

# Budget and Property Tax Rate Legislative Update

## 2021 Training

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# Outline of Presentation

- 1. Tax Rate Process
- 2. Budget Process
- 2. New laws



# Getting started – Tax Rate

- Start with certified rolls or estimates
- – Tax Code 26.04, city must:
  - Designate an officer or employee to calculate the tax rates,
  - Use the Comptroller’s forms, the forms must be certified, and
  - Have the certified forms before adopting the tax rate.
  - May use estimated rolls to meet election deadlines.



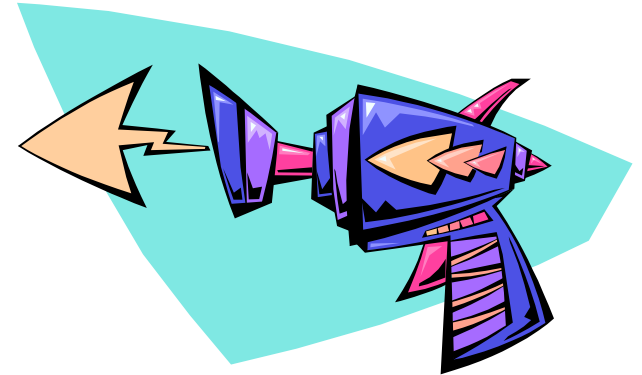
# Exemptions

- Tax Code Chapter 11 has property tax exemptions.
- Some exemptions have specific dates – e.g., homestead by July 1.
- Examples: Historic, homestead, veterans, and over 65 or disability.
- *Comptroller forms now hold harmless for exemptions in calculations.*



# Triggering the Tax Rate Adoption Process

- Take An Action
- Austin Adopts a Resolution
- Includes:
  - Max Proposed Rate
  - Date of Final Hearing to Adopt
  - Script (not posted, but given to Mayor)
  - Roll call vote.



# Designated Employee duties

- The designated employee must:
  - Submit the forms to the County assessor-collector;
  - Post the rates prominently on the home page of the City's internet website; and
  - Include the tax rate calculation forms in the budget.
  - Use the Comptroller's tax rate forms
  - Cannot submit the rates to council until certifies forms.



# Tax Rate Schedule

- Only 1 tax rate hearing required.
- If, by July 20, the ARB hasn't approved the tax rolls, the chief appraiser has to certify an estimate by July 25<sup>th</sup>.
- August 7, or “as soon as practicable” begin notice process. If need an election, must start earlier.



# 3.5% cap

- Property tax rates have 2 parts:
  - 1. the funds needed to pay debt;
  - 2. the funds needed to maintain and operate the city (M&O).

The terms are now:

rollback rate = **voter-approval rate.**

Effective rate = **no new revenue rate.**





# Not all debt = debt

- HB 1869 amended the definition of debt in the Tax Code and limited it to exclude some debts that voters didn't approve.
- If your city plans to issue certificates of obligation to fund new buildings and such, may have to pay the debt out of M&O funds.



# Flexibility in the cap

- Unused Increment Rate (Tax Code 26.013)
  - if city doesn't go up to the 3.5% cap, there is a mechanism for using the difference between the cap and what was actually the rate – for 3 years.
- Disaster area (26.04(c-1))
  - If Gov. or Pres. declare a disaster, can go up to 8% voter approval rate for up to 3 years. (Drought is not disaster - 26.07(b) Tax Code).



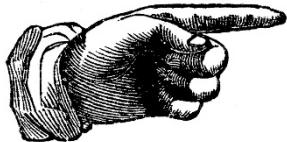
# Pandemic is not disaster

- SB 1438 – must be physical damage to property in taxing unit’s jurisdiction.
- At least one person must have qualified for a temporary property tax exemption for physical property damaged in a disaster.
- Abbott’s Winter Storm declaration:
- <https://gov.texas.gov/news/post/governor-abbott-extends-winter-storm-disaster-declaration-for-june-2021>



# Winter Storm Uri





# Notice of Hearing

- 26.06 Tax Code lengthy new wording.
- Notice cannot be in the legal notices or classified section of newspaper.
- Must be prominently on homepage.
- Must also be on public access channel if city has one.
- New requirements for small cities in HB 2429.



