

OREGON
DEPARTMENT
OF REVENUE

Local Budgeting Manual

PROPERTY TAX DIVISION

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Questions?

On the internet.....www.oregon.gov/dor/ptd/pages/localb.aspx
 By telephone.....503-945-8293
 By e-mail finance.taxation@state.or.us

Asistencia en español:

Salem503-378-4988
 Gratis de prefijo de Oregon..... 1-800-356-4222

TTY (hearing or speech impaired; machine only):

Salem503-945-8617
 Toll-free from an Oregon prefix..... 1-800-886-7204

Americans with Disabilities Act (ADA): Call one of the help numbers for information in alternative formats.


Chapter 9—Publication requirements

Publishing meeting notices and a financial summary of the budget are some of the most important parts of the budget process. The budget officer must be familiar with the statutes governing publication of the meeting notices and the budget summary (ORS 294.426, renumbered from 294.401; 294.438, renumbered from 294.416; and 294.448, renumbered from 294.421). This chapter explains the statutory publication requirements for fiscal year budgets. For biennial budgets, also see Chapter 14.

Notice of budget committee meeting

Notice of the first meeting of the budget committee held for the purpose of receiving the budget message and budget document, and the first meeting at which questions and comments from the public will be heard must be published in one of four ways.

The budget officer must publish a “*Notice of Budget Committee Meeting*” by:

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- Printing it two times in a newspaper of general circulation within the boundaries of the local government, or
 - Printing it once in a newspaper of general circulation and posting it on the local government’s website, or
 - Mailing it by first-class mail through the U.S. Postal Service to each street address, PO Box, and rural route number within the boundaries of the local government, or
 - Hand delivery to each street address within the boundaries of the local government.

The notice must contain the date, time, and location of the first budget committee meeting scheduled for receiving the proposed budget, hearing the budget message, and taking questions and comments from the public.

If the method of publication is only by newspaper, the notice must be published **twice, five to 30 days** before the committee meeting. If notice is published both in the newspaper and on the local government’s website, the newspaper notice must be published five to 30 days before the meeting and must include the website address, where the notice must be published at least 10 days before the meeting. If the notice is mailed or hand delivered, only one notice is required, no less than **10 days** before the meeting [ORS 294.426(5), renumbered from 294.401(5)].

If more than one meeting is planned, the budget committee may decide that the purpose of the first meeting is only to hear the budget message and receive the budget document, and that no public comment will be taken. In that case, a subsequent meeting must be scheduled for the purpose of taking public comment, and notice of both meetings must be published. The published notice must clearly tell people which meeting they should attend if they wish to ask questions or make comments on the budget. If more meetings are needed to take public comment and questions than were initially published, notice of the additional meetings is given in the same manner as required for notice of regular meetings of the governing body under Oregon’s Public Meetings Law (ORS Chapter 192).

If notice is published for an additional meeting to be held for the purpose of taking questions and comments from the public and it is subsequently determined that a meeting is not needed, notice of cancellation of the meeting must also be published [ORS 294.426(3), renumbered from 294.401(3)].

Notice of the first budget committee meeting must be published by one of the four methods listed above. It cannot be “posted in three public places,” as the hearing notice can be in some cases.

Internet posting of proposed budget (Washington County)

Under ORS 294.608 counties with a population of 500,000 or more must either form a tax supervising and conservation commission or require posting of a summary of the proposed budget on the county’s internet web site. Washington County has opted to require this posting. The information must be sent to the county before the first budget committee meeting. Local governments in Washington County should contact the county **Finance Division** for details at http://www.co.washington.or.us/Support_Services/Finance/FinancialSummaries/index.cfm.

Local governments in other counties may post their notices and budgets on the internet if they choose to. However this does **not** replace the publication requirements described in this chapter.

Notice of budget hearing and financial summary

A local government must publish a summary of the budget approved by the budget committee. The summary contains information on the approved budget, the current year's budget, and the preceding year's actual resources and expenditures (ORS 294.438, renumbered from 294.416). The summary must state the total estimated budget resources by resource categories, total expenditures by object classification, expenditures and number of employees by organizational unit or program, a narrative of changes in activities and financing since last year, the outstanding indebtedness and indebtedness authorized but not yet incurred, and an estimate of ad valorem taxes (ORS 294.438, renumbered from 294.416).

At the same time you publish the budget summary, you must also publish a notice of the budget hearing. The hearing notice gives the place and time of the hearing (ORS 294.438, renumbered from 294.416). The same publication methods described for the notice of budget committee meeting are used:

- Printing it in a **newspaper** of general circulation within the boundaries of the local government, or
- Mailing it by **first-class mail** through the U.S. Postal Service to each street, PO Box, and rural route address within the boundaries of the local government, or
- **Hand delivery** to each street address within the boundaries of the local government.

Unlike the notice of budget committee meeting, if the hearing notice is by newspaper, only one publication is required and there is no internet publication option. The budget summary and hearing notice are published not less than five days or more than 30 days before the budget hearing.

Exception – Posting the hearing notice and financial summary

There is an exception to the publication requirements just described. If no newspaper is published within the boundaries of the local government and the budget expenditures for the coming year do not exceed \$100,000, the notice of the budget hearing may be “posted” (ORS 294.448, renumbered from 294.421). Post the notice and budget summary in three conspicuous places within the boundaries of the local government for at least 20 days before the hearing. These are places where many people are likely to go—such as the post office or grocery store.

