
Part 40

Local Government Budget Act

7-6-4001. Short title — applicability. (1) This part may be referred to as the "Local Government Budget Act".

(2) This part applies to all local governments.

History: En. Sec. 9, Ch. 278, L. 2001.

7-6-4002. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Governing body" means the elected body responsible for the administration of a local government.

(2) "Local government" has the meaning provided in 7-6-602.

(3) "Municipality" means an incorporated city or town.

(4) "Working capital" means the current assets of a fund minus the current liabilities and designated reserves of a fund.

History: En. Sec. 10, Ch. 278, L. 2001.

7-6-4003. Budget and levies supplied to department of administration. (1) A local government shall submit a complete copy of the final budget together with a statement of tax levies to the department of administration by the later of October 1 or 60 days after receipt of taxable values from the department of revenue. The county clerk and recorder shall make this submission for counties.

(2) The local government shall use standard forms prescribed by the department of administration or may use an alternative budget format acceptable to the department of administration.

History: En. Sec. 11, Ch. 278, L. 2001; amd. Sec. 221(1), Ch. 483, L. 2001.

7-6-4004. Budget fund structure. Local government budgets must conform to the fund structure prescribed by the department of administration.

History: En. Sec. 12, Ch. 278, L. 2001; amd. Sec. 221(1), Ch. 483, L. 2001.

7-6-4005. Expenditures limited to appropriations. (1) Local government officials may not make a disbursement or an expenditure or incur an obligation in excess of the total appropriations for a fund.

(2) A local government official who violates subsection (1) is liable for the amount of the excess disbursement, expenditure, or obligation personally.

(3) The subsequent claims approval process may not be considered as the making of a disbursement or an expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability.

History: En. Sec. 13, Ch. 278, L. 2001; amd. Sec. 6, Ch. 209, L. 2005.

7-6-4006. Appropriation power — requirements. (1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.

(2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.

(3) Appropriations may be adjusted according to procedures authorized by the governing body for:

(a) debt service funds for obligations related to debt approved by the governing body;

(b) trust funds for obligations authorized by trust covenants;

(c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;

(d) any fund for special assessments approved by the governing body;

(e) the proceeds from the sale of land;

(f) any fund for gifts or donations; and

(g) money borrowed during the fiscal year.

(4) The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.

History: En. Sec. 14, Ch. 278, L. 2001.

7-6-4007 through 7-6-4010 reserved.

7-6-4011. Use of bond proceeds and borrowed money. (1) Except as otherwise provided by law, money borrowed by a local government may be used only for the purpose for which the money was borrowed. Unless restricted by law, surplus borrowed money may be used to redeem the debt for which the money was borrowed.

(2) The authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.

History: En. Sec. 15, Ch. 278, L. 2001.

7-6-4012. Fee based budgets — adjustable appropriation. (1) In its final budget resolution, the governing body may authorize adjustments to appropriations funded by fees throughout the budget period. Adjustable appropriations are:

(a) proprietary fund appropriations; or

(b) other appropriations specifically identified in the local government's final budget resolution as fee-based appropriations.

(2) Adjustments of fee-based appropriations must be:

(a) based upon the cost of providing the services supported by the fee; and

(b) fully funded by the related fees for services, fund reserves, or nonfee revenue such as interest.

History: En. Sec. 16, Ch. 278, L. 2001.

7-6-4013. Fees for services — hearing and resolution. (1) If a local government has the authority to regulate, establish, and change fees, rates, charges, and classifications that are imposed for services to its inhabitants and other persons served by the local government, the fees, rates, charges, and classifications must be reasonable and related to the cost of providing the service.

(2) Charges for services must comply with Title 17, chapter 2, part 3, and other applicable statutes.

(3) In order to establish or change fees, rates, charges, or classifications imposed for services, the governing body shall order a hearing to be held as provided in 7-1-4131, unless a special hearing process is provided by law. Municipal utility rate hearings must be held as provided in 69-7-112.

