

Adopting a City Budget and
Property Tax Rate
Training
Austin Texas
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(Note: this paper solely reflects the opinions of the author and is not an official statement of the City of Austin, or the Austin City Attorney).

Introduction

A little over five years ago, I had the good fortune to start working at the City of Austin. Having been a lawyer filing civil lawsuits against polluters and other ne'er do wells for many years, I have the pleasure of a job in which I learn new things every day. Helping the City adopt its budget and its property tax rate each year is part of the annual adventure.

Adopting the budget and the tax rate are two of the most important processes your city will go through each year. The legislature has provided a process for each action that is designed to give citizens notice of each action and of the impact of each action. The process also includes an opportunity for people to speak to city council about the budget and the tax rate. I hope this paper will guide you in helping your city complete each of these processes legally.

When I refer to “adopting the budget” be mindful that there may be many pieces to “the budget.” For example, our city holds rate hearings for utilities such as solid waste services, drainage, water and waste water, and electric (if increases to the rates are needed). We also adopt ordinances relating to EMS, fire, and police positions. We have some local government corporations that adopt their budgets at the same time too so notice of their board meetings must be posted and scheduled, and resolutions prepared to adopt those budgets. We adopt ordinances and resolutions relating to financing for various parts of the budget as well (bonds, certificates of obligation, and contractual obligations). We adopt the operating budget separately from the capital budget. Finally, since we have a myriad of fees that we charge, unless a statute requires the fee to be in a certain place in the city code, we adopt a “fee ordinance” that contains all the city fees – including any proposed changes to those fees.

When I refer to “adopting the property tax rate” this also includes adoption of any property tax exemptions authorized by state law that the city has elected to offer (such as over 65, homestead, disabled, historic property). Make sure that you are clear on the requirements for adopting these exemptions, both under state law, and under your charter and that the adoption is done in compliance with these requirements. I use the phrase

“property tax” instead of “ad valorem tax” because I prefer trying to keep things in as plain English as I can.

When I refer to “hearings” these are mostly hearings that are public open meetings at which citizens are specifically allowed to speak as set out in the statutes. After we have had these hearings, with ample public comment, we close the public comment portion of the hearings, continue the adoption of the actual budget and property tax rate portion to a different day, and conduct the adoption in a properly noticed (in accordance with the requirements of the Tax Code, the LGC, and the Open Meetings Act) public hearing at which no citizens speak.

I. BASIC PROCESS OF BUDGET AND TAX RATE ADOPTION

The 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 and Texas Local Government Code Chapter 102. These Codes are referred to in this paper as “Tax Code” and “LGC.” These Codes share two main features. Each has specific notice requirements and each has specific hearing requirements. Conveniently, or diabolically, they don’t match. They are also different for small and large cities. And, now, thanks to the past legislative session you must also look at Chapter 140 of the LGC.

Practice tip: refer to schedule on TML web site http://www.tml.org/legal_topics/legal_finance.asp for a combined schedule of dates for adopting both the budget and the property tax rate. TML has one schedule for large cities and one for small cities. A large city levies over \$500,000 in total property taxes or has a tax rate of over fifty cents per \$100 valuation. (Tax Code 26.052). The Bojorquez Law Firm also has worksheets for budget scheduling: for example, <http://texasmunicipallawyers.com/pdf/BudgetDeadlinesWorksheetSimplified.pdf> is for small cities that levy under \$500,000 in taxes, or large cities if they are not raising their taxes.

If you use the schedule from the State Comptroller's Truth in Taxation information <http://www.window.state.tx.us/taxinfo/proptax/tnt/> you only get half the picture. That schedule only contains the Tax Code deadlines, not the budget information.

New for this year! The Comptroller has online training. It is a series of narrated power point presentations.

http://www.window.state.tx.us/taxinfo/proptax/video/2013_TNT_Videos/OTSD_BasicsOverview/player.html

Tax Rate/Truth-in-Taxation

The State legislature does not set the city's property, or "ad valorem" tax rate. However, they have hemmed in the amount that a city can raise its property taxes before leaving the city open to a citizen-initiated election on the rate. These elections are called "rollback" elections because the vote will be whether to "rollback" the rate below the higher rate the city has adopted.

Effective and Roll-back Rates:

Generally speaking, there are two rates that you will hear discussed in reference to the property tax rate. The "effective rate" and the "rollback rate." Usually, the 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. The rollback rate is about 8% higher than the operating effective rate plus mandated or required taxes to pay for general obligations bonds (both principal and interest). If the city goes above that rate, this is what triggers the right of the citizens to initiate a rollback election. When I say 8% higher – this means it is 8% higher on the operating and maintenance part of the equation – the debt portion always is what it needs to be to pay back the City's debt. The statute contains formulae for calculating these rates. Tax Code 26.04(c). The calculations are also discussed in the Texas Comptroller's Truth-in-Taxation guide. The training on the Comptroller's web site walks through the calculations.