Exception – Counties with tax supervising and conservation commission (Multnomah County)

A local government with a population greater than 200,000 in a county with a tax supervising and conservation commission (TSCC), or one with a population less than 200,000 that requests the TSCC to conduct the budget hearing, submits its approved budget to the TSCC [ORS 294.448(2), renumbered from 294.421(2)] and publishes the following information in the newspaper, by first class mail or by hand delivery:

- The date, time and place of the TSCC budget hearing,
- The place where the budget document can be inspected or obtained by the public during regular office hours,
- The total approved budget requirements and tax amounts, and
- Any change in the tax amount from the prior year.

This notice must be published five to 30 days before the date of the hearing.

How to count days for publication

ORS 193.060 states: *“The time for the publication of legal notices shall be computed so as to exclude the first day of publication and to include the day on which the act or event of which notice is given is to happen...”*

For example, if your meeting is on May 25, to give 10 days notice your notice must appear in the paper by May 15. In this example, you could count backwards from May 25, counting May 25, and publishing your notice on or before the 11th day prior—May 15.

Chapter 11—The budget hearing and adopting the budget

After the budget committee has approved the budget, the governing body must hold a public hearing on that budget and then adopt the budget.

Budget hearing

One of the most important steps in the budget process is publishing a summary of the budget that has been approved by the budget committee and a notice of the budget hearing. For information on how to publish this notice of the budget hearing and financial summary, see “Chapter 9 – Publication Requirements.”

After the “Notice of Budget Hearing” is published, the budget hearing must take place at the time and place published or the hearing must be rescheduled and a new notice published. The governing body conducts the hearing and receives testimony from any person present (ORS 294.453, renumbered from 294.430). It gives consideration to matters discussed at the hearing (ORS 294.456, renumbered from 294.435). Keep careful minutes of the budget hearing proceedings to document your compliance with these requirements.

The budget committee is not required by law to be present at the budget hearing. However some local governments make it their policy to ask the budget committee to participate.

The hearing must be held on the budget that was approved by the budget committee, even if the governing body intends to modify that version of the budget before adopting it. The published financial summary should also reflect the version of the budget that was approved by the budget committee.

The governing body does not have to adopt the budget at the budget hearing. Formally adopting the budget, making appropriations, and declaring and categorizing the taxes can be done at any regularly scheduled and properly advertised public meeting of the governing body after the budget hearing and before July 1. If the governing body refrains from adopting the budget until June, it allows for adjustments to reflect changes in the resources or expenditures from the amounts estimated earlier.

There is no provision in law for adopting the budget after June 30. Planning ahead and having a budget calendar will help ensure that governing body members do not find themselves operating outside the law.

For information on adopting biennial budgets, see Chapter 14.

Changes to the budget after the budget hearing

Once the budget hearing has been held, the governing body can make changes to the budget that was approved by the budget committee. The governing body must take all available information into consideration when adopting the budget. This information includes the public testimony presented at the budget hearing and any new information affecting the estimates of the upcoming year’s resources or expenditures [ORS 294.456(1), renumbered from 294.435(1)]. For example, if a higher beginning fund balance, additional grants or other new resources are available, the additional monies can be added to the applicable fund balances and additional expenditures planned.

It is important that the governing body carefully consider the budget it adopts. Changes to the budget after it has been adopted often require governing body action, and sometimes require additional publications and public hearings. It is for this reason that all available information should be collected during the budget process.

There are restrictions on the size of certain changes by the governing body that may require additional process steps before the resulting budget can be adopted. Any expenditure in any fund can be reduced as long as resources and requirements in the fund remain in balance. The total budget must also remain in balance. Other than re-balancing if necessary, no additional process steps are required when expenditures are reduced. Any tax levy can be reduced from the rate or amount that was approved by the budget committee. The applicable funds and the total budget must be adjusted to remain in balance. Otherwise, no additional process steps are required when taxes are reduced.

Expenditures may be increased. If the total increase in no fund exceeds \$5,000 (\$10,000 in a biennial budget) or 10 percent, whichever is greater, then no additional process steps are required. However, if the expenditures in any fund are increased by more than \$5,000 (\$10,000 in a biennial budget) or 10 percent, the governing body

- Interfund revenue transfers, and
- General operating contingency, if applicable for the fund.

Requirements not appropriated

The **unappropriated ending fund balance** and amounts **reserved for future expenditure** are budget requirements. However, they are not appropriated expenditures. Show them as line items in the budget detail. Include them in the total requirements for the fund in the published summary of the budget. But **do not appropriate** the unappropriated ending fund balance or the reserved for future expenditure in the resolution or ordinance making appropriations. They are not intended to be spent and therefore should not be appropriated. They may be shown as a footnote in the resolution or otherwise, as long as it is clear that they are not included in the total appropriations. Many local governments do this to show that these unappropriated amounts, when added to the amounts appropriated, match the total adopted budget amount.

Some common errors to avoid are:

- Combining the appropriations from more than one fund. Appropriate **each fund separately**.
- Not appropriating some expenditures. Appropriate for **every fund** in which you have budgeted expenditures.
- Not specifying appropriation amounts in the resolution or ordinance. Do not simply refer to the adopted budget when making the appropriations in the resolution. For example: *“Be it resolved that appropriations are hereby made as outlined in the adopted budget.”* This is not adequate. You may include appropriations as a separate schedule referred to in the resolution or ordinance making appropriations, as long as the schedule includes the required level of detail.
- Using appropriation categories other than those allowed in ORS 294.456 (renumbered from 294.435). **Do not lump appropriations into “miscellaneous,” “other,” or “special” categories.** Use only the appropriation categories listed in ORS 294.456.

Significance of the July 1 date

Appropriations are limited to a single **fiscal year** or biennial budget period (ORS 294.311). The budget year or biennium ends on June 30 (every other June 30 for biennial budgets). That means all spending authority of a local government ends on that June 30. A local government does not have legal authority to spend or encumber money for the new fiscal year or biennium until the budget is adopted and appropriated. If expenditures are made without appropriation authority, the officials who allow or authorize such expenditures might be held personally responsible for the repayment of the money (ORS 294.100).

