

June 30, 2026

Email tkeeney@somersct.gov

Timothy Keeney, First Selectman
Town of Somers
600 Main Street
Somers, CT 06071

Re: 2026-2027 FY Budget and Mill Rate

Dear Tim:

I am writing to address questions members of the public and local officials have raised regarding the 2026-2027 fiscal year budget and the mill rate for 2026-2027 and their relationship.

I. The Mill Rate

Ordinarily a mill rate is established immediately after the adoption of the municipal budget. That process is established Sections 6-4 and 6-5 Somers Charter regarding preparation of a budget and laying of taxes.

It is mandatory that all town start their fiscal year on July 1 and tax bills are ordinarily issued in advance of the start of the fiscal year to fund local government. When a budget has not been adopted in time to start collection of revenues for the fiscal year, the general statutes grant Boards of Selectmen the authority to set mill rates so that revenues can be collected to operate municipal government and schools. Specifically, Conn. Gen. Stat. § 12-123 provides for emergency taxation when the budget has not been adopted. It provides:

When any town has failed to lay necessary taxes or to lay a tax which, in addition to the other estimated yearly income of the town, is sufficient to pay the current expenses of such town, its selectmen shall make a rate bill upon its list last completed for the amount necessary, or for an amount sufficient to pay the deficit in such current expenses, and cause the same to be collected as other taxes.

The Board of Selectmen has exercised that power and has established a mill rate for the 2026/2027 fiscal year. That rate will not change after a budget is established regardless of whether the final approved budget is higher or lower than the estimates used by the board in setting the mill rate.

II. Budget

The setting of a mill rate by the Board of Selectmen is not the adoption of a budget and does not alleviate the requirement of the Charter to adopt a budget. The mill rate adopted under Conn. Gen. Stat. § 12-123 is necessary to fund the government but it does not set approved expenditures for the fiscal year. Establishing approved appropriations for the fiscal year is the purpose of the budget.

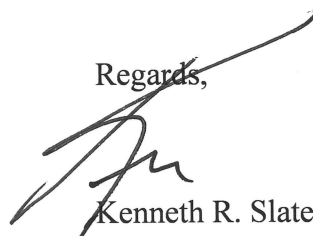
Section 7.1 (c) of the Somers Charter requires that the Town proceed with a referendum at 14-day intervals until the budget is adopted. A budget must be approved in that fashion. There is no option for the budget to be approved by the Board of Selectmen or by an in-person Special Town Meeting.

III. The Interplay Between Mill Rate Set by Board of Selectmen and Budget Later Adopted by Charter

As noted above, the mill rate has been established regardless of the budget amount ultimately approved by the Town. If the mill rate set by the Board is too low to fund appropriations in the final budget, supplemental bills can be sent to taxpayers. Ideally that is not the case because it can be costly to send out supplemental bills and such bills can be confusing to taxpayers who have long been accustomed to only the July and December tax bills. Typically, mill rates set by a Board of Selectmen equal or exceed the final approved budget. If the mill rate results in collecting additional revenue than required to pay budgeted expenditures, those funds are held in a restricted fund to offset the mill rate during the following fiscal year. While tax rebates could be issued, that is ill-advised because it creates significant accounting challenges and the administrative dilemma of who should receive the rebates when taxes may be the subject to mortgage escrows. Several judicial decisions have determined that taxpayers cannot force a rebate during the fiscal year and have sanctioned the practice of using excess revenues to offset the mill rate in the next fiscal year.

I am attaching two OLR reports and a CTx report that were drafted to address questions raised by other municipalities facing the challenges of repeatedly rejected budgets. While those reports are not legal advice to towns, you will see that the guidance in them is consistent with our legal opinion.

Regards,



Kenneth R. Slater, Jr.

Good morning CTx and Happy Monday!

It seems like municipal budgets are facing more challenges than usual lately, and I've certainly experienced it firsthand with delayed billings for two towns and another town invoking 12-123. For those dealing with failed budgets, I truly sympathize.

When budgets fail, leadership often turns to the Tax Collector for solutions. While some authority is outside our scope, it's crucial for Tax Collectors to understand a few key options.

Please note that CTx can only provide information pertaining to the options available to you. Review the relevant CT State Statutes and OLR reports with your municipal attorney and leadership.

Understanding Your Town's Options

First, **check your town's charter**. It might already outline specific directions for your town in this situation.

Second, the simplest option is often to **postpone your billing**. You can mail bills in July with an August 1st due date and a last day to pay of September 2nd (to account for Labor Day).

This approach aligns with **Sec. 7-383. (Link) Due date of tax levy**, which states that if rate bill preparation and mailing are delayed, the tax becomes due not later than thirty days after the rate bills are mailed.