Certifying the Rolls:

The calculations all flow from the chief appraiser, or appraisers, for the taxing district certifying the tax rolls. This is supposed to be completed by July 25th. The rest of the notice and hearing dates for the Tax Code flow from this date.

Cautionary Note:

What if the appraiser does not certify the rolls timely? This has happened to Austin and the surrounding cities. The appraiser cannot certify the rolls until more than a certain percent of the total valuation is certified for the County. In Travis County, this percentage is 90% because Travis County has over one million in population. Valuation in protest must continue to be resolved until the required percentage is reached. Tax Code 41.12. In our case, the appraiser certified the rolls in error, this was caught by tax experts in the city and Travis County, and so the rolls were de-certified and re-certified later. The result of failure to timely receive the certified rolls is that all the dates for your notices and hearings for adopting the property tax rate must be recalculated using the 60 day adoption date set out in Tax Code 26.05.

If the appraisal rolls are certified timely, then the next step is for the city or its representative to publish the rollback and effective rates. This must be done no later than by August 7th or as soon thereafter as practicable. Tax Code 26.04(e). In our area, this publication is done by the Travis County Tax Assessor/Collector. The form for the notice is established by the State Comptroller. Tax Code 26.04(e).

Triggering the Tax Rate Increase Process:

The Tax Code applies special notice requirements “[i]f the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceed the amount of taxes imposed for that purpose the preceding year.” Tax Code 25.05(b). The Tax Code also applies special notice and hearing requirements if the governing body adopts a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate. Tax Code 26.05(d). For purposes of this paper, we assume that all of these requirements will be triggered.

The mechanism Austin uses to set the process in motion is an item on council's agenda for a resolution to adopt a proposed maximum tax rate that the city will consider and set the date that council will consider adoption of the actual tax rate.

In the resolution adopting the proposed maximum property tax rate, Austin adopts the highest rate that keeps us below the trigger for citizens to take action to roll back the rate. Council then can consider various budget scenarios in the upcoming months that may lower the rate needed to generate the revenue for the upcoming fiscal year's budget, but they know the cap and the cap is public. A sample of this resolution is at <http://www.cityofaustin.org/edims/document.cfm?id=141378>

When we adopt this resolution, we make clear in the agenda notice, and in statements made by the Mayor at the meeting adopting this resolution, that the council may ultimately adopt a property tax rate that is lower than the maximum set out in the notice. We adopt the proposed property tax rate using a roll call vote where each person's vote is recorded after the clerk reads their name. This information is then included in the Notice of Public Hearing discussed below. Including this information is required by Tax Code 26.06(b).

More Notices and Hearings:

If your city adopted a proposed property tax rate that is higher than the lower of the effective rate or the roll-back rate, the city must publish more notices, hold two specific hearings, and adopt the rate using specific statements set out in the Tax Code. To make sure that each action is taken in compliance with the applicable legal requirements, Austin uses a simple script for each of the council actions.

Notices: The taxing unit must publish Notices for each of the public hearings on the tax increase. Tax Code 26.06(b). 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. Tax Code 26.06(b).

Practice Tip:

The notice cannot be published in the part of the newspaper where the legal notices and classified advertisements appear. If the taxing unit

operates a web site, the notice must also be posted on that web site from the date the notice is first published until the second public hearing is concluded. Tax Code 26.06(c). If the taxing unit has free access to a television channel, the taxing unit also has to request that the channel 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. The statute states extra requirements for the internet and television notices in Tax Code 26.065. A taxpayer cannot get an injunction to restrain collection of taxes if the taxing unit has, in good faith, attempted to comply with Tax Code 26.065. Tax Code 26.065(f).

Hearings: Each hearing must be held on a weekday that is not a public holiday. Each hearing must be in certain buildings that are open to the public. Tax Code 26.06(a). The second hearing must be at least 3 days after the first hearing. *Id.*

After both these hearings are completed, the governing body of the taxing unit has to vote on the tax increase. This meeting must be at least 3 days after the second hearing, but no later than 14 days after that hearing. Tax Code 26.06(e). The governing body must adopt the tax rate before the later of September 30, or the 60th day after the date the certified appraisal roll is received. Tax Code 26.05(a).

Practice Tip:

Since the Tax Code uses the “phrase” before the later of September 30th ...” one might think this refers to whichever is later, September 30th or the 60th day after the date the certified roll is received. However, in an abundance of caution, both the Truth in Taxation guide and the TML schedule state that the rate must be adopted no later than September 29th in case the “before” modifies September 30th. So, if you’ve received your certified appraisal role timely, you adopt your tax rate by September 29th.