Limits and penalties associated with appropriations

After the budget is adopted, a local government must stay within the appropriations set for the budget period. It is illegal to overspend an appropriation. ORS 294.456(6) [renumbered from 294.435(6)] states that when appropriations have been made, *“an expenditure, or encumbrance if encumbrance accounting is used, of public money may not be made for any purpose in an amount greater than the amount appropriated.”* (There are situations in which appropriation authority may be changed during the fiscal year. For more on how appropriations may be adjusted to avoid overspending, see *“Chapter 13 - Budget Changes After Adoption.”*) The fiscal officer must pay close attention to each appropriation throughout the year to avoid overspending.

The penalties for unlawful spending of public money are established by ORS 294.100, which states, *“It is unlawful for any public official to expend any money in excess of the amounts, or for any other or different purpose than provided by law.”* The public official *“shall be civilly liable for the return of the money by suit of the district attorney of the district where the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty.”*

Level of appropriation determines the need for changes after adoption

At a minimum, appropriations must be by the categories listed in ORS 294.456, renumbered from 294.435. If the governing body desires, it may appropriate to a greater level of detail within those categories. You may ap-

appropriate right down to the budget line item level if you wish. However, unless there is a need for an increased level of control, we recommend that you appropriate only to the level required by ORS 294.456.

Whether appropriations must be adjusted during the year sometimes depends on the level of detail to which you have appropriated in the fund. If you have appropriated to the minimum level of detail that is required (for example, one amount for each object classification), it is not necessary for each line item amount within an appropriation category to be strictly enforced in its expenditure. If one line item is over-expended, you can reduce the spending for one or more of the other line items in the same appropriation category to keep expenditures within the limits of the appropriation. In such a situation, no change would be necessary to the budget.

Example:

Budgeted general fund requirements (budget detail)

Materials and Services

Office supplies	\$1,000
Contract services	800
Utilities	<u>2,000</u>
Total materials and services	\$3,800

Resolution making appropriation

General fund

Materials and services	\$3,800
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During the fiscal year, you find that contract services expenses will exceed the budgeted amount by \$100. However, the utilities expenses will be less than budgeted. No governing body action is needed to pay the \$900 contract services expense as long as the total appropriation of \$3,800 for Materials and Services is not exceeded.

Resolution imposing ad valorem taxes

Governing bodies that are imposing ad valorem property taxes must declare the tax rate or the amount of each levy by resolution or ordinance [ORS 294.456 (1), renumbered from 294.435(1)]. Property taxes are imposed for the tax year on the assessed value of all taxable property within the district. Declare each levy as a rate or an amount, not both.

The rate or amount of property taxes certified on the "Notice of Property Tax" (Form LB-50/ED-50/UR-50) must be the same rate or amount declared in the resolution or ordinance. See Chapter 12 for more information on certifying property taxes.

Declaring urban renewal taxes

Every year an urban renewal agency must declare the amount of revenue it wishes to receive from division of tax and/or special levy for each of its urban renewal plans. If the plan is an "existing" plan, the amount the plan can ask for is determined by its "option." Implementing legislation for Measure 50 (1997) created three options for financing urban renewal indebtedness for plans then in existing. The municipality that activated the agency was directed to choose one of the three options for each existing plan. The option chosen by the municipality cannot be changed [ORS 457.435(4)]. New plans authorized since 1996 are not given a choice of options.

Urban renewal plans may each year request less than the full division of tax amount by requesting that only part of the increment value be used. Any increment value that is not requested is returned to the taxing districts and used for calculating their taxes (ORS 457.455).

In addition, the law also imposes limitations on the amount of increment that can be requested if certain conditions exist. For more details, refer to ORS 457.470. A plan that was an existing plan, but that is substantially amended in certain ways can lose its "existing" status and thereafter receive division of tax, but no more special levy. See ORS 457.010(5) for more on these substantial amendments.


The governing body of the urban renewal agency must pass a resolution declaring that they wish to receive 100% of division of tax, or specifying the amount of increment to use to calculate a lesser amount of division

Chapter 13—Budget changes after adoption


An appropriation is an authorization granted by the governing body to make expenditures and to incur obligations for specific purposes. It is limited to one fiscal year or biennial budget period [ORS 294.311(3)]. Appropriations are a legal limitation on the amount of expenditures that can be made during the fiscal year and on the purposes for which expenditures can be made [ORS 294.456(6), renumbered from 294.435(6)]. A local government's appropriations are detailed in the resolution or ordinance making appropriations. Examples are shown at the end of Chapter 11. After the beginning of the fiscal year or biennial budget period, when a local government is operating with the adopted budget, changes in appropriated expenditures sometimes become necessary. Appropriations may be increased or decreased, transferred from one appropriation category to another, or new appropriation categories created.

The method used to amend the budget is determined by the budgetary change needed. If the change involves a new fund or a new appropriation category, a supplemental budget is usually required. If the change is a transfer of appropriation authority (and the corresponding resources) from one fund to another, or within the same fund, then a resolution transfer is allowed. In some cases, the change falls within an exception to the Local Budget Law and the governing body may appropriate expenditures with no budget amendment required.

Supplemental budget



A supplemental budget is most often required when new appropriation authority is needed. For example, circumstances may require expenditures that were not budgeted, or you may receive revenue you did not plan for in your budget that you want to spend in the current fiscal year. A supplemental budget is usually not required if appropriations are not being changed.



Although a supplemental budget is usually associated with the expenditure of new appropriations and increased revenues, it can also be used for other purposes. For example, a supplemental budget is usually required to create a new fund during the fiscal year or when transferring appropriation authority to an appropriation category that doesn't already exist in the adopted budget.