# Tables in Notices

- Tax Code 26.062 requires a detailed comparison table be included in the notices to compare current fiscal year and proposed tax rate for upcoming fiscal year.



# Hearing

- Tax Code 26.06:
  - Must wait til 5<sup>th</sup> day after the appraisal district delivers its required notices to taxpayers.
  - Must give 6 days notice of 1 public hearing to adopt tax rate. [A public hearing required by Section 26.05 may not be held before the fifth day after the date the notice of the public hearing is given (Tax Code 26.06(a)).]
  - Can vote at hearing, or at announced next hearing. (Tax Code 26.06(e)).



# Open Meeting requirement

- Tex. Gov't Code Sec. 551.007
- Must allow each member of the public who desires to speak time to address the body regarding an item on the agenda before the item is voted on.
- Can make reasonable rules.
- Non-English speakers who need translators get twice as much time.
- Can't prohibit criticism of city.



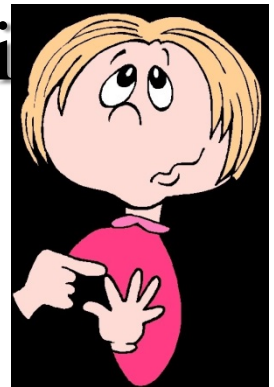




# Vote



- 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.
- Must have 60% of governing body vote in favor of the tax increase.



# 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.
- State what disaster it is if adopting higher than 3.5%.



# Adoption if no election

- Cities have before the later of September 30<sup>th</sup> or 60 days after receive rolls to adopt the tax rate. (26.05 Tax Code)
- “Before the later of” is awkwardly worded, so TML calendar presumes September 29<sup>th</sup>.
- This time period stays the same if within 3.5% cap (Tax Code 26.05).



# If adopting lower rate

- If City adopting lower of no-new revenue or voter approval tax rate, have special notice of open meeting (Tax Code 26.061).
- Still have to publish in newspaper and on homepage.



# Election

- If City with over 30,000 population adopts a tax rate higher than 3.5% over current M&O rate, City must call a Nov. election. (Tax Code 26.07)
- Under 30,000 population –election only if over \$500,000 in taxes (essentially).
- Disaster gives city the option of going up to 8% over M&O



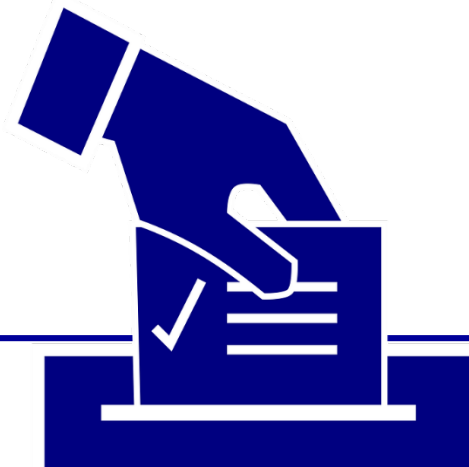
# Election - Schedule

- Cities over 30,000 population, November election if city goes over the 3.5% cap (26.07 Tax Code).
- Uniform election date in Nov. per Sec. 41.001 Election Code. (26.07(c)).
- Election Code Sec. 3.005. TIME FOR ORDERING ELECTION.
- (a) Except as provided by Subsections (c) and (d), an election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day.
- (b) This section supersedes a law outside this code to the extent of any conflict.
- **(c) For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day.**
- So, count 78 days – not the 71 days in 26.07(c) Tax Code.



# Ballot Language

- Tax Code 26.07(c) sets out the exact language that cities must use.
- “Approving the ad valorem tax rate of \$\_\_\_\_\_ per \$100 valuation in (name of city), for the purpose of (description of purpose of increase). Last year, the ad valorem tax rate in (name of city) was \$\_\_\_\_\_ per \$100 valuation.”



# Election results

- If the vote is in favor, then city can assess its adopted tax rate.
- If the vote is against, then can only assess voter approval rate.
- Assessor-collector sends out new bills.
- City must make refunds.  
(see Tax Code 26.07)





# Petition to reduce tax rate

- For cities that are 30,000 or less, Tax Code 26.075 allows 3% of the voters to petition for an election in some circumstances.





