment compensation program. (40:5E)

- Assuring compliance with the General Laws and with state and federal regulations pertaining to labor and industry standards and to retirement and insurance benefits.
• Monitoring conformity with local personnel bylaws, union contracts, and civil service regulations.

In cities and towns, which maintain a separate retirement system, the treasurer must also serve as the treasurer of that retirement system. [32:23(2)]

The treasurer must maintain custody of stabilization funds, pension reserve funds, trust funds, enterprise funds, investments, and all other funds of the town not specifically allocated to other agencies by general law or special act. (40:5B, 5D; 41:46; 44:53; 44:53F½)

Generally, the treasurer serves as custodian of various financial documents, such as insurance policies, fidelity bonds of other town officials, and deeds to all municipal property acquired by deed. [The town accountant serves as the custody of contracts in towns and must also maintain a register of sureties on bonds (41:57); in cities, the clerk serves as the custodian of contracts. (41:17)]

The treasurer should regularly advise administrative officers, finance committees, and others concerning the financial condition of the city or town, providing factual information upon which appropriating and budgeting decisions may be made.

The treasurer should diligently maintain tax title accounts, conduct sales of land of low value, in proper circumstances, and prepare documents required to petition for foreclosure, when appropriate. (60:50, 61, 62, 63, 76, 77, 79, 80)

Ultimately, the treasurer bears responsibility for the closing and reconciliation of all books and accounts in the treasurer’s office, including the cash book, warrants (including vendor, payroll, and special warrants), bank accounts (checking accounts, trust funds, and bond and coupon accounts), insurance programs, retirement funds, debt records, and tax title accounts.

The treasurer should regularly and carefully prepare all obligatory reports, including (a) cash reconciliations (b) reports to the accountant of all receipts and balances; reports of payroll deductions (i.e., federal withholding, state withholding, retirement funds, group insurance, credit union, union dues, etc.) (c) an annual report, which includes a statement of receipts and disbursements, a statement of debt, and, in the absence of trust commissioners, a report of trust funds, and (d) reports required to be submitted to the Bureau of Accounts, including an annual filing on or before June 30th of the quarterly report of reconciliation of treasurer’s cash. See Division of Local Services website, www.mass.gov/dls.)

A treasurer who also serves as the accounting officer for a community must submit the prescribed statement of financial position, or “balance sheet,” dated as of the close of business on June 30th. The Bureau of Accounts will not certify a community’s free cash until after this report has been submitted. (See IGR 86-
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104, titled Free Cash in the Addendum of this manual for more information on free cash.

Other responsibilities of the treasurer include the general care of equipment and internal systems, the general management of department personnel, communication with rating services, and acting as remitting agent (for federal and state withholding taxes, retirement programs, hospitalization plans, teachers’ annuities, insurance plans, credit unions, United Way, savings banks, labor unions, deferred compensation, and IRAs). See the “Treasurer Records Retention Schedule” for information on disposition of public records. It is located on the website, [www.mass.gov](http://www.mass.gov) under Secretary of Commonwealth (located in alphabetical list of agencies) and in the Addendum of this manual.

Miscellaneous Statutory Provisions Applying to Treasurers

**Term of Office: Elected**

In the absence of a special act, charter provision or bylaw otherwise providing, a town at its annual election must elect a treasurer for one or more years. (41:1) The treasurer must swear to faithfully perform the duties of the office. (41:107)

**Term of Office: Appointed**

A town which elects its treasurer under the provisions of Ch. 41 §1 may convert the treasurer’s position to appointed by a majority vote of an annual or special town meeting, together with acceptance by the voters at the annual town elections. Subsequently, the board of selectmen appoints the treasurer for a term not to exceed three years. (41:1B)

**Salary and Compensation**

Town meeting annually fixes the salary and compensation of all elected officials, including elected treasurers. (41:108) For appointed officials, communities may establish salary plans by ordinance or bylaw to classify jobs and set the maximum and minimum salaries for each classification. (41:108A)

In cities and towns which accept Ch. 41 §108P, a treasurer who completes the necessary training and receives certification as a Massachusetts Municipal Treasurer is entitled to receive additional compensation in the amount of 10% of the annual salary, up to a maximum of $1000.