Supplemental budgets are good only through the end of the fiscal year or biennium in which they are adopted. They cannot be used to authorize changes in a prior year's budget. Preparing a supplemental budget does not authorize the governing body to impose additional ad valorem taxes [ORS 294.471(4), renumbered from 294.480(4)].

When can a supplement budget be prepared?

A local government may prepare a supplemental budget if one or more of the following circumstances exists (ORS 294.471, renumbered from 294.480):

- An occurrence or condition that was not known at the time the budget was prepared requires a change in financial planning.
- A pressing necessity creates a need for prompt action.
- Unexpected funds are made available by another unit of federal, state or local government.
- A request for services or facilities is received and the cost will be paid for by a private individual, corporation or company, or by another governmental unit, and the amount of the request could not have been known for certain at the time the budget was prepared.
- Proceeds from the involuntary destruction, involuntary conversion, or sale of property have necessitated the immediate purchase, construction or acquisition of different facilities to carry on governmental operations.
- A sufficiently greater amount of ad valorem taxes than estimated are received during the fiscal year such that the difference will significantly affect the level of government operations to be funded by those taxes for the current year.
- A local option tax, as described in ORS 294.476 (renumbered from 294.435), is approved by the voters and certified for extension on the tax roll for the current tax year.
- Available resources are reduced requiring the governing body to reduce appropriations.

There are also specific circumstances when a supplemental budget is not required to make expenditures that are not in the adopted budget. See “Exceptions to Local Budget Law” at the end of this chapter.

When is a supplemental budget not allowed?

A supplemental budget cannot authorize spending an unappropriated ending fund balance, except when necessitated by involuntary conversion or a civil disturbance or natural disaster [ORS 294.481 (renumbered from 294.455)]. It also cannot be used to spend the tax raised above the estimated amount stated in the ballot for a rate-based local option tax [ORS 280.075(2)].

Process and preparation

A supplemental budget may adjust one fund or several. If a supplemental budget is necessary, the process for preparing it must be determined. The process depends on the size of the change in the adopted expenditures. For the purpose of determining which process to use, fund expenditures in the adopted budget do not include unappropriated ending fund balance, amounts reserved for future expenditure, interfund transfers, or contingency amounts. The adopted expenditures amount is the amount in the budget as most recently amended prior to the supplemental budget currently being considered.

10 percent or Less

When a supplemental budget will adjust fund expenditures by 10 percent or less the supplemental budget may be adopted at a regularly scheduled meeting of the governing body. The budget committee is not required to be involved. If the supplemental budget is adjusting more than one fund, the adjustment to each fund must be 10 percent or less.

Notice of the regular meeting at which the supplemental budget will be adopted must be published at least five days before the meeting. The notice must include a statement that a supplemental budget will be considered at the meeting. [ORS 294.471(3), renumbered from 294.480].

At the meeting, the governing body approves a resolution adopting the supplemental budget and making any necessary appropriations. The resolution must state the need for, purpose and amount of any appropriations being approved.

More than 10 percent

If the proposed supplemental budget will change any fund's expenditures by more than 10 percent or will create a new fund or a new appropriation category, then a public hearing must be held and public comment taken before adoption of the supplemental budget. The hearing is held by the governing body. The budget committee is not required to be involved. At the hearing, the governing body must hear comments and questions from any person who wishes to speak.

Not less than five days before the hearing, a notice of hearing and a summary of the changes proposed in the funds that differ by more than 10 percent must be published using one of the methods used to publish the notice of the original budget hearing. The published summary of changes must include, for each fund being adjusted by more than 10 percent, the name of the fund, the source and amount of any resources that are changing, the new appropriation amount for any new appropriation categories or any appropriations that are changing by more than 10 percent, and the fund's revised total resources and requirements (ORS 294.473, renumbered from 294.480).

The Department of Revenue provides a form that can be used to publish the summary of the supplemental budget. The form is titled “Notice of Supplemental Budget Hearing,” and is included in the packet of budget forms available at: <http://www.oregon.gov/dor/ptd/pages/localform.aspx>. The form number for municipal corporations is 150-504-073-8, for education districts is 150-504-075-7 and for urban renewal agencies is 150-504-076-6. A paper copy of the form is available in the annual forms booklet.

Following the hearing, the governing body must pass a resolution or ordinance to adopt the supplemental budget and make any necessary appropriations.

Note that the amount by which fund expenditures are being changed has no effect on whether a supplemental budget is required. The “10 percent rule” only determines the process used to adopt a supplemental budget;

not whether a supplemental budget is required. It is common to need a supplemental budget even if the expenditures are changing by less than 10 percent. Whether a supplemental budget is required is determined by the criteria in ORS 294.471 and 294.473 and by whether some other “exception to Local Budget Law” can be found that describes the situation and allows the contemplated change without a supplemental budget. See “Exceptions to Local Budget Law” at the end of this chapter.

Completing the notice of supplemental budget hearing

The form provided by the Department of Revenue for publishing notice of a supplemental budget is designed to provide summary information on the changes being made by the supplemental budget. Prepare a summary for each fund that is changing by more than 10 percent. For each such fund, indicate the new total of each resource item that is changing, the new total for each expenditure category that is changing, and the new fund total resources and requirements. Do not show resource items or expenditure categories that are not changing. Note that the new fund total may not equal the amount of the changes shown in the summary because there could be other resources or requirements in the fund that are not changing.

Reflecting a supplemental budget in next year’s budget document

When preparing the budget detail sheets for the coming fiscal year, revise the figures in the column “Adopted Budget This Year” to include the changes made by any supplemental budgets during the current year.