# 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.



# Database of tax info

- Appraisal Districts must maintain a property tax data base with tax info from designated employees of taxing units. (Tax Code 26.17)
- Coordinate with the CAD to make sure city is providing the needed info.
- If your city issues bonds, make sure the info in your bond docs matches the CAD info.



# City must have website

- Cities must have “or have access to” an internet website to post 13 required items:
  - Contact info for city and its councilmembers
  - Budget for 2 prior years and proposed budget
  - Change in budget from prior year
  - M&O paid for with property taxes for 3 yrs
  - Debt paid for with property taxes for 3 yrs
  - Tax rate for M&O for 2 yrs plus proposed
  - Debt service and debt tax rate for 2 yrs plus proposed
  - Most recent financial audit.
  - Tax Code 26.18



# 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 correctly, or if it failed to follow the publication requirements of the statute.
- It is now an affirmative defense that the failure to comply was “in good faith.”

2+2=5



# 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.



# 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.



# Adopting the Budget

- Local Gov't Code 101 and 102 = legal framework for 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.





# 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.austintexas.gov/financeonline/afo\\_content.cfm?s=1](https://www.austintexas.gov/financeonline/afo_content.cfm?s=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 interpret the requirement to take action on the budget at the end of the hearing to include action to continue the public hearing and set adoption date.
- Hearing must be before the tax levy – so, make sure that this order is followed.



# 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.**



# The Vote(s)

- 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.



# Notice After Budget Adopted



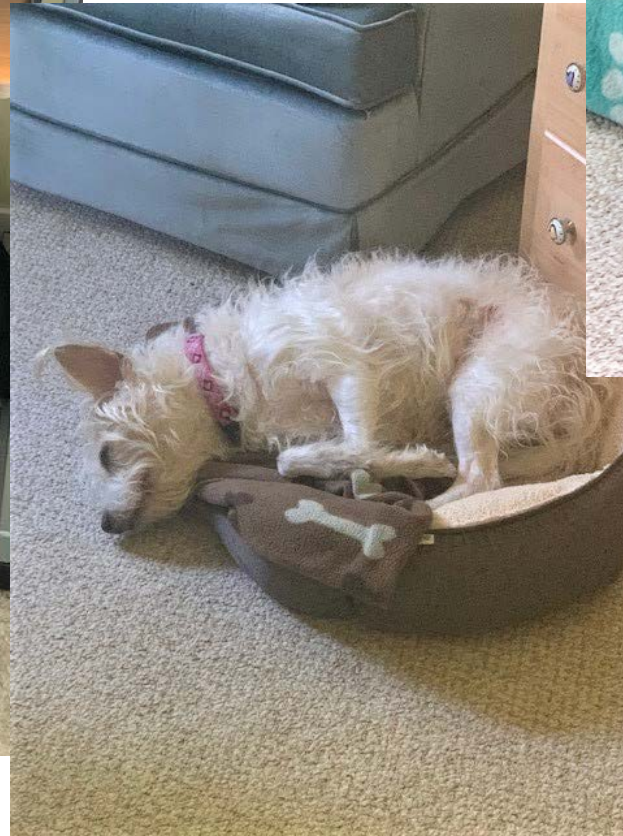
The city must file the budget with the city clerk, and if the city has a web site, the budget must be posted on that web site.

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





# My office this year



# 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.



# Links:

- TML's calendars
- This is for cities of 30,000 or fewer:
  - [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjE4JHY5O\\_xAhWNLs0KHRPLBhIQFjAAegQIAxAD&url=https%3A%2F%2Fwww.tml.org%2FDocumentCenter%2FView%2F2690%2F2021-budget-and-tax-deadlines-under-30k\\_final&usg=AOvVaw0Vc9CQBZIhy9TAtL5r6tdn](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjE4JHY5O_xAhWNLs0KHRPLBhIQFjAAegQIAxAD&url=https%3A%2F%2Fwww.tml.org%2FDocumentCenter%2FView%2F2690%2F2021-budget-and-tax-deadlines-under-30k_final&usg=AOvVaw0Vc9CQBZIhy9TAtL5r6tdn)
- This is for cities of more than 30,000:
  - [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjE4JHY5O\\_xAhWNLs0KHRPLBhIQFjAEegQIBxAD&url=https%3A%2F%2Fwww.tml.org%2FDocumentCenter%2FView%2F1735%2F2021-TAX-AND-BUDGET-DEADLINES\\_30k\\_and\\_up%3FbidId%3D&usg=AOvVaw0LCInMIYuSH89r5r1iEM7td](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjE4JHY5O_xAhWNLs0KHRPLBhIQFjAEegQIBxAD&url=https%3A%2F%2Fwww.tml.org%2FDocumentCenter%2FView%2F1735%2F2021-TAX-AND-BUDGET-DEADLINES_30k_and_up%3FbidId%3D&usg=AOvVaw0LCInMIYuSH89r5r1iEM7td)
- Comptroller's website:
  - <https://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/>
- The Texas Secretary of State's Election Calendar:
  - <https://www.sos.state.tx.us/elections/voter/important-election-dates.shtml>



