

**BUDGETING
(Chapter 2)**

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INTRODUCTION

A budget is a financial plan containing estimates of revenues and expenditures for a single fiscal year. Most local governments operate within a fiscal year beginning on July 1 and ending the following June 30. However, local governments have the option of budgeting on a 24-month budget, which is called a biennial budget. The budget must be completed by June 30 – one day before the start of the fiscal year for which the budget applies.

Besides outlining programs for the coming year, the budget controls local governments spending authority. Since the budgeting process encourages citizen input, the budget is also a vehicle for obtaining public opinion about proposed programs and fiscal policies of your district.

A local government's authority to spend money or incur debt obligations expires on June 30 of either a fiscal year or a biennial budget period. The ability to impose a property tax is also tied to the budgeting process. Districts that have property taxing authority cannot levy taxes unless their budgets have been adopted.

The Department of Revenue supervises the local budget process and has responsibility for administering and interpreting budget law. Oregon's local budget law is set out in Oregon Revised Statutes 294.305 – 294.565.

Local budget law does two important things:

- It establishes standard procedures for preparing, presenting, and administering the budget.
- It requires citizen involvement in the preparation of the budget and public disclosure of the budget before it's formally adopted.
- It gives a method for estimating expenses, resources, and proposed taxes.
- It offers a way of outlining the programs and services provided by the local governments, and the fiscal policy to carry them out.

EXCEPTIONS TO LOCAL BUDGET LAW

Most local governments in Oregon prepare and adopt an annual budget. There are a few exceptions. The following districts are either totally or partially exempted from local budget law requirements (ORS 294.316):

- Drainage districts organized under ORS chapter 547;
- District improvement companies organized under ORS chapter 554;
- Highway lighting districts organized under ORS chapter 372;
- Irrigation districts organized under ORS chapter 545;
- Road districts organized under ORS chapter 371;
- Soil and water conservation districts organized under ORS chapter 568 that will not levy an ad valorem tax during the ensuing year or ensuing budget period;

- People’s utility districts organized under ORS chapter 261, operating without ad valorem tax support during the ensuing year or ensuing budget period;
- Water control districts organized under ORS chapter 553 that will not levy an ad valorem tax during the ensuing year or ensuing budget period;
- Diking districts organized under ORS chapter 551;
- Health districts organized under ORS 440.315 to 440.410; and
- Intergovernmental entities created under ORS 190.010, including councils of governments described in ORS 294.900 to 294.930, except that an intergovernmental entity or a council of governments that proposes to impose ad valorem property taxes for the ensuing year or budget period is subject to ORS 294.305 to 294.565 for the budget prepared for that year or period.

A newly formed local government is not required to prepare a budget under local budget law during the first fiscal year it is formed. If a local government is formed between March 1 and June 30, it does not have to prepare a budget for the upcoming fiscal year. (ORS 294.338(10))

THE LOCAL BUDGET LAW PROCESS

Local budget law process requires that certain, specific actions must happen as a local government prepares its annual or biennial budget. The Department of Revenue’s *Local Budgeting in Oregon Manual* outlines the process for preparing the proposed budget.

Publication Forms

The Department of Revenue supplies forms to be used to publish notice of the budget committee meeting and to present the budget summary and notice of budget hearing. These forms are “Notice of Budget Committee Meeting,” LB-1, LB-2, and LB-3.

Budget Officer Appointed

Each local government must have a budget officer, appointed by the board of directors, who prepares or supervises the preparation of the budget document. (ORS 294.331)

Budget Committee Appointed

The budget committee is made up of the governing body and an equal number of appointed registered voters of the local government. Members are appointed for three-year terms. Appointed members of a budget committee that prepares a biennial budget serve for four years. The terms must be staggered so that, as near as practicable, one-third or one-fourth of the terms will end each year. The appointed members cannot be officers, agents or employees of the district. All members of the budget committee have equal authority.

The budget committee has several purposes. It conducts public meetings to hear the proposed budget message and review the budget proposed by the budget officer. One of its most important purposes is to listen to comments and questions from interested citizens. It considers this public input as it deliberates on the budget. It can revise the proposed budget to reflect changes it wants to make to the local government’s fiscal policy.