Resolution transfers

The adopted budget may include budgeted transfers of resources between funds. In addition, it often becomes necessary after the budget is adopted to transfer appropriation authority (and in some cases, resources) from one fund to another or between appropriation categories within the same fund. The governing body may authorize some transfers of appropriation authority by passing a resolution or ordinance. A transfer of appropriation authority is a decrease of one existing appropriation and a corresponding increase of another existing appropriation, with no net change in the total amount of all appropriations [OAR 150-294.450(3)(1)]. In general, a resolution may not be used to authorize the creation of a new appropriation category that does not already exist. That requires a supplemental budget. The only exception to this rule is the creation of a “transfer” appropriation category used to transfer resources from one fund to another when a corresponding appropriation is also being transferred to the same target fund.

The resolution or ordinance authorizing a transfer must state the need for the transfer, the purpose of the expenditure, and the amount to be transferred [ORS 294.463(1) and (3), renumbered from 294.450(1) and (3)].

Transfers authorized by resolution can occur either within a fund, or from one fund to any other fund [ORS 294.463(3), renumbered from 294.450(3)].

Intrafund transfers

Appropriations can be transferred within a fund from an existing appropriation category to another existing appropriation category by resolution or ordinance. For example, appropriation authority can be transferred from a fund’s existing materials and services appropriation to the fund’s existing capital outlay appropriation. The materials and services category is decreased and capital outlay is increased by an equal amount. The net change in the fund’s total appropriations is zero.

Intrafund resolution transfers do not require the transfer of resources. No additional revenue is received by the fund; the expenditures are just shifted from one appropriation category to another.

Contingency transfers

A common situation in which appropriations are transferred from one category to another within a fund is when a specific need is identified for money that was budgeted and appropriated as operating contingency. To make the expenditure, the appropriation authority must be transferred from the contingency category to the appropriation category from which it will be expended. The contingency appropriation is reduced and the receiving appropriation category is increased by the same amount so the fund remains in balance.

The amount which may be transferred from contingency by resolution is limited to 15 percent of the total appropriations in the fund [ORS 294.463(2), renumbered from 294.450(2)]. Transfers of contingency which in total exceed 15 percent in a year may be made only after adopting a supplemental budget for that purpose. If there is no existing appropriation in the category in which the desired expenditure falls, a supplemental budget is required to create the new appropriation.

Example of the 15 percent calculation: If the appropriations in a fund total \$100,000, including \$20,000 for general operating contingency, only 15 percent, or \$15,000, of the appropriations, may be transferred from the contingency appropriation by resolution or ordinance. The remaining \$5,000 of contingency can be transferred only through a supplemental budget.

Interfund transfers

Appropriations can be transferred during the fiscal year from one fund to another fund by a resolution or ordinance. A transfer of resources is also sometimes required when appropriations are moved between funds. Resources by themselves cannot be transferred between funds by resolution. If the fund does not have an appropriation category for “transfer to other funds,” one may be created as part of the resolution or ordinance [OAR 150-294.450(3)(4)]. This is the only circumstance in which a budget appropriation category may be created by resolution or ordinance during the fiscal year.

Appropriations in the receiving fund are increased by the amount of the transfer, and the resources available to that fund are also increased by the amount of resources transferred from the originating fund. Appropriations in the originating fund are reduced, as are the resources. Expenditures in the originating fund are then limited by the reduced appropriation authority and reduced resources.

Example:

As the fiscal year begins, the city has made its general fund and utility fund appropriations as follows:

Existing appropriations

General fund		Utility fund	
Administration	\$50,703	Materials & services	118,700
Police	131,103	Capital outlay	<u>1,000</u>
Fire	27,170	Utility fund total	\$119,700
Transfers out	7,500		
Contingency	<u>5,000</u>		
General fund total	\$221,476		
Total appropriations all funds	\$341,176		

Scenario: Because of the required repair of a major water leak, \$2,000 of contingency in the general fund will be transferred to the utility fund materials & services.

Step 1—Intrafund transfer of contingency appropriation

	Existing	Changes	Adjusted
Administration	\$50,703	-0-	\$50,703
Police	131,103	-0-	131,103
Fire	27,170	-0-	27,170
Transfers out	7,500	2,000	9,500
Contingency	<u>5,000</u>	<u>(2,000)</u>	<u>3,000</u>
Total	\$221,476	-0-	\$221,476

\$2,000 of the general fund contingency appropriation is transferred to the appropriation category “transfers out.” This \$2,000 of the general fund appropriation and resources can now be transferred to the utility fund.

Step 2—Interfund transfer (appropriation received in utility fund)

	Existing	Changes	Adjusted
Materials and services	\$118,700	2,000	\$120,700
Capital outlay	<u>1,000</u>	<u>-0-</u>	<u>1,000</u>
Total	\$119,700	2,000	\$121,700

The utility fund material & services appropriation is increased \$2,000 so the additional expenditures can be made. The fund's resources are also increased by the same amount, so the fund remains in balance.

Total appropriations after transfers

General fund	\$221,476
Utility fund	<u>121,700</u>
Total appropriations all funds	\$343,176

The total appropriations in all funds have increased \$2,000 because of the new amount of capital outlay appropriation in the utility fund.

Appropriation vs. line item transfers

Notice that this discussion has been of transferring appropriation authority. It has been about changing the amounts in the appropriation categories within a fund, not necessarily the amounts budgeted for individual line items. A governing body may choose to appropriate all the way down to the level of line item detail, but that is not common. More often, a local government appropriates only to the level of detail that is required by ORS 294.456 (renumbered from 294.435). That is, in each fund, most local governments appropriate only to the level of organization unit or program or by the major object classifications of personnel services, materials and services, capital outlay, debt service, transfers, contingencies, and special payments. Schools generally appropriate only to the "function" level of detail in each fund. The function categories are: instruction, support services, enterprise and community services, facilities acquisition and construction, interagency/interfund transfers, debt service and contingency.