Contents of the adopting document: 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. Tax Code 26.05(b)(1).

Vote: A vote to adopt the tax rate must be separate from the vote to adopt the budget. Tax Code 26.05(b). The vote has to be a “record vote” with each person’s vote recorded. The motion must follow the exact words of the statute. The word “separate” is not defined to be on a separate day

from the budget adoption, so if the dates fall in line, one can simply set these adoptions as separate items on the agenda for one meeting, and take each one up separately. The vote on the budget (and the vote to ratify the property tax increase contained in the budget) must be done before the vote to adopt the property tax rate. LGC 102.006

More Notice: Before imposing the property tax rate for the year, notice of the final rate must be put on the home page of any internet web site operated by the taxing unit. The wording for this notice is set out in Tax Coe 26.05(b)(2). There is not a time frame for how long this notice must be kept on the web site. Austin normally leaves this notice up for several weeks.

Practice Tip:

Failure to follow the exact mechanism set out in the statute means that the taxing entity has to use the lower of the effective tax rate, or the tax rate adopted the prior year. Tax Code 26.05(e). Even this rate must be “ratified” by the taxing entity within 5 days the tax rate is established using the same script and notice requirements set out in Tax Code 26.05(b).

Suit to Enjoin Adoption of Tax Rate:

The Tax Code contains a specific provision authorizing a taxpayer to bring a suit to enjoin the taxing entity 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.” Tax Code 26.04(g).

One court has held that this suit must be filed before the tax rate is actually adopted. *Hairgrove v. City of Pasadena*, 80 S.W. 3d 703 (Tex. App. Houston [1st Dist] 2002, pet. denied).

A case from El Paso defines good faith under this Tax Code provision. *El Paso County Hosp. Dist. v. Gilbert*, 64 S.W. 3d 200 (App. 8 Dist. 2001, reh’g overruled, review denied 2002). In *Gilbert*, the court noted that the Tax Code does not contain a definition of “good faith.” *Gilbert at* 204. The court adopted a formulation as follows: “. . . an assessor or designated officer or employee of a taxing unit acts in good faith when he

subjectively believes that he has complied with the computation or publication requirements of Section 26.04, if that belief is reasonable in light of existing law.” *Gilbert at 205*. The El Paso court concluded that, since the taxing entities involved in this suit had been enjoined before because they failed to include certain funds in their calculations completed pursuant to the “truth in taxation” requirements, their belief that they could continue to exclude these funds was not reasonable and the taxing entities therefore acted in bad faith. *Id.*

Practice Tip:

I check the TML schedule, and count the days on calendars with the people in our office who prepare the notices and get the hearings set up for council. I usually count days in November at the latest, and check the TML calendar as soon as it comes out. I also have found a blank calendar on the internet and I put dates into that and save that for my budget and tax binder. It is very important to count these days and figure out your tax and budget schedule before your council adopts its meeting schedule for the year. You do not want to find out that you have to call special meetings, or have council undo its vacation schedule because of budget and tax rate adoption requirements.

➤ First Legislative Update – For Next Year’s Tax Rate Adoption: Next Year’s Truth In Taxation Process:

S.B. 1510 (Hinojosa/Hilderbran) – Truth-in-Taxation:

This bill amends *Chapter 140 of the Local Government Code* (not a place you’d normally look to find budget and tax rate adoption requirements) and:

(1) provides a new and simplified method of publishing notice of property tax rates to replace the method in current law, except that a city that is considered to have a low tax levy (total property tax rate of 50 cents per \$100 or less and total tax levy of less than \$500,000) may continue to provide notice in the current manner provided in the Tax Code;

(2) requires that the notice to be provided by a city that does not adopt a property tax rate that exceeds the lower of the effective tax rate or the rollback rate contain specific language relating to:

- (a) the proposed rate, preceding year’s rate, and effective tax rate;
- (b) the amount of taxes owed by each individual taxpayer; and
- (c) contact information for the tax assessor-collector;

(3) requires that the notice to be provided by a city that adopts a property tax rate that exceeds the lower of the effective tax rate or the rollback rate contain specific language relating to:

(a) the proposed rate, preceding tax year's rate, effective tax rate, and rollback rate;

(b) the amount of taxes owed by each individual taxpayer;

(c) contact information for the tax assessor-collector; and

(d) notice of two public hearings on the tax rate;

(4) provides that a city must either:

(a) publish notice under (2) or (3), above, not later than September 1 in a newspaper having general circulation in the county in which the city is located that may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper with a headline that must be in 24-point or larger type; or

(b) mail the notice to each property owner in the city;

(5) requires a city to post notice under (2) or (3), above, on the city's website, if applicable, beginning not later than September 1 and continuing until the city adopts a tax rate; and

(6) requires a city that to provide certain tax rate information required by the Tax Code upon request.

