

CHAPTER 32. TREASURER

Roles and Responsibilities

The town treasurer plays a vital role in the management of the finances of the town. He or she is responsible for keeping the town's accounts, investing money received by the town (with the approval of the selectboard), keeping a record of the taxes voted, and paying orders drawn on him or her by officials authorized by law to draw orders on town accounts. The treasurer must work with the auditors to settle town accounts prior to the annual meeting, and he or she is often called upon to provide the selectboard with information about town finances. The town may vote to have its treasurer serve as the collector of current taxes. The treasurer may also serve as the collector of delinquent taxes if independently elected to the office.

- A town treasurer is generally elected at the annual town meeting and serves either a one-year or a three-year term. 17 V.S.A. § 2646(3). The treasurer may appoint one assistant who serves at his or her will. 24 V.S.A. § 1573. If the treasurer fails to appoint an assistant within ten days after a written request from the selectboard, the selectboard may appoint an assistant treasurer who would then be accountable to the selectboard.
- The town treasurer serves as the school treasurer unless the town school district votes otherwise. 16 V.S.A. § 426(a). The school treasurer keeps the accounts, pays orders, and invests money with the approval of the school board. The school board may direct the treasurer as to the manner of keeping the accounts. 16 V.S.A. § 563(8). The financial records must be made available to the board and superintendent upon request. 16 V.S.A. § 426(d).

Election/Appointment. A town treasurer is elected annually at town meeting and generally serves a one-year term. 17 V.S.A. § 2646(3). If a town chooses, it may vote to elect its treasurer for a three-year term. If a town has established a three-year term, this term will remain in effect until the town rescinds it by a majority of the legal voters present and voting at an annual meeting duly warned for that purpose. 17 V.S.A. § 2646(3).

The town treasurer serves also as the town school district treasurer, unless a separate town school district treasurer is elected. 16 V.S.A. § 426.

If the office of treasurer is vacated, the selectboard must post notice of the vacancy in two public places, and in and near the clerk's office within 10 days of the vacancy. The selectboard may act right away to appoint a successor to fill the position until the next annual election. Alternatively, the selectboard, on its own or upon application of five percent of the voters, may call a special meeting to fill the vacancy. 17 V.S.A. § 2643(a); 24 V.S.A. §§ 961-963. The successor is entitled to receive all of the records, files, books, and papers pertaining to the office from his or her predecessor. A small fine (\$10.00 a week) may be assessed against a former official who fails to respond to a request for papers within ten days after the request has been made. 24 V.S.A. § 991.

Incompatible Offices. A treasurer may not be an auditor, selectperson, cemetery commissioner or school director for the town. Neither the treasurer's spouse nor anyone assisting the treasurer in his or her official duties may be the town auditor. 17 V.S.A. § 2647. However, the above restrictions do not apply to towns that have fewer than 25 legal voters. 17 V.S.A. § 2648.

Posting Bond. Before the treasurer may perform his or her duties, he or she is required to post a bond conditioned on the faithful performance of those duties. If the treasurer is also the school treasurer, he or she must also provide a bond to the school district. The amount of the bond is to be established by the selectboard. 24 V.S.A. § 832. The municipality pays for the bond required by the selectboard. 24 V.S.A.

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§ 835. The selectboard may require the treasurer to post additional surety if it later decides that the posted bond provides insufficient protection to the town or school district. If the treasurer fails to provide the required bond by the end of ten days, the office will be considered vacant and the selectboard may proceed to fill the vacancy. 24 V.S.A. § 832; 32 V.S.A. § 4643. Note that a bond furnished to the municipality is not valid if signed by any other officer of the same municipality as surety.

Compensation. Ordinarily, the town votes to compensate the treasurer with a salary of a specific amount. 24 V.S.A. § 932. If the voters fail to set a salary, the selectboard may set the treasurer's compensation. 24 V.S.A. § 933. If the treasurer is also the collector of current taxes, he or she is entitled to be paid the collection fee of one percent of all taxes paid, computed on actual cash receipts after deduction of discounts, unless the town by vote fixes his or her compensation otherwise. 32 V.S.A. § 1672.

Liability. If a town or school treasurer is sued in the course of the performance of his or her duties, the action must be brought in the name of the town or school district in which he or she serves. 24 V.S.A. § 901(a). In addition, the town or school district must assume all reasonable legal fees incurred by the treasurer if the treasurer was acting in the performance of his or her duties, with no malicious intent. 24 V.S.A. § 901(b).