Assuming that a local government appropriates only to the level required by ORS 294.456 (renumbered from 294.435), the amounts expended for an individual budget line item within each of those appropriation categories can exceed the budgeted amount for that individual line item without the necessity of transferring or otherwise changing appropriations, as long as some other budgeted line item expenditure is reduced, so the total for the appropriation category is not exceeded. In other words, the limitation is the amount of the appropriation, not the amount budgeted for an individual line item.

Interfund loans

A local government may loan money from one fund to another, provided the loan is authorized by an official resolution or ordinance (ORS 294.468, renumbered from 294.460). The resolution or ordinance must state the fund from which the loan is made, the fund to which the loan is made, the purpose of the loan, and the principal amount of the loan. If the loan is an operating loan (that is, to pay for operating expenses), it must be repaid to the fund from which it is borrowed by the end of the fiscal year, or the repayment must be budgeted and made in the next fiscal year.

If the loan is a capital loan (that is, for the acquisition of a capital asset), it must be repaid in full within 10 years of the date of the loan. The resolution must set forth a schedule under which the principal and interest is to be budgeted and repaid. It must also state the rate of interest. The rate of interest may be the current rate of return on monies invested in the local government investment pool under ORS 294.805 to 294.895, or may be such other rate as the governing body determines.

If the loan will be repaid in the current fiscal year, no action by the governing body is necessary in regard to the budget. The current budget is not adjusted to show the loan transaction. The local government's accounting records will show the loan and the repayment.

If the loan will be repaid in one or more future fiscal year(s), the loan repayment must be budgeted and a separate debt service appropriation made for the expenditure. Do not show the loan amount as a deficit resource [OAR 150-294.361(1)(B)]. This is not an acceptable budgeting practice.

Local Budgeting in Oregon





Local Budgeting in Oregon

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Appropriations and their use

When the nine budget steps are completed and the new fiscal year begins, the governing body works from appropriations. Amounts listed in the appropriation resolution provide authority to spend public funds in the next 12 months. However, appropriations may be made in broader categories than the detail presented in the budget.

District spending is limited to the schedule of appropriations. But what if it is necessary to exceed original appropriations? This may be done after transferring appropriations or preparing a supplemental budget. There are special provisions for exceeding appropriations due to civil disturbance, fire, flood, earthquake, or other calamity.

Appropriation transfers

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

Whenever you need to transfer an appropriation, the governing body must enact a resolution or ordinance providing for the transfer. This enactment must be made before any overexpenditure is incurred. Once a transfer is authorized, the expenditures can be made.

Supplemental budgets

By transferring appropriations, a governing body usually has enough flexibility to carry out the programs prescribed in an adopted budget. But there will be times when an adopted budget gives no authority to make certain expenditures or when revenues are received for which the governing body had no previous knowledge. In these cases it is possible to use a supplemental budget to authorize expenditures or spend additional revenues in a current fiscal year. (There are a few special revenues which may be spent without a supplemental budget.) Supplemental budgets cannot be used to authorize a tax levy.

Local budget law does not contemplate the involvement of the budget committee in adopting supplemental budgets. The governing body may adopt a supplemental budget at a regular public meeting if prior notice is given and the expenditures in the supplemental budget are 10 percent or less than of the budget fund being adjusted. If the expenditures are more, the governing body must

publish a summary of the changes in the supplemental budget and hold a special hearing.

Public officials who spend money unlawfully, in excess of authorized amounts or for purposes not provided by law, are civilly liable. The district attorney or a taxpayer may file suit for return of the money.

For more details, see Oregon Revised Statute 294.471 or the *Manual*.



Finance



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County Administrator

Community Development

Community Development

County Counsel

Curry County Fair

Economic Development

Finance

Juvenile

Parks

Public Health

Road

Surveyor

Veterans Services

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County Accountant
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Chapter 294 — County and Municipal Financial Administration

2017 EDITION

MUNICIPAL FINANCIAL ADMINISTRATION

PUBLIC FINANCIAL ADMINISTRATION

GENERAL PROVISIONS

294.100 Public official expending money in excess of amount or for different purpose than provided by law unlawful; civil liability. (1) It is unlawful for any public official to expend any moneys in excess of the amounts provided by law, or for any other or different purpose than provided by law.

(2) Any public official who expends any public moneys in excess of the amounts or for any other or different purpose than authorized by law shall be civilly liable for the return of the money by suit of the district attorney of the district in which the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty.

(3) On the demand in writing of 10 taxpayers of any municipal corporation with a population exceeding 100,000 inhabitants, filed with the tax supervising and conservation commission in the county in which the municipal corporation is situated, which demand sets forth that a public official has unlawfully expended public moneys in excess of the amount or for any other or different purpose than provided by law and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the tax supervising and conservation commission shall make an investigation of the facts as to the expenditure. If the tax supervising and conservation commission finds that public moneys have been unlawfully expended and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the commission shall proceed at law in the courts against the public official who has unlawfully expended the moneys for the return of the moneys unlawfully expended to the treasury of the municipal corporation. A right of action hereby is granted to the tax supervising and conservation commission for the purposes of this section.

(4) This section does not apply to the expenditure of revenues that are allowed to be accrued from a fiscal year to the prior fiscal year under ORS 294.383. [Amended by 2001 c.399 §1; 2002 s.s.4 c.1 §§9,10]

2017 EDITION

294.471 Supplemental budget in certain cases; no increase in property taxes permitted. (1) Notwithstanding requirements as to estimates of and limitation on expenditures, during the fiscal year or budget period for which the original budget was adopted, the governing body of a municipal corporation may make one or more supplemental budgets under any of the following circumstances:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) The original budget of the municipal corporation adopted under ORS 294.456 did not include estimated requirements to pay debt service pursuant to ORS 294.477 or the actual requirements are different from the estimated requirements included in the original budget or a previous supplemental budget.