(Effective January 1, 2014.)

Adopting the Budget

Texas Local Government Code Chapter 102 contains the requirements for adopting and amending a municipal budget for home rule cities. Chapter 101 has the requirements for Type A General Law municipalities. There are also provisions in Chapter 101 that set out how to define a fiscal year for a plethora of municipalities. The budget adoption description below is for a home rule municipality.

➤ Second Legislative Update:

New For Budget and Tax Process:

S.B. 656 (Paxton/Button) – Budget and Tax Rate Adoption:

This bill amends 102 of the Local Government Code and it:

(1) requires the city council's vote to adopt a budget to be a record vote;

(2) requires an adopted budget to contain a cover page that includes:

- (a) a specific statement on the whether the budget raises more, less, or the same amount of property tax revenue compared to the previous year's budget;
 - (b) the record vote of each member of the governing body by name voting on the adoption of the budget;
 - (c) the city property tax rates for the preceding and current fiscal years, including the adopted rate, effective tax rate, effective maintenance and operations tax rate, rollback tax rate, and debt rate; and
 - (d) the total amount of city debt obligations secured by property taxes;
- (3) requires a city with a website to post the cover page in (2), above, on the city's website, and keep the record vote information on the city's website for at least one year after the budget is adopted; and
- (4) requires the city council to amend the cover page to include the property tax rate information for the current fiscal year if the rates are not included on the cover page when the budget is filed with the city secretary.
- (Effective September 1, 2013.)*

Know Thy Budget Officer: The Mayor is the budget officer for the governing body of a city, unless the city has a city-manager form of government, in which case the city-manager is the budget officer. LGC 102.001. *(See also, Tex. Atty. Gen'l Op. JC-0544 (2002) for a description of who may be the budget officer for each type of city).*

Budget Officer Responsibilities: The budget officer is responsible for preparing the budget. LGC 102.002. The contents are set out in the statute. LGC 102.003. However, be mindful that your city's Charter may contain additional requirements. Austin's charter, for example, contains a requirement that the ordinances that will be used to adopt the budget be included in the budget. Since we do not know the numbers that go into those ordinances at the time we adopt the budget, we use sample ordinances that are filled in after council adopts the budget and tax rate.

Practice Tip:

We at times get into discussions about who has responsibility for which part of the budget, the council or the city manager. The line between big-picture policy and the role of the entity adopting the budget versus the day-to-day policy and the role of the person making sure the big-picture policies are carried out in a fiscally responsible manner can be difficult to draw. To the extent that your city has guidance in its Charter or in prior

research provided by your city attorney's office, it is helpful to keep this handy.

Filing with City Clerk and Notice:

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. LGC 102.005(a).

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. LGC 102.005(b). Austin puts this notice on the inside of the cover page.

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. LGC 102.005(c).

Notices and Hearing for Budget Adoption:

The provisions in LGC 102 relating to the budget adoption hearing and the notice for the hearing are challenging to read since the requirements for each piece of this process are interspersed between multiple sections of the code provisions.

The notice requirements are:

A) Date: The notice must be published no earlier than the 30th day nor later than the 10th day before the hearing. The hearing date for the hearing must be set at least 16 days after the date the budget is filed with the city clerk.

B) Contents: The hearing notice must be published in at least one newspaper of general circulation in the county where the city is located. The notice has to include the statement that must be on the cover of the budget. The type size for this part of the notice has to be the same as the type size for the rest of the notice.

The hearing requirements are:

A) One public hearing: Chapter 102 of the LGC only requires one hearing to adopt the budget. The hearing must be open to the public and any person may attend and participate. LGC 102.006(a). At the conclusion of the public hearing the municipality shall take action on the proposed budget. LGC 102.007(a).

A number of cities do not adopt the budget on the same day that they hear public comment. TML notes on its budget calendar as follows: “**September 28** – last day for **hearing on budget**. LGC § 102.006(b) (hearing shall be before the date of the tax levy). Note, the hearing must be after the 15th day after the proposed budget is filed with the clerk. Also, must take some sort of **action on the budget** at conclusion of hearing. LGC 102.007. This action could be adoption of the budget, or else a vote to postpone the final budget vote. It is generally agreed that the city need not adopt the budget at the end of the hearing.” Austin makes sure that the budget is adopted before the tax rate in order of the items on its agenda, but it does not adopt the budget the day before adopting the property tax rate (although, if the property tax rolls are certified timely, we do all of our actions at least a few weeks before the end of September).

B) Voting requirements: Adoption of the budget must be done as a separate vote that council takes before they adopt the tax rate. LGC 102.006(b). 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. LGC 102.007(c). NEW starting this year – the vote must be a “record vote” – e.g., the vote of each council member must be recorded by the City Clerk or Secretary.

