



**Town of Arlington
Legal Department**

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To: Board of Selectmen

From: Douglas Heim, Town Counsel

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Re: Legal Requirements for Special Election Override & Debt Exclusion Ballot Questions

I write to provide the Board an overview of the legal requirements for Proposition 2 ½ Override (G.L. c. 59 §21C) and Debt Exclusion (G.L. c. 44 §7) ballot questions.

Authority & Timing

As the Board will recall, the Selectmen possess the exclusive authority to place both override and debt exclusions questions before voters. In either instance the Board must approve the exact language of any questions to appear on a ballot. If the Board wishes for its ballot questions to be voted upon outside the timeline of the annual Town Election or the biennial State Election,¹ it must also vote to call a special election on a specified date and provide written notice to the Town Clerk thirty-five (35) days in advance of such date. G.L. c. 54 §42C

¹ The Town may submit up to three (3) questions on the biennial state ballot rather than call a special election, but such ballot questions must be submitted to the Secretary State by the first Wednesday in August preceding the election, in this case, August 3, 2016. G.L. c. 59, § 21C(i).

Quantum of Votes

A vote to place an override question on the ballot requires a simple majority of the Board.

c. 59, § 21C(g). A vote to place a debt exclusion question on the ballot requires a 2/3rd vote of the Board. G.L. c. 59 § 21C (i½), (j) and (k).

Form of Votes

A. Override Votes

For a general override question, a specific form of the question is required by c. 59 §21C(g), with modest discretion for stating the purpose of the additional assessment. The vote must read as follows:

“Shall the Town of Arlington be allowed to assess an additional \$_____ in real estate and personal property taxes for the purposes of [state the purpose(s) for which the monies from this assessment will be used] for the fiscal year beginning July 1, 2017?

YES ____ NO ____”

Examples of generally stated allowable purposes include:

- Funding the Town's operating budget.
- Funding operating expenses and capital expenditures.
- Providing for the general administrative cost of operating the schools, police department, fire department and other town departments.
- Funding the operating budget of the Public Schools and the Municipal Government.
- Defraying school operating expenses.
- Funding the Town's Regional School District assessment.

B. Debt Exclusion Votes

As debt exclusion questions are by design, oriented towards funding a specific capital project or projects, the form of the question must adequately describe the projects to be funded by the question. For example, in 1998 and 2000 the Board authorized debt exclusion questions to cover multiple school projects, which read as follows:

“Shall the Town of Arlington be allowed to exempt from the provisions of Proposition Two and one-half, so called, the amounts required to pay for the bond or bonds issued in order to finance projects by the issuance of such bonds or notes to construct or add to, remodel,

reconstruct and originally equip the Bishop, Brackett and Hardy elementary schools and for the cost of architectural services for plans and specifications for the Dallin, Pierce, Stratton and Thompson Elementary Schools?

YES ____ NO ____"

“Shall the Town of Arlington be allowed to exempt from the provisions of Proposition two and one-half, so called, the amounts required to pay for the bond or bonds issued in order to finance projects by the issuance of such bonds or notes to construct or add to, remodel, reconstruct and originally equip the Dallin, Pierce, Stratton and Thompson elementary schools?

YES ____ NO ____"

The Board will note that the amount of borrowing is not required for debt exclusion votes. It also bears highlighting that the vote authorizes the Town to engage in borrowing exempt from the levy limit, but does not require such borrowing if capital projects plans are amended or cancelled.