

## ASK THE LEAGUE, NOVEMBER 2016

### Can the selectboard borrow money without voter approval?

There are seven situations in which a selectboard may borrow funds without voter approval. Outside of these situations, there must be specific voter approval at an annual or special town meeting. 24 V.S.A. § 1786a(b).

A public vote to borrow is not required in the following instances:

1. *Borrowing to paying current expenses so long as the term is one year or less.* 24 V.S.A. § 1786. There is no statutory definition or explanation of a “current expense.” Our rule of thumb is that a current expense is one that will be paid for in a year or less. A current expense could arise from provision of a service or from the acquisition of a public improvement or asset. In our opinion, simply because something is an asset or a public improvement does not mean that it cannot be considered a current expense under 24 V.S.A. § 1786. We view the term of the note (one year or less/more than one year) as the defining characteristic.
2. *Borrowing in anticipation of taxes so long as the term is one year or less and the amount borrowed does not exceed 90% of the municipal taxes assessed for that year.* 24 V.S.A. § 1786.
3. *Borrowing in anticipation of the sale of bonds as long as the term is one year or less.* 24 § V.S.A. § 1773(a).
4. *Borrowing in anticipation of grants as long as the term is one year or less.* 24 V.S.A. § 1773(c).
5. *Borrowing for the purchase of tools, equipment and materials necessary for the construction, maintenance or repair of highways and bridges for a term of five years or less.* 19 V.S.A. § 304(a)(3); 24 V.S.A. § 1786a(b).
6. *Borrowing from the State Municipal Equipment Loan Fund for the purchase of construction, fire, emergency or heavy equipment or vehicles.* 19 V.S.A. § 304(a)(3); 24 V.S.A. § 1786a(b); 29 V.S.A. § 1601.
7. *Alternative financing of personal property, fixtures, technology and intellectual property.* 24 V.S.A. § 1789. The selectboard may enter into leases, lease-purchase agreements, installment sales agreements, and similar agreements to acquire assets for the municipality either singly or as a participant in an interlocal contract. Such agreements, however, must contain a “non-appropriation clause” that states that the annual payments by the municipality must be approved by the voters.

*If the municipal borrowing does not fit into any of the above seven categories, there must be specific voter approval at a regular or special town meeting.* “The voters of a municipality may authorize specific public improvements and the acquisition of capital assets and finance the same, temporarily or permanently, through debt instruments other than bonds for a term not to exceed the reasonably anticipated useful life of the improvements or assets as provided in this section.” 24 V.S.A. § 1786a.

If the improvements or assets are to be financed for a term of five years or less, the borrowing is approved at a regular or special town meeting. If the financing is for a term of more than five years, the municipality must go through the traditional bond authorization process, even if the final form of the borrowing is not a bond. 24 V.S.A. §§ 1755, 1756, and 1786a(c). For more information about the bonding process, see Chapter 17 of the [VLCT Selectboard Handbook](#)

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