Practice Tip:

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 - a date which is calculated by the Comptroller and TML as being September 29th (see Tax Code 26.05). Therefore, the budget adoption must be before September 29th.

Practice Tip:

If your city wants to hear from citizens about the budget on more than one date, and, perhaps, would like to vote on the budget on a date separate from the dates of citizen input, you may decide to begin the hearing on the budget on one or more days, close the public comment portion of the hearing, but continue the hearing and take action on a different day. Be mindful that your city charter may have provisions that impact your process. LGC 102.011 states that charter provisions can control, *if* the city is also complying with the notice and property tax provisions of these LGC sections.

Requirements after budget is 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. LGC 102.008. See also new cover page requirements noted in the legislative update above.

Be mindful that if your city budget is adopted by ordinance, it can only be amended by an action of equal dignity – that is, another ordinance. Attempts to amend the budget any other way are “without effect.” Tex. Atty. Gen’l Op. GA-0431(2006) at 2.

Property Tax Exemptions:

Property tax exemptions can be found in Chapter 11 of the Tax Code. Examples of exemptions include: homestead, over 65, partial and full disability, veterans, and historic properties. Some of these are mandatory, and some are optional. Cities can increase some of the exemptions above a minimum. You can either adopt these exemptions when you adopt the ordinance with the property tax rate in it, or you can adopt them earlier in the year. We have found it useful to confer with the Appraisal District on the timing so that they know what exemptions the City has granted and they can include that information in the estimated property tax notices they send out.

Adjusting Property Taxes in the Event of a Disaster:

Tax Code 23.02 sets out the process for adjusting property taxes in the event of a disaster. The property must be declared a disaster by the Governor. The local taxing entity (e.g. city), must request the Appraisal

District reappraise the property. If there is a fee for the reappraisal, the local taxing entity is responsible for paying that fee. After reappraisal, the tax rate for the year in which the disaster occurred is applied to the property and the taxes are reduced from the disaster date to the end of that year.

If your city does this, be mindful that the loss in taxes may result in your city needing to amend the city budget to reflect that reduction in revenue. Amending the budget must be done using the same type of action as you used for adopting the budget; that is, use an ordinance to amend if you used an ordinance to adopt.

Conclusion

Adopting the property tax rate and the budget are two of the most important actions a city must take. The requirements for proper adoption are complex and detailed. Make sure you and the staff people working on the budget and property tax rate calculations are on the same page as far as each piece of the schedule and the notices. Also make sure that you are clear regarding who is responsible for getting the notices published and posted. If you are new to the city, look through prior year's agenda for all the notices and hearings that occur during this time period. And, do not hesitate to contact TML – they are very helpful in thinking through the simplest pieces of the process and the most complex.

2013 Legislative Update

2013 Budget and Tax Rate Process:

S.B. 656 (Paxton/Button) – Budget and Tax Rate Adoption: this bill amends Chapter 102 of the Local Government Code and it:

- (1) requires the city council's vote to adopt a budget to be a record vote;
- (2) requires an adopted budget to contain a cover page that includes:
 - (a) a specific statement on the whether the budget raises more, less, or the same amount of property tax revenue compared to the previous year's budget;
 - (b) the record vote of each member of the governing body by name voting on the adoption of the budget;
 - (c) the city property tax rates for the preceding and current fiscal years, including the adopted rate, effective tax rate, effective maintenance and operations tax rate, rollback tax rate, and debt rate; and

(d) the total amount of city debt obligations secured by property taxes;
(3) requires a city with a website to post the cover page in (2), above, on the city's website, and keep the record vote information on the city's website for at least one year after the budget is adopted; and

(4) requires the city council to amend the cover page to include the property tax rate information for the current fiscal year if the rates are not included on the cover page when the budget is filed with the city secretary.

(Effective September 1, 2013.)

2014 Truth In Taxation Process:

S.B. 1510 (Hinojosa/Hilderbran) – Truth-in-Taxation:

This bill amends Chapter 140 of the Local Government Code (not a place you'd normally look to find budget and tax rate adoption requirements) and:

(1) provides a new and simplified method of publishing notice of property tax rates to replace the method in current law, except that a city that is considered to have a low tax levy (total property tax rate of 50 cents per \$100 or less and total tax levy of less than \$500,000) may continue to provide notice in the current manner provided in the Tax Code;

(2) requires that the notice to be provided by a city that does not adopt a property tax rate that exceeds the lower of the effective tax rate or the rollback rate contain specific language relating to:

- (a) the proposed rate, preceding year's rate, and effective tax rate;
- (b) the amount of taxes owed by each individual taxpayer; and
- (c) contact information for the tax assessor-collector;

(3) requires that the notice to be provided by a city that adopts a property tax rate that exceeds the lower of the effective tax rate or the rollback rate contain specific language relating to:

