

# Municipal Budgets and Tax Levies



Mississippi law requires municipalities to adopt a formal budget. Generally, a budget is a plan of action for a fiscal year representing the choices of the governing authorities as to how the municipality will allocate its limited resources among various competing demands. The budget also serves to justify the need to levy taxes for the support of municipal operations.

All Mississippi municipalities are required to follow very specific budgetary procedures. These laws attach a wide range of conditions to the preparation and use of the municipality's budget. The following law overview should help the reader to achieve a general understanding of legal requirements. For specific information on legal requirements, references to the related Mississippi Code Sections are provided. Chapter 35 of Title 21 of the Mississippi Code of 1972, Annotated (MCA) contains the statutory requirements that municipalities must follow.

## ***Funds That Must Be Budgeted***

MCA § 21-35-5 and 21-35-9

- Funds receiving revenues to the municipality.
- Funds that will require approval from the board/council for expenditure.
- Proprietary or enterprise funds (utility systems, etc.).
- Municipal Reserve Fund (see MCA § 21-35-22).
- Funds confiscated and forfeited in connection with drug and liquor cases (see MCA § § 41-29-181 and 41-29-185).

## ***Funds That Do Not Have to Be Budgeted***

- Fiduciary type funds do not require board approval to make disbursements. These include various clearing funds (payroll, state court assessments, etc.).

## ***Mandatory Fiscal Year***

MCA § 21-35-3 requires an October through September 30 fiscal year.

## ***Preparation Requirements***

- The budget must be prepared on forms prescribed by the state auditor (MCA § 21-35-5).
- The budget must be adopted on the board/council's minutes by September 15 (MCA § 21-35-9).
- A public hearing must be held at least 1 week before the adoption of the budget (MCA §§ 21-35-5 & 27-39-203).

- Notification of the public hearing for the proposed budget and tax levy must be published in a newspaper two times if the municipality is over 1,500 in population or if any size municipality is increasing the tax levy (MCA § 27-39-203).
- If the proposed tax levies are not in excess of the current fiscal year's certified tax rate and the municipality has a population of less than 1,500, the municipality may advertise the public hearing by posting the notice of the public hearing in three public places in the municipality [MCA § 27-39-203 (2015 amendment)].
- The adopted budget and the statement of current revenues and expenses must be published at least once in September (MCA § 21-35-5).
  - Municipalities with a population of 1,500 or more: Publish in a newspaper published in the municipality (in the county, if none in the municipality).
  - Municipalities with a population of fewer than 1,500: Publish by posting in at least three public places in the municipality.
- The adopted tax levy must be published in the local newspaper within 10 days of adoption (MCA § 21-33-47).

## **Budget Public Hearing**

MS Code of 1972, Annotated has two different sections (§ 21-35-5 and § 27-39-203) regarding the public hearing and notice requirements for municipalities. There are contradictions in the two sections; therefore, each municipality should adhere to both sections.

## ***Public Hearing Notice***

- MCA § 21-35-5 requires municipal governing authorities hold a public hearing at least 1 week prior to the adoption of the final budget.
- MCA § 27-39-203 requires municipal governing authorities to hold a public hearing on the proposed budget and tax levies.

## ***Notice Requirements (MCA § 27-39-203)***

- The governing body of all taxing entities must hold a public hearing at which time the budget and tax levies for the upcoming fiscal year will be considered.
- The public hearing must be advertised in accordance with the following procedures.

- The advertisement must be no less than one-fourth page in size.
  - Type used must be no smaller than 18 point.
  - A one-fourth-inch solid black border must surround the advertisement.
  - The advertisement may not be placed in the portion of the newspaper where legal notices and classified advertisements appear.
  - It is the intent of the Legislature that the advertisement appears in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week.
  - It is further the intent of the Legislature that the newspaper selected be one of general interest and readership in the community, and not one of limited subject matter.
  - The advertisement must state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which must be not fewer than 7 days after the day the first advertisement is published, for the purpose of hearing comments regarding the proposed budget and proposed tax levies.
  - Any increase in the projected budget revenues or any increase in the millage rate over the current fiscal year must be explained by the governing body.
  - A taxing entity collecting taxes in more than one county must make the required advertisement by publication in each county where the taxing entity collects taxes.
- All hearings must be open to the public. The governing body of the taxing entity must permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits.
  - Each taxing entity must notify the county or municipal governing body of the date, time, and place of its public hearing.
    - No taxing entity may schedule its hearing at the same time as another overlapping taxing entity in the same county, but all taxing entities in which the power to set tax levies is vested in the same governing authority may consolidate the required hearings into one hearing.
    - The county or municipal governing body must resolve any conflicts in hearing dates and times after consultation with each affected taxing entity.
  - Any governing body of a tax entity must be prohibited from expending any funds for the applicable fiscal year until it has strictly complied with the advertisement and public hearing requirements set forth in this section.
  - This notice must be published in a newspaper if the municipality has a population greater than 1,500 or if a municipality of any size is increasing the tax levy.
  - If a municipality has a population of less than 1,500 and is not increasing the tax levy, the notice of the public hearing may be posted in three public places in the municipality.

- It should be noted that if the ad valorem tax levy is not adopted at the MCA § 27-39-203 public hearing, further advertisements will be required.
- The notice requires an additional statement if the municipality is located in a county that is completing its countywide reappraisal during the current fiscal year.

