

# Budget and Property Tax Rate Adoption

## February 2013 Training

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## Main Statutes

- There are two main 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).



## Timing is Everything

- Budget process:
  - Notice
  - Hearing
  - Adoption
- Tax Adoption process:
  - Notices
  - Hearings
  - Adoption
  - **Practice tip:** TML web site has only combined schedule:  
[http://www.tml.org/legal\\_topics/legal\\_finance.asp](http://www.tml.org/legal_topics/legal_finance.asp)



## Small city resources

- Worksheet for small cities
- <http://texasmunicipallawyers.com/pdf/BudgetDeadlinesWorksheetSimplified.pdf>
- Small city tax notice
- <http://www.window.state.tx.us/taxinfo/proptax/tnt10/appeand12.html>
- 2011 schedule for small cities
- [http://www.tml.org/legal\\_pdf/2011deadlines\\_smallcity.pdf](http://www.tml.org/legal_pdf/2011deadlines_smallcity.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?”



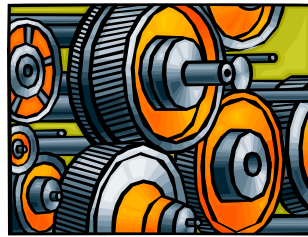
## Effective Rate

- Effective Rate = is the property tax rate that would give the city the same amount of money that it had for the past fiscal year.



## Rollback Rate

- The rollback rate is about 8% higher than the operating effective rate + mandated or required taxes to pay for general obligations bonds (both principal and interest).



## What happens if City goes above Rollback Rate?

- Citizens can petition to hold an election to “roll back” the tax rate.



## Truth In Taxation

- Comptroller's Guide to the Process found at:

<http://www.window.state.tx.us/taxinfo/proptax/tnt10/index.html>



## 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 the dates are recalculated using the 60 day time period set out in Tax Code 26.05



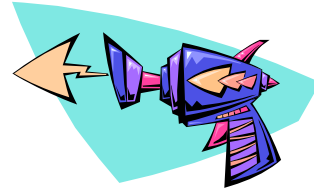
## Notice for Taxes

- City or its representative publishes the 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.



## Triggering the Tax Rate Adoption Process

- Take An Action
- Austin Adopts a Resolution
- Includes:
  - Rate
  - Date of Final Hearing to Adopt
  - Also, 2<sup>nd</sup> 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

- The notices must be published at least 7 days before each hearing.
- The notice has to be a certain size and the contents are specified by the statute.



## More Requirements for the Notice

- Cannot 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 2nd public hearing is concluded.
- 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.





## Hearings

- 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 roll timely, you adopt your tax rate by September 29th.



## 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.



## Vote



- A vote to adopt the tax rate must be separate from the vote to adopt the budget.
- The vote has to be a “record vote” with each person's vote recorded. The motion must follow the exact words of the statute.
- Practice Tip = use a script.



## More Notice

Notice of the final rate must be put on the home page of any internet web site operated by the City.



## Consequences...

- 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.”



## 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.



## 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.



## 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:
- <http://www.ci.austin.tx.us/budget/>



## 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

- Adoption of the budget must be a separate vote that council takes *before* they adopt *the tax rate*.
- 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.
- 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 29<sup>th</sup>.
- 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.





Questions?