**Removal from Office**

If it is the opinion of the Commissioner of Revenue that the safety of a city, town, district, or regional school district’s funds may be jeopardized by the continuation in office of the treasurer, the Commissioner may petition the superior court for the treasurer's removal from office. (41:39B)
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Vacancy in Office

Cities — If a city treasurer's office becomes vacant, or if the treasurer, due to disability or absence, is unable to perform the duties or the office, the mayor, without confirmation by the city council, must appoint a temporary treasurer to perform those duties thereof until another is duly elected or appointed or the treasurer who was disabled or absent resumes those duties; however, no such temporary treasurer may be appointed for a period exceeding sixty days. A temporary treasurer must obtain a performance bond within ten days of appointment. (41:61A)

Towns — If a town treasurer's office becomes vacant, or if the treasurer, due to disability or absence, is unable to perform the duties or the office, a majority of the selectmen may, in writing, appoint a temporary treasurer to perform those duties until another is duly elected or appointed or the treasurer who was disabled or absent resumes those duties. A temporary treasurer must obtain a performance bond within ten days of appointment. (41:40)

If a vacancy occurs in the office of town treasurer because of failure to elect a treasurer or the elected person does not accept the office or for any other reason, the town may at any town meeting elect a person to the office. (41:10)

Liability of the Treasurer

A municipal or district treasurer who, in good faith and in the exercise of due care, deposits public money in the Massachusetts Municipal Depository Trust or in a Massachusetts-organized savings bank, trust company or FDIC banking company is not personally liable to the city, town or district for any loss resulting from the closing up of such depository or from the liquidation of its affairs. (44:55A)

A municipality may provide counsel for a municipal treasurer who is sued and whose property is attached if the mayor and council, in cities, or the selectmen, in towns, believe that the suit arose out of actions in which the treasurer performed in good faith, without negligence, and believing the actions were in municipality's interest. In such circumstances, the mayor and council, or the selectmen, may dissolve an attachment by filing certificates in accordance with legal requirements. (41:43A.) Treasurers may also be eligible for indemnification, including their legal costs, under Ch. 258 § 9 & 13.

Bonding of Treasurer

A treasurer must obtain a performance bond, in an amount set by the selectmen, but not less than the minimum amount established by the Commissioner of Revenue through the publication and distribution of a Bond Amount Schedule. This schedule lists ranges of amounts of money handled and the corresponding minimum bond amounts required. See the Bond Amount Schedule and
instructions in the Addendum of this Manual. The bond, also known as a surety bond, is purchased from an insurance company and a copy is filed with the Town or City Clerk's office. The performance bond is payable to a municipality and is intended to cover any malfeasance or fraud on the part of the municipal treasurer. It does not protect the treasurer against suit or accusation.

Annually, municipal treasurers must calculate the approximate amount of money from all sources they will handle during the year, determine the range in which that amount occurs, and obtain a bond in at least the minimum amount for that range. If the chief executive officer of the municipality has set a higher amount, the treasurer must obtain a bond in that higher amount.

If the treasurer is not bonded within ten days of election or appointment, the selectmen or mayor and aldermen shall declare the office vacant. Chapter 41, Section 35 of the General Laws regulates the Treasurer's responsibilities in providing for this bond for the faithful performance of his (her) duties. It may be found at the mass.gov/legislature/general laws website.

Assistant, Temporary, and District Treasurers, and Acting Collector-Treasurers

Assistant Treasurer

With the approval of the selectmen or mayor, the treasurer may appoint, in writing, an assistant treasurer. (41:39A) Unless a temporary treasurer is appointed, the assistant treasurer may, in the absence of the treasurer, perform the treasurer's duties. In performing those duties, the assistant treasurer shall have the powers and be subject to the requirements and penalties applicable to the treasurer. An assistant treasurer must obtain a performance bond within ten days of appointment. The commissioner's minimum bond amount for an assistant treasurer is 25% of the amount established for the treasurer. (41:39A)

An assistant treasurer appointed under G.L. Ch. 41 §39A is an officer with an indefinite term of office, and no reappointment is required until the assistant resigns, retires or is otherwise removed from office. Removal would probably require joint action by the treasurer and the selectmen (or mayor).

Treasurers Acting as Collector of Taxes

A town may vote to authorize its treasurer to act as collector of taxes. (41:1) A treasurer authorized to act as a tax collector may exercise all the powers of a tax collector, including the appointment of deputy tax collectors. (41:37; 60:92)

District Treasurer

See Chapter 1 for an explanation of the duties of a district treasurer.
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