(a) the proposed rate, preceding tax year's rate, effective tax rate, and rollback rate;

- (b) the amount of taxes owed by each individual taxpayer;
- (c) contact information for the tax assessor-collector; and
- (d) notice of two public hearings on the tax rate;

(4) provides that a city must either:

(a) publish notice under (2) or (3), above, not later than September 1 in a newspaper having general circulation in the county in which the city is located that may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper with a headline that must be in 24-point or larger type; or

(b) mail the notice to each property owner in the city;

(5) requires a city to post notice under (2) or (3), above, on the city's website, if applicable, beginning not later than September 1 and continuing until the city adopts a tax rate; and

(6) requires a city that to provide certain tax rate information required by the Tax Code upon request.

(Effective January 1, 2014.)

Property Tax:

HB 97 Disabled Veteran Property Tax Exemption

This bill entitles a disabled veteran with less than 100% disability to a property tax exemption for a percentage of home if the home was donated by a nonprofit. The veteran's surviving spouse can get an exemption if he or she stays in the house as a homestead. Effective January 1, 2014 because HJR 24 was approved by the voters.

HJR 24 Constitutional Amendment for Disabled Veteran Tax Exemption

This bill provides for an election to amend the Texas Constitution to authorize the legislature to provide the tax exemption disabled veterans provided for by HB 97. Election held on November 5, 2013. Amendment approved by the voters.

HB 242 Agricultural land property tax notice.

This bill requires certain notices relating to land for which an agricultural tax exemption is claimed to be sent by certified mail. Effective January 1, 2014.

HB 315 Motor Vehicle Dealer Property Tax Appraisal

This bill amends the definition of dealer to relieve certain dealers from the monthly vehicle inventory tax reporting requirements. The dealers who are now exempt include dealers who do not sell self-propelled motor vehicles that are used on the highways, dealers who meet certain limited sales requirements, and dealers who still file certain reports and renditions with the chief appraiser and the comptroller. Effective January 1, 2014.

HB 316 Appeals from Certain Appraisal Review Boards can be heard by the State Office of Administrative Appeals

This bill takes a pilot program and turns it into a regular program. The bill allows taxpayer appeals from Appraisal Review Board (ARB)

decisions to be heard by the State Office of Administrative Hearings (SOAH) for property located in Amarillo, Austin, Beaumont, Corpus Christi, El Paso, Fort Worth, Houston, Lubbock, Lufkin, McAllen, Midland, San Antonio, Tyler, and Wichita Falls. Effective January 1, 2014.

HB 326 Authorization to Serve Four Non-consecutive Terms on an ARB

This bill allows a person to serve a 4th term on an ARB so long as that term is not consecutive to the three prior terms. Effective immediately.

HB 561 Property Tax Exemption for Land Previously Owned by School

This bill prevents additional property tax from being imposed on land that was owned by an organization that qualifies as a school if the land is converted to another tax-exempt use. Effective immediately.

HB 585 Procedures Relating to Appraisal Process

This bill establishes a plethora of requirements relating to appraisers and hearings. There are also requirements relating to property owners and their submissions of information to the chief appraiser.

A provision that may be of interest to cities is the one allowing a city council of a city to locate inside an area declared to be a disaster area to authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster.

There is also new cause of action that authorizes a taxpayer to sue a taxing unit in district court to compel payment of a tax refund. And the taxpayer can collect court costs and reasonable attorney's fees (not to exceed \$1500 or 30% of the refund awarded by the court).

There are other provisions relating to appeals from the ARB, payments to abate penalties, and authorizing attorney's fees for a property owner who prevails on appeal of an ARB determination of a denial of a plethora of exemptions.

Portions of the bill are effective immediately and some take effective September 1, 2014.

HB 709 Property Tax Payments

This bill (1) allows a city to apply property tax overpayments to delinquent amounts from other tax years if the delinquent taxpayer was the sole owner of the property in both years; and (2) allows disabled veterans as well as their surviving spouses to pay property taxes in four installments. Effective January 1, 2014.

HB 826 Property Tax Appraisal – Heavy Equipment

This bill exempts financing institutions from the definition of a “dealer” for purposes of property taxes imposed on heavy equipment inventory. A dealer’s heavy equipment inventory now means all the items of heavy equipment that the dealer holds for sale. Effective January 1, 2014.

HB 1287 – Property Tax Exemption – Personal Identification

This bill adds flexibility to the types of identification that certain groups of people can provide to support a residential homestead exemption application. You no longer need a driver’s license if you are in a facility that provides services related to health, infirmity, or aging. You also no longer need the license if you are protected as a victim of domestic violence, and may not need it if you are in the armed forces, or are a spouse of someone in the armed forces. Effective September 1, 2013.