A treasurer who pays out money in accordance with a vote of the municipality will not be liable for this payment, even if the vote is later deemed invalid. 24 V.S.A. § 903.

- If the treasurer fails to perform or neglects the duties of his or her office, the treasurer may be fined up to \$100. 24 V.S.A. § 902.
- The treasurer may be fined \$200 if he or she does not pay into the treasury all money in his or her possession belonging to the town or town school district at the end of his or her term. 24 V.S.A. § 993. The town or school district may recover the money in a civil action.
- The treasurer will be ineligible for reelection if he or she fails to settle the accounts with the auditors not less than 25 days before town meeting. 24 V.S.A. § 992.

Assistant Treasurer. A treasurer may appoint an assistant, whose appointment may be revoked at any time by the treasurer. Such appointment must be recorded in the town clerk's office. The treasurer will be held responsible for the acts or omissions of any assistant appointed by him or her. If the treasurer receives a written request from the selectboard to appoint an assistant and fails to do so within ten days following the request, the selectboard may make the appointment, which the board may revoke at any time. 24 V.S.A. § 1573. An assistant treasurer who is appointed by the selectboard rather than the treasurer must post bond prior to taking office since the treasurer will not be held responsible for this assistant's actions. 24 V.S.A. § 832. The assistant treasurer performs all of the duties of the treasurer in the event that the treasurer is temporarily absent or disabled.

Keeping the Accounts and Paying Orders. The treasurer's primary function is to keep the accounts of the town (and school, if applicable) from the moment the money is collected by the town to the moment it is paid out or invested by the town. Of course, if the treasurer has also been elected collector of current taxes, his or her duties begin with collection of the taxes. 24 V.S.A. §§ 1521, 1571.

Record of Taxes Voted. Upon delivery of the tax bills to the collector, the selectboard must take a receipt from the collector and deliver it to the town treasurer. 24 V.S.A. § 1522. The treasurer must keep a public record showing the amount of tax money voted for the support of highways, schools, special departments, if any, and for general town purposes. 24 V.S.A. § 1574.

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Record of Tax Levies. When the treasurer receives the town tax bill from the selectboard, or when he or she receives the tax collector's tax receipt, the treasurer must apply the proper credit to the town highway and school district departments. The balance of the bill is credited to the general fund and any special funds the town may have. 24 V.S.A. § 1524. Any alterations in the grand list that change the amount of money received by the treasurer must be reflected in a revision of credits to the school district and the town highway department.

Credit and Debit of General Fund. After making a record of the tax levied, the treasurer must apply credits or debits to the general fund where they occur as a result of penalties, interest, discounts on taxes paid early, collector's fees, abatements granted, or any other event which will affect the total amount levied or received. 24 V.S.A. §§ 1525, 1526.

Differences in Certain Towns. The discussion above about tax levies, credits, and debits applies to towns that do not have either an incorporated village or an incorporated school district. If a town has a village but not an incorporated school district, the treasurer follows the above procedures with respect to tax levies *except* the highway levy, and the voters may vote to adopt the above procedures for the highway levy. If a town has an incorporated school district but not a village, the treasurer follows the above procedures *except* for the school district levy and the voters may vote to adopt the above procedures for the school district levy. If a town has both a village and an incorporated school district, the above discussion of the relation of the treasurer's duties with regard to the general fund, highway account, and school district account applies only if it is adopted by the voters. 24 V.S.A. § 1527.

Note that collection fees, costs of collection, abatements, and other losses in enforcement of the tax bill may not be deducted from the account of the town school district. 1934-36 Op. Atty. Gen. 238.

Accounts and Reports of the Town Finances. The treasurer must keep a running account of moneys, bonds, notes, and evidences of debt paid to him or her, and moneys paid out for the various town departments. 24 V.S.A. § 1571(a). Moneys received by the treasurer may be invested and reinvested with the approval of the selectboard. 24 V.S.A. § 1571(b). This means that the treasurer and selectboard have joint authority and must come to an agreement regarding the investment of town funds.

The treasurer is required to file quarterly reports with the selectboard regarding actions addressed in subsections (a) and (b) of Section 1571 (listed above). In addition, the treasurer is required "to annually, on or before June 30, complete and provide to the selectboard a copy of the document made available by the Auditor of Accounts pursuant to 32 V.S.A. § 163(11) regarding internal financial controls."