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

(3)(a) If the amended estimated expenditures contained in an individual fund that is being changed by a supplemental budget differ by 10 percent or less from the expenditures in the budget as most recently amended prior to the supplemental budget, the governing body of the municipal corporation may adopt the supplemental budget at a regular meeting of the governing body.

(b) Notice of a regular meeting convened pursuant to paragraph (a) of this subsection, including a statement that a supplemental budget will be considered at the meeting, must be published not less than five days before the meeting.

(c) Additional expenditures contained in a supplemental budget described in this subsection may not be made unless the governing body of the municipal corporation enacts appropriation ordinances or resolutions authorizing the expenditures. The ordinances or resolutions must state the need for and the purpose and amount of the appropriation.

(4) Except as provided in ORS 294.476, the making of a supplemental budget does not authorize the governing body to increase the municipal corporation'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. [Formerly 294.480; 2013 c.420 §4; 2017 c.26 §3]

2017 EDITION

294.473 Procedure when supplemental budget changes estimated expenditures by more than 10 percent.

(1)(a) If the amended estimated expenditures contained in an individual fund that is being changed by a supplemental budget made under ORS 294.471 differ by more than 10 percent from the expenditures in the budget as most recently amended prior to the supplemental budget, the governing body of the municipal corporation shall hold a public hearing on the supplemental budget.

(b) Notice of the hearing required under paragraph (a) of this subsection, including a summary of the changes proposed in the funds that differ by more than 10 percent from the expenditures in the budget as most recently amended prior to the supplemental budget, must be published not less than five days before the meeting.

(c) After the hearing, additional expenditures contained in the supplemental budget described in this subsection may not be made unless the governing body of the municipal corporation enacts appropriation ordinances or resolutions authorizing the expenditures. The ordinances or resolutions must state the need for and the purpose and amount of the appropriation.

(2) In counties having a tax supervising and conservation commission:

(a) The governing body of a municipal corporation may adopt a supplemental budget without submitting the budget to the commission prior to adoption.

(b) The commission is not required to hold a hearing on the budget.

(3) The Department of Revenue shall prescribe the form of the notice required under subsection (1) of this section. [2011 c.473 §22; 2013 c.420 §5]

Chapter 294 — County and Municipal Financial Administration

2017 EDITION

294.311 Definitions for ORS 294.305 to 294.565. As used in ORS 294.305 to 294.565, unless the context requires otherwise:

(1) "Accrual basis" means the recording of the financial effects on a municipal corporation of transactions and other events and circumstances that have cash consequences for the municipal corporation in the periods in which those transactions, events and circumstances occur, rather than only in the periods in which cash is received or paid by the municipal corporation.

(2) "Activity" means a specific and distinguishable service performed by one or more organizational components of a municipal corporation to accomplish a function for which the municipal corporation is responsible.

(3) "Appropriation" means an authorization granted by the governing body to make expenditures and to incur obligations for specific purposes. An appropriation is limited to a single fiscal year for municipal corporations preparing annual budgets, or to the budget period for municipal corporations preparing biennial budgets.

(4) "Basis of accounting" means the cash basis, the modified accrual basis or the accrual basis.

(5) "Budget" means a plan of financial operation embodying an estimate of expenditures for a given period or purpose and the proposed means of financing the estimated expenditures.

(6) "Budget document" means the estimates of expenditures and budget resources as set forth on the estimate sheets, tax levy and the financial summary.

(7) "Budget period" means, for municipal corporations with the power to levy a tax upon property, the two-year period commencing on July 1 and closing on June 30 of the second calendar year next following, and for all other municipal corporations, an accounting period of 24 months ending on the last day of any month.

(8) "Budget resources" means resources to which recourse can be had to meet obligations and expenditures during the fiscal year or budget period covered by the budget.

(9) "Cash basis" means a basis of accounting under which transactions are recognized only in the period during which cash is received or disbursed.

(10) "Current budget period" means the budget period in progress.

(11) "Current year" means the fiscal year in progress.

(12) "Encumbrance accounting" means the method of accounting under which outstanding encumbrances are recognized as reductions of appropriations and the related commitments are carried in a reserve for encumbrances until liquidated, either by replacement with an actual liability or by cancellation. This method of accounting may be used as a modification to the accrual basis of accounting in accordance with generally accepted accounting principles.

(13) "Encumbrances" means obligations in the form of purchase orders, contracts or salary commitments which are chargeable to an appropriation and for which a part of the appropriation is reserved. Obligations cease to be encumbrances when paid or when the actual liability is set up.

(14) "Ensuing budget period" means the budget period following the current budget period.

(15) "Ensuing year" means the fiscal year following the current year.

(16) "Expenditure" means, if the accounts are kept on the accrual basis or the modified accrual basis, decreases in net financial resources and may include encumbrances. If the accounts are kept on the cash basis, the term covers only actual disbursement, the drawing of the check or warrant for these purposes and not encumbrances, except that deferred employee compensation shall be

(28) "Object" means, as used in expenditure classification, articles purchased including, but not limited to, land, buildings, equipment and vehicles, or services obtained including, but not limited to, administrative services, clerical services, professional services, property services and travel, as distinguished from the results obtained from expenditures.

(29) "Object classification" means a grouping of expenditures on the basis of goods or services purchased, including, but not limited to, personnel services, materials, supplies and equipment.

(30) "Operating taxes" has the meaning given that term in ORS 310.055.

