

# Budget and Property Tax Rate Adoption

## February 2016 Training

Leela R. Fireside, Assistant City Attorney, Austin Texas.

(contact info: [leela.fireside@austintexas.gov](mailto: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).



# New Laws – Effective 1/1/2016

- **HB 1953:** property tax rate notice – can be done 30 days after get certified rolls if later than September 1<sup>st</sup> – currently must do by September 1<sup>st</sup>. (amends LGC 140)
- **SB 1760:** 60% of body must vote in favor of tax increase, new language for notice, and new language ordinance. (amends LGC 140)



# 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/legal\\_topics/legal\\_finance.asp](http://www.tml.org/legal_topics/legal_finance.asp)



# Small city resources

- Worksheet for small cities
- <http://www.texasmunicipallawyers.com/files/forms/Budget-Deadlines-Worksheet-Simplified.pdf>
- Small city tax notice
- <http://www.window.state.tx.us/taxinfo/taxforms/50-757.pdf>
- 2014 schedule (will be updated for 2015)  
[https://www.tml.org/legal\\_topics-legal\\_finance](https://www.tml.org/legal_topics-legal_finance)
  - (look at the document linked there)



# Truth-in-Taxation

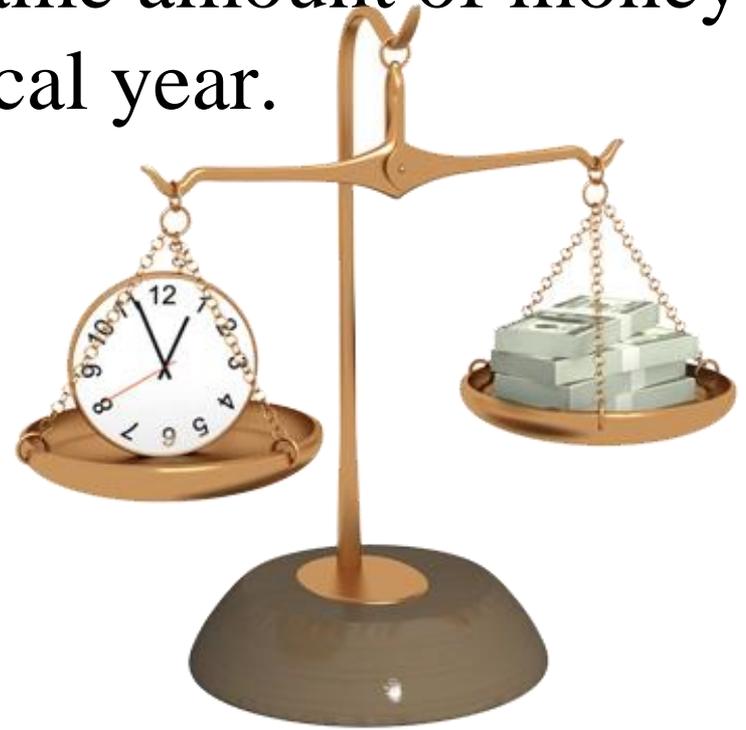


- Legislature does not set property tax rates  
**BUT** they do make it hard to go up too much.
- How much is “too much?”



# 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 obligation bonds (both principal and interest). Can be lower than current rate if total taxable value goes up more than 8%.



# 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/tnt/>
- The Comptroller has also added “videos” – (narrated power point presentations).



# On Your Mark, Get Set, Go



SC-026006 [RF] © www.visualphotos.com

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 new 30 day timeline in LGC 140.



# 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.



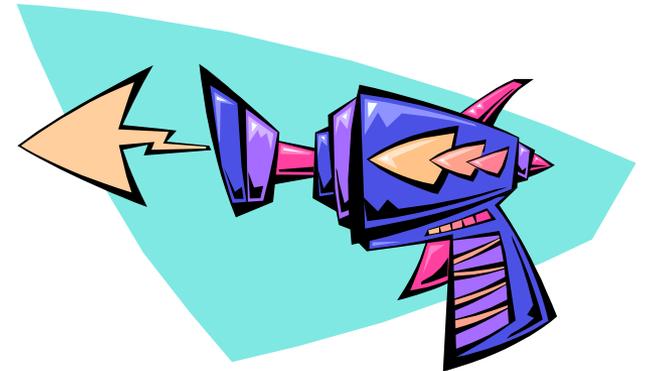
# LGC 140.010

- 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:
  - <http://www.window.state.tx.us/taxinfo/taxforms/50-819.pdf>
  - Local Tax Assessor contact info in ad.
  - Amended by HB 1953 & SB 1760 for 2016.