- The treasurer must also keep a running account with the tax collector of each annual tax bill by endorsing the collector's payments on the account and on the collector's receipt. These endorsements must also note the amount of any abatement allowed by the board of abatement. Each endorsement must be signed and dated. 24 V.S.A. §§ 1579, 1580.

Paying Orders. The treasurer must also pay orders drawn on his or her office by town officers authorized by law to draw these orders. If the treasurer refuses to pay these orders, the individual presenting them may recover the amount, plus interest, from the town. The treasurer must keep a book in which he or she records all the orders that are not paid. Of course, if there is not enough money to cover these charges, the treasurer must make this known to the selectboard and to the officer who drew the order. 24 V.S.A. § 1576.

When a town has outstanding interest-bearing orders due, the treasurer may give notice that these orders will be paid on presentation at his or her office on or before a day certain, and after that day such orders will cease to draw interest. 24 V.S.A. § 1582.

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Settling Accounts with the Auditors. At least 25 days before town meeting, all officials and any other persons authorized to receive or disburse town tax money must close their accounts with the auditor. This includes settlement of the treasurer's account as treasurer of the town school district. If the treasurer refuses to make this accounting, he or she will be ineligible for reelection. 24 V.S.A. § 992.

During his or her term, the treasurer must also settle accounts with the auditors whenever directed to do so by the selectboard, and when he or she retires from office. At the close of the treasurer's term of office, he or she must pay over to the new treasurer all funds in his or her hands that belong to the town and deliver all official books and papers in his or her possession. 24 V.S.A. § 1578.

When Taxes are Collected by the Treasurer. When the town votes to have its treasurer serve as the collector of current taxes, the proper officers (generally the selectboard) must make and deliver all tax bills to the treasurer. 32 V.S.A. § 4791. At least 30 days before the tax due date that was established by the voters, the treasurer must mail the tax notices to the taxpayers. The notice must state the amount of his or her grand list, the tax rate, when the taxes are payable, and must notify the taxpayer about any prepayment discount that is available. If the town did not vote a specific date for the payment of taxes, or if the treasurer does not mail the notice at least 30 days before the due date, the due date becomes 30 days from the date of mailing of the notice to the taxpayers. 32 V.S.A. § 4792.

The treasurer must keep separate accounts of all money received as highway or school taxes, and must pay out the same upon orders of the proper officers. 32 V.S.A. § 4791.

Delinquent Taxes. Within 15 days after the tax due date (or within such earlier time as the voters may establish), the treasurer must issue a warrant against delinquent taxpayers for the amount of unpaid taxes. 32 V.S.A. § 4793. Within that same period of time, the treasurer must deliver a list of unpaid taxes, with the name of each delinquent, to the collector of delinquent taxes. 32 V.S.A. § 4874.

The treasurer must accept full payment of overdue taxes after the due date but before the warrant is issued, so long as the payment includes the collection fee and accrued interest. This is done for the benefit of the collector of delinquent taxes. The treasurer must turn over these taxes, fees, and interest to the collector of delinquent taxes when the warrant is issued. 32 V.S.A. § 5142(b).

If the treasurer believes that a taxpayer is about to abscond from the state without paying taxes, before the 30-days notice period for paying taxes has expired, the treasurer may file an affidavit so stating with the selectboard. The treasurer may then issue a warrant against the taxpayer to the collector of delinquent taxes. 32 V.S.A. § 4796.

After the treasurer delivers the warrant and list of delinquent taxpayers to the collector of delinquent taxes, the responsibility for collection rests on the collector of delinquent taxes. The only remaining duties of the treasurer are to receive and account for any money paid to him or her by the collector. *Town of Brookfield v. Bigelow*, 80 Vt. 428 (1908).

Delinquent Sewer Assessments. When an assessment regarding water mains and sewers remains unpaid for 30 days, the treasurer must issue a warrant for its collection to the tax collector to enforce in the same way as for collection of delinquent taxes. 24 V.S.A. § 3408.

Cemetery Trust Funds. A town may vote to receive and hold money in trust for town cemetery purposes. 18 V.S.A. § 5383. When this occurs, the treasurer must keep account of the cemetery trust funds, unless trustees of public funds have been elected to do so. Either the selectboard or the board of cemetery commissioners (whichever the town has voted) expends the income from such funds under the

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conditions of the trust. The town may be fined an amount not to exceed \$100 if the board neglects to expend income pursuant to the trust conditions. 18 V.S.A. § 5385.