Approving the Budget

Budget officer publishes notice

When the proposed budget and budget message are ready, the budget officer publishes a "Notice of Budget Committee Meeting." If notice is only published in a newspaper of general circulation, it must be published at least 30 days prior to the scheduled budget committee meeting date. The notice may be published at least twice (five to 30 days before the scheduled budget committee meeting) as long as it is also published on the district's website at least 10 days before the meeting. The newspaper notice must include the website address. If notice is hand delivered or mailed, only one notice is required not later than 10 days prior to the meeting.

A budget message is required as part of the budget preparation. The statute requires that the budget message contain a brief description of the financial policies reflected in the proposed budget and, in connection with the financial policies, explain the important features of the budget. The budget message must also explain proposed changes from the prior year's budget and explain any major changes in financial policies.

Budget committee meets

Local budget law requires that the budget committee hold at least one meeting for the purpose of:

- Receiving the budget message and budget document, and
- Providing members of the public with an opportunity to ask questions about and comment on the budget.

The budget officer provides a copy of the proposed budget to each member of the budget committee. The copies may be distributed any time before the advertised budget committee meeting or distributed at the advertised meeting. When the budget is given to the budget committee, it becomes a public record and must be made available to the public.

The budget committee members cannot get together in person, by telephone, or email before the advertised meeting to discuss the budget. All budget discussions must be held at a public meeting.

Some reasons why you may choose not to take public comments at the first meeting include:

- Giving the budget committee time to hear and to discuss the budget message,
- Allowing the committee time to understand the proposed fiscal policy reflected in the proposed budget, and
- Giving the committee and public time to walk through the budget document to understand how it is arranged.

If the budget committee does not invite the public to comment during the first meeting, the committee must provide that opportunity in at least one subsequent meeting. Notice of committee meetings must tell the public at which meeting comments will be taken.

Committee approves budget

When the budget committee is satisfied with the budget it is approved. Approval of the budget and the amount or rate of ad valorem taxes for each fund receiving property tax revenue should be made by motion and be recorded in the minutes of the meeting. (ORS 294.428)

Advertising and Holding Hearings

Budget summary and notice of budget hearing published

After the budget is approved, a budget hearing must be scheduled. ORS 294.438 requires that a notice of the meeting and a financial summary of the budget as approved by the budget committee must be published by one or more of the methods described in ORS 294.311 (35) at least once.

If no newspaper is published in your district and estimated expenditures for the ensuing year do not exceed \$100,000, you may provide the budget summary and notice of budget hearing by posting it in three conspicuous places within the district for at least 20 days prior to the date of the hearing.

If your district is located in Multnomah County, you have different publication and hearing requirements. You need to refer to the *Budget Manual for Local Governments in Multnomah County* produced by the Tax Supervising and Conservation Commission (TSCC).

Budget hearing held

The governing body must hold the budget hearing on the date specified in the public notice. The purpose of the hearing is to listen to citizens' testimony on the approved budget. Additional hearings may be held. All hearings are open to the public. Form LB-1 notifies the public of the budget hearing date and time and where to obtain a copy of the budget. (ORS 294.453).

Adopting the Budget

Budget adopted, appropriates made, tax levy declared and categorized

The governing body may make changes in the approved budget before or after it is adopted, but not later than the beginning of the fiscal year in which the budget relates. However, without first publishing a revised budget summary and holding another budget hearing:

- Taxes may not be increased beyond the amount approved by the budget committee, and
- Estimated expenditures in a fund may not be increased by more than \$5,000 or 10 percent, whichever is greater.

To adopt the budget, the governing body must enact a resolution or ordinance to (1) formally adopt the budget, (2) make appropriations, and if needed, (3) levy, and (4) categorize any tax. The resolution or ordinance must be adopted no later than June 30. **It should not be formally adopted until the latter part of June** so that last-minute revisions to revenue or expenditure estimates can be incorporated.

The resolution (or ordinance) making appropriations gives the local government the authority to spend money and incur obligations in the coming year. The schedule of appropriations also sets limits on the amount of money that can be spent in each object classification within each fund.

During the budget year, spending cannot exceed the amounts specified in the resolution unless additional budgeting steps are taken. Exceeding appropriation authority, at the least, can result in a comment in your audit report. At the worst, it can result in litigation against the governing body under ORS 294.100. Under this statute, the officials of the local government can be held personally liable for spending money in excess of the amount authorized or for a different purpose than authorized.

Mistakes on the publication forms

Correctable errors include such things as typographical errors, failure to mail or hand deliver to each street address, math errors, errors in estimating tax revenue, and failure to publish within the required time periods. Errors can be corrected as long as you make a good faith effort to publish correctly.

