

TMCCP Presents

Legislative Update Seminar

August 17-18, 2017, San Marcos, Texas

HANDOUT FOR

“Budgets & Taxes”

with speaker Leela Fireside

Assistant City Attorney, City of Austin Law Department

TEXAS MUNICIPAL CLERKS CERTIFICATION PROGRAM

1155 Union Circle #305067, Denton, Texas 76203-5017

940-565-3488 | municlerks@unt.edu | municlerks.unt.edu

Budget and Property Tax Rate Adoption

August 2017 Training

Leela R. Fireside, Assistant City Attorney, Austin Texas.
(contact info: leela.fireside@austintexas.gov
or (512) 974-2163)



Main Statutes

- There are 3 statutes that set out the mechanics of adopting a city's tax rate and budget.
- These are:
 - Texas Property Tax Code Chapter 26 (property tax);
 - Texas Local Government Code Chapter 102 (budget).
 - And Texas Local Government Code 140 (Truth in Taxation Notice).



Timing is Everything

Tax Rate process:

Notices
Hearings
Adoption

Budget process:

Notice
Hearing
Adoption

- Practice tip: TML web site has a combined schedule:
- <http://www.tml.org/p/2016%20Tax%20and%20Budget%20Deadlines.pdf>



Small city resources

- Worksheet for small cities
- <http://www.texasmunicipallawyers.com/files/forms/Budget-Deadlines-Worksheet-Simplified.pdf>
- Small city tax notice:
- <https://www.comptroller.texas.gov/forms/50-757.pdf>
- 2017 schedule:
 - <https://www.tml.org/p/2017%20Budget%20and%20Tax%20Deadlines.pdf>



Truth-in-Taxation



- Legislature does not set property tax rates
BUT they do make it hard to go up too much.
- How much is “too much?”



Effective Rate

- Effective Rate = the property tax rate that would give the city the same amount of money that it had for the past fiscal year plus the funds from taxing new value on the tax rolls.



Rollback Rate

- The rollback rate is about 8% higher than the *operating effective rate* + mandated or required taxes to pay for general obligation bonds (both principal and interest). Can be lower than current rate if total taxable value goes up more than 8%.
- Keep an eye on special session for changes.



What happens if City goes above Rollback Rate?

- Registered voters can petition to hold an election to “roll back” the tax rate.
- 7% if your O&M rate brings in more than \$5 million, or 10% if you bring in less than \$5 million for O&M.

<https://comptroller.texas.gov/tax-property-tax/truth-in-taxation/rollback-elections.php>



Truth In Taxation

- Comptroller’s guide to the process found at: <https://www.comptroller.texas.gov/taxes/property-tax/truth-in-taxation/index.php>
- The Comptroller has also added “videos” – (narrated power point presentations).
 - <https://comptroller.texas.gov/taxes/property-tax/video/>



On Your Mark, Get Set, Go



The tax process starts with Certifying the Rolls:

- The chief appraiser, or appraisers, for the taxing district certifying the tax rolls.
- Should be done by July 25th. The rest of the notice and hearing dates for the Tax Code flow from this date.





- What happens if the rolls aren't certified in time?
- By law, a certain amount of the roll must not be "under protest" before it can be certified.
- If the certification happens late, all dates recalculate using the 30 day timeline in LGC 140.010.
- 140.010 may not apply next year – watch special session



Notice for Taxes



- City publishes the proposed, preceding, rollback, and effective rates.
- If the City is going to need a property tax rate higher than the effective rate, then City must adopt that rate to trigger rest of notice and hearing requirements.
- If the City is not going to need a tax rate increase, talk with TML for next steps.



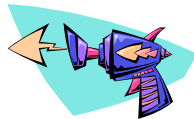
LGC 140.010

- Notice requirements.
 - 1 newspaper notice – much simpler than before.
 - Comptroller's web site has new forms.
 - Link to the Comptroller's web site with new info:
 - <https://www.comptroller.texas.gov/forms/50-819.pdf>
 - Local Tax Assessor contact info in ad.
 - Must state the purpose for an increase (LGC 140.010(e)).
 - NOTE – special session may change this



Triggering the Tax Rate Adoption Process

- Take An Action
- Austin Adopts a Resolution
- Includes:
 - Rate
 - Date of Final Hearing to Adopt
 - Also, 2nd Posted Item: dates and times of 2 hearings.
 - Script (not posted, but given to Mayor)



Special Requirements for Action



- The vote must be a “roll call” vote to adopt the maximum tax rate that the City will consider.
- (Practice tip – council can adopt the maximum rate that will not trigger a rollback election because they can go down from that for the final vote, but not up).