(4) Notice of a hearing must be published as provided in 7-1-2121 for a county and as provided in 7-1-4127 for a municipality.

(5) After a hearing, the fees, rates, charges, or classifications must be established by resolution of the governing body.

History: En. Sec. 17, Ch. 278, L. 2001.

7-6-4014. Restriction on tax-financed expenditures if voter approval required. If an expenditure is to be financed from a tax levy required to be authorized and approved at an election, the expenditure may not be made or an obligation may not be incurred against the expenditure until the tax levy is authorized and approved.

History: En. Sec. 18, Ch. 278, L. 2001.

7-6-4015. Payments for judgments. (1) Judgments against a local government that are not covered by insurance may be paid:

(a) from the general fund; or

(b) from the fund or funds supporting the local government operation that incurred the judgment.

(2) Judgments that are to be paid from the general fund:

- (a) must be paid in the current fiscal year if there is sufficient money in the general fund to pay both the judgment and the general fund appropriations for the current fiscal year; or
- (b) must be paid from additional tax levies made in each of the next 3 years if general fund money is insufficient to pay the judgment in the current fiscal year.

History: En. Sec. 19, Ch. 278, L. 2001.

7-6-4016 through 7-6-4019 reserved.

7-6-4020. Preliminary annual operating budget. (1) A preliminary annual operating budget must be prepared for the local government.

(2) This part does not provide for the consolidation or reassignment, but does not prohibit delegation by mutual agreement, of any duties of elected county officials.

(3) (a) Before June 1 of each year, the county clerk and recorder shall notify the county commission and each board, office, regional resource authority, or official that they are required to file preliminary budget proposals for their component of the total county budget.

(b) Component budgets must be submitted to the clerk and recorder before June 10th or on a date designated by the county commission and must be submitted on forms provided by the county clerk and recorder.

(c) The county clerk and recorder shall prepare and submit the county's preliminary annual operating budget.

(d) Component budget responsibilities as provided in this subsection (3) include but are not limited to the following:

(i) The county surveyor or any special engineer shall compute road and bridge component budgets and submit them to the county commission.

(ii) The county commission shall submit road and bridge component budgets.

(iii) The county treasurer shall submit debt service component budgets.

(iv) The county commission shall submit component budgets for construction or improvements to be made from new general obligation debt.

(4) The preliminary annual operating budget for each fund must include, at a minimum:

(a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;

(b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:

(i) salaries and wages;

(ii) operations and maintenance;

(iii) capital outlay;

(iv) debt service; or

(v) transfers out.

(c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.

(d) a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;

(e) financial data on current and future debt obligations;

(f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries, and benefits is not required to be part of the budget document.

(g) all other estimates that fall under the purview of the budget.

(5) The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax.

History: En. Sec. 20, Ch. 278, L. 2001; amd. Sec. 25, Ch. 351, L. 2009.

7-6-4021. Notice of preliminary or amended budget. (1) The governing body shall cause a notice of a public hearing on the preliminary or amended budget to be published. The notice must:

- (a) provide that the governing body has completed its preliminary annual budget for the ensuing fiscal year or intends to amend its annual budget;
- (b) state that the budget or budget amendment has been placed on file and is open to inspection in the county or municipal office designated in the notice;
- (c) designate the date, time, and place of the meeting at which the governing body will meet for approving a final budget or amended budget and making appropriations; and
- (d) state that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget or budget amendment.

(2) The publication requirements must conform to the provisions of 7-1-2121 for a county or 7-1-4127 for a municipality.

History: En. Sec. 21, Ch. 278, L. 2001.

7-6-4022. District court budgets. (1) The district court must be provided with copies of the preliminary district court fund budget as soon as the preliminary county budget is prepared pursuant to 7-6-4020.