HB 1597 Options for Handling Some Property Tax Delinquencies

This bill allows certain individuals (disabled, over 65, disabled veteran) to make installment payments for their property taxes on property that is a residence homestead. There is specific language in this bill that also sets out limits on rights of people who are collecting the debt. Effective September 1, 2013.

HB 1712 Exemption for Oil Spill Containment Response Systems

This bill creates a tax exemption for entities formed primarily for the purpose of maintaining an offshore oil spill response containment system. The bill exempts property that such entities own or lease from ad valorem and sales and use taxes, if the property is held in a Gulf county solely for use in spill containment. The bill was designed for the Marine Well Containment Company, which was formed by 10 oil companies in wake of the Macondo spill. The exemption, once allowed, does not have to be claimed in subsequent years. Effective June 14, 2013.

HB 1897 Exemption for Pollution Control Property

This bill seeks to streamline the process of obtaining exemptions for pollution control property to reduce large, delayed tax refunds. It gives the TCEQ one year to issue a decision and respond to any appeal on an application for designation of pollution control property. The bill provides that a person is not entitled to a refund following a successful appeal of an exemption denial unless the taxpayer has already paid or has been granted written permission in an agreement with the chief appraiser pending final

determination by the TCEQ. The chief appraiser shall provide written notice of the agreement to the taxing unit within 10 days, and the agreement is void if objected to within 60 days by the taxing unit. Landfill-generated gas conversion facilities are provided a temporary exemption: through January 1, 2014 they are considered pollution control property without a designation. Effective September 1, 2013.

HB 1913 Tax Late Fee Forgiveness for Subsequent Owners

This bill allows taxing entities to waive late fees for subsequent owners in certain circumstances, and to waive late fees for taxpayers whose payments were delayed solely by mailing service errors. Allows waiver of late fees for taxes relating to a date prior to the current owner's acquisition if those taxes were paid within 181 days of notice and were the result of omitted, erroneously exempted, or erroneously included property, or were added under a different account number or parcel. Also allows waiver if the taxpayer paid on time but the payment was delayed due to an error by the post office or private delivery service. The bill requires tax collector to provide annual notice of delinquency to taxpayers listed on delinquent tax roll. Effective September 1, 2013.

HB 2500 Solar Energy Tax Exemption

This bill requires the chief appraiser to use the cost method of appraisal to calculate the market value of commercial solar energy property constructed or installed after January 1, 2014. Effective January 1, 2014.

HB 3121 Aircraft Parts (Freeport Goods) Property Tax Exemption

This bill allows taxing authorities to provide a more generous exemption for aircraft parts held temporarily in the state than the 175-day default time limit. Taxing authorities may extend the exemption to parts held in the state up to 730 days. The exemption is not retroactive. Effective January 1, 2014 since HJR 133 was approved by the voters.

HJR 133 Constitutional Amendment for Freeport Goods Exemption

This bill provides for an election to amend the Texas Constitution to authorize taxing authorities to extend the exemption period for freeport goods held in the state temporarily, as provided by HB 3121. Election held on November 5, 2013. Amendment approved by the voters.

HB 3438 Appraisal Review Board Member Requirements

This bill removes the total prohibition on persons who have appeared before an appraisal review board for compensation from later serving as a member of that board in counties with over 100,000 residents. The bill leaves the prohibition in place for two years after a person has appeared before the board for compensation. Effective September 1, 2013.

HJR 62 Constitutional Amendment for Surviving Spouse Homestead Exemption

This bill provides for an election to amend the Texas Constitution to authorize the legislature to provide the tax exemption for surviving spouses of deceased service members provided for by SB 163. Election was held on November 5, 2013. Amendment approved by the voters.

SB 163 Homestead Exemption for Surviving Spouse of Member of Armed Services Killed in Action

This bill provides a homestead exemption for the surviving spouse of a member of the armed services of the United States who is killed in action, if the surviving spouse has not remarried since the death of the member of the armed services. The homestead exemption may be claimed for property acquired after the death of the service member, as long as the surviving spouse has not remarried. Effective January 1, 2014 because HJR 62 was approved by the voters.

SB 193 Tax Exemption for Affordable Housing

This bill is intended to clarify that community housing development organizations are eligible to receive property tax exemptions for affordable housing, provided that they deliver a copy of the necessary audit to the Texas Department of Housing and Community Affairs and to the chief appraiser of the appraisal district in which the property is located. The bill changes existing language requiring delivery of the audit to clarify that the organization requesting the exemption is the party responsible for the delivery. Effective January 1, 2014.