Invoking 12-123: When the Legislative Body Sets the Mill Rate

The third option is **invoking 12-123**. This is when your legislative body sets the mill rate, and it becomes the official mill rate for all town reporting for the entire year. **There's no such thing as an interim, or temporary, mill rate in the state statutes.**

Sec. 12-123. (Link) Selectmen to make rate bill when town fails to lay sufficient tax clarifies that if a town fails to lay necessary taxes or enough tax to cover current expenses, the selectmen will create a rate bill based on the last completed list for the necessary amount.

A key challenge with using 12-123 is that while a mill rate is set, a full budget isn't created. It doesn't break down how much goes into each "bucket" (like general government, education, etc.); it's an overall appropriation for the town to operate.

As you might recall from Course 3, the mill rate is calculated by dividing the **amount to be raised by taxation** by the **Grand List**. So, with the mill rate and Grand List in hand, your leadership will need to determine the amount to be raised by taxation.

After Budget Approval: Addressing Mill Rate Discrepancies

Once your town has an approved budget, leadership will assess if the established mill rate can cover expenses using budgeted revenues and the fund balance.

- **If the mill rate set is not enough to cover the expenses**, you *could* consider a **supplemental billing**, though it won't change the official mill rate for the year. However, be cautious:

- Waiving bills under a certain amount for a supplemental billing can lead to substantial lost revenue because the individual amounts are typically small.
 - Collections for these bills can be confusing for taxpayers and mortgage companies, disrupting escrow accounts.
 - There's a significant cost to reprint and calculate a supplemental billing (for perspective, Windham's quote was nearly \$20,000). Personally, I'd try to avoid this situation at all costs.
 - **If the mill rate is too high**, there is guidance from the Office of Legislative Research (OLR). Specifically, the statute allows boards of selectmen to set tax rates to pay necessary expenses when a town has "failed to lay necessary taxes." Any surplus revenue collected is applied to the budget for the ensuing year, which reduces the tax impact for that year. [LINK](#) Essentially, the amount is held in a **restricted fund** to offset the mill rate for the following Grand List year, as happened in Chaplin last year.
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I know this might be a lot to process, but I wanted to share my experiences with you all.

Please **reach out to your town attorney** for any and all questions.

CTx can only provide information pertaining to the options available to you. Please review the relevant CT State Statutes and OLR reports with your municipal attorney and leadership.

Thank you CTx!

All my best,

Lisa



OLR RESEARCH REPORT

July 27, 2004

2004-R-0587

PROCESS FOR SETTING MILL RATES

By: Kevin E. McCarthy, Principal Analyst

You asked for information on setting property tax mill rates. You wanted to know: (1) whether there is a statutory limit to mill rates; (2) how the law has changed since 1987; and (3) whether the Coventry town council could increase the mill rate from the prior year when the town meeting had not approved the current year's budget. The Office of Legislative Research is not authorized to issue legal opinions and this memo should not be considered one.

The process for setting the mill rate is part of the process for adopting a budget. The mill rate is a municipality's net grand levy divided by its net taxable grand list. The net grand levy is the amount a municipality must raise in a fiscal year from property taxes, i.e., the total budget minus state and federal funds, fees, and charges, and other sources of revenues. The process for adopting a budget is primarily set out in municipal charters rather than the statutes. CGS § 12-122 does require selectmen in town meeting towns to include an itemized estimate of current expenses of town departments for the next fiscal year for approval at the town meeting. Once the board of assessment appeals completes its work and the final assessment is completed, the town must levy taxes on the property on the list. Under CGS § 12-123, if a town fails to lay necessary taxes or to lay a tax, when taken with other town revenues, is sufficient to pay the town's expenses, the selectmen must make a rate bill on its last list for the amount of money that is needed.

There is no statutory limit on mill rates. The state supreme court has held that CGS Sec. 12-123 gives boards of selectmen broad authority to set tax rates for their towns when the defeat of a town budget has created a fiscal vacuum *Mosher v. Goodnow* 217 Conn. 303 (1991). In this case, the Old Saybrook board of selectmen set the FY 1990-91 mill rate based on estimated unreimbursed expenses for that year, after four proposed budgets had been defeated at referenda. Mosher, a taxpayer in the town, argued that CGS Sec. 7-405 required that the selectmen base the 1990-91 budget on the previous year's expenditures, which would have resulted in a decrease in the mill rate. The court held that CGS Sec. 7-405 dealt with the authority of disbursing officers, rather than the taxing powers of boards of selectmen. It held that the legislature had created a mechanism in CGS Sec. 12-123 by which accruing town bills could be met absent an approved budget, even if they exceeded a prior year's budgetary line item. This would imply that if expenses increased and the grand list remained constant, a board of selectmen could increase the mill rate even though the town meeting had not approved the budget.

While there have been many changes to the property tax law since 1987, e.g., changes in property tax exemptions, none of them have affected the process for setting the mill rate. There has been no change to CGS Sec. 12-123 in more that 50 years.

KM:ro

Location:

MUNICIPAL FINANCE; TAXES - PROPERTY;

Scope:

Connecticut laws/regulations; Court Cases;



OLR RESEARCH REPORT

August 10, 2012

2012-R-0366

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