(2) The district court may recommend changes to any part of the district court fund budget that the court considers to be necessary for it to discharge its obligations under the law. Any recommendations must be made at the hearing on the preliminary budget held pursuant to 7-6-4024.

(3) The district court fund may be used only for district court operations and expenses.

History: En. Sec. 22, Ch. 278, L. 2001.

Cross-References

Salary of County Attorney — one-half payable from county general fund, 7-4-2502.

Salary of County Attorney and Deputy County Attorney, 7-4-2503.

Enumeration of county charges — one-half salary of County Attorney, 7-6-2426.

County levy for certain court expenses, 7-6-2511.

Imposition of charge upon conviction or forfeiture — use of money for salaries of city or town attorney and deputies and Deputy County Attorney, 46-18-236.

7-6-4023. Repealed. Sec. 74, Ch. 449, L. 2005; Sec. 21, Ch. 453, L. 2005.

History: En. Sec. 23, Ch. 278, L. 2001.

7-6-4024. Hearing on preliminary budget. (1) The governing body shall hold a hearing in accordance with the notice given pursuant to 7-6-4021.

(2) Local government officials shall attend the budget hearing to answer questions on their proposed budgets if called upon:

- (a) by the governing body; or
- (b) by a taxpayer or resident.

(3) The hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by resolution by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving certified taxable values from the department of revenue.

History: En. Sec. 24, Ch. 278, L. 2001; amd. Sec. 2, Ch. 62, L. 2013.

7-6-4025. Receipt and expenditure of money prior to adoption of final budget. A local government may receive and expend money between July 1 of the fiscal year and the date the final budget resolution is adopted.

History: En. Sec. 25, Ch. 278, L. 2001.

7-6-4026 through 7-6-4029 reserved.

7-6-4030. Final budget — resolution — appropriations. (1) The governing body may amend the preliminary budget after the public hearing and after considering any public comment.

(2) The amended budget constitutes the final budget. The final budget must be balanced so that appropriations do not exceed the projected beginning balance plus the estimated revenue of each fund for the fiscal year.

(3) The governing body shall adopt the final budget by resolution. The resolution must:

(a) authorize appropriations to defray the expenses or liabilities for the fiscal year; and

(b) establish legal spending limits at the level of detail in the resolution.

(4) The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date.

History: En. Sec. 26, Ch. 278, L. 2001.

7-6-4031. Budget amendment procedures. (1) The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund.

(2) The annual budget appropriations may be amended as provided in 7-6-4006(3) and 7-6-4012.

(3) Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032 or in the case of an emergency under Title 10, chapter 3, a public hearing is required for an overall increase in appropriation authority.

History: En. Sec. 27, Ch. 278, L. 2001.

7-6-4032. Emergency expenditures. (1) Emergency budget appropriations must be adopted by two-thirds of the members of a governing body who are present at a meeting.

(2) Emergency expenditures are limited to and must be charged to the adopted emergency budget appropriations.

(3) The governing body may submit the question of funding emergency warrants at an election as provided by law.

History: En. Sec. 28, Ch. 278, L. 2001.

7-6-4033. Expenditure limitation. Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032, the governing body, each county or municipal official, and the district courts are limited to the amount of appropriations and by the classifications in the annual appropriation resolution provided for in 7-6-4030 when making disbursements or expenditures or incurring liabilities.

History: En. Sec. 29, Ch. 278, L. 2001.

7-6-4034. Determination of fund requirements — property tax levy. (1) After determining the final budget, the governing body shall determine the property tax levy needed for each fund by:

(a) adding the total amount of the appropriations and authorized expenditures for the budget year;

(b) adding an additional amount, subject to the provisions of subsection (2), as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;

(c) subtracting the working capital; and

(d) subtracting the total estimated revenue, other than the property tax levy, for the budget year.