SB 247 Property Tax Lending

This bill enacts omnibus regulation of the property tax lending industry. These regulations are largely designed to give consumer protections to people who may use these services. Of key concern to cities are the provisions that prohibit a property owner whose property has been financed in whole or part by a below market nonprofit or government loan from transferring a tax lien to a tax lender. A property owner whose property

is encumbered by a municipal lien on a dangerous structure is also prohibited from such a transfer. The bill provides that tax lenders may only foreclose on tax liens through judicial foreclosure. Effective immediately.

SB 359 Junior College Representation on Appraisal Boards

This bill authorizes junior college districts to participate in the selection of appraisal boards. The bill requires the chief assessor to provide notice to a junior college of the number of votes it is entitled to. If the board adds positions or changes voting procedures, it requires the board to provide a junior college with the same involvement as the school district contributing the lowest dollar amount to the assessment district. Effective immediately.

SB 1224 Payments Sent by Commercial (Private) Mail Carrier

This bill expands the guarantee that tax payments and documents will be considered timely if mailed on or before the due date to taxpayers who use private mail carriers in addition to the postal service. Effective immediately.

SB 1255 Arbitration Appeals for Unequal Appraisals

This bill authorizes a property owner to appeal through binding arbitration a determination of unequal property. Requires arbitrators to undergo training on property tax law. Effective June 14, 2013

SB 1256 Three-Year Limit for Comparable Sales

This bill limits the exception to the two-year rule for determining property value using the market data comparison method. The general rule is that only property sales within two years may be considered, but the rule does not apply if there are not enough sales of comparable properties to constitute a representative sample. The bill provides that in all circumstances in counties with populations greater than 150,000, only sales within 36 months may be considered. Effective January 1, 2014.

SB 1508 Rendering Secured Property for Taxation

This bill allows a secured party, with the consent of the property owner, to render for taxation any secured property that has a historical cost (when the property was new) of more than \$50,000. Effective January 1, 2014.

SB 1662 Repeal of Expedited Arbitration

This bill repeals the reduced-price, expedited arbitration process for appealing an appraisal review board order. Effective January 1, 2014.

Sales Tax:

HB 78 Exemption for Coins and Precious Metals

This bill expands the sales and use tax exemption for coins and precious metals (platinum, gold, and silver bullion), which currently only covers sales of more than \$1,000, to cover all sales. Also expands the exemption from use tax to cover use after subsequent transfer of the coins or metals. Effective October 1, 2013.

HB 697 Exemption for School Booster Clubs

This bill provides booster clubs and other school support organizations the same exemption for fundraisers as is currently provided to schools, student organizations, and parent-teacher associations. The exemption covers food and drinks sold at concessions stands at school-sponsored events, as long as the proceeds benefit the school or school district. Effective September 1, 2013.

HB 800 New Tax Credit for Research and Development

This bill provides a new tax credit for research and development. The bill provides a credit equal to five percent of the difference between the entity's research expenses and half of its average research expenses over the last three tax periods. If no research was performed during the last three periods, the credit is 2.5% of all research during the current tax period, or 3.125% if the entity contracts with an institute of higher education for the research. Prohibits an entity from claiming a total credit that exceeds 50 percent of its franchise tax due before any other credits. Credits may be carried forward for not more than 20 consecutive reports. Effective January 1, 2014.

HB 3169 Definitions

This bill changes or clarifies definitions for various tax exemptions. Provides that "destination management services" (which generally covers conference, event, tour services), includes airport shuttle and meet-and greet services but not catering or meal services, and clarifies the requirement that 80% of the company's contracts be for clients from out of state. Defines "intravenous system" and "hospital bed," and raises the maximum price per

copy a periodical can charge and still be considered a “newspaper” to an average of \$3 over a 30-day period. Effective September 1, 2013.

HB 3572 Mixed Beverage Sales Tax

This bill changes the sales tax for mixed beverages by separating it into a 6.7% tax on gross receipts from mixed beverage sales and a tax of 8.25% on each mixed beverage sold. This allows the 8.25% sales tax portion to appear on consumer receipts. The new tax scheme replaces a 14% tax on gross receipts only. Effective January 1, 2014.

SB 485 Sales Tax Holiday

This bill moves the sales tax holiday intended for back-to-school sales to begin a date one week earlier than the current date. The new date is the Friday before the 15th day preceding the earliest date that school years can begin, as provided by statute. Effective immediately.

SB 1151 Exemption for Snack Foods

This bill provides that snack items are exempt from sales tax. The bill defines snack items to include breakfast bars, granola bars, nutrition bars, snack mix, trail mix, nuts, popcorn, chips, crackers, and pretzels. The exemption does not include items sold in individual-sized portions (single serve or less than 2.5 ounces) or items sold out of a vending machine. Effective September 1, 2013.

SB 1533 Defining Significant Business Services

This bill defines what business activities are sufficient to take advantage of a local tax rate. The bill provides that significant business services include logistics management, purchasing, inventory control, or other vital business services. Effective September 1, 2013.