# 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



- Notice must be published by September 1<sup>st</sup> – unless new law applies.
- **NEW for 2016** – HB 1953 lets city give notice up to 30 days after get 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 now 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.
- **NEW**– SB 1760 adds new language to the tax rate notices – for tax years that start after January 1, 2016.



# 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 29<sup>th</sup> (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.
- SB 1760 amends the requirements starting in 2016.

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. = 3<sup>rd</sup> of 3 votes!
- Must be a “record vote” - each person’s vote recorded. Follow the words of the statute.
- **NEW** – in 2016 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.



# 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.”



# Notice and Vote Requirements for Budget

- Budget must now 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).



# 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://www.ci.austin.tx.us/financeonline/finance/financial\\_docs.cfm?ws=1&pg=1](https://www.ci.austin.tx.us/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

- Adoption of the *budget* must be a separate vote that council takes *before* they adopt *the tax rate*. (1<sup>st</sup> 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. (2<sup>nd</sup> 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 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.

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.



# New Property Tax laws

- 17 new laws.
  - 2 new laws re: budget and tax rate adoption
  - 11 new laws re: tax exemptions
  - 4 new laws re tax appraisals or notices.



# New Budget and Tax Rate adoption process laws

- **HB 1953** – allows city or county to provide required property tax rate notice not later than the later of September 1<sup>st</sup> or the 30<sup>th</sup> day after the date the taxing unit receives its first certified appraisal roll. 1/1/16
- **SB 1760** –
  - Requires 60% of the council to vote in favor of the increased tax rates;
  - Requires council to include in notice how they are going to use the increase in taxes;
  - Eliminates requirement for taxpayer to apply for a refund if the tax rolls are corrected and a refund is owed;
  - Provides for interest of 9.5% on refunds due after a tax appeal;
  - Has same language as HB 1953. 1/1/16



# Property Tax Exemptions (1)

- HB 706- only need to claim solar or wind device exemption once. 1/1/16
- HB 992 (HJR 75) – complete residence homestead exemption for disabled vet or surviving spouse. (Approved by voters in November)
- HB 994 – permanent tax exemption for landfill-generated gas conversion facilities. 1/1/16.
- HB 1022 – residence homestead includes property occupied by the owner's surviving spouse who has a life estate in the property. 1/1/16
- HB 1463 – requires extra steps before a chief appraiser can cancel the residence homestead exemption of a person over 65 years old. 9/1/15



# Property Tax Exemptions (2)

- SB 918 – veterans' affairs and county fair associations only need to claim a property tax exemption to have the exemption in future years. 1/1/2016
- HB 1464 – requires extra steps before a chief appraiser can cancel an agricultural land use designation of a person over 65 years old. 9/1/15
- SB 1(SJR 1) – increase exemption from school taxes to \$25,000 of the appraised value of residence homestead. (Approved by voters in November).
- SB 833 – provides that a qualified homestead doesn't lose its character as a homestead for tax exemption purposes if the owner temporarily stops occupying it due to military service inside or outside of the U.S. (Immediate)
- SB 1420 – requires certain notice if exemption canceled or reduced.

1/1/16



# Appraisals and delinquencies

- HB 1933 – changes to law regarding delinquent tax payments being paid in installments. 9/1/15
- HB 2083 – contains requirements regarding selection of comparable properties for appraisals. 1/1/16



# Sales Tax – misc.

- HB 157 – authorizes cities to hold an election for a dedicated sales and use tax for sports and venue districts, crime control and prevention districts, econ development corporations, property tax relief, or street maintenance. Can also elect to have a general sales tax. Can't go over a combined rate of 2%. 9/1/15
- HB 158 – requires sales tax on sporting goods to be credited to Texas Parks and Wildlife Dept. for acquiring, operating, maintaining, and making capital improvements to parks – and to provide local park assistance. 9/1/15
- HB 2853 – authorizes a street maintenance sales tax to maintain city sidewalks. Immediately.
- SB 31 – allows volunteer fire departments or emergency service departments to hold up to 10 sales tax free sales or auctions each calendar year. Immediately
- SB 1366 – like HB 158 – sporting goods sales taxes to Texas Parks and Wildlife and Historical Commission. 9/1/15



# Sales Tax Exemptions

HB 1841 – certain services of public insurance adjusters not taxable.  
10/1/15

HB 2507 – certain equipment used for digital audio broadcasting not taxable. 9/1/15

HB 2712 – certain equipment in large data centers not taxable for 20 years. Immediately

SB 755 – computer programs to internet hosting providers who resell the program is a “sale for resale” and thus exempt.