(2) After deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants, the amount that may be added as a reserve, as provided in subsection (1)(b), to:

(a) a county's fund may not exceed one-third of the total amount appropriated and authorized to be spent from the fund during the current fiscal year; and

(b) a city's or town's fund may not exceed one-half of the total amount appropriated and authorized to be spent from the fund during the current fiscal year.

History: En. Sec. 30, Ch. 278, L. 2001.

7-6-4035. Tax levies for boards and commissions — bond exemption. (1) The proposed budget and mill levy for each board, commission, or other governing entity are subject to approval by the governing body.

(2) Except for a port authority created under Title 7, chapter 14, part 11, the taxes, revenue, or fees legally pledged for the payment of debt or for the operations of a regional resource authority are not subject to approval by the governing body.

(3) Except for judgment levies under 2-9-316 or 7-6-4015, all tax levies are subject to 15-10-420.

History: En. Sec. 31, Ch. 278, L. 2001; amd. Sec. 26, Ch. 351, L. 2009.

7-6-4037. Cause of action — failure to adopt or submit an annual operating budget. (1) If a local government entity fails to adopt or submit an annual operating budget as required by Title 7, chapter 6, part 40, within 2 years of the applicable deadline, a person identified in subsection (2) of this section who has received a written determination from the department under 7-6-4038(3)(c) or (4)(b) may bring a cause of action against the local government entity for failure to comply with the local government entity's fiduciary requirements.

(2) The following parties may bring a cause of action under the provisions of subsection (1):

(a) any person who pays property taxes to the local government entity;

(b) any elected officer of any local taxing jurisdiction that collects revenue from or distributes revenue to the local government entity;

(c) any person residing within the jurisdictional boundaries of the local government entity who can demonstrate a specific personal and legal interest, as distinguished from a general interest, and has been or is likely to be specially and injuriously affected by the local government entity's failure to meet the requirements as set forth in subsection (1).

(3) The cause of action must be filed in the district court in the county where the local government entity is located.

(4) In addition to any other penalty provided by law, the court may grant relief that it considers appropriate, including but not limited to providing declaratory relief, appointing a financial receiver for the local government entity, or compelling a mandatory duty required under this part that is imposed on a state or local government officer or local government entity. If a party identified in subsection (2) prevails in an action brought under this section, that party must be awarded costs and reasonable attorney fees.

History: En. Sec. 6, Ch. 268, L. 2019.

7-6-4038. Filing of claims against local government entity — disposition by department as prerequisite. (1) All claims against a local government entity for failure to adopt or submit an annual operating budget as required by Title 7, chapter 6, part 40, within 2 years of the applicable deadline must be presented in writing to the department.

(2) A complaint based on a claim subject to the provisions of subsection (1) may not be filed in district court unless the claimant has first presented the claim to the department and submitted a copy of the claim to the local government entity. Upon the department's receipt of the claim, the statute of limitations on the claim is tolled until a written determination is issued under subsection (3).

(3) The department must review the claim and issue one of the following determinations in writing within 60 days after the claim is presented to the department:

(a) the local government entity has not violated the requirements of this part for a period of 2 years from the applicable deadlines;

(b) there is sufficient evidence of the violations of the requirements of this part for a period of 2 years from the applicable deadlines, and the department will initiate further technical assistance to help the local government entity come into compliance with this part within 6 months; or

(c) there is sufficient evidence of the violations of the requirements of this part for a period of 2 years from the applicable deadlines.

(4) If the department issues a written determination under subsection (3)(b), within 6 months the department must provide the complainant with a final determination that either:

(a) the local government entity has come into compliance with the provisions of this part; or

(b) there is sufficient evidence of the violations of the requirements of this part.

(5) A complainant must receive a written determination from the department under subsection (3)(c) or (4)(b) before proceeding to district court under 7-6-4037.

(6) The failure of the department to issue a written determination of a claim within 60 days after the claim is presented to the department must be considered a written determination under subsection (3)(c) for purposes of this section.

History: En. Sec. 7, Ch. 268, L. 2019.