If an error occurs you can correct it as follows: At the first regularly scheduled meeting of the governing body after the error is discovered, inform the governing body in writing of the error. Give testimony before the governing body about what the error was and what the correct information should have been.

It should be noted that these are errors in the published documents. You can't change the expenditures, resources, or taxes approved by the budget committee. If the committee approved an incorrect amount, the governing body can make the correction at the budget hearing.

Budget filed and levy certified

Since local governments have the option of imposing no property taxes or imposing less tax than their taxing authority allows, each year they must officially state their intent to impose taxes. A resolution (or ordinance) that states this intent must accompany the notice of property tax certification form that is submitted to the assessor by July 15th.

The resolution imposing and categorizing taxes must state the taxes in an exact form and amount that the local government wants to certify to the assessor. If it is the local government's intent to impose taxes to its full permanent rate limit, then that rate must be included in the resolution.

By July 15th of each year, you must give the assessor's office:

- Two copies of notice of levy and the categorization certification, and
- Two copies of the budget resolution or ordinance.

If your district is subject to local budget law, but does not levy taxes, send a copy of the resolution adopting the budget and making appropriations to the Department of Revenue on or before July 15th. A copy of the complete budget must also be sent to the county clerk on or before September 30th.

Changing the Adopted Budget

After the district is operating within the adopted budget for the current budget period, changes in appropriated expenditures are sometimes necessary. Resolution transfers and supplemental budgets can change the adopted budget. One of these actions must be taken before money can be spent for a different purpose than appropriated in the adopted budget. It is unlawful to spend public money in excess of the amounts budgeted or for a different purpose than budgeted. Public officials can be sued for such actions if the expenditure is found to be malfeasance in office or willful or wanton neglect of duty. Creating a supplemental budget or a resolution transfer after the expenditure is made does not protect the governing body members from suit.

Appropriation transfers

The governing body's spending authority in existing appropriations can be changed by (1) transferring amounts among existing appropriations in the same fund, (2) or transferring from an existing appropriation in one fund to an existing appropriation in another fund.

You can't, however, use a resolution to transfer appropriations and resources from a special revenue fund to the general fund. A supplemental budget must be used to move resources and appropriations from a special revenue fund to the general fund.

Supplemental Budgets

A supplemental budget is a budget prepared during the fiscal or biennial year that modifies the adopted budget. Supplemental budgets are used to create new appropriations to spend increased resources. They can also be used to transfer resources and appropriations from a special revenue fund to a general fund. Additionally, they can be used to create a new appropriation category within a fund. A supplemental budget can be used to establish a category for capital outlay and transfer appropriations from another category into it. A supplemental budget can also be used to establish a new fund.

You may prepare a supplemental budget only if one or more of the following circumstances exist (ORS 294.471):

- An occurrence or condition that is not ascertained when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires a change in financial planning.
- A pressing necessity that could not reasonably be foreseen when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires prompt action.
- Funds that are made available by another unit of federal, state or local government and the availability of which could not reasonably be foreseen when preparing the original budget or a previous supplemental budget for the current year or current budget period.
- A request for services or facilities the cost of which is to be supplied by a private individual, corporation or company or by another governmental unit and the amount of which could not be accurately estimated when preparing the original budget or a previous supplemental budget for the current year or current budget period.
- Proceeds from the involuntary destruction, involuntary conversion, or sale of property that necessitates the immediate purchase, construction or acquisition of different facilities in order to carry on governmental operations.
- Ad valorem property taxes that are received during the fiscal year or budget period in an amount sufficiently greater than the amount estimated to be collected such that the difference will significantly affect the level of government operations to be funded by the taxes as provided in the original budget or a previous supplemental budget for the current year or current budget period.
- A local option tax described in ORS 294.476 that is certified for extension on the assessment and tax roll under ORS 310.060 for the fiscal year or budget period in which the local option tax measure is approved by voters.

- A reduction in available resources that requires the governing body to reduce appropriations in the original budget or a previous supplemental budget for the current year or current budget period.

A supplemental budget may not extend beyond the end of the fiscal year or budget period during which it is submitted.

Except as provided in ORS 294.476, the making of a supplemental budget does not authorize the governing body to increase the district's total ad valorem property taxes above the amount or rate published with the regular budget and certified to the assessor under ORS 310.060 in conjunction with the regular budget for the fiscal year or for each fiscal year of the budget period to which the supplemental budget applies.