### **Notice Types**

- **If the proposed tax levies are not in excess of the current fiscal year's certified tax rate, the advertisement must be in the following form:**

“NOTICE OF A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR THE UPCOMING FISCAL YEAR FOR (name of the taxing entity).

The (name of the taxing entity) will hold a public hearing on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of \$\_\_\_\_\_. (\_\_\_ percent) or \$\_\_\_\_\_ of such revenue is obtained through ad valorem taxes. For the next fiscal year, the proposed budget has total projected revenue of \$\_\_\_\_\_. Of that amount, (\_\_\_ percent) or \$\_\_\_\_\_ is proposed to be financed through a total ad valorem tax levy.

The decision not to increase the ad valorem tax millage rate for fiscal year (insert the year) above the current fiscal year's ad valorem tax millage rate means you will not pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures, and equipment and rental real property, unless the assessed value of your property has increased for fiscal year (insert the year)

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed budget and tax levies for fiscal year (insert the year) and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken.”

- **If the proposed tax levies for the upcoming fiscal year will exceed the current fiscal year's certified tax rate, the advertisement must be in the following form:**

“NOTICE OF A TAX INCREASE AND A PUBLIC HEARING ON THE PROPOSED BUDGET AND PROPOSED TAX LEVIES FOR (name of the taxing entity).

The (name of the taxing entity) will hold a public hearing on a proposed ad valorem tax revenue increase for fiscal year (insert the year) and on its proposed budget and proposed tax levies for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of the taxing entity) is now operating with projected total budget revenue of \$\_\_\_\_\_. (\_\_\_ percent) or \$\_\_\_\_\_ of such revenue is obtained through

ad valorem taxes. For next fiscal year, the proposed budget has total projected revenue of \$\_\_\_\_\_. Of that amount, (\_\_\_\_ percent) or \$\_\_\_\_\_ is proposed to be financed through a total ad valorem tax levy.

For next fiscal year, the (name of the taxing entity) plans to increase your ad valorem tax millage rate by \_\_\_\_ mills from \_\_\_\_ mills to \_\_\_\_ mills. This increase means that you will pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures, and equipment and rental real property.

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed ad valorem tax increase, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken.”

- **If the municipality is located in a county completing its countywide reappraisal update during the current fiscal year and has experienced an increase in the assessed valuation of the property, the advertisement must include the following statement:**

“A millage rate of \_\_\_\_ will produce the same amount of revenue from ad valorem taxes as was collected the prior year. The millage rate for the prior year was \_\_\_\_.”

## **Adoption of Budget and Tax Levy**

### ***Tax Levy***

- After the hearing has been held, the governing authority may adopt a resolution levying the tax rate as specified in the advertisement [MCA § 27-39-203 (7)].
- If the resolution is not adopted at the hearing, the scheduled date, time, and place for consideration and adoption of the resolution must be announced at the public hearing, and the governing body must advertise the date, time, and place of the proposed adoption of the resolution in the same manner as provided for the first notice [MCA § 27-39-203 (7)].

### ***Budget***

- The governing authority must adopt the budget at least 1 week after the required public hearing or by September 15 (MCA § 21-35-5).
- MCA § 21-35-5 requires the annual budget to be approved by September 15 of each year and published one time during September.
  - For municipalities with population of 1,500 or greater, the budget must be published one time during September of said year in a newspaper published in the municipality or county.
  - For municipalities with population of less than 1,500, the budget must be posted in at least three public places in said municipality.

## **Purposes for Which Ad Valorem Taxes May Be Levied**

- In its order adopting the ad valorem tax levy, the board must specify the purpose for each levy, including:
  - For general revenue purposes and for general improvements, as authorized by MCA § 27-39-307.
  - For schools, including all maintenance levies, whether made against the property within such municipality, or within any taxing district embraced in such municipality, as authorized by MCA § 27-39-307 and MCA § 37-57-3 et seq.
  - For municipal bonds and interest thereon, for school bonds and interest thereon, separately for municipal-wide bonds and for the bonds of each school district.
  - For municipal-wide bonds and interest thereon, other than for school bonds.
  - For loans, notes, or any other obligation, and the interest thereon, if permitted by law.
  - For special improvement or special benefit levies, as now authorized by law.
  - For any other purpose for which a levy is lawfully made. If any municipal-wide levy is made for any general or special purpose under the provisions of any law other than MCA § 27-39-307, each such levy must be separately stated in the resolution, and the law authorizing same must be expressly stated therein.
  - Solid Waste Collection (MCA § 21-19-2).
  - Library Fund (MCA § 39-3-5).

## **Approval and Certification of Tax Levy**

- MCA § 21-33-47 provides that when the governing authority has made the levy of taxes by resolution:
  - The clerk must certify the tax levy to the tax collector of the municipality and send a copy to the Department of Revenue.
  - The clerk must also certify the tax levy to the tax collector of the county and the Chancery Clerk.
  - The clerk must publish the resolution levying the taxes within 10 days after it is adopted. If no newspaper is published within the municipality, then a copy of the resolution must be posted in at least three public places within 10 days after its adoption.

## **Penalty**

- MCA § 21-35-17 imposes personal liability upon responsible municipal officials if the budget is exceeded.
- MCA § 21-35-33 imposes criminal responsibility upon municipal officials who do not comply with budget laws.

## References

Municipal Audit & Accounting Guide, 2010 Edition, Office of the State Auditor.

Municipal Government in Mississippi, 5<sup>th</sup> Edition, MSU Extension Service Center for Government and Community Development.

Mississippi Code of 1972, Annotated.

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