Notices of the Tax Hearings



- Notice must be published by September 1st or 30 days after receive certified rolls.
- The notice has to be a certain size and the contents are specified in LGC 140.010.



More Requirements for the Notice

- Can publish in the **newspaper** where the legal notices and classified advertisements appear.
- If City operates a **Web Site**, must post the notice from the date 1st published until the tax rate is adopted.
- If City has free access to a **TV channel**, the channel should carry a 60 second notice of the public hearing at least 5 times a day between the hours of 7 a.m. and 9 p.m. for a set number of days.
- Make sure to update your notices to reflect changes in the laws – each time the legislature meets, they tend to tweak these requirements.



2 Hearings + 1 Meeting

- On a **weekday**.
- In certain buildings **open to the public**.
- The **second hearing** must be at least **3 days after** the **first** hearing.
- After both hearings are completed, council **must vote** on the tax increase **at a separate meeting**.
- **Vote - at least 3 days after the second hearing, but no later than 14 days** after that hearing.
- Must adopt the tax rate before the later of September 30, or the 60th day after the date the certified appraisal roll is received.



Before the later....



- The rate must be adopted no later than September 29th in case the “before” modifies September 30th.
- If you’ve received your certified appraisal role timely, you adopt your tax rate by September 29th (or earlier if required by your charter).



How To Adopt the Rate

- The ordinance or resolution used to adopt the tax rate must contain specific statements in type that is **larger** than the rest of the document’s type-size.
- Make sure you’ve updated your ordinances with the language in Tax Code 26.05.

adopt




Vote





- A vote to adopt the tax rate must be separate from the vote to adopt the budget, and the vote to ratify the increase in the tax rate. = 3rd of 3 votes!
- Must be a “record vote” - each person’s vote recorded. Follow the words of the statute.
- Must have 60% of governing body vote in favor of the tax increase.






More Notice %

- **Notice** of the final rate must be put on the **home page** of any internet web site operated by the City.
- **Note:** the percent in this notice and the percent in the statement to adopt the tax rate that must be said from the dais are calculated differently so the numbers won't match.

- If city fails to follow the Truth In Taxation process....
- A taxpayer can sue to enjoin the city from adopting its tax rate *if* the taxing entity has not computed the tax rate, or followed the publication requirements of the statute,
- **and** the failure to comply was not: "in good faith." *May change for next year


$2+2=5$



Notice and Vote Requirements for Budget

- Budget must also be adopted with a "record vote."
- Requirements for the wording of the front page of the budget *after* the budget is adopted are in Chapter 102 of the Local Government Code).

You Need A Budget.



Adopting the Budget

- Budget officer is the person responsible for preparing the budget.
- Who is that? Local Gov't Code 102.001 defines – and Tex. Atty. Gen'l Op. JC-0544 (2002) describes who may be the budget officer for each type of city.



Don't Forget to Check Your Charter



- Austin's City Charter sets out who prepares the budget, defines the contents (including a copy of the draft ordinances to adopt the budget), and other parts of the process.
- To the extent your Charter is not inconsistent with State Law, you may have applicable Charter requirements to follow.



City Clerk Responsibility

The budget officer must file the proposed budget with the city clerk before the 30th day (read, at least 31 days) before the governing body levies (adopts) the tax rate.

Also, the person taking minutes of the meetings, must pay special attention to the record votes required by the various statutes.



Cover Page Language

- If the budget will require more property tax revenue than the previous year's budget, it must contain a cover page with an 18 point or larger type notice with specific words.
- Austin puts this notice on the inside of the cover page.
- **Requirements for final budget cover page – see LGC 102.007**



Budget Must Be Available to the Public

- The proposed budget must be available for inspection by any person.
- And, if the city maintains a web site, the budget must be posted on that web site.
- Austin's budget can be found at:
- https://austintexas.gov/financeonline/finance/financial_docs.cfm?ws=1&pg=1



Notice of Hearing/Adoption



- City can hold hearing and adopt budget on one day.
- The hearing must be open to the public and any person may attend and participate.



Hearing Requirements

- Must we adopt the budget on the same day as the hearing?
- Not all cities do. Some, such as Austin, interpret the requirement to take action on the budget at the end of the hearing to include action to close public hearing and set adoption date.
- Hearing must be before the tax levy – so, make sure that this order is followed.



The Vote(s)

- Adoption of the *budget* must be a separate vote that council takes *before* they adopt *the tax rate*. (1st vote).
- If the city is adopting a budget that requires more property tax revenue than last year, council must *also* vote separately to *ratify the tax increase* reflected in the budget. (2nd vote).
- Practice Tip – a script helps.