# Questions?



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# Property tax update (1)

- SB 1438 – alters how a city can use the increased tax rate option for a disaster. Also, disasters must result in physical damage to property as demonstrated by at least one taxpayer getting tax relief for the damage.
- HB 988 –tax appraisal process changes – limits some contacts with appraisal district, authorizes a goods in transit property tax exemption extension.





# Property tax update (2)

- HB 1090 – Tax Appraisal process for omitted property.
- HB 1197 – extends to 10 years the time land contiguous to a religious organization's place of worship can be exempt from property tax while the organization expands.



# Property tax update (3)

- HB 1869 – modifies the definition of debt in the Tax Code for the debt portion of the property tax rate. Eliminates the ability to count as “debt” many uses of certificates of obligation. If a city chooses to issue debt for a project that doesn’t meet the requirements, the repayment must be funded from O&M.



# Property tax update (4)

- HB 2429 –Tax Rate Notice for cities of less than 30,000 – alternate provisions for notice when the de minimis tax rate exceeds the voter approval tax rate.
- HB 2535 – Tax appraisal method for chicken coops and rabbit pens.
- HB 2723 – Tax Rate Notice – new state database to link to local databases





# Property tax update (5)

- HB 3610 –Tax Exemption – charter schools and other school property.
- HB 3629 –Tax Deferral – limits suits against people over 65, with disability, including vets with disabilities.
- HB 3833 –Tax Appraisal –appraisal of low/moderate income housing, limits taxes on ag or timber land if change of use, additional taxes for some public land if use changes



# Property tax update (6)

- HB 3971 – Historic District Appraisal – restrictions on use must be considered.
- SB 63 – Appraisal Process – term limits for board members in larger counties, limits on former employees serving on board and vice versa, tax exemption for solar or wind powered energy device for onsite use, limiting process and timing of protests and appeals.



# Property tax update (7)

- SB 611 –Tax Exemption – homestead of surviving spouse of armed service member killed in line of duty, gives people longer times to file homestead exemption if get notice of delinquency. SJR 35 – enables.
- SB 742 – Installment payments in disaster or emergency – qualifying entities can pay in 4 installments if first payment is before delinquency date.



# Property tax update (8)

- SB 794 – 100% disabled veteran exemption. (eff. 1/1/2022)
- SB 1257 – Chief appraiser must include info in a tax abatement report to the State Comptroller.
- SB 1421 – ARB or chief appraiser can fix certain tax errors from the past.
- SB 1427 – Temp property tax exemption in disaster is only for physically damaged property.



# Property tax update (9)

- SB 1449 - \$2,500 tax exemption for tangible personal property used for production of income.
- HB 1900 – the anti-defunding municipality bill. Applies to cities w/+ 250,000 population. Many negative consequences flow from being determined a defunding municipality.



# Sales Tax (1)

- HB 1445 - Exempts certain medical billing services (eff. 1/1/22)
- HB 3799 – exempts items sold by nonprofit at a county fair (eff. 10/1/21)
- SB 153 – exempts data processing services to process card payments (eff.10/1/21)
- SB 197 – exempts sale of animals by nonprofit animal welfare org. (eff.10/1/21)



# Sales Tax (2)

- SB 313 – exempts firearm safety equipment from sales tax.
- SB 1524 – creates a sales tax refund pilot program for a person who employs at least one apprentice in a qualified position for at least 7 months during a calendar year- Tex. Workforce Comm'n establishes program (eff. 1/1/22)