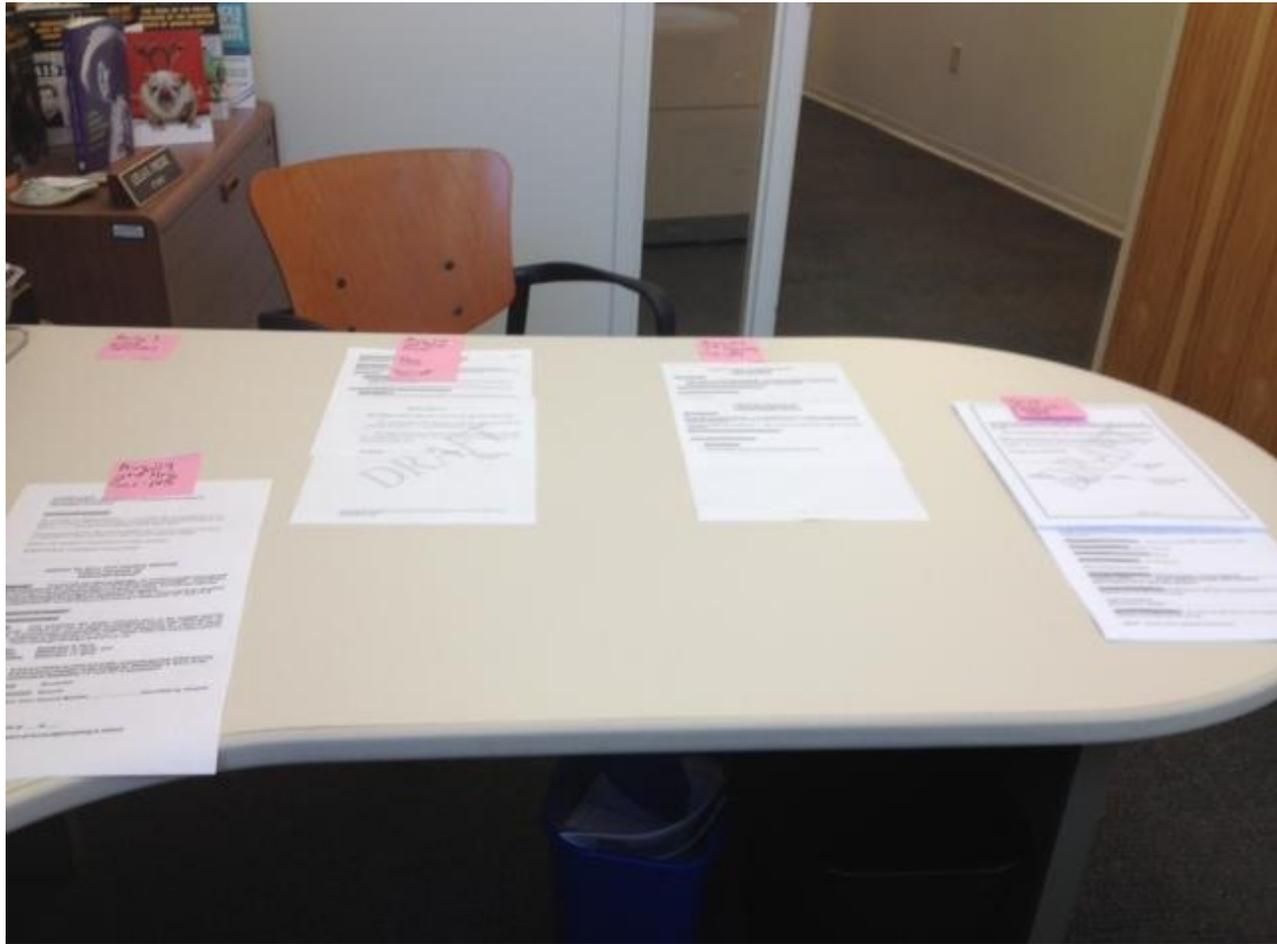
SB 904 – exempts certain emergency items from sales tax in 3 days in April. 9/1/15

SB 1356 – exempts sale of water conserving products for Memorial Day weekend. 10/1/15

SB 1396 – exempts sales of aircraft for purposes of resale from sales and use taxes. 9/1/15



# My way of staying organized



# Other info to keep handy



- 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.



# Questions?

