
Coates' Canons Blog: FAQs on Adopting the Budget Ordinance

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Local governments across the state are scrambling to finalize and adopt their budgets before July 1. This post provides a brief overview of the applicable procedural requirements and addresses frequently asked questions about the budgeting process.

What must be included in the budget ordinance?

The annual budget ordinance is the official document adopted by a local government's or public authority's governing board to levy taxes and appropriate revenues for the fiscal year. The budget ordinance is the legal basis of the budgetary accounting system, the standard by which proposed expenditures are measured. Because of that, generally all moneys received and expended by a local government or public authority must be included in the budget ordinance. The Local Government Budget and Fiscal Control Act (LGBFCA), specifically **G.S. 159-8**, prohibits the expenditure of "any moneys, regardless of their source (including moneys derived from bond proceeds, federal, state, or private grants or loans, or special assessments), except in accordance with a budget ordinance . . ." The only exceptions to this "all inclusive" requirement are for moneys accounted for in a (capital or grant) project ordinance (**G.S. 159-13.2**), trust and agency fund (**G.S. 159-26(b)(7)**), or intergovernmental service fund (**G.S. 159-13.1**).

The budget ordinance must be balanced such that the sum of (reasonably) estimated net revenues and appropriated fund balance equals appropriations. There is no prescribed format for the budget ordinance, however **G.S. 159-13** requires that the governing board make appropriations by "department, function, or project" and list revenues by "major source." Thus, the official budget ordinance often comprises only a few pages. It is the summary document that aggregates the detailed projections about revenues and line item expenditures for the coming fiscal year. (Note that the governing board may not legally budget at any greater level of specificity than by department, function, or project.)

The LGBFCA imposes several additional requirements on what may or must be included in the budget ordinance. The most significant of these are as follows:

- The governing board must levy any taxes (if it chooses to levy taxes) for the fiscal year in the budget ordinance. (For more information on levying property taxes click [here](#) and [here](#).)
- The governing board must appropriate moneys to cover all debt service payments for the fiscal year.
- The governing board must appropriate sufficient moneys to cover all obligations due for the fiscal year under continuing (multi-year) contracts previously entered into, unless the governing board reserved the right in one or more of the contracts to limit or not make the appropriations.
- The governing board may include a contingency appropriation in each fund, as long as it does not exceed 5 percent of the total of all other appropriations in the same fund.

Other statutes directly or indirectly require local governments and public authorities (especially counties) to make appropriations in the budget ordinance to support particular programs or activities at particular levels.

What are the procedural steps for adopting a budget ordinance?

The LGBFCA provides a rough timeline for the budget process.

By April 30:

- Each department head must submit revenue estimates and expenditure requests for the coming fiscal year, along with other requested information, to the budget officer

By June 1:

- The budget officer must submit the proposed budget, along with a budget message, to the governing board. (If it is a reappraisal year, the budget officer also must include a statement of the revenue-neutral property tax rate for the budget.)
- The budget officer must file a copy of the proposed budget in the office of the clerk to the board.
- If a municipality or county levies a tax on behalf of a special district and the municipal or county governing board has discretion in determining the tax rate, the governing board of the special district must submit its requested tax rate to the municipal or county governing board.

On the same day the budget officer submits the proposed budget to the governing board:

- The clerk to the board must make a copy of the proposed budget available to all news media in the county.
- The clerk also must publish a statement that the budget has been submitted to the governing board and is available for public inspection in the clerk's office. The notice should specify the time and place of the public hearing on the budget.

By June 15:

- If a municipality or county levies taxes on behalf of a special district and the municipal or county board does not intend to adopt the tax rate requested by the special district's governing board, the municipality or county must notify the governing board. (If the municipality or county fails to notify the special district's governing board by June 15 it "shall be deemed approval of the full rate requested by the district's governing board.")
- If a municipality or county levies taxes on behalf of a special district but the municipal or county board has no discretion in determining the tax rate, the special district's governing board must submit the tax rate to the municipality or county. (If the special district fails to notify the municipality or county of the district tax rate by June 15, the local government "is not required to levy a tax for the district for the fiscal year.")

After the proposed budget is presented to the board and sufficient notice is provided to the public:

- The governing board must hold a public hearing on the proposed budget. All individuals who wish to address the budget must be afforded an opportunity to speak.

By July 1 (and at least 10 days after the proposed budget is submitted to the governing board):

- The governing board must adopt the budget ordinance. The budget ordinance must be entered in the minutes of the governing board.

Within 5 days after budget ordinance is adopted:

- Copies of the budget ordinance must be filed with the finance officer, the budget officer, and the clerk to the governing board.

If the governing board makes changes to the proposed budget before adopting the budget ordinance must it notify the public of the changes and/or hold another public hearing?

No. The budget ordinance must conform to a series of statutory directives and limitations, many of which are mentioned above. Beyond that, a unit's governing board enjoys complete discretion over the content of the budget ordinance and the fiscal policy it represents. The budget officer's recommendations in the proposed budget are simply that—recommendations. The board may accept them, modify them, or reject them. The LGBFCA requires that the budget officer's proposed budget be made available for public inspection and that the unit hold at least one public hearing. There are no further statutory requirements related to public input. The board is not obligated to inform the public of, or allow the public to comment on, any changes to the initially proposed budget before it adopts the budget ordinance.

What are the voting rules governing adoption of the budget ordinance?

There are special voting rules that govern the adoption of the budget ordinance. **G.S. 159-17** specifies that the budget ordinance may be adopted at any regular or special meeting of the governing board by a simple majority of those present and voting, as long as a quorum is present. (Any local act or municipal charter provision with other requirements may be ignored.) A board may adopt the budget ordinance at the same meeting that it holds the public hearing on the budget.

What happens if the budget ordinance is not adopted by July 1?

The LGBFCA does not prescribe a specific penalty if a local government or public authority does not adopt its budget ordinance by July 1. However, no expenditures may be made (even to pay salaries or other routine expenses) unless the governing board has appropriated funds to cover the expenditures. **G.S. 159-16** authorizes a governing board to make interim appropriations until the budget ordinance is adopted. This authority is limited, though. The interim appropriations only may be made “for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local government or public authority for the interval between the beginning of the budget year and the adoption of the budget ordinance.” Once the budget ordinance is adopted, the interim appropriations must be charged to the corresponding appropriations in the budget ordinance.

What if the governing board wants to make changes to the budget ordinance after it is adopted?

The board may amend the budget ordinance at any time after it is adopted; however, the property tax levy may not be increased or decreased once the budget is adopted unless certain exceptions apply. For more information on amending the budget ordinance, click [here](#) and [here](#).

Does a budget ordinance expire?

Yes. The budget ordinance is effective only for a single fiscal year (July 1 through June 30). As of the close of June 30, all moneys that remain unspent revert to fund balance, and the unit is not authorized to make any further disbursements under the authority of that budget ordinance. To illustrate, assume that a local unit orders goods on June 15, based on appropriations in its FY 2011-12 budget ordinance. The goods (and the invoice) do not arrive until July 7. The unit may not make the payment based on the FY 2011-12 budget ordinance. Instead, it must re-appropriate the funds in the FY 2012-13 budget ordinance and make the payment based on this new budget authority.

Links

- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-8.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-13.2.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-26.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-13.1.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-13.html
- canons.sog.unc.edu/?p=1693
- canons.sog.unc.edu/?p=6483
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-17.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_159/GS_159-16.html
- canons.sog.unc.edu/?p=103
- canons.sog.unc.edu/?p=4760