Supplemental budgets may not be prepared to deal with a situation that was known at the time the adopted budget was prepared. Also, you can't use a supplemental budget to spend money in an un-appropriated ending fund balance, except when needed because of a natural disaster, civil disturbance, or involuntary conversion. Involuntary conversion happens when property is unintentionally damaged or destroyed.

Supplemental budget process for change of less than 10 percent

When the change to an individual fund of the adopted budget is less than 10 percent of the expenditures of that fund, use the following process:

- The governing body adopts the supplemental budget at a regularly scheduled board meeting. The budget committee is not required.
- Notice of the regular meeting at which the supplemental budget will be adopted is published by one of the publication methods discussed earlier. The notice is published not less than five days before the meeting. The notice includes the following:
 - The name of each fund being adjusted, and
 - The amount of the change to each fund's resources and expenditures.
- At the meeting, a resolution or ordinance adopting the supplemental budget and making appropriations is approved.

Supplemental budget process for changes of 10 percent or greater

When the supplemental budget will adjust a current budget fund by 10 percent or more of the expenditures of that fund or create a new fund, then a longer process must be used to adopt the supplemental budget.

- A special hearing must be held to discuss and adopt the supplemental budget. The governing body holds the hearing. The budget committee is not required to be involved.
- The governing body enacts a resolution or ordinance to adopt and appropriate the supplemental budget after the hearing.

Situations Where Unappropriated Money Can Be Spent

These situations are referred to as exceptions to local budget law. The most common are:

- Receipts of grants, gifts, or bequests, or devises during the fiscal year for a specific purpose. Expenditures of these moneys can be made in the fiscal year received after enactment of a resolution or ordinance.
- Occurrence of a natural disaster or civil disturbance. Expenditure of money to deal with the damage or destruction of property can be made after adoption of a resolution or ordinance.

“Emergency situation” means:

- Involuntary conversion or destruction of the property of a municipal corporation;
- Civil disturbance;
- Natural disaster; or
- Any public calamity.

SAMPLE BUDGET CALENDAR

1. Appoint budget officer and budget committee December 8
2. Prepare proposed budget February 28
3. Publish 1st notice of budget committee meeting no more than 30 days before the meeting March 10
4. Publish 2nd newspaper notice of budget committee meeting at least 5 days before the meeting, or post online at least 10 days before the meeting.
Note: If publishing by mail or hand-delivery, only one notice is required, at least 10 days before the meeting March 20
5. Budget committee meeting March 30
6. Second budget committee meeting (if needed) April 6
7. Publish notice of budget hearing 5 to 30 days before the hearing..... April 19
8. Hold budget hearing May 4
9. Board meeting to enact resolutions to adopt budget, make appropriations, impose and categorize taxes June 15
10. Submit tax certification documents to the assessor by July 15 July 12
11. Submit copy of complete budget document to county clerk September 30

BUDGET PROCESS CHECKLIST

Administration Checklist

- ✓ Gather budget requests.
- ✓ Evaluate the budget requests and develop proposed budget.
- ✓ Develop estimates of revenue.
- ✓ Prepare budget proposal.
- ✓ Estimate ad valorem taxes in budget document.
- ✓ Prepare budget message.
- ✓ Publish required notices and budget summary.
- ✓ Provide citizens with information about approved budget.

Budget Committee Checklist

- ✓ Establish a meeting calendar.
- ✓ At first meeting, elect presiding officer (required) and vice chair (optional).
- ✓ At first meeting, establish budget committee procedural rules.
- ✓ At first meeting, receive budget message and proposed budget.
- ✓ Request information.
- ✓ Make budget documents available to any person.
- ✓ Provide opportunities for citizens to ask questions.
- ✓ Approve budget and recommend to governing body.

Note: Local governments in Multnomah County may have a slightly different process involving the Tax Supervising and Conservation Commission.

RESOURCES

Department of Revenue Home Page: www.oregon.gov/DOR/

Local Budget Forms: www.oregon.gov/DOR/forms/Pages/default.aspx

Local Budgeting in Oregon: www.oregon.gov/DOR/forms/FormsPubs/local-budgeting-oregon_504-400.pdf

Local Budgeting Manual: www.oregon.gov/DOR/forms/FormsPubs/local-budgeting-manual_504-420.pdf

Oregon Local Budget Law (ORS 294): www.oregonlegislature.gov/bills_laws/ors/ors294.html

SDAO Resource Library/Budget: www.sdaoresourcelibrary.com