(31) "Organizational unit" means any administrative subdivision of a municipal corporation, especially one charged with carrying on one or more functions or activities.

(32) "Population" means the number of inhabitants of a municipal corporation according to certified estimates of population made by Portland State University.

(33) "Program" means a group of related activities aimed at accomplishing a major service or function for which the municipality is responsible.

(34) "Public utility" means those public utility operations authorized by ORS chapter 225.

(35) "Publish" or "publication" means any one or more of the following methods of giving notice or making information or documents available to members of the general public:

(a) Publication in one or more newspapers of general circulation within the jurisdictional boundaries of the municipal corporation.

(b) Posting through the United States Postal Service by first class mail, postage prepaid, to each street address within the jurisdictional boundaries of the municipal corporation and to each post office box and rural route number belonging to a resident within the jurisdictional boundaries of the municipal corporation.

(c) Hand delivery to each street address within the jurisdictional boundaries of the municipal corporation.

(d) In the case of publishing notice for an election involving a local option tax measure or a general obligation bond measure, filing with the Secretary of State for publication on the electronic filing system adopted under ORS 260.057.

(36) "Receipts" means cash received unless otherwise qualified.

(37) "Reserve for encumbrances" means a reserve representing the segregation of a portion of a fund balance to provide for unliquidated encumbrances.

(38) "Revenue" means the gross receipts and receivables of a governmental unit derived from taxes, licenses, fees and from all other sources, but excluding appropriations, allotments and return of principal from investment of surplus funds.

(39) "Special revenue fund" means a fund properly authorized and used to finance particular activities from the receipts of specific taxes or other revenues. [1963 c.576 §3; 1971 c.513 §55; 1975 c.319 §2; 1977 c.102 §4; 1977 c.305 §1; 1979 c.686 §1; 1997 c.308 §3; 1997 c.541 §322; 1999 c.632 §1; 2001 c.104 §102; 2001 c.135 §3; 2003 c.235 §1; 2009 c.477 §4; 2011 c.473 §27; 2013 c.768 §106h; 2017 c.552 §1]

**STATE OF OREGON
DEPARTMENT OF JUSTICE**

ATTORNEY GENERAL'S

PUBLIC RECORDS

AND

MEETINGS MANUAL



“Knowledge will forever govern ignorance.
And a people who mean to be their own governors, must arm
themselves with the power knowledge gives. A popular government
without popular information or the means of acquiring it, is but
a prologue to a farce or a tragedy, or perhaps both.”

James Madison (1822)

**ELLEN F. ROSENBLUM
Attorney General**

November 2014

When a public meeting is held at a location that is not “rented, leased or owned” by the state or a political subdivision, such as a hotel meeting room where no separate charge is made for the room, the smoking ban of ORS 192.710 does not apply. However, other laws prohibiting smoking except in designated areas may apply.³²⁴

The person presiding will avoid embarrassment to members of the public and the governing body by reminding them of the no-smoking rule at the beginning of the meeting.

6. Voting

All official actions by governing bodies must be taken by public vote.³²⁵ The vote of each member must be recorded unless the body has 26 or more members. Even then, any member of the governing body may require that the votes of each member be recorded. ORS 192.650(1)(c). Written ballots are not prohibited, but each ballot must identify the member voting and the vote must be announced. *Secret ballots are prohibited.* The state law supersedes and nullifies any local government charter authorization or requirement for a secret ballot.³²⁶ See Appendix L for a discussion of voting and secret ballots.

A governing body’s failure to record a vote is not, in and of itself, grounds for reversing a decision. Without a showing that the failure to record a vote was related to a manipulation of the vote, a court will presume that public officials lawfully have performed their duties.³²⁷

7. Minutes and Recordkeeping

The Public Meetings Law requires that the governing body of a public body provide for sound, video or digital recording or written minutes of its meetings.³²⁸ ORS 192.650(1). The record of a meeting, whether preserved

³²⁴ ORS 433.845.

³²⁵ 37 Op Atty Gen 183 (1974) (see App O).

³²⁶ 39 Op Atty Gen 525 (1979) (see App O); 37 Op Atty Gen 183 (1974) (see App O).

³²⁷ *Gilmore v. Board of Psychologist Examiners*, 81 Or App 321, 324, 725 P2d 400, *reversed* 302 Or 460, 730 P2d 1250 (1986) (see App M).

³²⁸ Apart from the requirements imposed by the Public Meetings Law, the Oregon Investment Council must make “full sound records” of its meetings and maintain a written

in written minutes or a sound, video or digital recording, shall include at least the following information:

- members present;
- motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
- results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;
- the substance of any discussion on any matter; and
- subject to the Public Records Law, ORS 192.410 to 192.505, a reference to any document discussed at the meeting. (Such reference does not change the status of the document under the Public Records Law. ORS 192.650(3).)

Written minutes need not be a verbatim transcript and a sound, video or digital recording is not required to contain a full recording of the meeting, except as otherwise provided by law. Whatever means of recording used must give a “a true reflection of the matters discussed at the meeting and the views of the participants.” ORS 192.650(1). See p. K-10 for sample minutes.

The Public Meetings Law requires that written minutes or a sound, video or digital recording of a meeting be made available to the public “within a reasonable time after the meeting.” ORS 192.650(1). If written minutes are prepared, they cannot be withheld from the public merely because they will not be approved until the next meeting of the governing body. If minutes have not been approved, they may be so identified. In any event, any completed minutes or sound, video or digital recordings are public records subject to disclosure under the Public Records Law. Consistent with the Public Records Law fee provision, discussed in Part I of this manual, a public body may charge a person a fee for preparing a transcript from a sound, video or digital recording. ORS 192.650(4).

These recordkeeping requirements apply to executive sessions,