All moneys received by the town may be invested and reinvested by the treasurer with the approval of the selectboard, or by trustees of public funds if the town has elected them, in a variety of ways. 18 V.S.A. § 5384(b). The town treasurer or the trustees of public funds must annually report to the town the condition of such funds. 18 V.S.A. § 5386.

State and County Taxes. The treasurer receives the bills for the state and county tax assessments from the selectboard, and, within the time required on the warrant, pays the sum to the state and county treasurers. 24 V.S.A. § 220.

School Treasurer Duties. As noted above, the town treasurer serves as school district treasurer unless the voters elect a separate school treasurer. The treasurer must keep in a separate bank account all money appropriated or given for use of the school district. Within 20 days after school taxes are due (or within another time period if agreed upon in writing by the selectboard and school board), the treasurer must deposit the school tax payments in the school account. However, if notification of the amount to be transferred to the school district by the commissioner has not been received within 20 days of the date taxes are due and payable, the transfer shall be effected within 20 days of notification by the commissioner. 16 V.S.A. § 426(a). Within 120 days after taxes become delinquent, but no later than the end of the school year, the treasurer must deposit the balance of the school tax levy in the school account. 16 V.S.A. § 426(b).

Note, however, 32 V.S.A. § 5402(c) says “The treasurer ... shall by December 1 of the year in which the tax is levied and on June 1 of the following year pay to the state treasurer for deposit in the education fund one-half of the municipality’s statewide nonresidential tax and one half of the municipality’s homestead education tax, as determined under subdivision (b)(1) of this section.” This section derives from Act 60, the education funding reform law passed in 1997-98. It means that if your town owes money to the “sharing pool,” it will get a bill from the state commissioner of taxes advising how much money is due to the state treasurer on December 1 and June 1 to meet that obligation.

According to 16 V.S.A. § 426(d), the school treasurer “shall keep the financial records of cash receipts and disbursements, and shall make those records available to the board of school directors or the supervisory union board when requested to do so.” Thus, the treasurer controls the financial records of the school district and must accommodate the need of the board to have access (even daily access, if requested) to such information.

It is the school treasurer’s duty to deposit all checks and pay out money drawn on orders of the board. Additionally, the treasurer may invest and reinvest all sums received by the district so long as such investment decisions are made with the approval of the school board members. 16 V.S.A. § 426(c).

There are two different statutory provisions that affect the regulation and control of school finances. According to 16 V.S.A. § 563(8), the school board is directed to “establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the state board pursuant to 16 V.S.A. § 164(15) and that ensures that all payments are lawful and in accordance with a budget adopted or amended by the school board. The school board may authorize a subcommittee, the superintendent of schools, or a designated employee of the school board to examine claims against the district for school expenses and draw orders for such as shall be allowed by it payable to the party entitled thereto.” Section 563(9) authorizes the school board, with the advice and consent of the auditor of accounts and the commissioner of education, to establish a system of accounts

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for the proper control and reporting of the school finances and for stating the annual financial condition of the school district. 16 V.S.A. § 563(9).

Due to the above provisions, the relationship between the school board and the treasurer differs significantly from the relationship between the treasurer and the selectboard. The selectboard may not tell the treasurer how to perform his or her statutory duties, but the school board may establish a system of accounting, reporting, and other controls to which the treasurer must conform.

Accordingly, although the treasurer has ultimate custodial responsibility over the books, check-writing and depositing of checks, these duties must be performed in a manner that is consistent with the accounting procedures, reporting, and other controls as established by the board.

Relationship of Town Treasurer and Town Auditors. Situations may arise where the town treasurer and the auditors do not agree on the proper presentation of the financial statements. If, after every effort has been made, no agreement is reached, then the financial statements must be presented in a manner directed by the town treasurer. However, the town auditors must then enumerate their exceptions to such presentation in their report, and, depending upon the significance of those exceptions, must disclaim an opinion, qualify their opinion, or definitively take issue with the presentation.

In any event, it is extremely important that the distinction be maintained between the treasurer's financial statements and auditors' report on those financial statements.

For more information about the role and responsibilities of the treasurer, please consult VLCT's *Handbook for Vermont Municipal Treasurers* (2002). This handbook may be viewed (under "League Resources") or purchased (under "Marketplace") online at www.vlct.org.