Timing of Budget Adoption

- The hearing date should be no later than September 28th (assuming you've received your tax levy timely).
- Why?
- The budget must be adopted before the tax rate.
- The tax rate must be adopted before September 30th - that is, September 29th.
- Therefore, the budget adoption must be before September 29th.



Notice After Budget Adopted



The city must file the budget with the city clerk, and if the city has a web site, the budget must be posted on that web site.

The cover page must be included with the budget posting per LGC 102.007.



Exemptions



- Tax Code Chapter 11 has exemptions from property taxes.
- Adopt as stated in the Tax Code – some exemptions have specific dates – e.g., homestead by July 1.
- Examples: Historic, homestead, veterans, and disabled. *There are some new ones from this session.*



Property Taxes in Disaster Areas

- Tax Code 23.02 – Reappraisal of Property in Disaster Areas.
 - 1) Governor must declare a disaster; and
 - 2) City makes request of the Appraisal District (which can charge for the service); then
 - 3) City tax rate applied to reappraised value from date disaster officially declared until end of that tax year.
 - May need a budget amendment if decrease in revenue is large enough to impact budget and you do this mid-year.



My way of staying organized



Handy Info



- TML Revenue Manual.
- Hotel Occupancy Tax statute and AG opinions.
- Info on legal framework for municipal fees.
- Law re: on what can city spend public funds.



Legislative update Summary – Regular Session

- Regular Session - No bills were passed that altered the budget and tax rate adoption process.



Property Tax Exemptions

- Veterans/armed services:
 - HB 150 and HJR 21 – exempts homestead donated to disabled veterans if meet certain requirements. (eff. 1/1/18 if voters approve in November);
 - HB 217 – disabled veterans can defer or abate property tax collections. (eff 9/1/2017)
 - HB 628 – extends deadline for late homestead applications – 2yrs for most, 5 yrs for disabled veteran. (eff 9/1/17)
 - HB 777 – land owned by deployed members of armed services can remain open space even if not used as such while member deployed. (eff. 9/1/17)
 - HB 1101 – disabled veterans don't have to file new applications to determine qualification if totally disabled under federal law. (eff 1/1/18)



Property Tax – Spouse of Deceased First Responder

- SB 15 and SJR 1 – If a first responder dies in the line of duty, the surviving spouse is entitled to property tax exemption as long as certain requirements are met. (eff. 1/1/18 if voters approve in November 2017).



Ag & open space land.

- HB 3198 – agricultural land doesn't lose exemption if a oil and gas lease operator begins conducting oil and gas operations on part of the land, and the rest of the land would otherwise qualify for exemption. (eff. 9/1/17)
- SB 594 – Rules relating to appraising qualified open space and timber land must be approved by Comptroller/reviewed by Ag Dept.



Property Tax Appraisals/protests

- SB 731 – governing binding arbitration of an appraisal review board order. (eff. 9/1/17)
- SB 945 – corrections to appraisal role for erroneous denial or cancellation of a tax exemption for over 65 or person with disability, qualified surviving spouse, or veteran with disability. (eff. immediately)
- HB 2989 – refunds required for corrected appraisals. (eff. immediately.)
- SB 1286 – requirements relating to hearings before appraisal review board. (eff. 9/1/17)
- SB 1767 – timing of property owner presenting evidence in protest hearings. (eff. 1/1/18)



Property Tax deadlines

- HB 2228 – Freeport property tax exemptions can be requested up to June 15. Rendition of Freeport property must be delivered to appraiser by April 1 (unless appraiser extends deadline). (eff. 1/1/18)
- SB 1047 – person may pay taxes in 4 equal installments without penalty or interest if the 1st installment is made before due date. (eff. 1/1/18).



Misc. New Exemptions

- SB 1133 – navigation district property is exempt from taxation. (eff. 9/1/17)
- SB 1345 – property owned by a charity if that charity provides tax return prep and other financial services without regard to ability of people to pay for those services. (eff. 1/1/18).



Sales Tax

- HB 3046 – cities can use combined proposition to let citizens vote on lowering types of sales taxes and raising other types. (eff. Immediately)
- HB 4054 exempts certain baked items from sales tax (eff. 9/1/17)
- SB 745 exempts certain temp employee services from sales taxes.
- SB 1083 – exempts certain CPA services. (eff. 1/1/18).



Special Session

- Special Session - Many bills that can impact the budget and tax rate adoption process:
 - Key features of various bills include:
 - limits on how fast appraised values rise;
 - lowering the 8% to as low as 4% - maybe 6%.
 - requiring an election if a city exceeds the rollback rate,
 - adding more notice requirements,
 - requiring Comptroller forms for calculations, and
 - deleting the good faith defense.



Questions?