



OLR RESEARCH REPORT

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MUNICIPAL OPTIONS TO ADDRESS BUDGET REDUCTIONS

By: Rute Pinho, Associate Analyst

You presented a scenario in which a town's board of selectmen sets a mill rate to levy taxes after a series of town referenda rejected proposed budgets. You asked what options the town has in the event that a subsequently approved budget reduces the town's authorized expenditures, thus requiring a lower tax rate than the board previously set.

The municipal budget laws do not contemplate the situation you described. According to Dave LeVasseur, Acting Under Secretary of Intergovernmental Policy at the Office of Policy and Management, towns have reacted to such scenarios by either (1) issuing a credit to taxpayers or (2) carrying the balance forward to offset expenses in the following tax year. Unless the town's charter provides otherwise, it is up to the town attorney to recommend a course of action.

Two related Connecticut court cases appear to support both of these options. The first case, *Feigl v. Raacke et al.* (32 Conn. Supp. 237 (1975)), concerned the town of New Fairfield. After voters rejected three school budgets for FY 75, the town's board of selectmen set the mill rate based on the first budget recommended by the town's board of finance. Later that year, voters approved a school budget that would have required a lower mill rate. The plaintiff, a town resident, sought a court order to compel the town to lower the mill rate, reduce the taxes, and refund the surplus taxes already collected. The Superior Court denied the plaintiff's petition, ruling that the selectmen acted within their authority under [CGS § 12-123](#) to set a tax rate for the town. Specifically, this statute authorizes boards of selectmen to set tax rates for their

towns to pay necessary expenses when the town has “failed to lay necessary taxes.” In a footnote, the judge remarked that “if collected, the surplus revenue by statute [\[CGS § 7-344\]](#) will be applied to the budget for the ensuing year, thus reducing the tax impact for that year.”

The Connecticut Supreme Court affirmed the *Feigl* decision in *Mosher v. Goodnow* (217 Conn. 303 (1991)). In the *Mosher* case, an Old Saybrook resident brought an action against the town’s board of selectmen to stop it from collecting taxes based on the mill rate it set after voters rejected four proposed budgets at referenda. The plaintiff argued that another statute ([CGS § 7-405](#)) limited the scope of the board’s authority to the setting of interim budgets based on the prior year’s budget. The Court rejected this claim, ruling “that *Feigl* correctly construed [§ 12-123](#) as vesting broad authority in boards of selectmen to set tax rates for their towns when the defeat of a town budget has created a fiscal vacuum.” In addition, the Court noted that “in the event that a subsequently approved budget reduces the town’s authorized expenditures, a taxpayer may be entitled to recover excess assessments or to claim a corresponding reduction in his tax bill for the following tax year.”

RP:ts